AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

1–19–06 Thursday
Vol. 71 No. 12 Jan. 19, 2006

Pages 2991–3204

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Washington, DC 20002

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Printed on recycled paper.

Contents

Federal Register

Vol. 71, No. 12

Thursday, January 19, 2006

Agricultural Research Service
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Peaks and Prairies, L.L.C., 3049

Agriculture Department
See Agricultural Research Service
See Animal and Plant Health Inspection Service
See Rural Utilities Service

Air Force Department
NOTICES
Active military service and discharge determinations:
U.S. and foreign civilian employees of CAT, Inc. (1950-1951, 1958-1962) and Air America (1959-1962, 1964-1975) in various Asian countries, 3058–3059

Alcohol, Tobacco, Firearms, and Explosives Bureau
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3120–3121

Animal and Plant Health Inspection Service
RULES
Interstate transportation of animals and animal products (quarantine):
Brucellosis in cattle—
State and area classifications, 2991–2993

Antitrust Division
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3121–3122

Army Department
See Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Fort Irwin, CA; maneuver training land addition, 3059

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

Centers for Disease Control and Prevention
NOTICES
Energy Employees Occupational Illness Compensation Program Act; implementation:
Lymphoma; dose reconstruction target organ selection, 3095–3096
Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, 3096
Fetal Alcohol Syndrome and Fetal Alcohol Effect National Task Force, 3096
Immunization Practices Advisory Committee, 3096–3097

Coast Guard
RULES
Anchorage regulations:
California, 3001–3003
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Charleston, SC; Cooper River, Hog Island Channel; Grace Memorial and Silas Pearman Bridges, 3005–3007
Charleston, SC; Town Creek Channel; Grace Memorial and Silas Pearman Bridges, 3007–3009
Tampa Bay, FL, 3003–3005
PROPOSED RULES
Anchorage regulations:
New York, 3025–3027
Regattas and marine parades:
VYC Fleet Parade, 3027–3029

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3050

Committee for the Implementation of Textile Agreements
NOTICES
Textile and apparel categories:
Commercial availability actions—
Compacted, plied, ring sup cotton yarns, with yarns, 3057–3058

Corporation for National and Community Service
NOTICES
Meetings:
National Civilian Community Corps Advisory Board, 3058

Customs and Border Protection Bureau
RULES
Merchandise, special classes:
Archaeological and ethnological material from—
Italy; pre-Classical, Classical, and Imperial Roman periods, 3000–3001

Defense Department
See Air Force Department
See Army Department
See Engineers Corps

Education Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3061–3062
Grants and cooperative agreements; availability, etc.:
Elementary and secondary education—
Advanced Placement Test Fee Program, 3062–3063
State educational agencies expenditure and revenue data submission, 3063–3064

Employment Standards Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3125–3126

Energy Department
See Federal Energy Regulatory Commission

Engineers Corps
NOTICES
Environmental statements; notice of intent:
New Hanover County, NC; Wilmington Harbor - 96 Act Project; general reevaluation report, 3059–3060
Yuba County, CA; Yuba River Basin Project, 3060–3061

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Texas, 3009–3014
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Texas, 3029

Executive Office of the President
See Presidential Documents

Farm Credit System Insurance Corporation
NOTICES
Meetings:
Farm Credit System Insurance Corporation Board, 3091

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus, 2995–2997
Turbomeca S.A., 2993–2994
Class E airspace, 2998
Correction, 2997–2998
IFR altitudes, 2998–2999
PROPOSED RULES
Airworthiness directives:
Aerospatiale, 3023–3025
Airbus, 3021–3023
NOTICES
Environmental statements; availability, etc.:
Midwest Airspace Enhancement Project, OH and MI, 3149

Federal Communications Commission
RULES
Common carrier services:
Payphones; dial-around calls; default compensation rate increase; correction, 3014–3015
PROPOSED RULES
Common carrier services:
Commercial mobile radio services—
Roaming obligations; reexamination, 3029–3030
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3091–3092
Meetings; Sunshine Act, 3092

Federal Emergency Management Agency
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3112–3114

Federal Energy Regulatory Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3064–3066
Complaints filed:
El Paso Electric Co., 3074
Electric rate and corporate regulation combined filings, 3074–3082
Environmental statements; availability, etc.:
Appalachian Power Co., 3082
Environmental statements; notice of intent:
Millennium Pipeline Co. L.P. et al., 3082–3086
Wyckoff Gas Storage Co., LLC, 3086–3088
Hydroelectric applications, 3088–3090
Meetings; Sunshine Act, 3090–3091
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 3066
BP Transportation (Alaska) Inc., 3066–3067
Central New York Oil & Gas Co., LLC, 3067
Cheniere Corpus Christi Pipeline Co., 3067–3068
Cheniere Sabine Pass Pipeline Co., 3068
Columbia Gas Transmission Corp., 3068
Dominion Transmission, Inc., 3068–3069
Energy Department et al., 3069
Gas Transmission Northwest Corp., 3069–3070
Geneva Energy, LLC, 3070–3071
Great Lakes Gas Transmission Limited Partnership, 3071
Mirant NY-Gen, LLC, et al., 3071
North Baja Pipeline, LLC, 3071–3072
Power Bidding Strategies, LLC, 3072
Public Service Electric & Gas Co., 3072
Tennessee Gas Pipeline Co., 3072–3073
TransColorado Gas Transmission Co., 3073
Transcontinental Gas Pipe Line Corp., 3073
Weichert Enterprise IV, LLC, et al., 3074

Federal Maritime Commission
NOTICES
Agreements filed, etc., 3092
Ocean transportation intermediary licenses:
A.S.A.P. Transport Ltd. et al., 3093
General Cargo & Logistics, 3093
Khan Trans Inc. et al., 3093–3094

Federal Reserve System
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 3094

Federal Transit Administration
NOTICES
Reports and guidance documents; availability, etc.:
New Starts Program, 3149–3150

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Graham's beardtongue, 3158–3196

Food and Drug Administration
NOTICES
Human drugs:
New drug applications—
Able Laboratories, Inc.; approval withdrawn, 3097–3098

Geological Survey
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Columbia Analytical Services, Inc., 3116

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Indian Health Service

See National Institutes of Health
NOTICES
Meetings:
National Vaccine Advisory Committee, 3094–3095

Homeland Security Department
See Coast Guard
See Customs and Border Protection Bureau
See Federal Emergency Management Agency
NOTICES
Foreign airport security determinations:
Bandara Ngurah Rai International Airport, Indonesia; aircraft security and transiting passengers safety, 3107
National Bio and Agro-Defense Facility; potential sites, 3107–3109
Privacy Act; systems of records, 3109–3112

Housing and Urban Development Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3114–3116

Indian Health Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3098–3099
Grant and cooperative agreement awards:
Indian Health Scholarship Program; recipients list, 3099–3105

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

International Trade Administration
NOTICES
North American Free Trade Agreement (NAFTA); binational panel reviews:
Soft wood lumber products from—
Canada, 3051–3052

Justice Department
See Alcohol, Tobacco, Firearms, and Explosives Bureau
See Antitrust Division
See Justice Programs Office
See Parole Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3119–3120

Justice Programs Office
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3122–3123

Labor Department
See Employment Standards Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3123–3125

Land Management Bureau
NOTICES
Meetings:
Resource Advisory Councils—
Alaska, 3116–3117
Oil and gas leases:
Nevada, 3117
Survey plat filings:
Montana, 3117

Maritime Administration
NOTICES
Coastwise trade laws; administrative waivers:
ADIRONDACK, 3150
ARCTIC TRAVELLER, 3150–3151
CECILIA, 3151
MO-JO, 3151

National Aeronautics and Space Administration
NOTICES
Meetings:
Aerospace Safety Advisory Panel, 3126–3127

National Foundation on the Arts and the Humanities
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3127

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Kawasaki Motors Corp., U.S.A., 3152
Pacific Coast Retreaders, Inc., 3152–3153
Motor vehicle theft prevention standards; exemption petitions, etc.:
Nissan North America, Inc., 3153

National Institutes of Health
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3105–3107
Meetings:
National Cancer Institute, 3107

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
Red grouper, 3018–3020
Northeastern United States fisheries—
Spiny dogfish, 3016–3018
PROPOSED RULES
Endangered and threatened species:
Marine and anadromous species—
West Coast salmonids; 27 evolutionary significant units; listing determinations; withdrawn, 3033–3048
NOTICES
Meetings:
Climate Change Science Program Product Development Committee for Synthesis and Assessment Product 1.1, 3053
Scientific research permit determinations, etc., 3053
Vessel monitoring systems; mobile transmitting units; type approval requirements, 3053–3057

National Park Service
NOTICES
Environmental statements; availability, etc.:
Denali National Park and Preserve, AK; general management plan, 3118–3119
National Park System:
Glacier Bay National Park and Preserve, AK; cruise ship quota increase, 3119

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 3127–3128

Parole Commission
NOTICES
Meetings; Sunshine Act, 3123

Personnel Management Office
RULES
Acquisition regulations:
Federal Employees Health Benefits Program—
Technical amendments, 3015–3016

Presidential Documents
PROCLAMATIONS
Special observances:
Martin Luther King, Jr., Federal Holiday (Proc. 7973), 3197–3200
Religious Freedom Day (Proc. 7974), 3201
EXECUTIVE ORDERS
Global Fund to Fight AIDS, Tuberculosis and Malaria; designation under the International Organizations Immunities Act (EO 13395), 3203

Rural Utilities Service
NOTICES
Environmental statements; availability, etc.:
Great River Energy, 3049–3050

Securities and Exchange Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3128
Securities:
Suspension of trading—
Smart Online, Inc., 3129
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 3129–3137
Boston Stock Exchange, Inc., 3137–3138
Chicago Board Options Exchange, Inc., 3138–3141
Fixed Income Clearing Corp., 3141–3142
International Securities Exchange, Inc., 3142–3145
Pacific Exchange, Inc., 3145–3147
Applications, hearings, determinations, etc.:
Cash Systems, Inc., 3128–3129

Small Business Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3147

State Department
NOTICES
Organization, functions, and authority delegations:
Assistant Secretary for Administration, 3148

Surface Transportation Board
PROPOSED RULES
Practice and procedure:
Expedited abandonment procedure for Class II and Class III railroads; class exemption, 3030–3033
NOTICES
Railroad services abandonment:
Yakima Interurban Lines Association, 3153–3154

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration
See Federal Transit Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3148
Aviation proceedings:
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 3148

Treasury Department
RULES
Merchandise, special classes:
Archaeological and ethnological material from—
Italy; pre-Classical, Classical, and Imperial Roman periods, 3000–3001

Veterans Affairs Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 3154–3156

Separate Parts In This Issue

Part II
Interior Department, Fish and Wildlife Service, 3158–3196

Part III
Executive Office of the President, Presidential Documents, 3197–3203

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

7973 3199
7974 3201

Executive Orders:

13395 3203

9 CFR

78 2991

14 CFR

39 (2 documents) 2993, 2995
71 (2 documents) 2997, 2998
95 2998

Proposed Rules:

39 (2 documents) 3021, 3023

19 CFR

12 (2 documents) 3000

33 CFR

110 3001
165 (3 documents) 3003, 3005, 3007

Proposed Rules:

110 3025
165 3027

40 CFR

52 3009

Proposed Rules:

52 3029

47 CFR

64 3014

Proposed Rules:

20 3029

48 CFR

1631 3015
1644 3015
1652 3015

49 CFR

Proposed Rules:

1105 3030

50 CFR

622 3018
648 3016

Proposed Rules:

17 3158
223 3033

Rules and Regulations

Federal Register
Vol. 71, No. 12
Thursday, January 19, 2006

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

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. APHIS–2006–0001]

Brucellosis in Cattle; State and Area Classifications; ID

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the brucellosis regulations concerning interstate movement of cattle by changing the classification of Idaho from Class Free to Class A. We have determined that Idaho no longer meets the standards for Class Free status. This action is necessary to prevent the interstate spread of brucellosis.

DATES: This interim rule was effective January 12, 2006. We will consider all comments that we receive on or before March 20, 2006.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the ''Search for Open Regulations'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2006–0001 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the ''Advanced Search'' function in Regulations.gov.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0001, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0001.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Debra Donch, National Brucellosis Epidemiologist, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–6954.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease caused by bacteria of the genus *Brucella.* The disease mainly affects cattle, bison, and swine, but goats, sheep, horses, and even humans are susceptible. In its principal animal hosts, it causes loss of young through spontaneous abortion or birth of weak offspring, reduced milk production, and infertility. There is no economically feasible treatment for brucellosis in livestock. In humans, brucellosis initially causes flu-like symptoms, but the disease may develop into a variety of chronic conditions, including arthritis. Humans can be treated for brucellosis with antibiotics.

The brucellosis regulations, contained in 9 CFR part 78 (referred to below as the regulations), provide a system for classifying States or portions of States according to the rate of Brucella infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas that exceed, during any consecutive 12-month period, a herd infection rate of 1.5 percent or 15 herds per 1,000. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail (1) maintaining a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) tracing back to the farm of origin and successfully closing a stated percentage of all brucellosis reactors found in the course of Market Cattle Identification (MCI) testing; (3) maintaining a surveillance system that includes testing of dairy herds, participation of all recognized slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection (including herds adjacent to infected herds and herds from which infected animals have been sold or received), and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) maintaining minimum procedural standards for administering the program.

If a single herd in a Class Free State is found to be affected with brucellosis, the State may retain its Class Free status if it meets the conditions described in paragraph (b)(4) of the definition of *Class Free State or area* in § 78.1. A State may retain its status in this manner only once during any 2-year period. The following conditions must be satisfied within 60 days of the identification of the infected animal:

1. The affected herd must be immediately quarantined, tested for brucellosis, and depopulated; and

2. An epidemiological investigation must be performed and the investigation must confirm that brucellosis has not spread from the affected herd. All herds on premises adjacent to the affected herd (adjacent herds), all herds from which animals may have been brought into the affected herd (source herds), and all herds that may have had contact with or accepted animals from the affected herd (contact herds) must be epidemiologically investigated, and each of those herds must be placed

under an approved individual herd plan. If the investigating epidemiologist determines that a herd blood test for a particular adjacent herd, source herd, or contact herd is not warranted, the epidemiologist must include that determination, and the reasons supporting it, in the individual herd plan.

After the close of the 60-day period following the identification of the infected animal, APHIS will conduct a review to confirm that the requirements have been satisfied and that the State is in compliance with all other applicable provisions.

Prior to the effective date of this interim rule, Idaho was classified as a Class Free State. On November 14, 2005, we confirmed the discovery of a brucellosis-affected herd in Idaho. In accordance with § 78.1, the State took immediate measures to maintain its Class Free status. However, on November 29, 2005, another brucellosis-affected herd was confirmed. With the discovery of the second affected herd, Idaho no longer meets the standards for Class Free status. Therefore, we are removing Idaho from the list of Class Free States or areas in § 78.41(a) and adding it to the list of Class A States or areas in § 78.41(b).

Under the definition of *Class A State or Area* in § 78.1, the regulations require that to attain and maintain Class A status, a State or area must (1) not exceed a cattle herd infection rate, due to field strain *Brucella abortus*, of 0.25 percent or 2.5 herds per 1,000 based on the number of reactors found within the State during any 12 consecutive months, except in States with 10,000 or fewer herds; (2) trace to the farm of origin at least 90 percent of all brucellosis reactors found in the course of MCI testing; (3) successfully close at least 95 percent of the MCI reactor cases traced to the farm of origin during the 12 consecutive month period immediately prior to the most recent anniversary of the date the State or area was classified Class A; and (4) have a specified surveillance system, as described above, including an approved individual herd plan in effect within 15 days of locating a source herd or recipient herd. After reviewing the brucellosis program records for Idaho, we have concluded that this State meets the standards for Class A status.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the interstate spread of brucellosis. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule amends the brucellosis regulations concerning interstate movement of cattle by changing the classification of Idaho from Class Free to Class A. We have determined that Idaho no longer meets the standards for Class Free status. This action is necessary to prevent the spread of brucellosis in the United States.

On January 1, 2005, there were 10,600 cattle and calves operations in Idaho with a total inventory of approximately 2.07 million head of cattle. Industry statistics indicate the average value per head of cattle in Idaho is $1,080, with a reported cash value totaling over $2.24 billion. The small business size standards for cattle operations, as identified by the Small Business Administration based upon the North American Industry Classification System (NAICS) code 112111, is $750,000 or less in annual receipts. It is estimated that 96 percent of the cattle and calves operations in Idaho are small businesses.

A reclassification from Class Free to Class A status with respect to brucellosis will result in movement restrictions for cattle where previously none existed. Specifically, all bovine animals to be moved interstate, except those moving directly to slaughter or to quarantined feedlots, must test negative to a brucellosis test prior to interstate movement. The estimated cost for brucellosis testing, which would include veterinary fees and handling expenses, is between $7.50 and $15 per test. The expenses incurred as a result of this reclassification in status are not expected to be significant for cattle and calf owners in Idaho. Considering the average value per animal in Idaho was $1,080 in 2005, the additional costs to producers associated with brucellosis testing are roughly between 0.6 and 1.3 percent of the value of the animal intended for interstate movement. It is estimated that 17 percent of the cattle in Idaho destined for feeding and breeding purposes are transported out of State. Therefore, the estimated increase in industry costs associated with a reclassification of Idaho to a Class A status may range between $2.6 and $5.3 million.

The more a particular herd owner is involved in interstate movement, the greater the economic expense he or she will incur as a result of this rule. However, it is clear that this change in status will not represent an economically significant loss for cattle and calves herd owners in Idaho. While this change in status will result in additional requirements for interstate movement of cattle for Idaho producers, the benefits of the restriction in preventing the spread of brucellosis to other parts of the United States exceeds the additional costs of brucellosis testing.

The Cooperative State/Federal Brucellosis Eradication Program has produced undeniable benefits since its implementation. Annual losses from lowered milk production, aborted calves and pigs, and reduced breeding efficiency were more than $400 million in 1952 before the program began. Today, such annual losses are estimated at less than $1 million. Studies indicate the costs of producing beef and milk would increase by an estimated $80 million annually in less than 10 years if the program were discontinued.

The change in the status of Idaho to Class A will lead to additional costs associated with brucellosis testing that will range from 0.6 to 1.3 percent of the value of the animals moved interstate. APHIS does not expect additional costs of this magnitude to have a significant impact on affected small-entity producers.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State

and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

■ 1. The authority citation for part 78 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

§ 78.41 [Amended]

■ 2. Section 78.41 is amended as follows:

■ a. In paragraph (a), by removing the word ''Idaho,''.

■ b. In paragraph (b), by removing the word ''Texas'' and adding the words ''Idaho, Texas,'' in its place.

Done in Washington, DC, this 12th day of January 2006.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06–472 Filed 1–18–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–12–AD; Amendment 39–14423; AD 2001–08–14R1]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Arrius Models 2B, 2B1, and 2F Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is revising an existing airworthiness directive (AD) for Turbomeca S.A. Arrius Models 2B, 2B1, and 2F turboshaft engines. That AD currently requires replacing the right injector half manifold, left injector half manifold, and privilege injector pipe. This AD requires the same actions, but relaxes the compliance time for the repetitive replacements on Arrius 2F engines. This AD results from Turbomeca relaxing the repetitive replacement interval for Arrius 2F engine fuel nozzles based on review of returned fuel nozzles to Turbomeca. We are issuing this AD to prevent engine flameout during rapid deceleration, or the inability to maintain the 2.5 minutes one engine inoperative (OEI) rating, and to prevent air path cracks due to blockage of the fuel injection manifolds.

DATES: This AD becomes effective February 23, 2006. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of February 23, 2006.

ADDRESSES: You can get the service information identified in this AD from Turbomeca S.A., 40220 Tarnos, France; telephone: (33) 05 59 64 40 00; fax: (33) 05 59 64 60 80.

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

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7175; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to Turbomeca S.A. Arrius Models 2B, 2B1, and 2F turboshaft engines. We published the proposed AD in the **Federal Register** on May 27, 2005 (70 FR 30651). That action proposed to relax time requirements for the replacement of the right injector half manifold, left injector half manifold, and privilege injector pipe on Arrius 2F engines.

Examining the AD Docket

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

Comments

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

Conclusion

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

Costs of Compliance

About 266 Turbomeca S.A. Arrius Models 2B, 2B1, and 2F turboshaft engines of the affected design are in the worldwide fleet. We estimate that 124 of these engines are installed on helicopters of U.S. registry. We also estimate that it will take about two work hours per engine to perform these actions, and that the average labor rate is $65 per work hour. Required parts will cost about $14,320 per engine. The manufacturer has advised the DGAC that it may provide the parts at no cost to the operator, thereby substantially reducing the cost of this rule. Based on these figures, we estimate the total cost of the AD to U.S. operators to replace all the affected parts one time to be $1,791,800.

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.

Regulatory Findings

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

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

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

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

(3) Will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 2000–NE–12–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–12218 (66 FR 20910, April 26, 2001) and by adding a new airworthiness directive, to read as follows:

2001–08–14R1 Turbomeca S.A.: Amendment 39–14423. Docket No. 2000–NE–12–AD. Revises AD 2001–08–14, Amendment 39–12218.

Applicability

This AD applies to Arrius Models 2B, 2B1, and 2F engines. These engines are installed on but not limited to Eurocopter France Model EC120B and Eurocopter Deutschland EC135 T1 rotorcraft.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

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

To prevent engine flameout and the inability to maintain the 2.5 minutes one engine inoperative (OEI) rating due to blockage of the fuel injection manifolds, do the following:

Initial Replacement

(a) If not already done in accordance with Turbomeca Alert Service Bulletin (ASB) No. A319 73 2012, Revision 2, dated May 25, 1999, or Revision 3, dated July 21, 2000, or ASB No. A319 73 4001, Revision 3, dated May 25, 1999, or Revision 4, dated October 20, 2000, replace injector manifolds and borescope-inspect the flame tube and the high pressure turbine area within 30 days after the effective date of this AD, or prior to exceeding 200 hours time-in-service (TIS), whichever is later. Do these in accordance with Instructions 2.A. through 2.C. of Turbomeca ASB No. A319 73 2012, Revision 6, dated August 14, 2004, for Arrius 2B and 2B1 turboshaft engines, and ASB No. A319 73 4001, Revision 7, dated August 14, 2004, for Arrius 2F turboshaft engines, except that replacement may be done at any appropriately rated repair shop.

Repetitive Replacements

(b) Thereafter, replace injector manifolds, in accordance with Instructions 2.A. through 2.C. of Turbomeca ASB No. A319 73 2012, Revision 6, dated August 14, 2004, for Arrius 2B and 2B1 turboshaft engines, and ASB No. A319 73 4001, Revision 7, dated August 14, 2004, for Arrius 2F turboshaft engines, except that replacement may be done at any appropriately rated repair shop, as follows:

(1) For Arrius 2B and 2B1 engines, replace within 200 hours TIS since last injector manifolds replacement.

(2) For Arrius 2F engines, replace within 400 hours TIS since last injector manifolds replacement.

(3) For all engines, replace injector manifolds before further flight after performing the applicable flight manual or overhaul manual power check if that check shows a negative turbine outlet temperature (TOT) margin or negative T4 margin.

Definition

(c) For the purposes of this AD, time-in-service (TIS) is defined as the number of engine operating hours on the manifolds since the manifolds were new or since the manifolds were refurbished.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Documents That Have Been Incorporated by Reference

(f) The inspections and replacements must be done in accordance with the following Turbomeca S.A. mandatory alert service bulletins (ASBs):

Document No.	Pages	Revision	Date
ASB No. A319 73 2012, Total pages: 8	8	6	August 14, 2004.
ASB No. A319 73 4001, Total pages: 8	8	7	August 14, 2004.

The Director of the Federal Register approved the incorporation by reference of these service bulletins in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Turbomeca S.A., 40220 Tarnos, France; telephone: (33) 05 59 64 40 00; fax: (33) 05 59 64 60 80. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Note 3: The subject of this AD was addressed by the Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, in airworthiness directives AD 1999–217(A) and AD 1999–233(A).

Effective Date

(g) This airworthiness directive (AD) becomes effective February 23, 2006.

Issued in Burlington, Massachusetts, on January 9, 2006.

Peter A. White,

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

[FR Doc. 06–366 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23611; Directorate Identifier 2005–NM–250–AD; Amendment 39–14453; AD 2006–02–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–200 and –300 Series Airplanes, Model A340–200 and –300 Series Airplanes, and Model A340–541 and A340–642 Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Model A330–200 and –300 series airplanes, Model A340–200 and –300 series airplanes, and Model A340–541 and A340–642 airplanes. This AD requires revising the airplane flight manual by incorporating new procedures to follow in the event of a fuel leak. This AD results from a determination that, once a fuel leak is detected, fuel management procedures are a critical factor in limiting the consequences of the leak. We are issuing this AD to ensure that the flightcrew, in the event of a fuel leak, is advised of appropriate procedures to follow, such as isolating the fuel tanks, stopping any fuel transfers, and landing as soon as possible. Failure to follow these procedures could result in excessive fuel loss that could cause the engines to shut down during flight.

DATES: This AD becomes effective February 3, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of February 3, 2006.

We must receive comments on this AD by March 20, 2006.

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

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

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

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

SUPPLEMENTARY INFORMATION:

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on all Airbus Model A330–200 and –300 series airplanes, Model A340–200 and –300 series airplanes, and Model A340–541 and A340–642 airplanes. The DGAC notified us of an incident in which an Airbus Model A330–200 series airplane was diverted due to an extensive fuel leak. During the diversion, both engines shut down due to lack of fuel. The airplane made a successful emergency landing. This event and a subsequent review of major fuel leaks demonstrated that, after a fuel leak is detected, the flightcrew's fuel management procedures are a critical factor in limiting the consequences of a fuel leak. Failure to follow proper procedures in the event of a fuel leak could result in excessive fuel loss that could cause the engines to shut down during flight.

The fuel systems on Airbus Model A330–300 series airplanes, Model A340–200 and –300 series airplanes, and Model A340–541 and A340–642 airplanes, are similar to that on the affected Model A330–200 airplane. Therefore, Airbus Model A330–300 series airplanes, Model A340–200 and—300 series airplanes, and Model A340–541 and A340–642 airplanes, may be subject to the unsafe condition revealed on the Model A330–200 series airplane.

Relevant Service Information

Airbus has issued the temporary revisions (TRs) to the Limitations section of the A330/340 Airplane Flight Manual (AFM), as listed in the table below.

AIRBUS AFM TEMPORARY REVISIONS

Affected airplane models/series	AFM TR	TR approval date
A330–200 series airplanes	4.02.00/31	October 19, 2005.
A330–300 series airplanes	4.02.00/32	October 19, 2005.
A340–200 and –300 series airplanes	4.02.00/46	October 19, 2005.
A340–541 airplanes	4.02.00/48	October 19, 2005.
A340–642 airplanes	4.02.00/47	October 19, 2005.

The TRs describe new procedures to follow in the event of a fuel leak. These procedures remove the gravity-feeding requirement when the leak is not from the engine or is not found; they also involve isolating the fuel tanks and stopping any fuel transfers in order to determine the location of a fuel leak and to stop or minimize the leak, and landing as soon as possible. The DGAC mandated the TRs and issued French airworthiness directives F–2005–195 and F–2005–196, both dated December 7, 2005, to ensure the continued airworthiness of these airplanes in France.

Differences Between the AD and French Airworthiness Directives

The French airworthiness directives require revising the AFM before further flight. This AD requires revising the AFM within 10 days after the effective date of the AD. In developing an appropriate compliance time for this AD, we considered the DGAC's recommendations in the French airworthiness directives and the degree of urgency associated with the subject unsafe condition. In light of all of these factors, we find that a 10-day compliance time represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety.

FAA's Determination and Requirements of This AD

These airplane models are manufactured in France 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 DGAC has kept the FAA informed of the situation described above. We have examined the DGAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of these type designs that are certificated for operation in the United States.

Therefore, we are issuing this AD to ensure that the flightcrew is advised of appropriate procedures to follow in the event of a fuel leak, such as isolating the fuel tanks, stopping any fuel transfers, and landing as soon as possible. Failure to follow these procedures could result in excessive fuel loss that could cause the engines to shut down during flight. This AD requires revising the AFM to include the TRs described previously.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2006–23611; Directorate Identifier 2005–250–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

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

Examining the 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.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–02–01 Airbus: Amendment 39–14453. Docket No. FAA–2006–23611; Directorate Identifier 2005–NM–250–AD.

Effective Date

(a) This AD becomes effective February 3, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A330–201, –202, –203, –223, –243, –301, –321, –322, –323, –341, –342, and –343 airplanes; and Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from a determination that, once a fuel leak is detected, fuel management procedures are a critical factor in limiting the consequences of the leak. We are issuing this AD to ensure that the flightcrew, in the event of a fuel leak, is advised of appropriate procedures to follow, such as isolating the fuel tanks, stopping any fuel transfers, and landing as soon as possible. Failure to follow these procedures could result in excessive fuel loss that could cause the engines to shut down during flight.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified,

unless the actions have already been done.

Airplane Flight Manual (AFM) Revision

(f) Within 10 days after the effective date of this AD, revise the Limitations section of the A330/A340 AFM to include the information in the applicable temporary revision (TR) listed in Table 1 of this AD. Thereafter, operate the airplane according to the limitations and procedures in the applicable TR.

TABLE 1.—AIRBUS AFM TEMPORARY REVISIONS

Affected airplane models/series	AFM TR	TR approval date
A330–201, –202, –203, –223, and –243 airplanes	4.02.00/31	October 19, 2005.
A330–301, –321, –322, –323, –341, –342, and –343 airplanes	4.02.00/32	October 19, 2005.
A340–211, –212, –213, –311, –312, and –313 airplanes	4.02.00/46	October 19, 2005.
A340–541 airplanes	4.02.00/48	October 19, 2005.
A340–642 airplanes	4.02.00/47	October 19, 2005.

Note 1: The action required by paragraph (f) of this AD may be done by inserting into the AFM a copy of the applicable TR listed in Table 1 of this AD. When this TR has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, provided the relevant information in the general revision is identical to that in the applicable TR listed in Table 1 of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(h) French airworthiness directives F–2005–195 and F–2005–196, both dated December 7, 2005, also address the subject of this AD.

Material Incorporated by Reference

(i) You must use the documents listed in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. (The TR approval date is identified only on the first page of each TR; no other page of these documents contains the approval date.) The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_federal_regulations/ibr_locations.html*.

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Airbus temporary revisions to the Airbus A330/A340 airplane flight manual	Temporary revision approval date
4.02.00/31	October 19, 2005.
4.02.00/32	October 19, 2005.
4.02.00/46	October 19, 2005.
4.02.00/47	October 19, 2005.
4.02.00/48	October 19, 2005.

Issued in Renton, Washington, on January 9, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–450 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket FAA 2005–20417; Airspace Docket 05–ANM–06]

RIN 2120–AA66

Amendment to Class E Airspace; Wenatchee, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the effective date and the legal description listed in a final rule published in the **Federal Register** on December 5, 2005, Docket No. FAA–2005–20417, Airspace Docket No. 05–ANM–06.

DATES: *Effective Date:* The effective date for the final rule published at 70 FR 72371, December 5, 2005, is corrected to 0901 UTC, April 13, 2006.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Federal Aviation Administration, Western En Route and Oceanic Area Office, Airspace Branch, 1601 Lind Avenue, S.W., Renton, WA, 98055–4056; telephone (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On December 5, 2005, a final rule was published in the **Federal Register** (70 FR 72371), Docket No. FAA–2005–20417, Airspace Docket No. 05–ANM–06. This rule established an effective date of January 19, 2006. The effective date of this rule should have been April 13, 2006, to coincide with the en route charting dates. Also, the geographic coordinates of the legal description were incorrect. This action corrects those errors.

Correction to Final Rule

■ Accordingly, pursuant to the authority delegated to me, the effective date is changed to April 13, 2006, and the legal description as published in the **Federal Register** on December 5, 2005 (70 FR 72371), is corrected as follows:

§ 71.1 [Amended]

* * * * *

ANM WA E5 Wenatchee, WA [Corrected]

Wenatchee/Pangborn Municipal Airport, WA
(Lat. 47°23′54″ N., long. 120°12′22″ W.)
Wenatchee VOR/DME
(Lat. 47°23′59″ N., long. 120°12′39″ W.)

That airspace extending upward from 700 feet above the surface within 4.3 miles south and 9.5 miles north of the 299° radial from the Wenatchee VOR/DME to 17 miles northwest of the VOR/DME, and within 4.3 miles southwest and 8 miles northeast of the 124° radial from the VOR/DME to 21 miles southeast of the VOR/DME, excluding that portion within the Moses Lake, Grant County, and Quincy Airport, WA Class E airspace areas; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at: Lat. 47°36′00″ N., long. 120°43′00″ W.; to lat. 47°36′00″ N., long. 119°39′30″ W.; to lat. 47°07′00″ N., long. 119°39′30″ W.; to lat. 47°07′00″ N., long. 120°43′00″ W.; to the point of beginning. Excluding that portion

within the Moses Lake, Grant County Airport, WA, Class E airspace area.

* * * * *

Issued in Seattle, Washington, on January 12, 2006.

John Warner,

Acting Area Director, Western En Route and Oceanic Operations.

[FR Doc. 06–491 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–22746; Airspace Docket No. 05–ACE–32]

Modification of Class E Airspace; Kennett, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Kennett, MO.

EFFECTIVE DATE: 0901 UTC, April 13, 2006.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on November 10, 2005 (70 FR 68329). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 13, 2006. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on December 14, 2005.

Paul J. Sheridan,

Area Director, Western Flight Services Operations.

[FR Doc. 06–494 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30477; Amdt. No. 459]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, February 16, 2006.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–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 part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment 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 95

Airspace, Navigation (air).

Issued in Washington, DC on January 13, 2006.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, February 16, 2006.

■ 1. The authority citation for part 95 continues to read as follows:

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

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 459 effective date February 16, 2006]

From	To	MEA	MAA
§ 95.4000 High Altitude RNAV Routes			
§ 95.4020 RNAV Route Q20 is Added to Read			
Corona, NM VORTAC *18000—GNSS MEA #DME/DME/IRU MEA	Junction, TX VORTAC	#*24000	45000
§ 95.4022 RNAV Route Q22 is Added to Read			
Gusti, LA FIX *18000–GNSS MEA #DME/DME/IRU MEA	Catln, AL FIX	#*18000	45000
§ 95.4024 RNAV Route Q24 is Added to Read			
Lake Charles, LA VORTAC *20000–GNSS MEA #DME/DME/IRU MEA	Paytn, AL FIX	#*20000	45000

From	To	MEA
§ 95.6001 Victor Routes—U.S.		
§ 95.6038 VOR Federal Airway V38 is Amended to Read in Part		
Sacky, WV FIX *5000–MRA	*Julea, WV FIX	3500
Julea, WV FIX *5000—MCA BENZO, WV FIX, SE BND	*Benzo, WV FIX	3500
§ 95.6044 VOR Federal Airway V44 is Amended to Read in Part		
Bends, WV FIX *7000–MRA	*Rande, WV FIX	4000
§ 95.6309 VOR Federal Airway V309 is Amended to Read in Part		
Charleston, WV VORTAC *5000–MRA	*Julea, WV FIX	5000
Julea, WV FIX *7000–MRA	*Rande, WV FIX	7000

From	To	MEA	MAA
§ 95.7001 Jet Routes			
§ 95.7158 Jet Route J158 is Amended to Read in Part			
Malad City, ID VOR/DME	Big Piney, WY VOR/DME	18000	45000
Big Piney, WY VOR/DME	Muddy Mountain, WY VORTAC	18000	45000

[FR Doc. 06–495 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 06–01; USCBP–2006–0016]

RIN 1505–AB63

Extension of Import Restrictions Imposed on Archaeological Material Originating in Italy and Representing the Pre-Classical, Classical, and Imperial Roman Periods

AGENCY: Customs and Border Protection; Homeland Security; Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Bureau of Customs and Border Protection (CBP) regulations to indicate the extension of the import restrictions that were imposed by Treasury Decision 01–06 on certain archaeological material originating in Italy and representing the pre-Classical, Classical, and Imperial Roman periods of its cultural heritage, ranging in date from approximately the 9th century B.C. through approximately the 4th century A.D. that were imposed by Treasury Decision (T.D.) 01–06. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that conditions continue to warrant the imposition of import restrictions.

Accordingly, the restrictions will remain in effect for an additional 5 years, and the CBP regulations are being amended to reflect this extension. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. T.D. 01–06 contains the Designated List of archaeological material originating in Italy and representing the pre-Classical, Classical, and Imperial Roman periods of its cultural heritage, ranging in date from approximately the 9th century B.C. through approximately the 4th century A.D.

EFFECTIVE DATE: January 19, 2006.

FOR FURTHER INFORMATION CONTACT: For legal aspects, George F. McCray, Esq., Chief, Intellectual Property Rights and Restricted Merchandise Branch, (202) 572–8710. For operational aspects, Michael Craig, Chief, Other Government Agencies Branch, (202) 344–1684.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*), the United States entered into a bilateral agreement with Italy on January 19, 2001, concerning the imposition of import restrictions on archeological material originating in Italy and representing the pre-Classical, Classical, and Imperial Roman periods. On January 23, 2001, the United States Customs Service published T.D. 01–06 in the **Federal Register** (66 FR 7399), which amended 19 CFR 12.104g(a) to indicate the imposition of these restrictions and included a list designating the types of archaeological material covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are ''effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists'' (19 CFR 12.104g(a)).

After reviewing the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, concluding that the cultural heritage of Italy continues to be in jeopardy from pillage of archaeological material representing the pre-Classical, Classical, and Imperial Roman periods, made the necessary determination to extend the import restrictions for an additional five years on December 5, 2005. Accordingly, CBP is amending 19 CFR 12.104g(a) to indicate the extension of the import restrictions.

The Designated List of Archaeological Material Originating in Italy and Representing the pre-Classical, Classical, and Imperial Roman periods of Italy covered by these import restrictions is set forth in T.D. 01–06. The Designated List and accompanying image database may also be found at the following internet website address: *http://exchanges.state.gov/culprop/it01fr01.html.* The restrictions on the importation of these archaeological materials originating in Italy are to continue in effect for an additional 5 years. Importation of such material continues to be restricted unless:

(1) Accompanied by appropriate export certification issued by the Government of Italy; or

(2) With respect to archaeological material originating in Italy and representing the pre-Classical, Classical, and Imperial Roman periods, verifiable documentation exists that exportation occurred prior to January 19, 2001.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). In addition, CBP has determined that such notice or public procedure would be impracticable and contrary to the public interest because the action being taken is essential to avoid interruption of the application of the existing import restrictions (5 U.S.C. 553(b)(B)). For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

This amendment does not meet the criteria of a ''significant regulatory action'' as described in Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

■ For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff

Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

■ 2. In § 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Italy by removing the reference to ''T.D. 01–06'' in the column headed ''Decision No.'' and adding in its place the language ''T.D. 01–06 extended by CBP Dec. 06–01''.

Deborah J. Spiro,

Acting Commissioner, Bureau of Customs and Border Protection.

Approved: January 17, 2006.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 06–528 Filed 1–18–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CGD11–04–007]

RIN 1625–AA01

Anchorage Regulations; San Pedro Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is enlarging the current anchorage area outside the Federal breakwater of the Ports of Los Angeles—Long Beach, CA. This rule is necessary in order to accommodate the ever-increasing number of larger vessels necessitating anchorage and will provide vessels an appropriate area to anchor.

DATES: This rule is effective February 21, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD11–04–007 and are available for inspection or copying at Sector Los Angeles—Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Peter Gooding, USCG, Chief of the Waterways Management Division, at (310) 732–2020.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 5, 2004, we published a notice of proposed rulemaking (NPRM) entitled Anchorage Regulations: San Pedro Bay, CA in the **Federal Register** (69 FR 64549). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

Ships of increasing size are calling on the Ports of Los Angeles—Long Beach. While in an anchorage area, these larger ships require watch circles of 1500 yards in diameter. Currently, the anchorage area outside the federal breakwater is made up of watch circles 1000 yards in diameter. An increase in the anchorage boundary will allow three additional anchorages for vessels with watch circles of 1500 yards in diameter.

Discussion of Comments and Changes

The Coast Guard received no comments on this rule and has not changed the regulations from the published NPRM.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This proposal will impose no cost on vessel operators, and have minimal impact to vessel traffic.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will possibly affect the following entities, some of which may be small entities: The owners and operators of private and commercial vessels intending to transit or anchor in the affected area. The impact to these entities would not, however, be significant since this zone will encompass only a small portion of the waterway and vessels can safely navigate around the anchored vessels. Additionally, large passenger vessels already routinely anchor within the anchorage areas.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. However, we received no requests for assistance from any small entities.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(f), of the Instruction, from further environmental documentation because it changes the size of an existing anchorage.

A final ''Environmental Analysis Check List'' and final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, and 2071; 33 CFR 1.05–1(g). Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 110.214 by revising paragraph (b)(6) to read as follows:

§ 110.214 Los Angeles and Long Beach Harbors, Calif.

* * * * *

(b) * * *

(6) Commercial Anchorage F (outside of Long Beach Breakwater). The waters southeast of the Long Beach Breakwater bounded by a line connecting the following coordinates:

	Latitude	Longitude
Beginning point	33 deg. – 43′ – 05.1″ N.	118 deg. – 07′ – 59.0″ W.
Thence west to	33 deg. – 43′ – 05.1″ N.	118 deg. – 10′ – 36.5″ W.
Thence south/southeast to	33 deg. – 38′ – 17.5″ N.	118 deg. – 07′ – 00.0″ W.
Thence north/northeast to	33 deg. – 40′ – 23.0″ N.	118 deg. – 06′ – 03.0″ W.
And thence north/northwest to the beginning point.		

* * * * *

Dated: January 9, 2006.

K.J. Eldridge,

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

[FR Doc. 06–497 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP St. Petersburg 05–163]

RIN 1625–AA00

Safety Zone Regulation; Tampa Bay, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Tampa Bay, Florida in the vicinity of the Treasure Island Causeway bascule bridge. This safety zone is being established to protect mariners from the hazards associated with the blasting demolition of the concrete portions of the Treasure Island bascule bridge. This rule is necessary to provide for the safety of life on the navigable waters of the United States.

DATES: This rule is effective from 7:30 a.m. on January 9, 2006 through 6 p.m. March 10, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP St. Petersburg 05–163] and are available for inspection or copying at Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa, Florida 33606–3598 between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BM1 Charles Voss at Coast Guard Sector St. Petersburg, Prevention Department, (813) 228–2191, ext. 8307.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The necessary details for the blasting demolition of the Treasure Island Causeway bascule bridge were not provided with sufficient time remaining to publish an NPRM. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to minimize potential danger to the public during the event. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction along with Coast Guard assets on scene who will also provide notice of the safety zone to mariners.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Johnson Brothers Corporation was contracted to replace the middle span bridge, bascule portion on the Treasure Island Causeway. In order to complete the demolition of the existing bridge, Johnson Brothers will conduct a total of six blasts on three different days to break up the concrete into smaller sections for removal. The three days are tentatively scheduled for 7:30 a.m. on January 11, 2006, January 24, 2006, and February 7, 2006. Each day there will be two blasts approximately one hour apart. The first day of blasts will be to remove the concrete counterbalances. The second and third days will be to remove the West and East side concrete main leaf structures respectively. The use of explosives and the proximity of the concrete bridge structure to the navigable channel present a hazard to mariners transiting the area. This safety zone is being established to ensure the safety of life on the navigable waters of the United States.

Discussion of Rule

The safety zone will extend out from the Treasure Island Causeway bascule Bridge in a 1,000 foot radius. Vessels and persons not under contract or employees of Johnson Brothers are prohibited from entering, anchoring or transiting within this zone unless authorized by the Captain of the Port St. Petersburg or his designated representative. This safety zone is effective from 7:30 a.m. on January 9, 2006 through 6 p.m. on March 6, 2006. The Coast Guard does not know the exact dates that this safety zone will be enforced at this time. Coast Guard Sector St Petersburg will give notice of the enforcement of the safety zone by issuing a Broadcast Notice to Mariners beginning 24 to 48 hours before the blasting is scheduled to begin. On-scene notice will be provided by local Coast Guard and local law enforcement marine units enforcing the safety zone.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary because the safety zone will be in effect for a limited period of time and vessels may enter with the express permission of the Captain of the Port of St. Petersburg or his designated representative.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit within a 1,000 foot radius from the Treasure Island Causeway Bascule Bridge. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will only be enforced in a location where traffic is minimal and for a limited time when vessel traffic is expected to be extremely low. Additionally, traffic will be allowed to enter the zone with the permission of the Captain of the Port St. Petersburg or his designated representative.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking

process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 *note*) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are not factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

This rule is a safety zone and therefore fits the category described in paragraph (34)(g). An ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new section 165.T07–163 is added to read as follows:

§ 165.T07–163 Safety zone: Treasure Island Causeway, Tampa Bay, Florida.

(a) *Regulated Area.* The Coast Guard is establishing a safety zone on the waters of the Intracoastal Waterway in the vicinity of the Treasure Island Causeway Bascule bridge. The safety zone encompasses all waters within a 1,000 foot radius of the Treasure Island Bascule bridge located at 27°46′15″ N, 82°45′12″ W. This safety zone will be activated only on days when blasting is scheduled on the bridge during the effective period identified in paragraph (c) of this section.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited to all vessels and persons without the prior permission of the Coast Guard Captain of the Port St. Petersburg or his designated representative.

(c) *Effective Period.* This Safety Zone is effective from 7:30 a.m. on January 9, 2006 through 6 p.m. on March 10, 2006.

(d) *Notice of Enforcement.* Coast Guard Sector St. Petersburg will give

notice of the enforcement of the safety zone by issuing a Broadcast Notice to Mariners beginning 24 to 48 hours before the blasting is scheduled to begin. On-scene notice will be provided by local Coast Guard and local law enforcement marine units enforcing the safety zone.

Dated: January 5, 2006.

J.A. Servidio,

Captain, U.S. Coast Guard, Captain of the Port, St. Petersburg, Florida.

[FR Doc. 06–496 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Charleston 06–003]

RIN 1625–AA00

Safety Zone; Cooper River, Hog Island Channel, Grace Memorial and Silas Pearman Bridges, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of Hog Island Reach on the Cooper River, for the demolition and recovery operations of the Grace Memorial and Silas Pearman Bridges. This rule prohibits entry, anchoring, mooring, or transiting within the temporary safety zone without the permission of the Captain of the Port Charleston or his designated representative. This regulation is necessary to protect life and property on the navigable waters of the Cooper River from the danger associated with the demolition and recovery operations of these bridges.

DATES: The rule is effective from 7:30 a.m. on January 15, 2006 through 8:01 a.m. on December 31, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Charleston 06–003] and are available for inspection or copying at Coast Guard Sector Charleston (WWM), 196 Tradd Street, Charleston, South Carolina 29401 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer James J. McHugh, Sector Charleston office of Waterways Management, at (843) 724–7647.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM, which would incorporate a comment period before a final rule could be issued and delay the effective date, would be contrary to the public interest because immediate action is needed to protect the public and waters of the United States.

For the same reason, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. A Coast Guard patrol vessel will be on scene for the duration of the effective period to notify mariners of the restriction.

Background and Purpose

The demolition and removal of the Grace Memorial and Silas Pearman Bridges is an on-going operation that will continue throughout the year. This operation will require several explosive detonations to remove the steel trusses and supporting columns for the two bridges. These detonations present a direct danger to mariners transiting in the vicinity of the bridges on Hog Island Reach on the Cooper River. At this time, the detonation schedule can not be exactly determined, however Coast Guard Sector Charleston expects to receive two weeks notice, at maximum, from the contractor before any detonation will occur.

The purpose of this temporary safety zone is to protect mariners from the demolition and recovery operations. While the effective period for this zone extends from January 15 to December 31, 2006, the zone will only be enforced immediately preceding a detonation, and for a short duration following a detonation to allow for the safe removal of debris. Upon receiving notice from the contractor that a detonation will occur, Coast Guard Sector Charleston will notify the public of the date and time the safety zone will be enforced and when enforcement will stop. While the safety zone is being enforced, mariners may request permission to transit through the zone by contacting the U.S. Coast Guard via VHF–FM channel 16 or by phone at (843) 724–7616. Mariners and the general public may also contact the Coast Guard to request information on the status of the safety zone, such as, if it is currently enforced, or when the next enforcement period will be.

Discussion of Rule

This rule creates a temporary safety zone around the Grace Memorial and Silas Pearman Bridges on Hog Island Reach, and includes all waters within the area bounded by the following coordinates: 32°48.566′ N, 079°55.211′ W to 32°48.389′ N, 079°54.256′ W to 32°47.824′ N, 079°54.401′ W thence to 32°47.994′ N, 079°55.359′ W. This zone will only be enforced immediately preceding a detonation, and for a short time following a detonation while debris removal is conducted. These enforcement periods will be announced by Coast Guard Sector Charleston through broadcast notice to mariners, marine safety information bulletins, and through local media press releases. While the zone is enforced, persons and vessels may not enter or remain in the zone without the prior permission of the Captain of the Port Charleston or designated representative.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). Because marine traffic should be able to safely transit around the safety zone and may be allowed to enter the zone with the permission of the COTP or his representative.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The owners and operators of vessels who wish to navigate through Hog Island Reach may be impacted by this rule. This impact will not be significant because the safety zone will only be enforced for a short duration before and after detonations on the bridge, the impact on routine navigation is

expected to be minimal, commercial marine traffic will still be able to safely transit around the temporary safety zone by using the Town Creek Channel, and vessels may be allowed to enter the zone after obtaining the permission of the COTP or their designated representative.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34) (g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T07–003 is added to read as follows:

§ 165.T07–003 Safety Zone, Town Creek Channel, Grace Memorial and Silas Pearman Bridge, Charleston, SC.

(a) *Regulated area.* The Coast Guard is establishing a temporary safety zone around the Grace Memorial and Silas Pearman Bridges on the Cooper River on Hog Island Reach, in the City of Charleston and Mt. Pleasant, SC. The safety zone includes all waters within the area bounded by an imaginary line connecting the following coordinates: 32°48.566′ N, 079°55.211′ W to 32°48.389′ N, 079°54.256′ W to

32°47.824′ N, 079°54.401′ W thence to 32°47.994′ N, 079°55.359′ W.

(b) *Definitions*. The following definitions apply to this section:

Designated representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP) Charleston in the enforcement of the regulated area.

(c) *Regulations*. In accordance with the general regulations in § 165.23 of this part, entering, anchoring, mooring or transiting in the Regulated Area is prohibited, except as provided for herein, or unless authorized by the Coast Guard Captain of the Port Charleston, South Carolina, or his designated representative. Persons and vessels may request permission to enter the safety zone on VHF–FM channel 16 or via phone at (843) 724–7616.

(d) *Enforcement Period*. This regulation will only be enforced at times immediately preceding an explosive detonation on the Grace Memorial or Silas Pearman Bridges, and for a short period after the detonation during debris removal operations. Coast Guard Sector Charleston will announce the start date and expected duration of each enforcement period through broadcast notice to mariners, marine safety information bulletins, through local media press releases and on-scene patrol assets. Additionally, anyone wishing to inquire as to the status of the safety zone may contact Coast Guard Sector Charleston at (843) 724–7616.

(e) *Dates*. This rule is effective from 7:30 a.m. EDT on January 15, 2006 until 8:01 a.m. EDT on December 31, 2006.

Dated: January 6, 2006.

John E. Cameron,

Captain, U.S. Coast Guard, Captain of the Port Charleston, SC.

[FR Doc. 06–499 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Charleston 05–143]

RIN 1625–AA97

Safety Zone; Town Creek Channel, Grace Memorial and Silas Pearman Bridges, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Town Creek Channel for the demolition and recovery operations of the Grace Memorial and Silas Pearman Bridges. This rule prohibits entry, anchoring, mooring, or transiting within the temporary safety zone without the permission of the Captain of the Port Charleston or his designated representative. This regulation is necessary to protect life and property on the navigable waters of the Town Creek channel from the danger associated with the demolition/recovery operations of the Grace Memorial and Silas Pearman Bridges.

DATES: The rule is effective from 7:30 a.m. on October 20, 2005 through 8:01 a.m. on January 30, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Charleston 05–133] and are available for inspection or copying at Coast Guard Sector Charleston (WWM), 196 Tradd Street, Charleston, South Carolina 29401 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer James J. McHugh, Sector Charleston office of Waterways Management, at (843) 723–7647.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM, which would incorporate a comment period before a final rule could be issued and delay the effective date, would be contrary to the public interest because immediate action is needed to protect the public and waters of the United States.

For the same reason, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. A Coast Guard patrol vessel will be on scene for the duration of the effective period to notify mariners of the restriction.

Background and Purpose

This demolition recovery operations will require several blasts that will be needed to remove the steel trusses and supporting columns for the Grace Memorial and Silas Pearman Bridges. The purpose of this temporary zone is to protect mariners from the demolition/recovery operations. The safety zones will remain in effect following any detonation event to protect mariners from the navigation hazard presented by debris removal operations. After any demolition event, and during the debris removal, mariners may request permission to transit through the safety zone by contacting the U.S. Coast Guard via VHF–FM channel 16 or by phone at (843) 724–7616.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). Because marine traffic should be able to safely transit around the safety zone and may be allowed to enter the zone with the permission of the COTP or his representative.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The owners and operators of vessels who wish to navigate through Town Creek Channel may be impacted by this rule. This impact will not be significant because the rule will only be in effect for a short duration, the impact on routine navigation is expected to be minimal, commercial marine traffic will still be able to safely transit around the temporary safety zone by using the Cooper River Channel, and vessels may be allowed to enter the zone after obtaining the permission of the COTP or his designated representative.

Assistance for Small Entities

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

person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34) (g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T07–143 is added to read as follows:

§ 165.T07–143 Town Creek Channel, Grace Memorial and Silas Pearman Bridge, Charleston, SC.

(a) *Regulated area.* The Coast Guard is establishing a temporary safety zone near the Grace Memorial and Silas Pearman Bridges on the Town Creek Channel, in the City of Charleston, SC. The safety zone includes all waters within the area bounded by a line connecting the following coordinates: 32°48′.375 N, 079°55′.844 W to 32°47′.956 N, 079°55′.542 W to 32°47′.879 N, 079°55′.693 W thence to 32°48′.304 N, 079°55′.985 W thence return to 32°48′.375 N, 079°55′.844 W.

(b) *Definitions.* The following definitions apply to this section:

Designated representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP) Charleston in the enforcement of the regulated area.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited, except as provided for herein, or unless authorized by the Coast Guard Captain

of the Port Charleston, South Carolina, or his designated representative. Persons and vessels may request permission to enter the safety zone on VHF–FM channel 16 or via phone at (843) 720–3240.

(d) *Dates.* This rule is effective from 7:30 a.m. EDT on October 20, 2005 until 8:01 a.m. EDT on January 30, 2006.

Dated: October 26, 2005.

John E. Cameron,

Captain, U.S. Coast Guard, Captain of the Port, Charleston, SC.

[FR Doc. 06–498 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2005–TX–0014; FRL–8022–2]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions To Control Volatile Organic Compound Emissions; Volatile Organic Compound Control for Facilities in the Dallas/Fort Worth Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve Texas State Implementation Plan (SIP) revisions. The revisions pertain to regulations to control Volatile Organic Compound (VOC) emissions from VOC transfer operations and solvent using processes. The revisions allow use of gasoline vapor recovery systems approved by Texas, and add new requirements to control VOC emissions from motor vehicle fuel dispensing facilities and surface coating facilities in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties. These counties are part of the Dallas/Fort Worth (DFW) 8-hour ozone standard nonattainment area. The revisions also amend regulations on use of cleaning solvents. We are approving the revisions pursuant to sections 110, 116 and part D of the Federal Clean Air Act (CAA). The control of VOC emissions will help to attain and maintain the 8-hour national ambient air quality standard (NAAQS) for ozone in Texas. This approval will make the revised regulations Federally enforceable.

DATES: This rule is effective on March 20, 2006 without further notice, unless EPA receives relevant adverse comment by February 21, 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 Docket No. EPA–R06–OAR–2005–TX–0014, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. 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. Thomas Diggs at *diggs.thomas@epa.gov*. Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), 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 Docket ID No. EPA–R06–OAR–2005–TX–0014. 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 *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site 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 *www.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.

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, *e.g.,* 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. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), 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 214–665–7253 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: Carl Young, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–6645; fax number 214–665–7263; e-mail address *young.carl@epa.gov.*

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

Outline

I. What is a SIP?
II. What Rules Were Submitted by Texas to be Approved into the SIP?

III. What Action is EPA Taking?
IV. What is the Effect of this Action?
V. Final Action
VI. Statutory and Executive Order Reviews

I. What Is a SIP?

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the NAAQS established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state which contains areas that are not attaining the NAAQS must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

II. What Rules Were Submitted by Texas To Be Approved Into the SIP?

Texas submitted rules for inclusion into the SIP for ozone which added and amended requirements to control VOC emissions. VOCs are a key component in the formation of ozone. The rules also made a variety of changes which (1) clarify existing requirements, (2) update references, and (3) make the rules easier to read. The revisions amended Title 30 of the Texas Administrative Code, Chapter 115, Control of Air Pollution from Volatile Organic Compounds (30 TAC 115). See our Technical Support Document (TSD) for more information.

The State rules add new requirements to control VOC emissions from (1) motor vehicle fuel dispensing facilities and (2) surface coating facilities in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties. These counties are part of the DFW 8-hour ozone standard nonattainment area. Facilities in the other DFW area counties, (Dallas, Denton, Tarrant and Collin Counties), are already subject to the requirements.

The State rules require motor vehicle fuel dispensing facilities in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties that dispense at least 10,000 but less than 125,000 gallons of fuel per calender month to operate Stage I gasoline vapor recovery systems no later than June 15, 2007 (30 TAC 115.229). Stage I vapor recovery systems control VOC vapor emissions as gasoline tank-trucks fill gasoline station storage tanks by returning the vapors to the tank-truck. Facilities in these counties that dispense 125,000 gallons or more per month were already required to operate Stage I vapor recovery systems.

Surface coating facilities in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties must comply with Texas requirements to control VOC emissions no later than June 15, 2007 (30 TAC 115.429). Surface coating facilities apply or impregnate material onto or into a substrate for protective, decorative, or functional purposes. Such materials include paints, varnishes, sealants, adhesives, thinners, and inks. The requirements affect (1) materials used for surface coating that emit VOCs and (2) practices and control equipment to minimize VOC emissions.

The rules amend regulations on Stage I and Stage II vapor recovery systems at motor vehicle fuel dispensing facilities. Stage II gasoline vapor recovery systems control VOC vapor releases during the refueling of motor vehicles. The rules allow Texas to approve use of gasoline vapor recovery systems certified by an independent third party (30 TAC 115 §§ 222, 223, 240, 242, and 245) and expand the types of Stage II vapor recovery equipment deemed compatible with onboard refueling vapor recovery (ORVR) systems (30 TAC 115.240). Equipment can be certified as ORVR compatible by the California Air Resources Board or an independent third party using approved tests. ORVR equipment is required on newer vehicles. Requiring compatibility between ORVR and Stage II systems will decrease VOC emissions when vehicles with ORVR are being refueled. Requirements for ORVR compatibility were previously approved by EPA on March 29, 2005 (70 FR 15769).

An inconsistency was corrected between the Texas regulations and EPA requirements for aerospace manufacturing and rework operations, (40 CFR 63.744). See our TSD for more information. With the correction, use of certain low VOC emission hydrocarbon-based cleaning solvents for aerospace coating processes is exempt from ''housekeeping measures'' (30 TAC 115.422(5)(E)). Housekeeping measures include storing cleaning solvents and materials moistened with cleaning solvents in closed containers. In order to be exempt the hydrocarbon-based cleaning solvent must have a maximum vapor pressure of seven millimeters of mercury (mm Hg) at 20 degrees Celsius (68 degrees Fahrenheit) and contain no hazardous air pollutants, as defined in Title III of the CAA.

An additional option was provided for certain offset lithographic printers to meet VOC control requirements. The printers may use low VOC emission cleaning solutions with a maximum VOC composite partial pressure of ten mm Hg at 20 degrees Celsius (30 TAC 115.442(1)(F)(iii)). The VOC composite partial pressure is the sum of the partial pressures of the VOC compounds in the cleaning solution. Monitoring requirements for VOC control devices used on heatset offset lithographic printing presses were changed to allow for a temperature monitoring device accuracy of plus or minus 1.0% of the temperature being monitored, in lieu of an accuracy of plus or minus 0.5 degrees Fahrenheit (30 TAC 115.446(1)). The requirements apply to offset lithographic printers in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Gregg, Hardin, Harris, Jefferson, Liberty, Montgomery, Nueces, Orange, Tarrant, Victoria, and Waller Counties.

III. What Action Is EPA Taking?

EPA is taking direct final action to approve revisions to the Texas SIP that pertain to regulations which control VOC emissions in Texas. The revisions were adopted by the State of Texas and submitted to EPA on (1) September 7, 2001, (2) July 18, 2002, (3) January 28, 2003, (4) November 7, 2003, (5) April 15, 2005, and (6) May 13, 2005.

The revisions submitted to EPA that are being approved amend §§ 115.10, 115.211, 115.214, 115.215, 115.216, 115.217, 115.219, 115.222, 115.223, 115.229, 115.240, 115.242, 115.243, 115.245, 115.248, 115.249, 115.420, 115.421, 115.422, 115.423, 115.426, 115.427, 115.429, 115.432, 115.433, 115.435, 115.436, 115.439, 115.440, 115.442, 115.445, and 115.446 in 30 TAC 115. The revisions (1) allow use of gasoline vapor recovery systems approved by Texas, and (2) add new requirements to control VOC emissions from motor vehicle fuel dispensing facilities and surface coating facilities in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties. These counties are part of the DFW 8-hour ozone standard nonattainment area. The revisions also amend regulations on use of cleaning solvents.

We are approving the revisions pursuant to sections 110, 116 and part D of the CAA. Many of these revisions are nonsubstantive changes which clarify rules that are already contained in the Texas ozone SIP. The other revisions strengthen the Texas ozone SIP as they (1) reduce VOC emissions in

the Dallas/Fort Worth area by adding additional controls, (2) provide more options for controlling VOC emissions that are equivalent to controls approved by EPA, and (3) add incentives for use of products that have lower VOC emissions. The control of VOC emissions will help to attain and maintain the 8-hour national ambient air quality standard (NAAQS) for ozone in Texas. The State's revisions will not interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA. As such, EPA's approval of the revisions complies with the requirements of section 110(l) of the CAA. Under section 110(l) EPA may not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA. This approval will make the revised regulations Federally enforceable. Other revisions of the Texas VOC regulations submitted to EPA will be addressed in another **Federal Register** action. See our TSD for more information.

We are also making ministerial corrections to the table in 40 CFR 52.2270(c) to reflect SIP submittal dates and **Federal Register** citations of EPA action. The ministerial corrections apply to table entries for §§ 115.212, 115.213, 115.224, 115.225, 115.226, 115.234, 115.235, 115.236, 115.237, 115.424, 115.425, 115.430, 115.437, 115.443, and 115.449.

IV. What Is the Effect of This Action?

This action approves revisions to the Texas SIP that pertain to regulations to control VOC emissions. The control of VOC emissions will help to attain and maintain the 8-hour NAAQS for ozone in Texas. This approval will make these revised regulations Federally enforceable. Enforcement of the regulations in a State SIP before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulations are Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

V. Final Action

EPA is approving revisions to the Texas SIP pertaining to control of VOC emissions. The revisions were submitted to EPA by the State of Texas on (1) September 7, 2001, (2) July 18, 2002, (3) January 28, 2003, (4) November 7, 2003, (5) April 15, 2005, and (6) May 13, 2005. The revisions being approved are §§ 115.10, 115.211, 115.214, 115.215, 115.216, 115.217, 115.219, 115.222, 115.223, 115.229, 115.240, 115.242, 115.243, 115.245, 115.248, 115.249, 115.420, 115.421, 115.422, 115.423, 115.426, 115.427, 115.429, 115.432, 115.433, 115.435, 115.436, 115.439, 115.440, 115.442, 115.445, and 115.446 in 30 TAC Chapter 115, Control of Air Pollution from Volatile Organic Compounds.

We have evaluated the State's submittal and have determined that it meets the applicable requirements of the CAA and EPA air quality regulations. Therefore, we are approving revisions to the Texas SIP of regulations to control VOC emissions. The control of VOC emissions will help to attain and maintain the 8-hour national ambient air quality standard for ozone in Texas.

We are also making ministerial corrections to the table in 40 CFR 52.2270(c) to reflect SIP submittal dates and **Federal Register** citations of EPA action. The ministerial corrections apply to table entries for Sections 115.212, 115.213, 115.224, 115.225, 115.226, 115.234, 115.235, 115.236, 115.237, 115.424, 115.425, 115.430, 115.437, 115.443, and 115.449.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant 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 relevant adverse comments are received. This rule will be effective on March 20, 2006 without further notice unless we receive relevant adverse comment by February 21, 2006. If we receive relevant 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 now. 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.

VI. 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 and because this action will not have a significant, adverse effect on the supply, distribution, or use of energy, 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 CAA. 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 under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 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. section 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. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 20, 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 6, 2006.

Lawrence E. Starfield,

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 entries for §§ 115.10, 115.211, 115.212, 115.213, 115.214, 115.215, 115.216, 115.217, 115.219, 115.222, 115.223, 115.224, 115.225, 115.226, 115.229, 115.234, 115.235, 115.236, 115.237, 115.240, 115.242, 115.243, 115.245, 115.248, 115.249, 115.420, 115.421, 115.422, 115.423, 115.424, 115.425, 115.426, 115.427, 115.429, 115.430, 115.432, 115.433, 115.435, 115.436, 115.437, 115.439, 115.440, 115.442, 115.443, 115.445, 115.446 and 115.449 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 115 (Reg 5)—Control of Air Pollution from Volatile Organic Compounds				
*	*	*	*	*
Subchapter A: Definitions				
Section 115.10	Definitions	04/13/05	01/19/06 [Insert FR page number where document begins].	
*	*	*	*	*
Subchapter C: Volatile Organic Compound Transfer Operations				
Division 1: Loading and Unloading of Volatile Organic Compounds				
Section 115.211	Emission Specifications	12/13/02	01/19/06 [Insert FR page number where document begins].	
Section 115.212	Control Requirements	12/06/00	07/16/01, 66 FR 36913.	
Section 115.213	Alternate Control Requirements	06/30/99	12/20/00, 65 FR 79745.	
Section 115.214	Inspection Requirements	04/26/02	01/19/06 [Insert FR page number where document begins].	
Section 115.215	Approved Test Methods.	12/13/02	01/19/06 [Insert FR page number where document begins].	
Section 115.216	Monitoring and Record-keeping Requirements.	10/22/03	01/19/06 [Insert FR page number where document begins].	
Section 115.217	Exemptions	10/22/03	01/19/06 [Insert FR page number where document begins].	
Section 115.219	Counties and Compliance	12/13/02	01/19/06 [Insert FR page number where document begins].	

EPA-APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*
Division 2: Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities			
Section 115.222	Control Requirements	03/23/05	01/19/06 [Insert FR page number where document begins].	
Section 115.223	Alternate Control Requirements	03/23/05	01/19/06 [Insert FR page number where document begins].	
Section 115.224	Inspection Requirements	06/30/99	12/20/00, 65 FR 79745.	
Section 115.225	Testing Requirements	06/30/99	12/20/00, 65 FR 79745.	
Section 115.226	Recordkeeping Requirements	06/30/99	12/20/00, 65 FR 79745.	
*	*	*	*	*
Section 115.229	Counties and Compliance Schedule D	04/13/05	01/19/06 [Insert FR page number where document begins].	
Division 3: Control of Volatile Organic Leaks from Transport Vessels				
Section 115.234	Inspection Requirements	06/30/99	12/20/00, 65 FR 79745.	
Section 115.235	Approved Test Methods	06/30/99	12/20/00, 65 FR 79745.	
Section 115.236	Recordkeeping Requirements	06/30/99	12/20/00, 65 FR 79745.	
Section 115.237	Exemptions	06/30/99	12/20/00, 65 FR 79745.	
*	*	*	*	*
Division 4: Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities				
Section 115.240	Stage II Vapor Recovery Definitions and List of California Air Resources Board Certified Stage II Equipment.	3/23/05	01/19/06 [Insert FR page number where document begins].	
*	*	*	*	*
Section 115.242	Control Requirements	03/23/05	01/19/06 [Insert FR page number where document begins].	
Section 115.243	Alternate Control Requirements	03/23/05	01/19/06 [Insert FR page number where document begins].	
*	*	*	*	*
Section 115.245	Testing Requirements	03/23/05	01/19/06 [Insert *FR* page number where document begins].	
*	*	*	*	*
Section 115.248	Training Requirements	03/23/05	01/19/06 [Insert FR page number where document begins].	
Section 115.249	Counties and Compliance Schedules	03/23/05	01/19/06 [Insert FR page number where document begins].	
*	*	*	*	*
Subchapter E: Solvent-Using Processes				
*	*	*	*	*
Division 2: Surface Coating Processes				
Section 115.420	Surface Coating Definitions	12/13/02	01/19/06 [Insert FR page number where document begins].	
Section 115.421	Emission Specifications	12/13/02	01/19/06 [Insert FR page number where document begins].	
Section 115.422	Control Requirements	04/26/02	01/19/06 [Insert FR page number where document begins].	
Section 115.423	Alternate Control Requirements	08/08/01	01/19/06 [Insert FR page number where document begins].	
Section 115.424	Inspection Requirements	06/29/00	10/30/01, 66 FR 54688.	
Section 115.425	Testing Requirements	06/29/00	10/30/01, 65 FR 54688.	
Section 115.426	Monitoring and Recordkeeping Requirements.	08/08/01	01/19/06 [Insert FR page number where document begins].	
Section 115.427	Exemptions	12/31/02	01/19/06 [Insert FR page number where document begins].	

EPA-APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
Section 115.429	Counties and Compliance Schedules	04/13/05	01/19/06 [Insert FR page number where document begins].	
Division 3: Flexographic and Rotogravure Printing				
Section 115.430	Flexographic and Rotogravure Printing Definitions.	12/06/01	07/16/01, 66 FR 36913.	
Section 115.432	Control Requirements	08/08/01	01/19/06 [Insert FR page number where document begins].	
Section 115.433	Alternate Control Requirements	08/08/01	01/19/06 [Insert FR page number where document begins].	
Section 115.435	Testing Requirements	08/08/01	01/19/06 [Insert FR page number where document begins].	
Section 115.436	Monitoring and Record-keeping Requirements.	08/08/01	01/19/06 [Insert FR page number where document begins].	
Section 115.437	Exemptions	02/14/96	01/26/99, 64 FR 3841.	
Section 115.439	Counties and Compliance Schedules	08/08/01	01/19/06 [Insert FR page number where document begins].	
Division 4: Offset Lithographic Printing				
Section 115.440	Offset Printing Definitions	04/26/02	01/19/06 [Insert FR page number where document begins].	
Section 115.442	Control Requirements	04/26/02	01/19/06 [Insert FR page number where document begins].	
Section 115.443	Alternate Control Requirements	02/24/99	04/06/00, 65 FR 18003.	
Section 115.445	Approved Test Methods	04/26/02	01/19/06 [Insert FR page number where document begins].	
Section 115.446	Monitoring and Record-keeping Requirements.	04/26/02	01/19/06 [Insert FR page number where document begins].	
Section 115.449	Counties and Compliance Schedules	12/06/00	07/16/01, 66 FR 36913.	
*	*	*	*	*

[FR Doc. 06–435 Filed 1–18–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 03–225; FCC 04–182]

Request To Update Default Compensation Rate for Dial-Around Calls From Payphones

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations in FCC 04–182, which were published in the **Federal Register** in August 2004. The regulations are related to part 64 of the Commission's rules.

DATES: The rules became effective September 27, 2004.

FOR FURTHER INFORMATION CONTACT: Lynne Hewitt Engledow, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–1520 or via the Internet at *lynne.engledow@fcc.gov*.

SUPPLEMENTARY INFORMATION: This Erratum makes corrections to the Report and Order in the above-captioned proceeding released on August 12, 2004 (69 FR 52444, August 26, 2004). As published, the final regulations contain errors which may prove to be misleading and need to be clarified.

List of Subjects in 47 CFR Part 64

Communications common carriers, Telecommunications, Telephones.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

■ Accordingly, 47 CFR part 64 is corrected by making the following correcting amendment:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority for part 64 continues to read:

Authority: 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254(k) unless otherwise noted.

■ 2. Section 64.1300 is revised to read as follows:

§ 64.1300 Payphone compensation obligation.

(a) For purposes of this subpart, a Completing Carrier is a long distance carrier or switch-based long distance reseller that completes a coinless access code or subscriber toll-free payphone call or a local exchange carrier that completes a local, coinless access code or subscriber toll-free payphone call.

(b) Except as provided herein, a Completing Carrier that completes a coinless access code or subscriber toll-free payphone call from a switch that the Completing Carrier either owns or leases shall compensate the payphone service provider for that call at a rate agreed upon by the parties by contract.

(c) The compensation obligation set forth herein shall not apply to calls to emergency numbers, calls by hearing disabled persons to a telecommunications relay service or local calls for which the caller has made the required coin deposit.

(d) In the absence of an agreement as required by paragraph (b) of this section, the carrier is obligated to compensate the payphone service provider at a per-call rate of $.494.

[FR Doc. 06–478 Filed 1–18–06; 8:45 am]

BILLING CODE 6712–01–P

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1631, 1644 and 1652

RIN 3206–AJ20

Federal Employees Health Benefits Acquisition Regulation: Technical Amendments

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing this final regulation to make minor technical amendments to the Federal Employees Health Benefits Acquisition Regulation (FEHBAR).

DATES: Effective February 21, 2006.

ADDRESSES: This document is available for viewing at *http://www.regulations.gov* and at the U.S. Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Michael Kaszynski, Policy Analyst, at 202–606–0004 or e-mail *mwkaszyn@opm.gov*.

SUPPLEMENTARY INFORMATION: The primary purpose of this rulemaking is to make technical amendments to the large provider regulation which was published on June 1, 2005. We are changing certain contract provision effective dates. We have eliminated the reference to the Truth in Negotiations Act in FEHBAR 1652.204–74. We have revised FEHBAR 1644.170 to show that carriers must follow commercially reasonable procurement procedures that comply, when required, with the Federal Acquisition Regulations' policies and procedures relating to competition and contract pricing for the acquisition of both commercial and noncommercial items. The intent of the clause is to require carriers to abide by FAR competition and contract pricing policies when they subcontract so that the carrier will be able to provide the Contracting officer with information sufficient to enable the Contracting officer to effectively carry out his or her duties under the FAR and the FEHBAR when he or she evaluates subcontracts and determines whether to consent. The regulation also clarifies that carriers should ensure that the public accounting firms with which they contract for audits of FEHB accounts are registered with the Public Company Accounting Oversight Board (PCAOB).

Collection of Information Requirement

This rulemaking makes minor technical amendments to the Federal Employees Health Benefits Acquisition Regulations. The rule does not impose information collection and recordkeeping requirements that meet the definition of the Paperwork Reduction Act of 1995's term ''collection of information'' which means obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on ten or more persons, other than agencies, instrumentalities, or employees of the United States; or answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies with revenues of $11.5 million or less in any one year. This rulemaking affects FEHB Program carriers and their contractual arrangements which exceed the dollar threshold. Therefore, I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

Regulatory Impact Analysis

We have examined the impact of this final rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the RFA (September 16, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995, (Pub. L. 104–4), and Executive Order 13132. Executive Order 12866 (as amended by Executive Order 13258, which merely assigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year). This rule is not considered a major rule, as defined in title 5, United States Code, Section 804(2), because we estimate its impact will only affect FEHB carriers and some of their contractual arrangements. Any resulting economic impact would not be expected to exceed the dollar threshold.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 48 CFR Parts 1631, 1644 and 1652

Government employees, Government procurement, Health insurance, Reporting and recordkeeping requirements.

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, OPM is amending chapter 16 of title 48, CFR, as follows:

CHAPTER 16—OFFICE OF PERSONNEL MANAGEMENT FEDERAL EMPLOYEES HEALTH BENEFITS ACQUISITION REGULATION

■ 1. The authority citation for 48 CFR parts 1631, 1644 and 1652 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

Subchapter E—General Contracting Requirements

PART 1631—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 1631.2—Contracts With Commercial Organizations

■ 2. A new 1631.205–82 is added to subpart 1631.2 to read as follows:

1631.205–82 Audits.

Carriers should ensure that the public accounting firms with which they contract for audits of FEHB accounts are registered with the Public Company Accounting Oversight Board (PCAOB).

Subchapter G—Contract Management

PART 1644—SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 1644.1—General

■ 3. Paragraph (a) of section 1644.170 is revised to read as follows:

1644.170 Policy for FEHB Program subcontracting.

(a) General policy. Carriers must follow commercially reasonable procurement procedures that comply, when required, with the Federal Acquisition Regulations (FAR) policies and procedures relating to competition and contract pricing for the acquisition of both commercial and noncommercial items.

* * * * *

Subchapter H—Clauses and Forms

PART 1652—CONTRACT CLAUSES

Subpart 1652.2—Texts of FEHB Clauses

■ 4. The clause heading and the last sentence in clause 1652.204–70 is amended to read as follows.

1652.204–70 Contractor records retention.

* * * * *

Contractor Records Retention (JUL 2005)

* * * * *

* * * This clause is effective prospectively as of the 2005 contract year.

(End of Clause)

■ 5. Section 1652.204–74(a)(1) and the heading of the clause are revised to read as follows:

1652.204–74 Large Provider Agreements.

* * * * *

Large Provider Agreements (OCT 2005)

(a) *Notification and Information Requirements.* (1) The experience-rated Carrier must provide notice to the contracting officer of its intent to enter into or to make a significant modification of a Large Provider Agreement:

(i) Not less than 60 days before entering into any Large Provider Agreement; and

(ii) Not less than 60 days before exercising a renewal or other option, or significant modification to a Large Provider Agreement, when such action would result in total costs to the FEHB Program of an additional 20 percent or more above the existing contract. However, if a carrier is exercising a simple renewal or other option contemplated by a Large Provider Agreement that OPM previously reviewed, and there are no significant changes, then a statement to the effect that the renewal or other option is being exercised along with the dollar amount is sufficient notice.

* * * * *

■ 6. The clause heading in 1652.222–70 is revised to read as follows.

* * * * *

1652.222–70 Notice of Significant Events.

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Notice of Significant Events (JUL 2005)

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■ 7. The clause heading in 1652.244–70 is revised to read as follows.

1652.244–70 Subcontracts.

* * * * *

Subcontracts (JUL 2005)

* * * * *

■ 8. The clause heading in 1652.246–70 is revised to read as follows.

1652.246–70 FEHB Inspection.

* * * * *

FEHB Inspection (JUL 2005)

* * * * *

[FR Doc. 06–459 Filed 1–18–06; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 051104291–5350–02; I.D. 100405F]

RIN 0648 AT29

Fisheries of the Northeastern United States; Spiny Dogfish; Framework Adjustment 1; Establishing a Multiple-year Specifications Process

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

ACTION: Final rule.

SUMMARY: NMFS announces the implementation of Framework Adjustment 1 (Framework 1) to the Spiny Dogfish Fishery Management Plan (FMP), which will allow the specification of commercial quotas and other management measures for up to 5 years. This framework adjustment is intended to improve management of the Northeast Atlantic stock of Spiny Dogfish.

DATES: Effective February 21, 2006.

ADDRESSES: Copies of Framework 1, the Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA), and other supporting documents are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901–6790. The RIR/IRFA is also accessible via the Internet at *http://www.nero.noaa.gov/nero/regs/com.html*.

FOR FURTHER INFORMATION CONTACT: Eric Jay Dolin, Fishery Policy Analyst, (978) 281–9259, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

This framework adjustment to the FMP is intended to improve management of the Northeast Atlantic stock of spiny dogfish (*Squalus acanthias*), pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Under the existing FMP, spiny dogfish are jointly managed by both the Mid-Atlantic and the New England Fishery Management Councils (Councils). The Councils recommend annual commercial quotas and other management measures (e.g., minimum or maximum fish sizes, seasons, mesh size restrictions, trip limits, or other gear restrictions), as needed, in order to ensure that the target fishing mortality rate (F) of 0.08 will not be exceeded. Implementing regulations for these fisheries are found at 50 CFR part 648, subpart L. Under the current FMP, the commercial quota and trip limits are specified annually and apply only to the following fishing year.

The Councils developed Framework 1, pursuant to § 648.237, in order to streamline the administrative and regulatory processes involved in specifying the fishing measures for spiny dogfish, while, at the same time, maintaining consistency with the Magnuson-Stevens Act. This action modifies the FMP so that, within a given year, the Councils could specify commercial quotas and other management measures necessary to ensure that the target F specified in the FMP will not be exceeded in each of the following 1 to 5 years. Implementation of Framework 1 provides the option, not the requirement, for Councils to specify multi-year management measures. All of the environmental and regulatory review procedures currently required under the Magnuson-Stevens Act and the National Environmental Policy Act will be conducted and documented during the year in which specifications are set. These analyses will consider impacts throughout the time span for which specifications are to be set (1 to 5 years). Multi-year quotas and other management measures would not have to be constant from year to year, but would instead be based upon expectations of future stock conditions as indicated by the best scientific

information available at the time the multi-year specifications are set. Updated information on the resource and the fishery would be reviewed at least every 5 years by the Spiny Dogfish Monitoring Committee, the Joint Spiny Dogfish Committee, and the Councils. Adjustments to the management measures, once implemented, would not be expected to occur during the period of multi-year specifications. Nevertheless, if new information indicated that modification to the multi-year management measures is necessary to ensure that the target F is not exceeded, the Councils would initiate the process for setting specifications in order to make such modifications. Given the elimination of the annual review/management measure adjustment process under this action, environmental impact evaluation in the specification setting year would have to consider thoroughly the uncertainty associated with projected estimates of stock size in the 1 to 5 year time horizon. Accordingly, Council recommendations for multi-year management measures would have to be adequately conservative to accommodate this uncertainty.

Comments and Responses

One comment was received and it was outside the scope of this rulemaking.

Classification

The Regional Administrator had determined that the framework adjustment implemented by this final rule is necessary for the conservation and management of the spiny dogfish fishery and is consistent with the Magnuson-Stevens Act and other applicable law.

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

NMFS has prepared a FRFA pursuant to 5 U.S.C. 604(a). The FRFA incorporates the discussion that follows, the comments and responses to the proposed rule, and the initial regulatory flexibility analysis (IRFA) and other analyses completed in support of this action, which were summarized in the proposed rule (70 FR 72100, December 1, 2005). A copy of the IRFA is available from the Mid-Atlantic Fishery Management Council (see **ADDRESSES**).

There were 3,513 Federal dogfish permit holders in 2004. This action does not establish any management measures, rather it deals only with the period of time for which annual management measures will be established and, therefore, has no direct effect on entities participating in the fishery; accordingly, no steps could be taken to minimize impacts. No comments germane to the scope of this rulemaking were received on the IRFA or the economic impacts of the rule during the public comment period. There are no relevant Federal rules that duplicate, overlap, or conflict with this rule. This rule does not contain any new, nor does it revise any existing reporting, recordkeeping, and other compliance requirements.

List of Subjects in 50 CFR Part 648

Fishing, Fisheries, Reporting and recordkeeping requirements.

Dated: January 12, 2006.

James W. Balsiger,

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

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. Section 648.230 is revised to read as follows:

§ 648.230 Catch quotas and other restrictions.

(a) *Process for setting specifications.* The Spiny Dogfish Monitoring Committee will review the following data at least every 5 years, subject to availability, to determine the total allowable level of landings (TAL) and other restrictions necessary to assure that a target fishing mortality rate specified in the Spiny Dogfish Fishery Management Plan will not be exceeded in each year for which TAL and any other measures are recommended: Commercial and recreational catch data; current estimates of F; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling data; impact of gear other than otter trawls and gill nets on the mortality of spiny dogfish; and any other relevant information.

(b) *Recommended measures.* Based on this review, the Spiny Dogfish Monitoring Committee shall recommend to the Joint Spiny Dogfish Committee a commercial quota and any other measures including those in paragraphs (b)(1)-(b)(5) of this section that are necessary to assure that the F specified in paragraph (a) of this section will not be exceeded in any fishing year (May 1–April 30), for a period of 1–5 fishing years. The quota may be set within the range of zero to the maximum allowed. The measures that may be recommended include, but are not limited to:

(1) Minimum or maximum fish sizes;

(2) Seasons;

(3) Mesh size restrictions;

(4) Trip limits; or

(5) Other gear restrictions.

(c) *Joint Spiny Dogfish Committee recommendation.* The Councils' Joint Spiny Dogfish Committee shall review the recommendations of the Spiny Dogfish Monitoring Committee. Based on these recommendations and any public comments, the Joint Spiny Dogfish Committee shall recommend to the Councils a commercial quota and, possibly, other measures, including those specified in paragraph (b) of this section, necessary to assure that the F specified in paragraph (a) of this section will not be exceeded in any fishing year (May 1–April 30), for a period of 1–5 fishing years. The commercial quota may be set within the range of zero to the maximum allowed.

(d) *Council recommendations.* The Councils shall review these recommendations and, based on the recommendations and any public comments, recommend to the Regional Administrator a commercial quota and other measures necessary to assure that the F specified in paragraph (a) of this section will not be exceeded in any fishing year (May 1–April 30), for a period of 1–5 fishing years. The Councils' recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and other impacts of the recommendations. The Regional Administrator shall initiate a review of these recommendations and may modify the recommended quota and other management measures to assure that the target F specified in paragraph (a) of this section will not be exceeded in any fishing year (May 1–April 30), for a period of 1–5 fishing years. The Regional Administrator may modify the Councils' recommendations using any of the measures that were not rejected by both Councils. After such review, NMFS shall publish a proposed rule in the **Federal Register** specifying a coastwide commercial quota and other measures necessary to assure that the F specified in paragraph (a) of this section will not be exceeded in any fishing year (May 1–April 30), for a period of 1–5 fishing years. After considering public comments, NMFS shall publish a final rule in the **Federal Register** to implement such a quota and other measures.

(e) [Reserved]

(f) *Distribution of annual quota.* (1) The annual quota specified according to the process outlined in paragraph (a) of this section shall be allocated between two semi-annual quota periods as follows: May 1 through October 31 (57.9 percent) and November 1 through April 30 (42.1 percent).

(2) All spiny dogfish landed for a commercial purpose in the states from Maine through Florida shall be applied against the applicable semi-annual commercial quota, regardless of where the spiny dogfish were harvested.

[FR Doc. 06–505 Filed 1–13–06; 3:41 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 050708183–5183–01; I.D. 070505D]

RIN 0648–AT45

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Gulf Grouper Recreational Management Measures

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

ACTION: Temporary rule; interim measures.

SUMMARY: NMFS issues this temporary rule to amend, and extend the effective date of, the grouper bag limit provisions implemented by a temporary rule published by NMFS on July 25, 2005, to reduce overfishing of red grouper in Federal waters of the Gulf of Mexico. This temporary rule amends the bag limit provision consistent with the October 31, 2005, ruling of the United States District Court, Middle District of Florida (Court). The intended effect is to reduce overfishing of red grouper in the Gulf of Mexico.

DATES: This rule is effective January 24, 2006, through July 22, 2006.

ADDRESSES: Copies of documents supporting this rule may be obtained from the Southeast Regional Office, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone: 727–551–5784, fax: 727–824–5308, e-mail: *phil.steele@noaa.gov*.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

During the March 7–10, 2005, Gulf of Mexico Fishery Management Council (Council) meeting, the Council reviewed red grouper landings and concluded that without additional regulations recreational red grouper landings were likely to exceed the recreational target level specified in the rebuilding plan provided in Secretarial Amendment 1 to the FMP. The Council passed a motion and subsequently submitted a letter requesting NMFS to implement an interim rule to reduce the recreational red grouper catch to levels consistent with the rebuilding plan specified in Secretarial Amendment 1. In response to the Council's request, NMFS issued a temporary rule (70 FR 42510, July 25, 2005) to reduce the likelihood of overfishing red grouper, while minimizing biological impacts on gag and other groupers that could result from shifts in effort due to red grouper management actions. To achieve this objective, the temporary rule reduced the red grouper bag limit from 2 fish per person per day to 1 fish per person per day; reduced the aggregate grouper bag limit from 5 grouper, combined, per person per day, excluding goliath grouper and Nassau grouper, but not to exceed 1 speckled hind or 1 warsaw grouper per vessel per day or 2 red grouper per person per day, to 3 grouper, combined, per person per day, excluding goliath grouper and Nassau grouper, but not to exceed 1 speckled hind or 1 warsaw grouper per vessel per day or 1 red grouper per person per day; and established a closure of the recreational fishery, from November through December of 2005, for all grouper species. Additional background regarding the need for and impacts of the July 25, 2005 temporary rule is contained in the preamble to that rule and is not repeated here.

On October 31, 2005, a decision was rendered by the Court on a lawsuit brought by the Coastal Conservation Association and The Fishing Rights Alliance, Inc. against NMFS (*Coastal Conservation Association, et al.,* vs. *Carlos Gutierrez*, Case No. 2:05–cv–400–FtM–29DNF). The Court partially agreed with the plaintiffs and set aside aspects of the interim rule that applied to species other than red grouper. As a result, NMFS is amending the temporary rule in accordance with the Court's ruling and extending the effective date for an additional 180 days.

Amendment and Extension of the Temporary Rule

Under section 305(c)(3)(B) of the Magnuson-Stevens Act, NMFS may extend the effectiveness of interim measures for one additional period of 180 days, provided the public has had an opportunity to comment on the interim measures, and the Council is actively preparing proposed regulations to address the issue on a permanent basis.

NMFS solicited comments on the initial interim measures through August 24, 2005. The comments received and NMFS' responses are provided in this temporary rule. After reviewing all public comments, NMFS has concluded that the interim measures were, and as amended remain, necessary to reduce the probability of overfishing.

The Council is preparing a regulatory amendment and associated proposed regulations that will address measures to address overfishing of red grouper. Those measures, if approved and implemented by NMFS, would replace this temporary rule. Action to address these issues via the proposed regulations associated with the regulatory amendment cannot be implemented before the current temporary rule expires on January 23, 2006. Extension and amendment of the temporary rule is necessary to conform with the Court's ruling, avoid a regulatory lapse, and ensure that the risk of overfishing is minimized.

This temporary rule extends the applicable provisions of the original temporary rule (70 FR 42510, July 25, 2005) for an additional 180 days and amends the original temporary rule consistent with the Court's ruling. Under this temporary rule, the aggregate grouper bag limit is 5 grouper (versus 3 grouper under the original temporary rule), combined, per person per day, excluding goliath grouper and Nassau grouper, but not to exceed 1 speckled hind or 1 warsaw grouper per vessel per day or 1 red grouper per person per day. The November through December closure of the recreational fishery for all grouper species, contained in the original temporary rule, is not relevant to the period of effectiveness of this temporary rule and, therefore, is removed in this temporary rule. Additional suspensions and extensions of regulatory text, necessary for regulatory consistency, are also included in this temporary rule.

Comments and Responses

NMFS received the following public comments on the July 25, 2005, temporary rule: 267 form letters of similar content and two lists of signatures from interested members of the general public, and an additional 43 e-mails, 17 letters, and 5 facsimiles from the general public, recreational fishing organizations, boat associations, local governments, and the State of Florida. Almost all public comments received by NMFS opposed interim regulations. One public comment supported reducing the aggregate bag limit, and three public comments supported reducing the red grouper bag limit. Responses to these comments are provided below.

Comment 1: Numerous commenters stated the 2004 Marine Recreational Fisheries Statistics Survey (MRFSS) data were flawed and overestimated red grouper landings.

Response: The MRFSS program conducted a thorough review of red grouper landings and effort data, and an independent review of the MRFSS data was conducted by the Florida Fish and Wildlife Conservation Commission (FWC). MRFSS 2004 red grouper catch and landings estimates were considered sound and based on the best available science, and no technical flaws were evident in the estimates. Estimated landings had relatively low proportional standard error, suggesting precise, reliable estimates. As independent verification of the increase in MRFSS red grouper landings and catch rates, headboat (charter/party) captains reported much higher red grouper landings in logbooks submitted to the Southeast Fisheries Science Center in 2004. Numerous anecdotal reports from anglers and charter boat operators during 2004 also indicated red grouper were being caught in greater numbers and in areas where they were not previously caught.

Comment 2: Many commenters requested NMFS and the Council increase the recreational allocation for red grouper.

Response: Secretarial Amendment 1 to the FMP used historical landings from 1999–2001 to establish a 5.31 million-lb (2.41 million-kg), gutted weight (GW), commercial quota and 1.25 million-lb (0.57 million-kg), GW, recreational target catch level. This interim rule did not consider allocation changes. The Council can consider changes to allocation through amendments to its fishery management plans. At the November 2005 Council meeting, the Council voted to begin developing a plan amendment for allocating grouper.

Comment 3: Numerous commenters stated recreational anglers were not the problem and additional management measures were needed for commercial fishermen.

Response: Interim regulations were developed in response to landings overages by the recreational fishery. In 2004, an estimated 3.18 million lb (1.44 million kg), GW, of red grouper were landed by recreational anglers. These landings were well above the 1.25 million-lb (0.57 million-kg), GW, catch level specified by the red grouper rebuilding plan, requiring NMFS to implement interim regulations to reduce recreational landings.

The commercial grouper fishery is managed by quotas, trip limits, gear boundaries, size limits, and closed seasons. These management measures are intended to control commercial harvest and prevent overfishing. In both 2003 and 2004, commercial landings for red grouper were at or below the 5.31 million-lb (2.41 million-kg), GW, quota. NMFS closed the commercial shallow-water grouper fishery on November 15, 2004, and October 10, 2005, when the red grouper quota was projected to be met. The deep-water grouper fishery was closed on July 15, 2004, and June 23, 2005, when the deep-water grouper quota was projected to be met. Once the quotas have been met, the fisheries remain closed until the start of the next fishing season, which begins January 1 each year.

Comment 4: Two commenters supported increasing the minimum size limit for red grouper.

Response: The environmental assessment for the interim rule considered increasing the minimum size limit for red grouper from 20 inches (50.8 cm) to either 22 or 23 inches (55.9 or 58.4 cm) total length (TL). These alternatives were not preferred because size limits increase release mortality and may result in forgone yield. Higher size limits would contribute to more red grouper being released and dying when compared to status quo (20 inches (50.8 cm) TL). During 2003–2004, an average of 2.6 million red grouper, representing 88 percent of all red grouper caught, were released. Although release mortality for recreationally caught red grouper is assumed to be relatively low (10 percent), released fish accounted for 42 percent of all red grouper killed during 2003–2004. Increasing the minimum size limit is expected to further increase discard mortality. The proposed increase in the minimum size limit could also result in foregone yield because there would be additional mortality from natural causes before fish reached legal size.

Comment 5: Two commenters requested the red grouper stock assessment be moved to 2006.

Response: The Southeast Data, Assessment, and Review has rescheduled the red grouper stock assessment for fall 2006. The red grouper stock assessment was originally scheduled for spring 2007. The assessment will now occur after the gag stock assessment, which is scheduled to occur in spring 2006.

Comment 6: Numerous commenters opposed the seasonal closure, and three commenters questioned why the closure would apply to all grouper, including species not overfished or undergoing overfishing.

Response: NMFS established a recreational closure for all grouper to reduce bycatch mortality of red grouper and prevent effort shifting to other grouper because of red grouper management measures. However, a recent court decision (*Coastal Conservation Association, et al.*, vs. *Carlos Gutierrez*, Case No. 2:05–cv–400–FtM–29DNF) concluded the closure could not be applied to species not undergoing overfishing. Therefore, the closure only applies to red grouper harvested from the exclusive economic zone of the Gulf of Mexico during November-December, 2005. The interim rule implementing the closure expires January 23, 2006. Because the expiration date of the interim rule will be after the closure ends and the interim rule can only be extended for an additional 180 days, extension of the interim rule will not include a seasonal closure.

Comment 7: Two commenters suggested only reducing the bag limit to one.

Response: This management option was preferred by the FWC. The environmental assessment for the interim rule did consider an alternative that would have only reduced the red grouper bag limit from two to one. However, this alternative would not have achieved a great enough reduction in recreational landings to eliminate or greatly reduce the likelihood of recreational red grouper overages in 2005.

Comment 8: One commenter suggested implementing a spawning season closure.

Response: The interim rule did not include a spawning season closure because reductions in red grouper landings were needed for 2005 and the interim rule was implemented after the 2005 spawning season for red grouper, gag, and many other grouper species. The Council is currently developing a regulatory amendment to establish more

permanent regulatory management measures for grouper. Several alternatives in the regulatory amendment include spawning season closures.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that the amendment and extension of this temporary rule is necessary to reduce overfishing of red grouper in the Gulf of Mexico consistent with the Court's ruling and is consistent with the Magnuson-Stevens Act and other applicable laws.

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

This temporary rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and public comment.

This temporary rule addresses overfishing. Delaying action to reduce overfishing in the red grouper fishery of the Gulf of Mexico to provide further notice and an opportunity for public comment prior to implementation would increase the likelihood of a loss of long-term productivity from the fishery and increase the probable need for more severe restrictions in the future. Accordingly, under authority set forth at 5 U.S.C. 553(b)(B), the AA finds, for good cause, namely the reasons set forth above, that providing prior notice and the opportunity for prior public comment would be contrary to the public interest. Similarly, the need to implement these measures in a timely manner for the reasons stated above constitutes good cause under authority contained in 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: January 12, 2006.

James W. Balsiger,

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

■ For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.39, paragraphs (b)(1)(ii) and (b)(1)(v) are suspended, and new paragraphs (b)(1)(viii) and (b)(1)(ix) are added to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(b) * * *

(1) * * *

(viii) Groupers, combined, excluding goliath grouper and Nassau grouper -5 per person per day, but not to exceed 1 speckled hind or 1 warsaw grouper per vessel per day or 1 red grouper per person per day.

(ix) Gulf reef fish, combined, excluding those specified in paragraphs (b)(1)(i), (iii), (iv), (vi), (vii), and (viii) of this section and excluding dwarf sand perch and sand perch—20.

* * * * *

■ 3. In § 622.43, paragraph (a)(1)(i) is suspended and paragraph (a)(1)(iii) is added to read as follows:

§ 622.43 Closures.

(a) * * *

(1) * * *

(iii) *Commercial quotas.* If the recreational fishery for the indicated species is open, the bag and possession limits specified in § 622.39(b) apply to all harvest or possession in or from the Gulf EEZ of the indicated species, and the sale or purchase of the indicated species taken from the Gulf EEZ is prohibited. In addition, the bag and possession limits for red snapper, when applicable, apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), without regard to where such red snapper were harvested. If the recreational fishery for the indicated species is closed, all harvest or possession in or from the Gulf EEZ of the indicated species is prohibited.

* * * * *

[FR Doc. 06–504 Filed 1–18–06; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 12
Thursday, January 19, 2006

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–2006–23633; Directorate Identifier 2005–NM–242–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318–100 and A319–100 Series Airplanes; Model A320–111 Airplanes; Model A320–200, A321–200, A330–200, A330–300, A340–200, and A340–300 Series Airplanes; Model A340–541 Airplanes; and Model A340–642 Airplanes; Equipped With Certain Sogerma-Services Powered Seats

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus transport category airplanes. This proposed AD would require inspecting to determine if a certain actuator is installed in the pilot's or co-pilot's seat, and doing applicable corrective actions if necessary. For certain actuators, the proposed AD also would require replacing rotors on both vertical and horizontal movements with new rotors, and replacing the clutch cap with a new cap. This proposed AD results from a report of heavy wear at the driving gear of the rotor shaft end of the electrical driven motor on certain actuators of the pilot's and co-pilot's seats. We are proposing this AD to prevent uncommanded movement of the pilot's or co-pilot's seat during takeoff or landing, which could result in interference with the operation of the airplane and consequent temporary loss of airplane control.

DATES: We must receive comments on this proposed AD by February 21, 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 Sogerma-Services, 109–17303 Rochefort, Cedex, France; and Messier-Bugatti, 45 Avenue Victor Hugo, 93538 Aubervilleirs, Cedex, France; for service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–23633; Directorate Identifier 2005–NM–242–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on certain Airbus Model A318–100 and A319–100 series airplanes; Model A320–111 airplanes; Model A320–200, A321–200, A330–200, A330–300, A340–200, and A340–300 series airplanes; Model A340–541 airplanes; and Model A340–642 airplanes; equipped with certain Sogerma-Services pilot's and co-pilot's seats. The DGAC advises that, during overhaul of the pilot's and co-pilot's seats, repair stations found heavy wear at the driving gear of the rotor shaft end of the electrical driven motor on certain actuators. The electrical driven motor controls the horizontal and vertical movements of the seats. Investigation revealed that a manufacturing process error resulted in a batch of defective rotor shafts on certain actuators. This condition, if not corrected, could result in uncommanded movement of the pilot's or co-pilot's seat during takeoff or landing, which could result in interference with the operation of the airplane and consequent temporary loss of airplane control.

Relevant Service Information

Sogerma-Services has issued Service Bulletin TAAI1–25–617, dated February 1, 2005. The service bulletin describes procedures for inspecting to determine if a certain actuator is installed in the pilot's or co-pilot's seat, and doing applicable corrective actions if

necessary. The corrective actions include:

- Replacing certain actuators with new actuators;
- Installing a new identification label for any replaced actuator; and
- Installing a new amendment label and writing the new amendment on it.

Messier-Bugatti has issued Service Bulletins 4136290004–25–05 and 4136290005–25–02, both dated April 2005. For certain airplanes, the service bulletins describe procedures for replacing rotors on both vertical and horizontal movements with new rotors, and replacing the clutch cap with a new cap.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive F–2005–164, dated September 28, 2005, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in France 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 DGAC has kept the FAA informed of the situation described above. We have examined the DGAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

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

Costs of Compliance

This proposed AD would affect about 743 airplanes of U.S. registry. The proposed inspection would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $48,295, or $65 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2006–23633; Directorate Identifier 2005–NM–242–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by February 21, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes identified in table 1 of this AD, certificated in any category; equipped with any Sogerma-Services pilot or co-pilot seat identified in Sogerma-Services Service Bulletin TAAI1–25–617, dated February 1, 2005, excluding any seat having part number (P/N) TAAI3–03PE00–01, TAAI3–03PE01–01, TAAI3–03CE00–01, and TAAI3–03CE01–01, with a serial number (S/N) higher than 791, on which the actuator has been replaced after the date of issuance of the original standard airworthiness certificate or date of issuance of the original export certificate of airworthiness.

TABLE 1.—APPLICABILITY

Airbus model
(1) A318–111 and –112 airplanes.
(2) A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.
(3) A320–111 airplanes.
(4) A320–211, –212, –214, –231, –232, and –233 airplanes.
(5) A321–211 and –231 airplanes.
(6) A330–201, –202, –203, –223, and –243 airplanes.
(7) A330–301, –321, –322, –323, –341, –342, and –343 airplanes.
(8) A340–211, –212, and –213 airplanes.
(9) A340–311, –312, and –313 airplanes.
(10) A340–541 airplanes.
(11) A340–642 airplanes.

Unsafe Condition

(d) This AD results from a report of heavy wear at the driving gear of the rotor shaft end of the electrical driven motor on certain actuators of the pilot's and co-pilot's seats. We are issuing this AD to prevent uncommanded movement of the pilot's or co-pilot's seat during takeoff or landing, which could result in interference with the operation of the airplane and consequent temporary loss of airplane control.

Compliance

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

Inspection for the P/N of the Actuator

(f) Within 56 months after the effective date of this AD, inspect to determine if an actuator identified in table 2 of this AD is installed in the pilot's or co-pilot's seat, in accordance with paragraph D., ''DESCRIPTION'' of Sogerma-Services Service Bulletin TAAI1–25–617, dated February 1, 2005. If any actuator identified in table 2 of this AD is found installed, within 56 months after the effective date of this AD, do the applicable corrective actions in accordance with paragraph 3., ''OPERATING INSTRUCTIONS,'' of the service bulletin.

TABLE 2.—AFFECTED ACTUATORS

Manufacturer	Actuator P/N
(1) Messier-Bugatti	4136290004
(2) Messier-Bugatti	4136290005
(3) Aviac	6147–6
(4) Artus	AD8552502–1

Concurrent Replacements

(g) For Messier-Bugatti actuators identified in table 2 of this AD: Concurrently with the applicable corrective action required by paragraph (f) of this AD, replace the rotors on both vertical and horizontal movements with new rotors, and replace the clutch cap with a new cap, in accordance with Messier-Bugatti Service Bulletin 4136290004–25–05 or 4136290005–25–02, both dated April 2005, as applicable.

Parts Installation

(h) After the effective date of this AD, no actuator identified in table 2 of this AD may be installed on any airplane.

Alternative Methods of Compliance (AMOCs)

(i)(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.

Related Information

(j) French airworthiness directive F–2005–164, issued September 28, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on January 10, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–532 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23635; Directorate Identifier 2005–NM–245–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42 Airplanes and Model ATR72 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Aerospatiale Model ATR42 airplanes and Model ATR72 airplanes. This proposed AD would require installing protective ramps on trim panel 110VU; and inspecting the protective guard of the standby pitch trim switch to determine if it is missing, damaged, or ineffective, and doing the corrective action if necessary. This proposed AD results from a finding that the protective guard of the standby pitch trim switch, which is installed on the center pedestal, could be damaged or missing. We are proposing this AD to prevent inadvertent activation of the standby pitch trim, which could result in pitch trim runaway and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by February 21, 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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France, for service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–23635; Directorate Identifier 2005–NM–245–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on certain Aerospatiale Model ATR42 and Model ATR72 airplanes. The DGAC advises that the protective guard of the standby pitch trim switch (18CG), which is installed on the center pedestal, could be damaged or missing. In some cases, a damaged protective guard, even if engaged, may not prevent inadvertent activation of the standby pitch trim. This condition, if not corrected, could result in pitch trim runaway and consequent reduced controllability of the airplane.

Relevant Service Information

Aerospatiale has issued Avions de Transport Regional Service Bulletin ATR42–92–0010, Revision 1, dated March 11, 2003 (for Model ATR42 airplanes); and Service Bulletin ATR72–92–1010, Revision 1, dated March 11, 2003 (for Model ATR72 airplanes). The service bulletins describe the following procedures:

• Installing protective ramps on trim panel 110VU.

• Checking the protective guard of the standby pitch trim switch (18CG) to determine if it is missing, damaged, or ineffective. (The protective guard is ineffective if there is trim movement when the protective guard is engaged and the standby pitch trim switch is activated.)

• Doing the corrective action if necessary, which includes replacing a damaged or ineffective protective guard with a new part or installing a new part if the protective guard is missing.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive 2003–106(B) R1, dated April 16, 2003, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in France 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 DGAC has kept the FAA informed of the situation described above. We have examined the DGAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Clarification of Inspection Terminology.''

Clarification of Inspection Terminology

The ''check'' of the protective guard specified in the Aerospatiale service bulletins is referred to as a ''general visual inspection'' in this proposed AD. We have included the definition for a general visual inspection in a note in this proposed AD.

Costs of Compliance

This proposed AD would affect about 69 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Required parts would cost about $465 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $36,570, or $530 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Aerospatiale: Docket No. FAA–2006–23635; Directorate Identifier 2005–NM–245–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by February 21, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Aerospatiale Model ATR42–200, –300, –320, and –500 airplanes and Model ATR72–101, –201, –102, –202, –211, –212, and –212A airplanes, certificated in any category; except those on which Airbus Modification 5450 has been incorporated in production.

Unsafe Condition

(d) This AD results from a finding that the protective guard of the standby pitch trim switch, which is installed on the center pedestal, could be damaged or missing. We are issuing this AD to prevent inadvertent activation of the standby pitch trim, which could result in pitch trim runaway and consequent 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.

Installation, Inspection, and Corrective Action if Necessary

(f) Within 4 months after the effective date of this AD: Install protective ramps on trim panel 110VU; and do a general visual inspection of the protective guard of the standby pitch trim switch (18CG) to determine if it is missing, damaged, or ineffective, and do the corrective action if applicable; by accomplishing all the applicable actions specified in the Accomplishment Instructions of Avions de Transport Regional Service Bulletin ATR42–92–0010, Revision 1, dated March 11, 2003 (for Model ATR42 airplanes); or Avions de Transport Regional Service Bulletin ATR72–92–1010, Revision 1, dated March 11, 2003 (for Model ATR72 airplanes), as applicable. The corrective action, if required, must be done before further flight after the inspection.

Note 1: 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 ensure visual access to all 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.''

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(h) French airworthiness directive 2003–106(B) R1, dated April 16, 2003, also addresses the subject of this AD.

Issued in Renton, Washington, on January 10, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–533 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CG01–05–101]

RIN 1625–AA98

Anchorage Regulations; Port of New York and Vicinity

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a Special Anchorage Area in Haverstraw Bay on the Hudson River adjacent to Haverstraw, NY. This proposed action is necessary to facilitate safe navigation in that area and provide safe and secure anchorages for vessels not more than 20 meters in length. This action is intended to increase the safety of life and property on the Hudson River, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of recreational vessel traffic and commerce.

DATES: Comments and related material must reach the Coast Guard on or before March 20, 2006.

ADDRESSES: You may mail comments and related material to Waterways Management Division (CGD01–05–101), Coast Guard Sector New York, 212 Coast Guard Drive, room 321, Staten Island, New York 10305. The Waterways Management Division of Coast Guard Sector New York maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 321, Coast Guard Sector New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander M. McBrady, Waterways Management Division, Coast Guard Sector New York at (718) 354–2353.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–05–101), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Waterways Management Division at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

As part of a waterfront revitalization effort the Village of Haverstraw is encouraging waterfront use by the general public. This proposed rule is in response to a request made by the Village of Haverstraw to ensure the safe navigation of increased vessel traffic expected to arrive along the village waterfront due to this revitalization effort.

The Coast Guard is designating the area as a special anchorage area in accordance with 33 U.S.C. 471. In accordance with that statute, vessels will not be required to sound signals or exhibit anchor lights or shapes which are otherwise required by rule 30 and 35 of the Inland Navigation Rules, codified at 33 U.S.C. 2030 and 2035. The proposed special anchorage area will be located on the west side of the Hudson River about 1,800 yards south of Bowline Point, well removed from the channel and located where general navigation will not endanger or be endangered by unlighted vessels. Providing anchorage well removed from the channel and general navigation would greatly increase navigational safety.

This special anchorage area is part of a waterfront revitalization project authorized under U.S. Army Corps of Engineers permit number 2004–00596–YR.

Discussion of Proposed Rule

The proposed rule would create a new special anchorage area located on the Hudson River at the Village of Haverstraw, New York, on Haverstraw Bay. It would include all waters of the Hudson River bound by the following points: 41°11′25.2″ N, 073°57′19.9″ W; thence to 41°11′34.2″ N, 073°57′00.8″ W; thence to 41°11′41.9″ N, 073°57′07.5″ W; thence to 41°11′31.8″ N, 073°57′26.5″ W; thence to 41°11′30.8″ N, 073°57′24.9″ W; thence to the point of origin (NAD 1983).

All proposed coordinates are North American Datum 1983 (NAD 83).

The special anchorage area would be limited to vessels no greater than 20 meters in length. Vessels not more than 20 meters in length are not required to sound signals as required by rule 35 of the Inland Navigation Rules (33 U.S.C. 2035) nor exhibit anchor lights or shapes required by rule 30 of the Inland Navigation Rules (33 U.S.C 2030) when at anchor in a special anchorage area. Additionally, mariners utilizing the anchorage areas are encouraged to contact local and state authorities, such as the local harbormaster, to ensure compliance with additional applicable state and local laws. Such laws may involve, for example, compliance with direction from the local harbormaster when placing or using moorings within the anchorage.

Regulatory Evaluation

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

of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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

This finding is based on the fact that this proposal conforms to the changing needs of the Village of Haverstraw and the changing needs of recreational vessels along the Hudson River. This proposed rule is in the interest of safe navigation and property protection.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of recreational or commercial vessels intending to transit in a portion of the Hudson River near the special anchorage area. However, this special anchorage area would not have a significant economic impact on these entities for the following reasons. The proposed special anchorage area does not extend past the 18-foot contour on the west side of the Hudson River. This leaves approximately 1,680 yards of safe water before reaching the 18-foot contour on the east side of the Hudson River. It is also about 800 yards from the 600-foot wide Hudson River Federal Project Channel. This is more than enough room for the types of vessels currently operating on the river, which include both small and large commercial vessels. Thus this special anchorage area will not impede safe and efficient vessel transits on the Hudson River.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander M. McBrady, Waterways Management Division, Coast Guard Sector New York at (718) 354–2353. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or

adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(f), of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(f) as it would establish a special anchorage area.

A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471; 1221 through 1236, 2030, 2035 and 2071; 33 CFR 1.05–1(g); and Department of Homeland Security Delegation No. 0170.1.

2. In § 110.60 add new paragraph (p–3) to read as follows:

§ 110.60 Port of New York and vicinity.

* * * * *

(p) * * *

(p–3) Hudson River, at Village of Haverstraw. That portion of the Hudson River bound by the following points: 41°11′25.2″ N, 073°57′19.9″ W; thence to 41°11′34.2″ N, 073°57′00.8″ W; thence to 41°11′41.9″ N, 073°57′07.5″ W; thence to 41°11′31.8″ N, 073°57′26.5″ W; thence to 41°11′30.8″ N, 073°57′24.9″ W; thence to the point of origin (NAD 1983).

* * * * *

Dated: December 7, 2005.

David P. Pekoske,

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

[FR Doc. E6–583 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–140]

RIN 1625–AA00

Safety Zone; Vermilion River, Vermilion, OH. VYC Fleet Parade.

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a temporary safety zone for the VYC Fleet Parade on the Vermilion River between the mouth of the river and the Conrail Railroad Bridge, to extend the entire width of the river. This safety zone is needed to protect persons and vessels from the potential safety hazards associated with the Fleet Parade. Entry into this zone is prohibited to all vessels unless authorized by the Captain of the Port, Buffalo or a designated representative.

DATES: Comments and related material must reach the Coast Guard on or before February 21, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket CGD09–06–140 are part of this docket are available for inspection or copying at MSU Cleveland, 1055 East 9th Street, Cleveland, OH 44114 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (LT) Nicole Starr, U.S. Coast Guard Marine Safety Unit Cleveland, at (216) 937–0128.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. If you do so, please include your name and address, identify the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This safety zone is necessary to manage vessel traffic in order to provide for the safety of life and property on navigable waters during the event. The combination of parade vessels, narrow navigational area, and large number of inexperienced recreational boaters that transit this area could easily result in serious injuries or fatalities.

Discussion of Proposed Rule

The Coast Guard proposes establishing a temporary safety zone for the VYC Fleet Parade on the Vermilion River between the mouth of the river (41°25′42″ N and 081°21′54″ W) and the Conrail Railroad Bridge (Mile 0.19), to extend the entire width of the river on May 29, 2006 from 2 p.m. (local) through 3 p.m. (local). These coordinates are based upon North American Datum 1983 (NAD 83).

The Coast Guard will notify the public in advance by way of Ninth Coast Guard District Local Notice to Mariners, Marine Information Broadcasts, and for those who request it from Marine Safety Unit Cleveland, by facsimile.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the size and location of the safety zone within the water. Commercial vessels will not be hindered by the safety zone, as all commercial traffic will be diverted through the Lake Approach Channel. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of the activated safety zone.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: The proposed zone is only in effect for one hour on the day of the event. Before the activation of the safety zone, the Coast Guard will issue maritime advisories available to users who may be impacted through notification in the **Federal Register**, the Ninth District Coast Guard Local Notice to Mariners, Marine Information Broadcasts and when requested by facsimile.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Nicole Starr, U.S. Coast Guard Marine Safety Unit Cleveland, 1055 East 9th Street, Cleveland, OH 44114. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedure; and related management system practices) that are developed or adopted by voluntary consensus standards bodies.

This rule proposed does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the

Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under **ADDRESSES.** Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T09–140 is added to read as follows:

§ 165.T09–140 Safety Zone; 2006 Vermilion River, Mouth of the river to Mile 0.79, Vermilion, Ohio. VYC Fleet Parade.

(a) Location. The Coast Guard proposes establishing a temporary safety zone for the VYC Fleet Parade on the Vermilion River between the mouth of the river (41°25′42″ N and 081°21′54″ W) and the Conrail Railroad Bridge (Mile 0.19), to extend the entire width of the river. These coordinates are based upon North American Datum 1983 (NAD 83).

(b) Effective Period. This section is effective from 2 p.m. (local) through 3 p.m. (local) on May 29, 2006.

(c) Regulations. Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The designated on-scene representative will be the Coast Guard Patrol Commander. The Coast Guard Patrol Commander may be contacted via VHF Channel 16.

Dated: January 9, 2006.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E6–584 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2005–TX–0014; FRL–8022–3]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to Control Volatile Organic Compound (VOC) Emissions; VOC Control for Facilities in the Dallas/Fort Worth (DFW) Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Texas State Implementation Plan (SIP) revisions. The revisions pertain to regulations to control VOC emissions from VOC transfer operations and solvent using processes. The revisions allow use of gasoline vapor recovery systems approved by Texas, and add new requirements to control VOC emissions from motor vehicle fuel dispensing facilities and surface coating facilities in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties. These counties are part of the DFW 8-hour ozone standard nonattainment area. The revisions also amend regulations on use of cleaning solvents. We are proposing to approve the revisions pursuant to sections 110, 116 and part D of the Federal Clean Air Act (CAA). The control of VOC emissions will help to attain and maintain the 8-hour national ambient air quality standard (NAAQS) for ozone in Texas. Approval will make the revised regulations Federally enforceable.

DATES: Written comments should be received on or before February 21, 2006.

ADDRESSES: Comments may be mailed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 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: Carl Young, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–6645; fax number 214–665–7263; e-mail address *young.carl@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 relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated. If EPA receives relevant 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 the 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 section of this **Federal Register**.

Dated: January 6, 2006.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 06–434 Filed 1–18–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[WT Docket No. 05–265; DA 05–3183]

Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: In this document, the Wireless Telecommunications Bureau extends the period for reply comment on the *Notice of Proposed Rulemaking (NPRM)* in this proceeding. The deadline to file reply comments is extended from December 27, 2005 to January 26, 2006. The action is taken to respond to a joint request filed on behalf of a number of carriers and trade associations, representing a cross-section of the wireless industry, to extend the reply comment deadline by 30 days.

DATES: Reply comments due January 26, 2006.

ADDRESSES: You may submit reply comments, identified by WT Docket No. 05–265, 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.
- E-mail: Include the docket number(s) in the subject line of the message.
- 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 FURTHER INFORMATION CONTACT: Eli Johnson at (202) 418–1395, *Eli.Johnson@fcc.gov,* or Won Kim (202) 418–1368, *Won.Kim@fcc.gov,* Wireless Telecommunications Bureau, Spectrum and Competition Policy Division.

SUPPLEMENTARY INFORMATION: This proposed rulemaking, 70 FR 56612, September 28, 2005, concerns a decision to examine whether the Commission's current rules regarding roaming requirements applicable to CMRS providers should be modified given the current state of the CMRS market. The full text of the *NPRM* and comments filed in response to the *NRPM* are available for public inspection on the Commission's Internet site at *http://www.fcc.gov.* It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail *FCC@BCPIWEB.COM.*

Federal Communications Commission.

Catherine W. Seidel,

Acting Chief, Wireless Telecommunications Bureau.

[FR Doc. 06–456 Filed 1–18–06; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1105

[STB Ex Parte No. 647]

Class Exemption for Expedited Abandonment Procedure for Class II and Class III Railroads

AGENCY: Surface Transportation Board, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (Board) has received a proposal to create a class exemption under 49 U.S.C. 10502 for Class II and Class III railroads [1] from the prior approval requirements for abandonments under 49 U.S.C. 10903. A public hearing was held on August 31, 2004, to discuss the proposal. Before deciding whether to issue a Notice of Proposed Rulemaking (NPR), the Board seeks comments from interested persons on this proposal and possible alternatives to it, as detailed below.

DATES: Notices of intent to participate in this rulemaking process are due on February 2, 2006. Comments are due on March 6, 2006. Replies to comments are due on April 4, 2006.

ADDRESSES: All notices of intent to participate and comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's *http://www.stb.dot.gov* Web site, at the ''E-FILING'' link. Any person submitting a filing in the traditional paper format should send an original and 10 paper copies of the filing (referring to STB Ex Parte No. 647) to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Joseph Dettmar, (202) 565–1609. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: On May 15, 2003, sixty-five short-line and regional carriers (petitioners) [2] filed a petition to institute a proceeding under 49 U.S.C. 10502 to exempt a class of small carriers from the prior approval requirements for abandonments under 49 U.S.C. 10903. Petitioners included a detailed proposal, including revised rules for 49 CFR 1152.50 (exempt abandonments) and 1152.27 (offers of financial assistance). The Board issued a decision on August 13, 2003, to institute a proceeding and held a public hearing on August 31, 2004, to discuss the issues raised in petitioners' filing.

The Board has exclusive and plenary jurisdiction over the abandonment of rail lines. *Chicago & N.W. Transp. Co.* v. *Kalo Brick & Tile Co.,* 450 U.S. 311, 319–21 (1981) *(Kalo Brick); Phillips Co.* v. *Denver & Rio Grande Western R. Co.,* 97 F.3d 1375, 1376–78 (10th Cir. 1996), *cert. denied,* 521 U.S. 1104 (1997). Under 49 U.S.C. 10903, the Board may authorize abandonment if it finds that the present or future public convenience and necessity (PC&N) require or permit the abandonment. In making this public interest determination, the Board

[1] The Board's regulations divide railroads into three classes based on annual carrier operating revenues. Class I railroads are those with annual carrier operating revenues of $250 million or more (in 1991 dollars); Class II railroads are those with annual carrier operating revenues of more than $20 million but less than $250 million (in 1991 dollars); and Class III railroads are those with annual carrier operating revenues of $20 million or less (in 1991 dollars). *See* 49 CFR part 1201, General Instruction 1–1(a).

[2] The sixty-five carriers are: Allegheny & Eastern Railroad, Inc.; Bradford Industrial Rail, Inc.; Buffalo & Pittsburgh Railroad, Inc.; Carolina Coastal Railway, Inc.; Commonwealth Railway, Inc.; Chicago SouthShore & South Bend Railroad; Chattahoochee & Gulf Railroad Co., Inc.; Connecuh Valley Railroad Co., Inc.; Corpus Christi Terminal Railroad, Inc.; The Dansville & Mount Morris Railroad Company; Eastern Idaho Railroad, Inc.; Genesee & Wyoming Railroad Company; Golden Isles Terminal Railroad, Inc.; H&S Railroad Co., Inc.; Illinois Indiana Development Company, LLC; Illinois & Midland Railroad Company, Inc.; Kansas & Oklahoma Railroad, Inc.; Knoxville & Holston River Railroad Co., Inc.; Lancaster and Chester Railway Company; Laurinburg & Southern Railroad Co., Inc.; Louisiana & Delta Railroad, Inc.; Louisville & Indiana Railroad Company; Minnesota Prairie Line, Inc.; Montana Rail Link, Inc.; New York & Atlantic Railway Company; Pacific Harbor Line, Inc.; Palouse River & Coulee City Railroad, Inc.; Pennsylvania Southwestern Railroad, Inc.; Piedmont & Atlantic Railroad Inc.; Pittsburg & Shawmut Railroad, Inc.; Portland &Western Railroad, Inc.; Rochester & Southern Railroad, Inc.; Rocky Mount & Western Railroad Co., Inc.; St. Lawrence & Atlantic Railroad Company; Salt Lake City Southern Railroad Company; Savannah Port Terminal Railroad, Inc.; South Buffalo Railway Company; South Kansas & Oklahoma Railroad Company; Stillwater Central Railroad; Talleyrand Terminal Railroad, Inc.; Three Notch Railroad Co., Inc.; Timber Rock Railroad, Inc.; Twin Cities & Western Railroad Company; Utah Railway Company; Willamette & Pacific Railroad, Inc.; Wiregrass Central Railroad Company, Inc.; York Railway Company; AN Railway, LLC; Atlantic and Western Railway, Limited Partnership; Bay Line Railroad, LLC; Central Midland Railway; Copper Basin Railway, Inc.; East Tennessee Railway, L.P.; Galveston Railroad, L.P.; Georgia Central Railway, L.P.; The Indiana Rail Road Company; KWT Railway, Inc.; Little Rock & Western Railway, L.P.; M & B Railroad, L.L.C.; Tomahawk Railway, Limited Partnership; Valdosta Railway, L.P.; Western Kentucky Railway, LLC; Wheeling & Lake Erie Railway Company; Wilmington Terminal Railroad, L.P.; and Yolo Shortline Railroad Company.

weighs the burden on shippers and communities from the loss of rail service against the burden on the carrier and interstate commerce from continued operation of the line at issue. *Colorado* v. *United States,* 271 U.S. 153 (1926). The Board considers all relevant factors, including profits or losses incurred from operating the line, costs avoidable by abandonment (such as maintenance and rehabilitation costs) and the opportunity costs incurred by forgoing more profitable use of the carrier's assets elsewhere. *Kalo Brick*, 450 U.S.C. 311, 321 (1981). *See also* 49 CFR part 1152. The statute directs the Board also to consider whether the abandonment will have a serious, adverse impact on rural and community development. 49 U.S.C. 10903(d).

Over the years, Congress has taken steps to minimize needless burdens and delay in the regulatory process. *See Railroad Ventures, Inc.* v. *STB,* 299 F.3d 523, 529 n.1, 530–31 (6th Cir. 2002). Since 1980 it has encouraged the agency to streamline the regulatory process where appropriate. Under 49 U.S.C. 10502, the Board must exempt a transaction, person, or service, in whole or in part, from otherwise applicable statutory provisions when the Board finds that: (1) Continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

The Board has used this exemption power to simplify and expedite abandonment cases where it believes that closer regulatory scrutiny is unnecessary, and most requests for abandonment authority are now handled through the exemption process. A carrier seeking abandonment authority may petition the Board for an exemption for a particular line on a case-by-case basis. See 49 CFR 1152.60. Or, if no local traffic has moved over the line in at least 2 years, any overhead traffic can be rerouted, and no formal complaint filed by a user regarding cessation of service over the line is pending or has been decided against the railroad during the 2-year period, a carrier may utilize a class exemption for ''out-of-service lines.'' *See* 49 CFR 1152.50(b); *Exemption of Out of Service Rail Lines,* 2 I.C.C.2d 146, 157–58 (1986), *aff'd sub nom. Illinois Commerce Comm'n* v. *ICC*, 848 F.2d 1246 (D.C. Cir. 1988), *cert.* denied, 488 U.S. 1004 (1989) *(Out-of-Service Exemption).*

Petitioners claim that the existing procedures do not work well for small carriers. Petitioners argue that the data needed to support a full application under 49 U.S.C. 10903, *i.e.*, base and forecast year statistics, come from the Board's Uniform System of Accounts, which only Class I carriers are required to use and report to the Board. Petitioners assert that small carriers typically lack the necessary data. They can try to compile the necessary information or ask the Board for a waiver, but neither option is attractive to small carriers. Petitioners maintain that the first option is too expensive. The second also involves expense, coupled with delay and uncertainty as to whether the waiver will be granted.

Petitioners also claim that filing a petition for exemption for an individual line under 49 U.S.C. 10502(a) poses challenges for small carriers. Although less data are required and filing expenses are lower, petitioners claim that the individual exemption process is too uncertain. Petitioners cite a Board decision that states that petitions for exemption are appropriate only where there is no opposition or operation of the line is clearly unprofitable. *Central Railroad Company of Indiana—Abandonment Exemption)—In Dearborn, Decatur, Franklin, Ripley, and Shelby Counties, IN*, STB Docket No. AB–459 (Sub-No. 2X) (STB served May 4, 1998). Petitioners argue that this standard discourages use of the petition for exemption process in all but the most routine cases. They also point out that a carrier must make its entire presentation in its initial filing, with no right to respond to comments and protests.

Petitioners claim that these deficiencies force carriers to forgo seeking abandonment authority until a line is eligible for the Out-of-Service Exemption. Petitioners assert that the result is that when a prudent small carrier makes the subjective business decision that a particular line is no longer viable, it will increase rates on the line and divert resources away from the line to other more productive parts of its system. This, in turn, forces any remaining traffic to find more economical alternatives. When the line becomes eligible, the carrier would then invoke the class exemption for out-of-service lines. Petitioners argue that this process wastes resources and deters potential offers of financial assistance (OFAs) to continue rail service under 49 U.S.C. 10904, because shippers will already have found alternative transportation and the physical assets will have deteriorated for at least 2 years.

To alleviate these perceived shortcomings in the Board's current procedures, petitioners have proposed a new class exemption for Class II and Class III carriers seeking abandonment authority. Under petitioners' proposal, Class II and Class III carriers would be eligible to abandon their lines by invoking a notice procedure. The carrier would publish relevant commercial and engineering information about the line in local newspapers and national railroad industry publications, in addition to filing with the Board a notice to be published in the **Federal Register**. Such a notice would contain: 3 years of aggregate carload and revenue data; a statement of physical condition of the line; an estimate of the rehabilitation, if any, that would be needed to bring the line up to Federal Railroad Administration class 1 standards; the net liquidation value (NLV) of the line; and information concerning connecting carriers, interchange locations, and any operating rights of third parties over the line. Other data would be made available upon request to an OFA offeror. Petitioners' proposed changes to the Board's abandonment rules are contained in the Appendix to the Board's decision served on January 19, 2006. A copy of the Board's decision is available on the Board's Web page at *http://www.stb.dot.gov* or by contacting ASAP Document Solutions at (202) 306–4004.

Under Petitioners' proposal, carriers that availed themselves of this class exemption procedure would waive any claim for the value of the line in excess of NLV. Also, if an OFA sale were consummated and the subject line connected only to the abandoning carrier, the abandoning carrier would be required to provide the purchaser with either haulage or trackage rights (at the abandoning carrier's choice), at commercially reasonable rates, to move any traffic to and from any connecting carrier with which traffic has moved during the 24 preceding months. The proposal would create a longer OFA filing period of 90 days and would, at the abandoning carrier's option, delay the need to file the historic and environmental reports required under the Board's environmental rules at 49 CFR 1105.7 and 1105.8 until after the OFA process. Under the proposal, carriers that elected to defer such reports would obtain only discontinuance authority and would not be able to remove track structure until such reports were completed.

In order to adopt a class exemption for small carrier abandonments, we would first have to find that, as a class, regulation of these transactions is not necessary to carry out the rail transportation policy of 49 U.S.C.

10101. *See* 49 U.S.C. 10502. This analysis would require that we determine whether, on balance, those sometimes conflicting policies would be promoted or hindered by exemption from regulatory requirements that otherwise would apply. *See Out-of-Service Exemption,* citing *Baggett Transportation Co.* v. *U.S.,* 666 F.2d 524, 530–31 (11th Cir. 1982). If regulation is not necessary, we would also have to find that either (a) the transactions are of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

Petitioners argue that their proposal would meet this statutory test and should be issued for public review and comment and adopted. At the same time, petitioners acknowledged at the public hearing that some technical difficulties could exist with their rules as proposed and expressed a willingness to work with the Board in perfecting and improving them. Therefore, the Board is now issuing this Advance Notice of Proposed Rulemaking to request public comment on whether the proposed class exemption could meet the statutory criteria and allow the Board to meet its environmental responsibilities. Also, the Board seeks comment as to whether and how to improve the proposed rules. Finally, the Board is also seeking comment as to whether other changes to the Board's processes could alleviate the alleged deficiencies with the current abandonment process that petitioners have identified for Class II and Class III carriers. After reviewing the comments, the Board will decide whether to issue an NPR in this proceeding.

While we welcome comments on all aspects of petitioners' proposal, and any alternatives, we will briefly outline below initial concerns we have with the class exemption, as proposed by petitioners. First, section 10903 requires the Board to balance competing interests in determining whether the PC&N require or permit abandonment. Petitioners' proposed class exemption would require a finding that the balancing analysis under section 10903 is unnecessary for some classes of carriers based only on their annual revenue. Petitioners' proposal does not appear to contain sufficient data to support such a finding. To decide whether to issue an NPR proposing specific changes for Class II and Class III carriers, it would be useful to know the average length of lines abandoned by such carriers and the average number of shippers affected by such abandonments. In addition, some measure of the typical effect on local communities by such abandonments and the effects of deferred maintenance and increased rates on continued service on low volume lines would be helpful.

Second, Congress considered eliminating the PC&N test for all carrier abandonments during the consideration of the ICC Termination Act of 1995 (ICCTA), but ultimately did not do so. The House bill contained a proposed section 10703 that would have replaced section 10903 and 10904 and converted all applications for abandonment or discontinuance authority from the current PC&N standard into a notification process to ''maximize the opportunity for the line to be acquired for continued operation by a smaller railroad, even though the line is revenue deficient for a large trunk carrier.'' H.R. Rep. No. 104–422, at 180–81(1995) (Conf. Rep.), *as reprinted* in 1995 U.S.C.C.A.N. 865–66. The Senate amendment instead removed outdated provisions from the abandonment statute. The conference substitute passed by Congress retained the PC&N standard as formulated in the Senate amendment. The Board requests comments on how the Board could justify going beyond the action Congress took in ICCTA.

Third, under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4331–4335, the Board is required to examine the potential environmental impacts of proposed licensing actions subject to the Board's jurisdiction, including abandonments. The Section of Environmental Analysis (SEA) is the office responsible for ensuring compliance with NEPA and the National Historic Preservation Act, 16 U.S.C. 470 (NHPA). Under 49 CFR 1105.6(b)(2), SEA prepares Environmental Assessments (EAs) in most rail abandonment cases, analyzing the potential environmental and historic issues, and recommending appropriate mitigation. SEA bases its analysis on information submitted by the carrier in the form of an environmental and historic report that sets forth the details of the proposed action, potential environmental impacts, and summarizes consultations conducted with relevant Federal, State, and local entities. Petitioners' proposal would allow carriers the option of delaying the environmental and historic reports until after the OFA period has expired. This, they argue, would eliminate waste and expense by preventing the preparation of unnecessary reports in cases where an OFA results in the continued operation of the line. If a carrier elects to delay its reporting, under petitioners' proposed rules the carrier would have discontinuance authority until the environmental and historic reporting requirements are completed.

Discontinuance authority, however, also generally triggers the need for completion of an EA prior to the time the discontinuance of service is authorized. *See* 49 CFR 1105.6(b)(3). Petitioners acknowledge this by providing in their proposal that a carrier that utilizes this process would certify that the discontinuance would not result in operational changes exceeding the thresholds set forth at 49 CFR 1105.7(e)(4) and (5), and that the carrier had no plans to alter or remove any historic properties. Petitioners also compare their suggested discontinuance authority process to what takes place under a lawful embargo, *i.e.*, a temporary cessation of rail service. The Board requests comments regarding whether the proposal put forth by petitioners would allow the Board to meet its responsibilities under NEPA and NHPA.

At the hearing, the Association of American Railroads (AAR) urged the Board to seek to expedite and improve its current historic review process, which, it believes, can significantly delay railroad abandonments. AAR stated that it was eager to work with the Board outside this proceeding to explore options to streamline the Board's historic reviews. AAR also indicated its support of the former Chairman's suggestion of meetings with representatives of the rail industry, the historic preservation community, and SEA. Since the hearing, SEA has consulted with representatives from AAR and the American Short Line and Regional Railroad Association (ASLRA) to determine the scope of the carriers' concerns. SEA has also provided extensive background information on the nature of these concerns to the Advisory Council on Historic Preservation (ACHP) and has apprised ACHP that the Board would like its assistance in developing appropriate streamlining options. In addition, SEA has met with the Executive Director of the National Conference of State Historic Preservation Officers (NCSHPO). With the assistance of an ASLRA representative, SEA is currently completing work on a White Paper, as requested by the NCSHPO. Furthermore, SEA has developed, at the carriers' suggestion, a guidance document (available on the Board's Web site under the ''Environmental'' button) to assist carriers in complying with NHPA in Board proceedings and thereby avoid unnecessary delay. SEA will continue working with the carriers and the

historic preservation community on the streamlining initiative.

Finally, at the public hearing and in written testimony, the representatives of organized labor raised an additional concern regarding the class exemption as originally proposed. The unions expressed concern that it would be possible to create small carriers with few or no employees to act as a way to avoid labor protection. For example, they stated, a Class I railroad could spin off a failing line to a small-carrier shell with no or few employees under the class exemption for sales to Class III carriers, *see* 49 CFR 1150 subpart E, thus avoiding labor protection. The ''small carrier'' could then use petitioners' proposed class exemption to abandon the line. Petitioners have acknowledged that such a practice would be a concern and expressed a willingness to explore ways to protect against such possibilities, such as including a holding period before the abandonment class exemption could be utilized. The Board requests public comment on whether to propose such a holding period, and if so, what the holding period should be and how it would work.

Given our initial concerns about some aspects of petitioners' class exemption, as proposed, and the perceived shortcomings petitioners see in the current abandonment regulations for smaller carriers, the Board also requests public comments on other possible ways to improve the abandonment process, and address the kinds of concerns petitioners have raised. For example, the 2-year out-of-service exemption has reportedly worked well since it has been adopted. Would a 1-year out-of-service exemption alleviate some of the frustrations with the current process evidently experienced by small carriers? Also, prior to ICCTA, 49 U.S.C. 10904(b) directed the agency to grant an abandonment application if no protest had been received within 30 days of filing. Would a similar, ''no-protest'' abandonment process for a petition for exemption improve upon the current process for small carriers? The Board seeks comments on these and any other proposals interested persons might submit.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: January 9, 2006.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

Vernon A. Williams,

Secretary.

[FR Doc. 06–392 Filed 1–18–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 051227348–5348–01; I.D. 020105C]

Endangered and Threatened Species: Withdrawal of Proposals to List and Designate Critical Habitat for the Oregon Coast Evolutionarily Significant Unit (ESU) of Coho Salmon

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

ACTION: Proposed rule; withdrawal.

SUMMARY: In June 2004, we (NMFS) proposed that the Oregon Coast coho Evolutionarily Significant Unit (ESU) (*Oncorhynchus kisutch*) be listed as a threatened species under the Endangered Species Act (ESA). In June 2005, we extended the 1-year deadline for the final listing determination by 6 months in light of public comments received and an assessment by the State of Oregon concluding that the Oregon Coast coho ESU is viable (that is, likely to persist into the foreseeable future under current conditions). After considering the best available scientific and commercial information available, we have concluded that the ESU is not in danger of extinction throughout all or a significant portion of its range, nor is it likely to become so within the foreseeable future. We have determined that the Oregon Coast coho ESU does not warrant listing as an endangered or threatened species under the ESA at this time. Therefore we have decided to withdraw the proposed rule to list this ESU. On December 14, 2004, we proposed critical habitat for the Oregon Coast coho ESU. Because we are withdrawing the proposed listing determination, we are also withdrawing the proposed rule to designate critical habitat for this ESU.

ADDRESSES: NMFS, Protected Resources Division, 1201 NE Lloyd Boulevard, Suite 1100, Portland, Oregon, 97232.

FOR FURTHER INFORMATION CONTACT: Dr. Scott Rumsey, NMFS, Northwest Region, Protected Resources Division, at (503) 872–2791, or Marta Nammack, NMFS, Office of Protected Resources, at (301) 713–1401. Reference materials regarding this determination are available upon request or on the Internet at *http://www.nwr.noaa.gov*.

SUPPLEMENTARY INFORMATION:

Previous Federal ESA Actions Related to Oregon Coast Coho

In 1995, we completed a comprehensive status review of West Coast coho salmon (Weitkamp et al., 1995) that resulted in proposed listing determinations for three coho ESUs, including a proposal to list the Oregon Coast coho ESU as a threatened species (60 FR 38011; July 25, 1995). On October 31, 1996, we announced a 6-month extension of the final listing determination for the ESU, pursuant to section 4(b)(6)(B)(i) of the ESA, noting substantial disagreement regarding the sufficiency and accuracy of the available data relevant to the assessment of extinction risk and the evaluation of protective efforts (61 FR 56211). On May 6, 1997, we withdrew the proposal to list the Oregon Coast coho ESU as threatened, based in part on conservation measures contained in the Oregon Coastal Salmon Restoration Initiative (later renamed the Oregon Plan for Salmon and Watersheds; hereafter referred to as the Oregon Plan) and an April 23, 1997, Memorandum of Agreement (MOA) between NMFS and the State of Oregon which further defined Oregon's commitment to salmon conservation (62 FR 24588). We concluded that implementation of harvest and hatchery reforms, and habitat protection and restoration efforts under the Oregon Plan and the MOA substantially reduced the risk of extinction faced by the Oregon Coast coho ESU. On June 1, 1998, the Federal District Court for the District of Oregon issued an opinion finding that our May 6, 1997, determination to not list Oregon Coast coho was arbitrary and capricious (*Oregon Natural Resources Council* v. *Daley*, 6 F. Supp. 2d 1139 (D. Or. 1998)). The Court vacated our determination to withdraw the proposed rule to list the Oregon Coast coho ESU and remanded the determination to NMFS for further consideration. On August 10, 1998, we issued a final rule listing the Oregon Coast coho ESU as threatened (63 FR 42587), basing the determination solely on the information and data contained in the 1995 status review (Weitkamp et al., 1995) and the 1997 proposed rule (62 FR 24588; May 6, 1997).

In 2001 the U.S. District Court in Eugene, Oregon, set aside the 1998 threatened listing of the Oregon Coast

coho ESU (*Alsea Valley Alliance* v. *Evans*, 161 F. Supp. 2d 1154, (D. Or. 2001)) (*Alsea* decision). In response to the *Alsea* ruling and several listing and delisting petitions, we announced that we would conduct an updated status review of 27 West Coast salmonid ESUs, including the Oregon Coast coho ESU (67 FR 6215, February 11, 2002; 67 FR 48601, July 25, 2002).

In 2003 we convened the Pacific Salmonid Biological Review Team (BRT) (an expert panel of scientists from several Federal agencies including NMFS, FWS, and the U.S. Geological Survey) to review the viability and extinction risk of naturally spawning populations in the 27 ESUs under review, including the Oregon Coast coho ESU (Good et al., 2005; NMFS, 2003b). A slight majority of the BRT concluded that the naturally spawning populations in the Oregon Coast coho ESU were likely to become endangered, noting that short-term risks were alleviated by encouraging high escapements in recent years. The BRT noted considerable uncertainty regarding the future viability of the ESU given the uncertainty in predicting future ocean conditions for coho survival, as well as uncertainty in whether current freshwater habitats are of sufficient quality and quantity to support the recent high abundance levels and sustain populations during future downturns in ocean conditions. Although the BRT couched its conclusion in terms of the statutory definition (that is, not in danger of extinction, likely to become endangered in the foreseeable future), the BRT's conclusion is not a recommendation to list species. Rather, it is information for the decision-maker, who must also consider the risks and benefits from artificial propagation programs included in the ESU, efforts being made to protect the species, and any other information available to the agency, and must then weigh that information in light of the five factors listed under section 4(a)(1) of the ESA.

On June 14, 2004, based on the BRT report, we proposed to list the Oregon Coast coho ESU as a threatened species (69 FR 33102). In the proposed rule, we noted that Oregon was initiating a comprehensive assessment of the viability of the Oregon Coast coho ESU and of the adequacy of actions under the Oregon Plan for conserving Oregon Coast coho (and other salmonids in Oregon). Following an initial public comment period of 90 days, the public comment period was extended twice for an additional 36 and 22 days, respectively (69 FR 53031, August 31, 2004; 69 FR 61348, October 18, 2004).

In January 2005 the State of Oregon released a draft Oregon Coastal Coho Assessment (draft assessment), which (1) evaluated the current viability of the Oregon Coast coho ESU, and (2) evaluated the certainty of implementation and effectiveness of the Oregon Plan measures in addressing the factors for decline of the Oregon Coast coho ESU. The latter evaluation was intended to satisfy the joint NMFS—U.S. Fish and Wildlife Service's Policy on Evaluating Conservation Efforts (''PECE''; 68 FR 15100, March 28, 2003). Oregon's draft assessment concluded that the Oregon Coast coho ESU is currently viable and that measures under the Oregon Plan have stopped, if not reversed, the deterioration of Oregon Coast coho habitats. The draft assessment also concluded that it is highly likely that existing monitoring efforts will detect any significant future deterioration in the ESU's viability, or degradation of environmental condition, allowing a timely and appropriate response to conserve the ESU. On February 9, 2005, we published a notice of availability of Oregon's draft assessment for public review and comment in the **Federal Register** (70 FR 6840) and noted that information presented in the draft and final assessments would be considered in developing the final listing determination for the Oregon Coast coho ESU. The public comment period on Oregon's draft assessment extended through March 11, 2005.

We received 15 comments on Oregon's draft assessment, and on March 18, 2005, we forwarded these comments, as well as our technical review (NMFS, 2005b) and that of NMFS' Northwest Fisheries Science Center (NWFSC) (NMFS, 2005a), for Oregon's consideration in developing its final assessment. The public comments and our review highlighted areas of uncertainty or disagreement regarding the sufficiency and accuracy of Oregon's draft assessment, including: the assumption that Oregon Coast coho populations are inherently resilient at low abundance, and that this compensatory response will prevent extinction during periods of low marine survival; the apparent de-emphasis of abundance as a useful indicator of extinction risk; assumptions regarding the duration and severity of future periods of unfavorable marine and freshwater conditions; the ability of monitoring and adaptive management efforts to detect population declines or habitat degradation, and to identify and implement necessary protective measures; and the ability of Oregon Plan measures to halt or reverse habitat degradation once detected.

On May 13, 2005, Oregon issued its final Oregon Coastal Coho Assessment (final assessment). Oregon's final assessment includes a summary of, and response to, the comments received on the draft assessment, and includes several substantive changes intended to address concerns raised regarding the sufficiency and accuracy of the draft assessment. Oregon's final assessment concludes that: (1) The Oregon Coast coho ESU is viable under current conditions, and should be sustainable through a future period of adverse environmental conditions (including a prolonged period of poor ocean productivity); (2) given the assessed viability of the ESU, the quality and quantity of habitat is necessarily sufficient to support a viable ESU; and (3) the integration of laws, adaptive management programs, and monitoring efforts under the Oregon Plan will maintain and improve environmental conditions and the viability of the ESU into the foreseeable future.

On June 28, 2005 (70 FR 37217), we announced a 6-month extension of the final listing determination for the Oregon Coast coho ESU, finding that ''there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination * * * for the purposes of soliciting additional data'' (section 4(b)(6)(B)(i)). We announced a 30-day public comment period to solicit information regarding the validity of Oregon's final assessment, particularly in light of the concerns raised with respect to Oregon's draft assessment.

Statutory Framework for ESA Listing Determinations

The ESA defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range, and a threatened species as one that is likely to become endangered in the foreseeable future (Sections 3(6) and 3(20), respectively). The statute requires us to determine whether any species is endangered or threatened because of any of five factors: the present or threatened destruction of its habitat, overexploitation, disease or predation, the inadequacy of existing regulatory mechanisms, or any other natural or manmade factors (Section 4(a)(1)(A)(E)). We are to make this determination based solely on the best available scientific information after conducting a review of the status of the species and taking into account any efforts being made by states or foreign governments to protect the species. The focus of our evaluation of these five

factors is to evaluate whether and to what extent a given factor represents a threat to the future survival of the species. The focus of our consideration of protective efforts is to evaluate whether these efforts substantially have and will continue to address the identified threats and so ameliorate a species' risk of extinction. In making our listing determination, we must consider all factors that may affect the future viability of the species, including whether regulatory and conservation programs are inadequate and allow threats to the species to persist or worsen, or whether these programs are likely to mitigate threats to the species and reduce its extinction risk. The steps we follow in implementing this statutory scheme are to: review the status of the species, analyze the factors listed in section 4(a)(1) of the ESA to identify threats facing the species, assess whether certain protective efforts mitigate these threats, and make our best prediction about the species' future persistence.

Policy for the Evaluation of Conservation Efforts

As noted above, the PECE provides direction for considering protective efforts identified in conservation agreements, conservation plans, management plans, or similar documents (developed by Federal agencies, state and local governments, tribal governments, businesses, organizations, and individuals) that have not yet been implemented, or have been implemented but have not yet demonstrated effectiveness. The policy articulates several criteria for evaluating the certainty of implementation and effectiveness of protective efforts to aid in determining whether a species warrants listing under the ESA. Evaluation of the certainty that an effort will be implemented includes whether: the necessary resources (e.g., funding and staffing) are available; the requisite agreements have been formalized such that the necessary authority and regulatory mechanisms are in place; there is a schedule for completion and evaluation of the stated objectives; and (for voluntary efforts) the necessary incentives are in place to ensure adequate participation. The evaluation of the certainty of an effort's effectiveness is made on the basis of whether the effort or plan: establishes specific conservation objectives; identifies the necessary steps to reduce threats or factors for decline; includes quantifiable performance measures for the monitoring of compliance and effectiveness; incorporates the principles of adaptive management; and is likely to improve the species' viability at the time of the listing determination.

PECE also notes several important caveats. Satisfaction of the above mentioned criteria for implementation and effectiveness establishes a given protective effort as a candidate for consideration, but does not mean that an effort will ultimately change the risk assessment. The policy stresses that, just as listing determinations must be based on the viability of the species at the time of review, so they must be based on the state of protective efforts at the time of the listing determination. The PECE does not provide explicit guidance on how protective efforts affecting only a portion of a species' range may affect a listing determination, other than to say that such efforts will be evaluated in the context of other efforts being made and the species' overall viability.

Overview of the Oregon Plan

The Oregon Plan is a ''framework of state laws, rules, and executive orders designed to enhance and protect watershed health, at-risk species, and water quality by governing forest and agricultural practices, water diversions, wetlands, water quality, and fish and wildlife protections'' (Oregon Watershed Enhancement Board, OWEB, 2002). The Oregon Plan includes several pre-existing activities and regulatory and non-regulatory programs, as well as additional coordination, compliance, investment, monitoring, and voluntary involvement that are provided under the umbrella of the Oregon Plan. The mission of the Oregon Plan is to restore the watersheds of Oregon and recover the fish and wildlife populations of those watersheds to productive and sustainable levels in a manner that provides substantial environmental, cultural, and economic benefits (IMST, 2002). The Oregon Plan seeks to address factors for decline related to habitat loss and degradation by focusing on human infrastructure and activities that can adversely affect salmonids and their habitat (e.g., fisheries management, hatchery practices, fish passage barriers, forestry, agriculture, livestock grazing, water diversions and fish screens, urbanization, permitted pollutant discharges, and removal and fill permits). The Independent Multidisciplinary Science Team (IMST), the independent expert panel that provides scientific oversight for the Oregon Plan, has previously reviewed the adequacy of various elements of the Oregon Plan in addressing historically harmful practices, identifying and monitoring threats impeding population- and ESU-level viability, and restoring degraded salmon habitats (e.g., IMST, 1998; 1999; 2002a; 2002b). Oregon's recent assessment is the first effort, however, to consider the effect of actions and measures under the Oregon Plan at an ESU scale.

Overview of Oregon's Assessment

Oregon's assessment was a comprehensive effort including all state natural resource agencies and several Federal partners. Oregon's assessment represents an unprecedented, rigorous analysis of the viability of the Oregon Coast coho ESU, past and continuing threats to coho populations and the ESU, and protective efforts under the Oregon Plan aimed at addressing the factors associated with the ESU's decline.

Oregon's assessment includes several elements that inform our consideration under each of the listing determination steps: reviewing the status of the species, identifying threats facing the species, assessing whether certain protective efforts mitigate these threats, and making a reasonable prediction about the species' future persistence (see the ''Statutory Framework for Making ESA Listing Determinations'' section, above). Oregon's assessment includes a viability analysis that directly informs our review of the status of the species. Oregon's assessment also includes a review of a variety of regulatory mechanisms and conservation programs under the Oregon Plan, using PECE as a conceptual framework for its analysis. Not all aspects of the Oregon Plan, however, are properly reviewed under PECE, which focuses on programs not yet implemented or not yet having demonstrated effectiveness. The information included in Oregon's ''PECE'' analysis informs our consideration of the five ESA Section 4(a)(1) factors by identifying present or future threats to the viability of the Oregon Coast coho ESU. Oregon's PECE analysis also informs our consideration of protective efforts and whether they substantially ameliorate identified threats and reduce the ESU's risk of extinction. Some protective efforts under the Oregon Plan are fully implemented, and information is available demonstrating their level of effectiveness. Other protective efforts under the Oregon Plan are new, not yet implemented, or have not demonstrated effectiveness. We evaluate such unproven efforts using the criteria outlined in PECE to determine their certainties of implementation and effectiveness.

Oregon's viability analysis concluded that the Oregon Coast coho ESU is currently viable, with the component

populations generally demonstrating sufficient abundance, productivity, distribution, and diversity to be sustained under the current and foreseeable range of future environmental conditions. Oregon based its conclusion largely on its findings that (1) the Oregon Coast coho populations exhibit strong density dependence conferring resilience in periods of low population abundance, (2) there are sufficient high quality habitats within the ESU to sustain productivity during periods of adverse environmental conditions; (3) current harvest regulations and hatchery reforms adequately address past harmful practices; (4) the ESU is resilient in long periods of poor ocean survival conditions; and (5) measures under the Oregon Plan make it unlikely that habitat conditions will be degraded further in the future.

In assessing the threats facing the Oregon Coast coho ESU, Oregon acknowledged in its final assessment that a number of adverse environmental conditions could coincide posing a severe threat to the ESU's viability. However, Oregon concluded that the ESU has demonstrated the ability to remain viable during such a convergence of adverse conditions, such as had occurred in the 1990s, and to rebound quickly once conditions had moderated. Oregon concluded that the life cycle, productivity, and spatial structure of Oregon Coast coho provide protection and reduce the likelihood that catastrophic events would result in the ESU not being viable in the foreseeable future. Oregon acknowledged that ocean conditions and stream habitat complexity remain moderate threats for the ESU, but concluded that past threats from high harvest rates, poor hatchery practices, blockages to fish passage, and impaired water quality and quantity have been substantially reduced under the Oregon Plan. Oregon concluded that the significant reductions in these threats are manifested in the present viability of the ESU. Oregon underscored that, although the ocean environment for Oregon Coast coho survival has improved since the 1990s, future ocean conditions are highly uncertain.

Oregon's viability conclusion was not predicated on a finding that specific conservation measures under the Oregon Plan provide sufficient certainty of implementation and effectiveness to substantially ameliorate risks facing the ESU. Rather, its conclusion was based on the past and present biological performance of, and threats facing, the ESU.

The difference between Oregon's conclusion that the ESU is likely to persist into the foreseeable future, and the 2003 BRT's slight majority conclusion that it is not, rests on two major components that both considered: the adequacy of current habitat conditions to support future persistence, and the uncertainty about future ocean conditions. (In our review of Oregon's assessment, we raised concerns about two other aspects of the analysis: (1) Assumptions in Oregon's model about productivity at low population size; and (2) assumptions about minimum abundance thresholds. These were not part of the 2003 BRT assessment because the BRT did not conduct population viability modeling).

Summary of Comments Received

We solicited public comment on the proposed listing determination for the Oregon Coast coho ESU, and on Oregon's draft and final assessments, for 208 days (69 FR 33102, June 14, 2004; 69 FR 53031, August 31, 2004; 69 FR 61348, October 18, 2004; 70 FR 6840, February 9, 2005; 70 FR 37217, June 28, 2005). In addition, we held eight public hearings in the Pacific Northwest concerning the June 2004 West Coast salmon and steelhead proposed listing determinations, including the proposed determination for the Oregon Coast coho ESU (69 FR 53031, August 31, 2004; 69 FR 61348, October 18, 2004).

A joint NMFS/FWS policy requires us to solicit independent expert review from at least three qualified specialists, concurrent with the public comment period (59 FR 34270; July 1, 1994). We solicited technical review of the June 2004 proposed listing determinations, including the proposed determination for the Oregon Coast coho ESU, from over 50 independent experts selected from the academic and scientific community, Native American tribal groups, Federal and state agencies, and the private sector.

In December of 2004 the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review (Peer Review Bulletin), establishing minimum peer review standards, a transparent process for public disclosure, and opportunities for public input. The OMB Peer Review Bulletin, implemented under the Information Quality Act (Public Law 106–554), is intended to ensure the quality of agency information, analyses, and regulatory activities and provide for a more transparent review process. We consider the scientific information used by the agency in determining to withdraw the proposed listing determination and critical habitat designation for Oregon Coast coho to be ''influential scientific information'' in the context of the OMB Peer Review Bulletin.

We believe the independent expert review under the joint NMFS/FWS peer review policy, and the comments received from several academic societies and expert advisory panels, collectively satisfy the Peer Review Bulletin's requirements for ''adequate [prior] peer review'' (NMFS, 2005h). We solicited technical review of the proposed hatchery listing policy and salmon and steelhead listing determinations from over 50 independent experts selected from the academic and scientific community, Native American tribal groups, Federal and state agencies, and the private sector. The individuals from whom we solicited review of the proposals and the underlying science were selected because of their demonstrated expertise in a variety of disciplines including: artificial propagation; salmonid biology, taxonomy, and ecology; genetic and molecular techniques and analyses; population demography; quantitative methods of assessing extinction risk; fisheries management; local and regional habitat conditions and processes; and conducting scientific analyses in support of ESA listing determinations. The individuals solicited represent a broad spectrum of perspectives and expertise. The individuals solicited include those who have been critical of past agency actions in implementing the ESA for West Coast salmon and steelhead, as well as those who have been supportive of these actions. These individuals were not involved in producing the scientific information for our determinations and were not employed by the agency producing the documents. In addition to these solicited reviews, several independent scientific panels and academic societies provided technical review of the hatchery listing policy and proposed listing determinations, and the supporting documentation. Many of the members of these panels were individuals from whom we had solicited review. We thoroughly considered and, as appropriate, incorporated the review comments into these final listing determinations.

In response to the requests for information and comments on the June 2004 proposed listing determinations, we received over 28,250 comments by fax, standard mail, and e-mail. The majority of the comments received were from interested individuals who submitted form letters or form e-mails and addressed general issues not specific to the Oregon Coast coho ESU.

Comments were also submitted by state and tribal natural resource agencies, fishing groups, environmental organizations, home builder associations, academic and professional societies, expert advisory panels, farming groups, irrigation groups, and individuals with expertise in Pacific salmonids. The majority of respondents focused on the consideration of hatchery-origin fish in ESA listing determinations, with only a few comments specifically addressing the Oregon Coast Coho ESU. We also received comments from four of the independent experts from whom we had requested technical review of the scientific information underlying the June 2004 proposed listing determinations. Their comments did not specifically address the proposed determination for the Oregon Coast coho ESU. The reader is referred to the final hatchery listing policy (70 FR 37204; June 28, 2005) and final listing determinations for 16 salmon ESUs (70 FR 37160; June 28, 2005) for a summary and discussion of general issues raised by the comments received.

Below we address the comments received that directly pertain to the listing determination for the Oregon Coast coho ESU and Oregon's assessment. We received many substantive comments of a detailed and technical nature, particularly concerning Oregon's assessment report. Below we confine our summary of the comments received to those issues with the potential to influence the final listing determination. (Copies of the full text of comments received are available upon request, see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**, above.) The following summary of comments and our responses are organized into four general categories: (1) The consideration of hatchery origin fish in delineating the Oregon Coast coho ESU and evaluating its viability; (2) Oregon's modeling of the viability of the Oregon Coast coho ESU; (3) the consideration of threats facing, and efforts being made to protect, the species; and (4) the applicable standard(s) under the ESA for making a final listing determination of the Oregon Coast coho ESU.

Comments on the Consideration of Hatchery-Origin Fish

Comment 1: The Oregon Department of Fish and Wildlife (ODFW) expressed concern regarding the proposed inclusion of the North Fork Nehalem River coho hatchery program in the Oregon Coast coho ESU. ODFW explained that the hatchery program propagates two different stocks: the North Fork Nehalem River hatchery coho stock (ODFW stock #32), and the Fishhawk Lake hatchery coho stock (ODFW stock #99). ODFW noted that both stocks, although founded using local natural-origin fish, are presently managed as isolated broodstocks. Although the level of divergence between these hatchery stocks and the local wild populations is not known, ODFW noted that our hatchery reviews (NMFS, 2003a, 2004b, 2004c) acknowledged that the level of divergence may be substantial. ODFW recommended that both the North Fork Nehalem River and Fishhawk Lake hatchery stocks should be excluded from the ESU.

ODFW also noted that the recently founded Calapooya Creek (Umpqua River basin, Oregon) hatchery coho stock was not included in our hatchery reviews. The Calapooya Creek program was a small, short-term (in operation from 2001–2003), research hatchery program conducted to evaluate the use of hatchery-reared fish in the supplementation of a wild coho population. The program is no longer releasing fish, but will have returning adults through 2006. ODFW suggested that had we included this stock in our initial evaluations, the progeny expected to return through 2006 would have been considered as part of the Oregon Coast coho ESU.

Response: We agree with ODFW's comments that the North Fork Nehalem River and Fishhawk Lake stocks propagated by the Nehalem hatchery coho program should be excluded from the ESU. Although both of these stocks were originally founded from the local natural populations, they have not since 1986 regularly incorporated natural fish into their broodstock. Additionally, the two hatchery stocks have not been managed in a way to assure that they remain separate and conserve their respective genetic resources. In 2 of every 3 years, the Nehalem hatchery program releases the North Fork Nehalem hatchery coho stock, and in the third year it releases the Fishhawk Lake stock. Since adult coho return at different ages, it is highly likely that mixing has occurred between the two stocks. Although the North Fork Nehalem and Fishhawk Lake hatchery stocks cluster genetically with other stocks that are part of the Oregon Coast coho ESU (Weitkamp et al., 1995), the stocks are managed in such a way that they are substantially reproductively isolated from the local natural populations, and it is likely that they have substantially diverged from the evolutionary legacy of the ESU.

We did not include the Calapooya Creek coho hatchery stock in our hatchery reviews as the program is no longer collecting fish for broodstock or releasing smolts. However, we agree with ODFW that returns from Calapooya Creek hatchery stock, having been recently derived from local natural-origin fish, are likely no more than moderately diverged from the local natural populations and so will be considered part of the Oregon Coast coho ESU.

Comment 2: A comment submitted by the Pacific Rivers Council (PRC) included a July 2003 report investigating the potential benefits of a modeled conservation hatchery program in supplementing Oregon Coast coho (Oosterhout and Huntington, 2003). PRC asserted that the report supports their position that hatchery fish should be considered as only a threat to wild salmonid populations, and that any potential short-term benefits of artificial propagation are outweighed by the long-term damaging genetic and ecological effects on wild populations. The Oosterhout and Huntington (2003) report modeled an ''idealized conservation hatchery'' program and evaluated the success of supplementation efforts under different scenarios of habitat quality and marine survival. The authors conclude from their modeling study that supplementation, even under optimized model assumptions, poses long-term ecological and genetic risks, and any short-term gains in salmon abundance are temporary.

Response: The use of artificial propagation represents a broad spectrum of hatchery practices and facilities, as well as a variety of ecological settings into which hatchery-origin fish are released. For this reason it is essential to assess hatchery programs on a case-by-case basis. Our assessment of the benefits, risks, and uncertainties of artificial propagation concluded that the specific hatchery programs considered to be part of the Oregon Coast coho ESU collectively do not substantially reduce the extinction risk of the ESU in-total (NMFS, 2004c). We noted that these hatchery programs likely contribute to an increased abundance of total natural spawners in the short term, although their contribution to the productivity of the supplemented populations is unknown. Our assessment is consistent with the findings of Oosterhout and Huntington (2003). The findings of scientific studies, such as the subject study on simulated conservation hatchery programs and their impacts on natural coho populations, inform our consideration of the benefits and risks to be expected from artificial propagation.

However, it would be inappropriate to rely on theoretical conclusions about the effectiveness of hatchery programs and not consider program-specific information regarding broodstock origin, hatchery practices, and performance of hatchery- and natural-origin fish.

Comments on Oregon's Modeling of ESU Viability

Comment 3: Douglas County Board of Commissioners (Oregon) submitted a report (Cramer et al., 2004) that concludes that NMFS' earlier viability analyses overstate the risks to Oregon Coast coho populations, and that the 2003 BRT's findings warrant reconsideration. The Cramer et al. (2004) report asserts that previous viability assessments failed to adequately consider connectivity among spawner aggregations, underestimated juvenile over-winter survival in smaller stream reaches, and underestimated coho population stability. The report asserts that sharp reductions in ocean harvest rates since 1994, declining influence of hatchery-origin fish, and improved monitoring and evaluation under the Oregon Plan confer a very low risk of extinction even if future marine survival rates are low and remain low.

Response: The Cramer et al. (2004) report does not present any substantial new information, other than including an additional year of abundance data that was not available to the BRT. The report emphasizes selective aspects of the available data including: reduction of threats by changes in fishery and harvest management; and improved biological status evidenced by increasing spawning escapements and successful juvenile rearing throughout the ESU. These observations and analyses were fully considered in the BRT's review (Good et al., 2005; NMFS, 2003b), and Oregon's assessment. The Cramer et al. (2004) report does not, by itself, add to our consideration of the BRT's or Oregon's findings.

Comment 4: Several commenters expressed concern that the conclusion of Oregon's assessment does not represent a balanced consideration of the available information and associated uncertainties. The commenters felt that the conclusion focused largely on the supporting evidence, and did not adequately address uncertainties and underlying assumptions.

Response: In our March 18, 2005, letter to Oregon detailing our comments on its draft assessment (NMFS, 2005b) we recommended clarifying a number of explicit and implicit assumptions made in Oregon's analyses. We, as well as several other reviewers, suggested specific areas where additional information could be evaluated or alternative analyses explored to more transparently test the validity of Oregon's assumptions and to evaluate the sensitivity of the viability model results. Oregon made considerable improvements to the final assessment by including new information and analyses, and acknowledging many of the underlying assumptions and associated uncertainties. It is to be expected that an analysis of the scope of Oregon's assessment cannot address all uncertainties, fully explore the validity of all the assumptions made, or explore all alternative model formulations. The challenge for such a comprehensive assessment is for the authors to clearly state the assumptions being made, to consider the implications of such assumptions, and to disclose any associated uncertainties that may substantively affect the model results. We believe Oregon's viability assessment transparently addresses these issues such that the technical reader can adequately appraise the reliability of, and uncertainties associated with, the report's findings. Oregon's IMST, in its comments on the draft assessment report, concluded that the assumptions and analyses underpinning the State's coho assessment are valid. Our review noted that there are conclusory statements in Oregon's draft assessment that overstate the confidence with which the viability of the Oregon Coast coho ESU can be assessed. However, the ''Additional Considerations'' section of Oregon's final viability assessment discusses the uncertainties and risks associated with the analyses conducted and provides essential context to the report's conclusions.

Comment 5: Several commenters expressed doubt with respect to the coho population structure posited in Oregon's viability analyses. The commenters noted that uncertainties regarding the ESU's population structure contribute to biases in the assessment of population-level and ESU-level extinction risks. These commenters advised that Oregon's assessment should include a discussion of how the report's conclusions might be affected if the presumed population structure proved to be incorrect. One commenter asserted that preliminary results from recent microsatellite DNA genetic analyses indicate that there is substantive population structure for the Oregon Coast coho ESU on a smaller spatial scale than is reflected by Oregon's delineation of independent and dependent populations. The commenter felt that the preliminary genetic data called into question Oregon's assumptions regarding the magnitude and frequency of migration among populations, thereby affecting projections of population persistence and ESU viability.

Response: We conclude that the population structure used in Oregon's assessment represents a reasonable synthesis of the best available scientific information. It is consistent with, and largely derived from, the preliminary historical populations identified by NOAA's Technical Recovery Team (TRT) for the Northern California and Oregon Coasts (Lawson et al., 2004) (although it is unclear whether the population structure used in Oregon's viability analysis is intended to represent the historical or current population structure). The TRT evaluated the spatial relationships of 67 historical populations of Oregon Coast coho, principally on the basis of the geographical and ecological characteristics of the Oregon coastal landscape. The TRT preliminarily identified nine historical populations as functionally independent, nine as potentially independent, and 48 populations as dependent populations. These 67 populations are grouped into geographic strata that (1) serve as a means of defining important geographic, genetic, and ecological diversity within the ESU, and (2) distinguish independent populations that will be the focus of rigorous viability analyses, monitoring, and restoration efforts. The TRT did not attempt to define current populations or to predict what future populations might look like. The likely historical structure of populations provides a framework for comparing the historical and present status of populations, identifying the changes that have affected them, and prioritizing restoration actions. The TRT notes that the preliminarily defined historical population structure may change in the future as viability analyses progress and as new information becomes available.

It is expected that new genetic information (particularly from studies using newer genetic techniques with improved resolution over previous studies) will suggest population spatial structure that is different from that identified by Oregon and the TRT. The genetic structure within an ESU is dynamic, and is influenced by temporal variability in gene flow, genetic drift, and adaptation among populations. These processes will be particularly pronounced for smaller dependent populations on short temporal scales, resulting in genetic population structure on finer spatial scales than that identified for larger independent

populations over evolutionary time scales. We assume that the historical template was sustainable, while noting the uncertainty in this assumption, given that present habitats and environmental conditions have been substantially altered.

Comment 6: Several commenters agreed strongly with Oregon's assessment, and supported the conclusion that the Oregon Coast coho ESU is viable. The commenters noted that Oregon's assessment represents the first effort to synthesize the large quantity of biological and habitat information available for the ESU. The commenters cited recent years of strong returns, reduced harvest rates, improved hatchery management, and an ongoing commitment to conservation measures under the Oregon Plan, as evidence that the ESU is currently viable and measures are in place to ensure it remains so for the foreseeable future.

Response: Oregon's assessment represents an impressive aggregation, analysis and synthesis of population, hatchery, harvest, and habitat data from many state and Federal agencies, and at multiple spatial and temporal scales. We agree with the commenters that Oregon's assessment represents an unprecedented effort for any West Coast ESU of salmon or steelhead, and that it is sufficiently robust that it causes us to reconsider our proposed determination that the ESU is likely to become endangered in the foreseeable future. The findings of Oregon's assessment need to be considered in the context of all the available information, particularly in the context of other viability analyses and the many technical reviews of Oregon's analyses. NMFS' BRT included in its analysis of ESU viability the recent improvements in the ESU's abundance and productivity, improvements in hatchery practices, and sharp reductions in harvest rates. As summarized above, the BRT's findings reflect its considerable uncertainty regarding the threats facing the ESU, particularly in predicting future ocean conditions and determining whether current freshwater habitat conditions are of sufficient quantity and quality to sustain viable populations in the foreseeable future. Oregon's assessment, as well as other information received during the public comment periods, further inform our evaluation of the ESU's status, threats, and related uncertainties.

Comment 7: Several commenters criticized the assertion made in Oregon's viability analysis that Oregon Coast coho populations are inherently resilient at low levels of abundance due to strong productivity compensation at low spawner density (the ''low abundance paradigm''). Commenters noted that: (1) There is little empirical evidence in the scientific literature to support this claim; (2) Oregon's low abundance paradigm has not been thoroughly peer reviewed or tested with other coho data sets; and (3) any conclusions that rest heavily on a new and unverified paradigm are tenuous at best. Commenters observed that the failure of the 1997–1999 brood years to replace themselves on the spawning grounds, despite relatively low abundance levels, appears to contradict Oregon's low abundance paradigm. The commenters argued that Oregon's analyses of data that arguably demonstrate their low abundance paradigm are uncompelling and statistically invalid. Commenters felt that the apparent resilience indicated by the recent increased abundance of Oregon Coast coho is attributable to favorable ocean conditions and substantially reduced harvest rates, rather than a strong compensatory demographic response. The commenters argued that had the favorable ocean conditions and reduced harvest been absent, it is unlikely that the quick increase in coho abundance would have occurred.

Response: We shared many of these concerns with Oregon as part of our comments on its draft assessment report (NMFS, 2005a, 2005b). The data presented by Oregon in support of the low abundance paradigm suffer from low sample size, potentially substantial measurement error, and the fact that Oregon did not adequately analyze whether increased productivity is attributable to a strong compensatory response or is better explained by interannual variability. Although there are data points for a few populations within a given brood year that suggest high productivity at low spawner abundances, there are contrary examples for the same population in different years, or for different populations in the same brood year. Occasional large spikes in productivity are expected when evaluating such recruitment data sets. We believe that single data points are not very informative with regard to assessing extinction risk. The more relevant consideration is whether mean productivity is at or above replacement over the long term through periods of favorable and unfavorable environmental conditions. Oregon candidly acknowledges these issues in the report's technical sections, although overly broad statements in the reports' executive summary and synthesis sections may be misleading.

Oregon responded to our comments by including an alternate recruitment model to test the sensitivity of the model results to the low abundance paradigm (i.e., the assumption that the number of recruits per spawner will increase with decreasing numbers of spawners). Oregon concluded that the removal of this assumption of strong productivity compensation at low spawner densities from the recruitment model did not substantially alter its overall status determination for the ESU. Oregon's additional sensitivity analysis lends support to a conclusion that the ESU is currently viable, even if the low abundance paradigm is insufficiently supported (NMFS, 2005d). However, the small samples sizes and the effects of measurement error continue to contribute to uncertainty in its assessment..

Comment 8: Several commenters were critical of Oregon's assumptions that the current habitat conditions are adequate to support viability. When environmental conditions are unfavorable and population abundances are low, the populations tend to occupy a small range of core habitats. When environmental conditions improve, the populations expand into additional habitat. Oregon's assessment of ESU viability assumes that both the core and expansion habitats are of sufficient quantity and quality to support the populations through poor ocean conditions and to take advantage of favorable ocean conditions. These and other commenters were concerned that the recent few years of improved coho returns during strongly favorable ocean conditions do not provide adequate support for the assumption that current habitat conditions are sufficient to sustain these recent increases.

Response: Oregon acknowledges that current habitat conditions are generally poor, and that relative scarcity of high quality overwinter coho rearing habitat is of concern. Oregon's assessment notes that coho streams within the range of the ESU currently are characterized by a general scarcity of instream large woody debris, a lack of large conifers in riparian areas, reduced connectivity with off-channel habitats and flood plains, and the presence of fine sediments in spawning gravels (Oregon, 2005–3B). However, Oregon reasons that the ESU's demonstrated ability to rebound rapidly from the unfavorable environmental conditions of the 1990s strongly indicates that currently available freshwater habitats are of sufficient quantity and quality to support increased population

productivity, increased population abundance, and increased spatial distribution of populations, and sustain populations through any future downturns in ocean conditions.

In contrast, the slight majority opinion of the 2003 BRT was that the ESU is likely to become endangered, based largely on concerns regarding ability of current habitat conditions to sustain populations during future periods of poor ocean productivity. The BRT noted that habitat quality was generally poor, and habitat capacity was significantly reduced from historical levels. Given the competing reasonable inferences regarding ESU status from limited data we cannot conclude that the ESU is likely to become endangered in the foreseeable because of the ''destruction, modification, or curtailment of its habitat or range.'' This issue is discussed in more detail in the Consideration of ESA section 4(a)(1) Factors section below.

Comment 9: Several commenters were critical of Oregon's consideration of ocean conditions. In Oregon's draft assessment report, Oregon assumed that future unfavorable ocean conditions would be no more severe than those observed in the past. Commenters noted the extreme uncertainty associated with predicting ocean conditions, projected that future ocean conditions may be worse in intensity and longer in duration than that observed in the 1990s, and recommended that Oregon include more severe scenarios of unfavorable ocean conditions in its model simulations.

Response: The commenters are correct that Oregon's assessment assumed that past ocean conditions serve as a reasonable approximation of future ocean conditions. This assumption was clearly stated in Oregon's assessment report, and represents a reasonable formulation of its model to address the question of whether Oregon Coast coho populations are likely to become an endangered species in the foreseeable future, given current and past variability in marine survival rates. As the commenters note, predictions of future ocean conditions are highly uncertain given uncertainties in decadal cycles in ocean-climate conditions and global climate change. Thus any projections of the viability of coho population in the foreseeable future are similarly associated with uncertainty. In our comments on Oregon's draft assessment report, we encouraged Oregon to include model scenarios that contemplate downturns in ocean conditions of greater severity and longer duration than was observed in the 1990s (NMFS, 2005b) to better inform considerations of whether Oregon Coast coho populations are likely to be threatened with extinction in the foreseeable future. Oregon included a sensitivity analysis in its final assessment report with scenarios in which marine survival conditions observed in the 1990s persisted for different lengths of time into the future. The result was that the ESU remained viable even under those conditions where very low marine survival persisted for 24 years. This additional analysis was very informative, providing some of the best support for Oregon's argument that the ESU is viable (NMFS, 2005d).

Comment 10: Several commenters expressed concern that Oregon's assessment does not contemplate the potential cumulative impact of coincident detrimental habitat trends and catastrophic events. Commenters felt that Oregon's assessment was dismissive of the likelihood that such scenarios might occur in the future.

Response: Oregon noted in the final assessment that there is the real possibility that a number of adverse environmental conditions could converge and create a catastrophic threat to the ESU's viability. Oregon argued that such a worst-case scenario occurred in the 1990s, when drought, extreme floods, and the worst marine survival conditions observed in five decades converged. Although the impacts were dramatic, the ESU persisted through this period and rebounded quickly once conditions moderated. Oregon concluded that the life cycle of coho salmon, its population structure and dynamics, and its broad geographic distribution all provide protection and reduce the likelihood that catastrophic events or the convergence of multiple adverse environmental conditions would result in the Oregon Coast coho ESU not being viable in the foreseeable future.

Comment 11: Several commenters were critical of the abundance and productivity criteria applied in Oregon's viability assessment. Commenters were critical of the low abundance threshold chosen and of Oregon's premise that the probability of extinction is largely independent of abundance. Commenters noted that the strong correlation between low abundance and elevated risk of extinction is well established in the conservation biology literature. Commenters cited studies that discuss the ''extinction vortex'' phenomenon in which populations may appear to persist at severely reduced levels of abundance, but lack the demographic capacity and the genetic and ecological diversity to recover. Such populations lack the ability to respond to environmental variability and catastrophic events and slide irrevocably toward extinction. The commenters expressed the concern that coho populations subjected to severe boom and bust cycles of abundance will suffer an erosion of genetic and life-history diversity during ''bottlenecks'' of low population abundance, and that over multiple cycles will become reproductively less fit. The consequence, the commenters felt, would be a gradually diminished ability to fully re-occupy available habitat during favorable environmental conditions, and an ever accumulating risk of population extirpation and ESU extinction. One commenter also stressed that Oregon's minimum population size threshold would provide insufficient nutrient enrichment of streams from salmon carcasses to support essential ecological functions.

Another commenter disagreed with the productivity threshold for the average recruits per spawner during periods of low population abundance. The commenter noted that the productivity threshold (expressed as average recruits per spawner) allows for a 50 percent probability that the population is actually declining when at low abundance. The commenter recommended that a higher level of certainty was advisable for the productivity threshold, given that the resilient productivity at low abundance is a key component of Oregon's assessment (i.e., Oregon's low abundance paradigm).

Response: Oregon's low abundance paradigm effectively emphasizes population productivity and de-emphasizes the abundance parameter in determining probabilities of population persistence. As noted above in the response to Comment 7, we have concerns regarding the validity of Oregon's low abundance paradigm. We agree with the commenters that there is strong support in the scientific literature for abundance being an important determinant of extinction risk (see McElhany et al., 2000). However, we acknowledge that there is insufficient empirical data demonstrating the specific abundance level at which stochastic and depensatory demographic processes dominate and the risk of extinction is expected to increase dramatically. Given this uncertainty, we cannot say that Oregon's abundance threshold is unreasonable.

We agree with the commenter that the productivity thresholds should require a higher level of certainty that the average recruits per spawner at low population

abundance exceeds replacement. A population exactly meeting Oregon's viability thresholds would be at a very low level of abundance, susceptible to stochastic and depensatory demographic processes, and would have a 50 percent chance that its productivity is below replacement. Additionally, the productivity threshold does not take into account the statistical uncertainty in estimating the number of recruits per spawner, so the confidence with which one can conclude that a given population is above the productivity threshold is unspecified.

Comment 12: Several commenters felt that Oregon's consideration of the effects of artificial propagation was insufficient. Commenters felt that Oregon's viability analysis considered only ecological and predation effects of supplementation with hatchery fish, and failed to consider the negative impacts of interbreeding hatchery-origin and natural fish on genetic diversity and reproductive fitness.

Response: The potential ecological and genetic interactions between naturally spawning hatchery-origin and natural populations are complex, uncertain, and influenced by site-specific and program-specific factors. Accordingly, modeling these interactions is exceedingly difficult. In addition to the potential negative ecological and predation effects of hatchery supplementation, Oregon's assessment also acknowledges the potential negative impacts on the reproductive success and genetic diversity of natural populations. Because of the uncertainty surrounding these issues, Oregon concluded that it was not feasible to reliably parameterize hatchery interactions across the ESU, based on simple assumptions regarding relative reproductive success of naturally spawning hatchery fish and their ecological and genetic interactions. Oregon concluded that the best index of hatchery impacts is the resulting performance of naturally spawned fish. Accordingly, Oregon's assessment was based upon counts of only naturally produced recruits. If hatchery fish were responsible for an adverse impact on the overall natural population, this effect would be evident in the estimated productivity of the population. We believe Oregon's approach is clearly articulated and represents a reasonable approach to considering the effects of artificial propagation in its analyses.

Comments on Threats Facing the Species and Efforts Being Made to Protect them

Comment 13: Several commenters felt that effective regulatory controls and monitoring programs are in place to ensure that harvest and hatchery practices no longer threaten the ESU.

Response: Many noteworthy and important regulatory changes have been made that adequately address historically harmful practices. Changes in ocean and freshwater fisheries management have resulted in sharp reductions in fishery mortality in Oregon Coast coho populations, and likely have contributed to recent population increases. It is unlikely that those harvest controls will change in the future, given that the Pacific Fishery Management Council and, ultimately the Department of Commerce, have influence over harvest. Reforms in hatchery management practices have limited the potential for adverse ecological interactions between hatchery-origin and natural fish, and have markedly reduced risks to the genetic diversity and reproductive fitness for the majority of naturally spawned populations in the ESU. It is unlikely those reforms will be reversed in the future.

Comment 14: Several commenters felt that Oregon's assessment did not adequately assess the future trends of coho habitat, particularly riparian areas. Commenters expressed concern regarding Oregon's premise that habitat conditions will not degrade in the foreseeable future. One commenter was critical of the Oregon Forest Practices Act, and argued that it is inadequate to prevent the future degradation of riparian habitats, particularly on private non-industrial forestlands. The commenter noted that the Forest Practices Act applies only to the commercial harvest of trees, and that non-commercial land owners may cut riparian trees without restriction if they do not sell the wood. The commenter noted that this unregulated practice is particularly evident in areas with increased rural residential development along streambanks.

Other commenters doubted whether regulations, restoration programs, and other protective efforts would improve habitat conditions in the foreseeable future. One commenter noted that there is an insufficient data record to evaluate the success of protective efforts aimed at restoring riparian habitats, particularly in increasing the recruitment of large woody debris. Several other commenters doubted whether forest management under the Oregon Plan has resulted, or will result, in an increased amount of large-diameter trees (important for the recruitment of large woody debris in coho rearing areas). The commenters argued that the shorter rotations being implemented on private industrial forest lands reduce the size of trees delivered to streams in landslides, and thus may result in diminished stream complexity in important coho rearing habitats.

Response: A review of Oregon's final assessment and other available information suggests that habitat conditions overall are likely to remain constant in the foreseeable future, given that there are likely to be improvements in some aspects of habitat condition, declines in others, and a continuation of current conditions in still others (NMFS, 2005e). For example, the Northwest Forest Plan instituted riparian habitat buffers and other measures on Federal lands that improved many of the historical forestry practices that led to the loss and degradation of riparian habitats. Development and implementation of Total Maximum Daily Loads are likely to result in slightly improved water quality. Restoration efforts have treated approximately seven percent of the stream miles within the range of the ESU over the last 7 years with the intent of restoring stream complexity and riparian habitats, and improving water quality (Oregon, 2005–1) (though it is unclear how much restoration is likely to occur in the future, given the uncertainties regarding funding).

Forest practices on state and private land include some improvements over historically harmful practices, such as the establishment of riparian management areas under revisions in the 1990s to Oregon forest practice rules (Oregon, 2005–1). However, there are also offsetting practices that are expected to degrade habitat conditions and complexity, such as shorter harvest rotations, and road construction and logging on unstable slopes and along debris flow paths (NMFS, 2005e). On balance, habitat conditions on these lands are not likely to show significant improvement or decline.

For agricultural lands, riparian management is governed by agricultural water quality management plans under Oregon Senate Bill 1010, as well as by subsequently developed riparian rules which synthesize elements of individual Senate Bill 1010 plans for a given basin. These agricultural plans and rules do not specify the vegetation composition or size of the riparian areas to be established. The lack of specificity of these agricultural plans makes the enforcement and effectiveness of these plans uncertain (NMFS, 2005e). Oregon's final assessment concludes that ''we are likely to see slow improvements in riparian vegetation on agricultural lands under current rules with uncertainty about how much and

where the changes will occur'' (Oregon, 2005–3B). As discussed further below, any modest improvements may be offset by habitat declines resulting from urban and rural development (NMFS, 2005e). On balance, habitat conditions on agricultural lands are not likely to show significant improvement or decline.

Future urbanization and development within the range of the ESU is projected at approximately 20 percent population growth, representing slightly more than 30,000 people over the next 40 years (OOEA, 2004). Most of this development is expected to be concentrated in lowland areas with high intrinsic potential for rearing coho. Current urban or rural growth boundaries encompass approximately nine percent of high intrinsic potential riparian habitat areas, so future urbanization and development activities could have significant implications for some coho populations. The degree of potential impacts on coho habitat (both positive and negative) is highly uncertain and depends largely on the spatial distribution of future urbanization and development activities, their proximity to riparian areas, and the kinds of development activities undertaken and land management practices used.

Informed by these and other considerations, we conclude that Oregon's findings regarding the future trends of habitat conditions are uncertain, but nonetheless consistent with the best available information (NMFS, 2005e).

Comment 15: One commenter expressed disappointment that Oregon's assessment did not conclude with an agency-by-agency description of areas for improvement and list of specific action items to address these identified deficiencies. The commenter noted that during the planning stages of the Oregon Coast coho assessment, Oregon stated that a principal goal of the effort was to identify specific measures needed to improve the performance of agency actions, to ensure meeting the Oregon Plan's objectives and the recovery needs of Oregon Coast coho.

Response: We agree that Oregon's assessment of protective efforts under the Oregon Plan would be strengthened by describing areas for improvement and a list of specific action items to address these identified deficiencies. We view such an analysis as an important component of effective adaptive management.

Comment 16: One commenter was concerned that Oregon's assessment appeared to equate the failure to detect statistically downward trends in habitat parameters with the absence of such a trend. The commenter noted that Oregon acknowledged that ''our ability to detect a significant trend is minimized by the low statistical power of our analyzes [sic].'' The commenter offered a personal observation that in locations where habitat conservation measures have not been implemented, instream habitat conditions are continuing to degrade. The commenter felt that if continued degradation of the physical habitat is occurring, though not detected statistically by Oregon's analyses, then the assessment's conclusions regarding ESU viability may be uncertain.

Response: As noted in our response above to Comment 4, some issues that were candidly acknowledged in the technical sections of Oregon's assessment were not consistently articulated in the reports' executive summary and synthesis sections. The result is that some conclusory statements, when not considered in the context of the entire report, may be misleading. In the final assessment, Oregon acknowledges that its conclusions are predicated on the assumption that freshwater habitat and environmental conditions in the future will generally correspond to those observed in the past several decades. Oregon cautioned that if survival associated with marine or freshwater conditions trend moderately downward into the future, the assessment should be revisited and adjusted accordingly.

Comment 17: One respondent was concerned that Oregon's assessment did not establish population- and habitat-based performance measures that if met would automatically trigger a specific management response. The commenter felt that without these ''management triggers'' Oregon could not ensure that measures under the Oregon Plan will be effective in conserving Oregon Coast coho populations under any future conditions. The commenter was concerned that the lack of specified management triggers in Oregon's assessment raises questions about Oregon's ability to objectively evaluate and identify areas for improvement and practice adaptive management. The commenter also questioned whether Oregon's assessment can justifiably conclude that future changes in population status will be detected in a timely manner, thus affording the opportunity of effecting the appropriate management response. The commenter noted that the scientific literature indicates that it may take five generations (or approximately 15 years) to detect statistically robust trends among populations within an ESU, and that there are time delays in implementing necessary management actions. Moreover, there is an additional time lag to determine whether the expected biological response may be resolved. Given the time frames involved, the commenter expressed doubt that a sufficient monitoring and evaluation system with management triggers was in place to ensure that necessary management adjustments are implemented before the status of Oregon Coast coho is irretrievably compromised.

Response: We agree with the commenter's concern that Oregon's assessment did not include triggers for specific management actions. In our March 18, 2005, letter to Oregon detailing our comments on its draft assessment report we recommended that the final report include specific management triggers. We were disappointed that the final report did not contemplate such management triggers.

Comment 18: Several commenters expressed concern that inadequate funding has limited the ability of many Oregon agencies to monitor non-permitted habitat-affecting activities, effectively enforce regulations, and ensure proper reporting of permitted activities. The commenters felt that these inadequacies should be considered evidence of uncertainty that some as yet, unproven elements under the Oregon Plan will be implemented.

Response: The commenters are correct that the availability of necessary funding and staffing resources is an important consideration in evaluating how likely it is that a given protective effort will be implemented. Our review has noted that funding declines have led to the loss of staff at the Oregon Department of Environmental Quality, Department of Forestry, and ODFW (NMFS, 2005e). The reduced funding has slowed the completion of Total Maximum Daily Load water quality standards, and reduced the ability to monitor water quality, habitat structure and complexity, and fish populations.

ESA Standards for Listing Determinations

Comment 19: Two commenters expressed concern regarding the appropriate statutory standard that must be satisfied if we were to issue a ''not warranted'' final listing determination for the Oregon Coast coho ESU. One commenter stressed that the appropriate standard for such a determination is ''recovery.'' The commenter noted that the requirements of a recovery plan under ESA section 4(f)(1) include: (1) A description of such site-specific management actions as may be necessary to achieve the plan's goal for

the conservation and survival of the species; and (2) objective, measurable criteria which, when met, would result in a determination that the species be removed from the list of threatened and endangered species. The commenter stressed that a ''not warranted'' finding for the Oregon Coast coho ESU must be based on quantitative information that specific management actions have been successful in addressing the factors responsible for the ESU's decline, and on analyses demonstrating that the improved viability of the ESU is attributable to these actions and not fortuitous ocean conditions supporting high marine survival. The commenter acknowledged that the *Alsea* ruling effectively removed Oregon Coast coho from the protections of the ESA, but asserted that since the ESU was listed previously we should adopt a precautionary approach and not evaluate the ESU's listing status as if it was being reviewed for the first time.

Response: The statutory standards for recovery planning and delisting determinations are not applicable to the ESU. Section 4(f) governs the adoption of recovery plans for listed species. As the commenter noted, and as is summarized above in the Background section, the 2001 *Alsea* ruling set aside the 1998 threatened listing of the Oregon Coast coho ESU. Listing and delisting decisions under the ESA, such as this notice, are governed under section 4(b) of the ESA which states that we shall determine whether a species is threatened or endangered because of any of five factors (section 4(a)(1)(A)-(E)), solely on the basis of the best scientific and commercial data available after reviewing the status of the species and taking into account those efforts, if any, being made to protect the species (section 4(b)(1(A)).

The statutory language and legislative history do not prescribe a ''precautionary'' approach as recommended by the commenter, other than to define what qualifies as a threatened or endangered species. A species is threatened or endangered because of five factors specified in ESA Section 4(a)(1). ''Endangered'' is defined as ''in danger of extinction throughout all or a significant portion of its range,'' and ''threatened'' is defined as ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' We interpret the term ''likely'' to mean that the best available information must indicate that a species is more likely than not to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Final Species Determination

The Oregon Coast coho ESU includes all naturally spawned populations of coho salmon in Oregon coastal streams south of the Columbia River and north of Cape Blanco (63 FR 42587; August 10, 1998). We find that five hatchery stocks are part of the ESU: the North Umpqua River (ODFW stock #18), Cow Creek (ODFW stock #37), Coos Basin (ODFW stock #37), and the Coquille River (ODFW stock #44) coho hatchery programs, as well as the progeny of the Calapooya Creek coho hatchery program (which is no longer in operation).

On June 14, 2004, we proposed that five artificial propagation programs are part of the ESU (69 FR 33102), including the North Fork Nehalem River (ODFW stock #32) coho hatchery program, should be considered part of the ESU. Informed by our analysis of the comments received from ODFW (see Comment 1 and response, above), we conclude that the North Fork Nehalem River coho hatchery stock (ODFW stock #32) is not part of the Oregon Coast coho ESU. Similarly, the Fishhawk Lake coho hatchery stock (ODFW stock #99), also propagated at the North Fork Nehalem Hatchery, is not part of the ESU. In the June 14, 2004, proposed rule we did not consider hatchery coho from the Calapooya Creek (Umpqua River Basin) artificial propagation program because it is no longer in operation. Informed by ODFW's comments, however, we now find that the progeny of the Calapooya Creek coho hatchery program, propagated between 2001 and 2003, are part of the Oregon Coast coho ESU (see Comment 1 and response, above).

Assessment of the Species' Status

As noted in the ''Statutory Framework for Making ESA Listing Determinations'' section, above, the steps we follow in making a listing determination are to: review the status of the species, analyze the factors listed in section 4(a)(1) of the ESA to identify threats facing the species, assess whether certain protective efforts mitigate these threats, and make our best prediction about the species' future viability. Below we summarize the information we evaluated in reviewing the status of the Oregon Coast coho ESU.

Biological Review Team Findings

The data that became available since the previous status review on Oregon Coast coho was conducted (NMFS, 1997a) represent some of the best and worst years on record. Yearly adult returns for the Oregon Coast coho ESU have been in excess of 160,000 natural spawners from 2001 through 2004, far exceeding the abundance observed for the past several decades. These recent encouraging increases in spawner abundance were preceded by 3 consecutive brood years (1994–1996) exhibiting recruitment failure (recruitment failure is when a given year class of natural spawners fails to replace itself when its offspring return to the spawning grounds 3 years later). These 3 years of recruitment failure are the only such instances that have been observed in the entire 55-year abundance time series for Oregon Coast coho salmon (although comprehensive population-level survey data have only been available since 1980). The recent increases in natural spawner abundance have occurred in many populations in the northern portion of the ESU, populations that were the most depressed at the time of the last review (NMFS, 1997a). Although the recent dramatic increases in spawner abundance are encouraging, the long-term trends in ESU productivity are still negative due to the low abundances observed during the 1990s.

The majority of the BRT felt that the recent increases in coho returns were most likely attributable to favorable ocean conditions and reduced harvest rates. The BRT was uncertain as to whether such favorable marine conditions would continue into the future. Despite the likely benefits to spawner abundance levels gained by the dramatic reduction of harvest of Oregon Coast coho populations (PFMC, 1998), harvest cannot be significantly further reduced so as to compensate for declining productivity due to other factors. The BRT was concerned that if the long-term decline in productivity reflects deteriorating conditions in freshwater habitat, this ESU could face very serious risks of local extirpations if ocean conditions reverted back to poor productivity conditions. Approximately 30 percent of the ESU has suffered habitat fragmentation by culverts and thermal barriers, generating concerns about ESU spatial structure. Additionally, the lack of response to favorable ocean conditions for some populations in smaller streams and the different patterns between north and south coast populations may indicate compromised connectivity among populations. The degradation of many lake habitats and the resultant impacts on several lake populations in the Oregon Coast coho ESU also pose risks to ESU diversity. The BRT noted that hatchery closures, reductions in the number of hatchery smolt releases, and improved marking rates of hatchery fish

have significantly reduced risks to diversity associated with artificial propagation.

The BRT found high risk to the ESU's productivity, and comparatively lower risk to the ESU's abundance, spatial structure, and diversity. Informed by this risk assessment, a slight majority of the BRT concluded that the naturally spawned component of the Oregon Coast coho ESU is ''likely to become endangered within the foreseeable future.'' However, a substantial minority of the BRT concluded that the ESU is ''not in danger of extinction or likely to become endangered within the foreseeable future.'' The minority felt that the large number of spawners in 2001–2002 and the high projected abundance for 2003 demonstrate that this ESU is not ''in danger of extinction'' or ''likely to become endangered within the foreseeable future.'' Furthermore, the minority felt that recent strong returns following 3 years of recruitment failure demonstrate that populations in this ESU exhibit considerable resilience.

Consideration of Artificial Propagation

Our review of hatchery programs that are part of the ESU concluded that they collectively do not substantially reduce the extinction risk of the ESU in-total (NMFS, 2005g, 2004b, 2004c; see proposed rule for a more detailed explanation of this assessment, 69 FR 33102, June 14, 2004). Our final determination that the North Fork Nehalem coho hatchery program is not part of the ESU does not substantially alter our previous conclusion that artificial propagation does not contribute appreciably to the viability of the ESU. Additionally, our inclusion of the progeny of a small research hatchery program that is no longer in operation (i.e., the Calapooya Creek coho hatchery program) does not substantially affect the extinction risk of the ESU in-total.

Oregon's Viability Assessment

Oregon's viability assessment concluded that the Oregon Coast coho ESU is viable under current habitat conditions and management practices. Oregon also concluded that coho populations exhibit strong productivity compensation when populations are at low abundance levels, conferring resilience to future downturns in ocean conditions for marine survival and/or catastrophic events. Oregon's viability assessment is conceptually consistent with the opinion of a substantial minority of the BRT.

As discussed in the above summary of the issues raised by public comments, many commenters are concerned about several of the assumptions underlying Oregon's viability assessment. The most substantive of these concerns are whether Oregon's low abundance paradigm is valid, whether there is and will continue to be freshwater habitat of sufficient quality and quantity to support viable coho populations through future environmental cycles, and the uncertainty associated with projections of future ocean-climate conditions for coho populations. These concerns do not invalidate Oregon's conclusion that the ESU is viable; rather, they underscore that there is considerable uncertainty associated with any extinction risk assessment for Oregon Coast coho.

Preliminary Results of Oregon Coast Coho Recovery Planning

NMFS' TRT for the Oregon and Northern California Coast is charged with describing the historical population structure, developing biological recovery criteria with which to evaluate the status of an ESU relative to recovery, and identifying those factors limiting or impeding recovery. The TRT recently provided a preliminary report on its progress in developing these products for the Oregon Coast coho ESU (NMFS, 2005f). The TRT's preliminary report underscores the uncertainty associated with assessing the future status of the ESU. The TRT stated that ''at this time our evaluation indicates, with a moderate degree of uncertainty, that the ESU is persistent'' (the TRT defines a ''persistent'' ESU as one that is able to persist (i.e., not go extinct) over a 100-year period without artificial support,'' relating the term to ''the simple risk of extinction, which is the primary determination of endangered status under the ESA''). The TRT further stated that ''our evaluation of biological viability based on current and recent past conditions shows a high degree of uncertainty with respect to the statement that the ESU is sustainable'' (the TRT defines a ''sustainable'' ESU as ''one that, in addition to being persistent, is able to maintain its genetic legacy and long-term adaptive potential for the foreseeable future ... so that risk of extinction will not increase in the future,'' relating the term to ''threatened status under the ESA''). The TRT's preliminary advice, subject to change upon further testing and review, is not inconsistent with Oregon's viability assessment.

Biological Implications of Recent Ocean-Climate Conditions

In an August 12, 2005, memorandum NMFS' NWFSC summarized the most recent information available on West Coast ocean conditions, described observations of impacts on marine communities, and offered predictions of the implications of recent ocean conditions on West Coast salmon stocks, including the Oregon Coast coho ESU (NMFS, 2005c). The memorandum described recent observations of anomalous ocean conditions that may portend lower returns of coho salmon for the fall of 2005 and the next several years. The memorandum noted that indices of ocean-climate variation are suggestive of a regime shift in ocean-climate conditions that in the past have been associated with warmer water temperature, poor primary productivity, and generally less favorable conditions for coho marine survival. Recent in situ observations confirm delayed coastal upwelling, anomalously warm sea surface temperatures, altered zooplankton community structure, and low survey abundances of juvenile salmon, possibly indicating low marine survival. Strong upwelling occurred in mid-July 2005 resulting in cooler sea surface temperatures, increased primary productivity, and generally more favorable conditions for salmon survival. It is unclear whether this delayed onset of coastal upwelling can compensate for earlier unfavorable conditions which occurred during critical life-history stages for coho salmon. The memorandum noted that model projections indicate that fish populations that prey on juvenile coho salmon may be reduced, possibly compensating somewhat for unfavorable marine survival conditions for coho returns in 2006. The memorandum concluded that the NWFSC is relatively confident that the negative biological implications of recent ocean conditions for the Oregon Coast coho ESU may be dramatic over the next few years. Although the memorandum predicts conditions in the near term to be negative, it does not offer any projections regarding ocean conditions or implications on Oregon Coast coho in the foreseeable future.

Conclusion Regarding the Status of the Oregon Coast Coho ESU

In our June 14, 2004, proposed threatened determination for the Oregon Coast coho ESU (69 FR 33102), we based our finding on the BRT's slight majority's conclusion that the ESU is ''likely to become endangered in the foreseeable future.'' We noted that the recruitment failure observed during the 1994–1996 brood years (returning in 1997–1999, respectively) was followed by near record recruitment for the 1997–1999 brood years (returning in 2000–2002, respectively). We noted that the

recent returns are extremely encouraging but that these increases need to be sustained through additional brood years to resolve remaining concerns regarding the ESU's viability, due to uncertainties in future ocean and freshwater habitat conditions. We stated that additional data demonstrating that the freshwater habitat can support high abundances of natural spawners and sustain recent abundance levels would help resolve these uncertainties regarding the ESU's resilience under less favorable ocean conditions.

In contrast, Oregon's assessment concluded that current freshwater conditions are adequate to support the ESU's persistence, and that the ESU is resilient to a prolonged period of poor ocean conditions. There is considerable uncertainty regarding the adequacy of current habitat conditions, but we find Oregon's conclusion reasonable, in light of available information and Oregon's analysis of that information and in light of the fact that the BRT considered this question unresolved. Oregon's analysis indicating that the ESU is resilient to prolonged poor ocean conditions does not resolve the uncertainties about future ocean conditions, but it does diminish the concern created by that uncertainty.

Based on the historical record and recent observations, we expect ocean and freshwater habitat conditions to exhibit variability into the future, and the abundance and productivity of coho populations to fluctuate in response to this variability. The available information, however, does not indicate that unfavorable ocean and freshwater conditions are expected to predominate in the foreseeable future, or that the average abundance and productivity trends for coho populations over the foreseeable future is expected to be downward. The August 2005 memorandum regarding the biological implications of recent anomalous ocean conditions concludes that we can expect reductions (of an unspecified magnitude) in Oregon Coast coho populations returns for the next few years, but does not prognosticate on ocean-climate conditions or population returns into the foreseeable future (NMFS, 2005c).

Final Listing Determination

Consideration of ESA Section 4(a)(1) Factors

Section 4(a)(1) of the ESA and NMFS' implementing regulations (50 CFR part 424) states that we must determine if a species is endangered or threatened because of any one or a combination of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or human-made factors affecting its continued existence. We have previously detailed the impacts of various factors contributing to the decline of Pacific salmonids as part of our prior listing determinations for 27 ESUs, as well as in supporting technical reports (e.g., NMFS, 1997a, ''Coastal coho habitat factors for decline and protective efforts in Oregon;'' NMFS, 1997b, ''Factors Contributing to the Decline of Chinook Salmon—An Addendum to the 1996 West Coast Steelhead Factors for Decline Report;'' NMFS, 1996, ''Factors for Decline—A Supplement to the Notice of Determination for West Coast Steelhead Under the Endangered Species Act''). Our prior listing determinations and technical reports concluded that all of the factors identified in section 4(a)(1) of the ESA have played a role in the decline of West Coast salmon and steelhead. In our 1998 threatened listing determination for the Oregon Coast coho ESU (63 FR 42588; August 10, 1998), we concluded that the decline of Oregon Coast coho populations is the result of several longstanding, human-induced factors (e.g., habitat degradation, water diversions, harvest, and artificial propagation) that exacerbate the adverse effects of natural environmental variability (e.g., floods, drought, and poor ocean conditions). The following discussion briefly summarizes our findings regarding the threats currently facing the Oregon Coast coho ESU. While these threats are treated in general terms, it is important to underscore that impacts from certain threats are more acute for some populations in the ESU.

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

In many Oregon coastal streams, past human activities (e.g., logging, agriculture, gravel mining, urbanization) have resulted in impediments to fish passage, degradation of stream complexity, increased sedimentation, reduced water quality and quantity, loss and degradation of riparian habitats, and loss and degradation of lowland, estuarine, and wetland coho rearing habitats. The relevant issues are whether current habitat conditions are adequate to support the ESU's persistence (that is, whether the species is endangered or threatened because of present destruction, modification, or curtailment of its habitat or range) and whether habitat conditions are likely to worsen in the future (that is, whether the species is endangered or threatened because of threatened destruction, modification, or curtailment of its habitat or range). Regarding the first issue, Oregon concluded in its final assessment that the current condition of coho habitats is sufficient to support viable populations and a viable ESU, as evidenced by the ability of populations that were depressed during unfavorable environmental conditions during the 1990s to rebound once conditions moderated. This conclusion is different from the conclusion of the slight majority of the BRT, which relied on the uncertainty about the adequacy of current conditions in support of its finding that the ESU was likely to become an endangered species within the foreseeable future. We have considered both the majority and minority BRT opinions, the information and analysis in Oregon's final assessment, and the comments of NMFS scientists and staff (NMFS, 2005e), the public, and peer reviewers on Oregon's draft and final assessments. Based on this consideration, we conclude that the ESU is not likely to become an endangered species in the foreseeable future because of present destruction, modification or curtailment of its habitat or range (see response to Comment 8).

Regarding the second issue, the threat of future habitat declines, we describe in the response to Comment 14 and in NMFS (2005e) that Oregon's analysis and other available information demonstrate that there are some habitat elements that are likely to improve, some that are likely to decline, and others that are likely to remain in their current condition, and that there is a high level of uncertainty associated with projections of future habitat conditions. Based on these considerations, we find reasonable Oregon's conclusion that habitat conditions overall are not likely to worsen. This conclusion is different from the conclusion of the slight majority of the BRT, which relied in part on the uncertainty about the future habitat conditions to support a conclusion that the ESU is likely to become an endangered species. We have considered: (1) The BRT's majority and minority opinions; (2) the information and analysis in Oregon's final assessment; and (3) the comments of NMFS scientists and staff, the public, and peer reviewers on Oregon's draft and final assessments. Based on this consideration, we conclude that the

ESU is not likely to become an endangered species in the foreseeable future because of threatened destruction, modification or curtailment of its habitat or range information.

B. Overutilization for Commercial, Recreational, Scientific or Educational Purposes

Harvest rates on Oregon Coast coho populations ranged between 60 and 90 percent between the 1960s and 1980s (Good et al., 2005). Modest harvest restrictions were achieved in the late 1980s, but harvest rates remained high until most directed coho salmon harvest was prohibited in 1994. These restrictive harvest regulations developed concurrently with the Oregon Plan and subsequently revised through the Pacific Fisheries Management Council (PFMC) have imposed conservative restrictions on direct and indirect fishery mortality, and appropriately consider marine survival conditions and the biological status of naturally produced coho populations. Under these revised regulations, harvest rates are stipulated to be between zero and eight percent during critically low spawner abundance, and may increase to a maximum exploitation rate of 45 percent under high survival and abundance conditions (Oregon, 2005–1). Empirical data over the last 10 years show that harvest mortality for Oregon Coast coho has been maintained below 15 percent since the adoption of the revised regulations (Oregon, 2005–1). We agree with the BRT's finding that overutilization has been effectively addressed for Oregon Coast coho populations. We conclude that the ESU is not in danger of extinction or likely to become endangered in the foreseeable future because of overutilization.

C. Disease or Predation

Past species introductions and habitat modifications have resulted in increased non-native predator populations, notably in coastal lake habitats. Oregon's final assessment identified exotic fish species as the primary limiting factor for three lake coho populations, although it was not identified as a factor limiting other coho populations or the ESU as a whole. Predation by increased populations of marine mammals (principally sea lions) may influence salmon abundance in some local populations when other prey species are absent and where physical conditions lead to the concentration of adults and juveniles (e.g., Cooper and Johnson, 1992). However, the extent to which marine mammal predation threatens the persistence of Oregon coast coho populations is unknown. Although predation is a local concern for some populations, we conclude that the ESU is not in danger of extinction or likely to become endangered because of predation.

Infectious disease is one of many factors that can influence adult and juvenile salmon survival. Salmonids are exposed to numerous bacterial, protozoan, viral, and parasitic organisms in spawning and rearing areas, hatcheries, migratory routes, and the marine environment. Specific diseases such as bacterial kidney disease, ceratomyxosis, columnaris, furunculosis, infectious hematopoietic necrosis virus, redmouth and black spot disease, erythrocytic inclusion body syndrome, and whirling disease, among others, are present and are known to affect West Coast salmonids (Rucker et al., 1953; Wood, 1979; Leek, 1987; Foott et al., 1994; Gould and Wedemeyer, undated). In general, very little current or historical information exists to quantify trends over time in infection levels and disease mortality rates. However, studies have shown that naturally spawned fish tend to be less susceptible to pathogens than hatchery-reared fish (Buchanon et al., 1983; Sanders et al., 1992). Native salmon populations have co-evolved with specific communities of these organisms, but the widespread use of artificial propagation has introduced exotic organisms not historically present in a particular watershed. Habitat conditions such as low water flows and high temperatures can exacerbate susceptibility to infectious diseases.

Aggressive hatchery reforms already implemented by Oregon efforts have reduced the magnitude and distribution of hatchery fish releases in the ESU, and consequently the interactions between hatchery- and natural-origin fish and the potential transmission of infectious diseases. Additionally, regulations controlling hatchery effluent discharges into streams have reduced the potential of pathogens being released into coho habitats. It is unlikely that the Oregon Coast coho ESU is in danger of extinction or likely to become endangered because of disease.

D. The Inadequacy of Existing Regulatory Mechanisms

Existing regulations governing coho harvest have dramatically improved the ESU's likelihood of persistence. These regulations are unlikely to change in the future, particularly because of the involvement of the PFMC and NMFS. Regulations governing land use are more problematic, as discussed in our response to comments, above. A wide range of land uses and other activities affect salmon habitat, some more amenable to regulation than others. In the range of Oregon coast coho, the regulation of some activities and land uses will alter past harmful practices, resulting in habitat improvements; the regulation of other activities is inadequate to alter past harmful practices, resulting in habitat conditions continuing in their present state; and the regulation of still other activities and land uses will lead to further degradation. Overall, we conclude that Oregon coast coho ESU is not in danger of extinction, or likely to become endangered in the foreseeable future, because of the inadequacy of existing regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Natural variability in ocean and freshwater conditions have at different times exacerbated or mitigated the effects on Oregon Coast coho populations of habitat limiting factors. As discussed in the ''Assessment of ESU Viability'' section above, there is considerable uncertainty in predicting ocean-climate conditions into the foreseeable future and their biological impacts on the Oregon Coast coho ESU. It is likely that recent anomalous ocean conditions will result in decreased returns for Oregon coast coho populations for the next few years (NMFS, 2005c). However, variability in ocean-climate conditions is expected, and coho populations are similarly expected to fluctuate in response to this natural environmental variability. It is uncertain whether unfavorable ocean conditions will predominate in the foreseeable future. Moreover, Oregon's final assessment tested the sensitivity of the ESU to a prolonged period of poor ocean conditions and found it was resilient. The slight majority of the BRT relied on uncertainty about future ocean conditions in concluding that the ESU was likely to become endangered in the foreseeable future. We have considered both the BRT's majority and minority opinions; the comments of NMFS staff and scientists, peer reviewers, and the public on Oregon's final assessment; and the sensitivity analysis conducted by Oregon. We conclude the ESU is not in danger of extinction or likely to become endangered in the foreseeable future because of future poor ocean conditions.

Prior to the 1990s, coho hatchery programs along the Oregon coast posed substantial risks to the survival, reproductive fitness, and diversity of natural populations. High numbers of hatchery coho were released in most of the basins in the ESU, most programs

propagated non-native broodstocks, and naturally spawning hatchery-origin strays were common in most natural production areas. Oregon's aggressive hatchery reform efforts have resulted in substantial reductions of this threat. Hatchery coho are released in less than half of the populations in the ESU, and the magnitude of releases has declined from a peak of 35 million smolts in 1981, to approximately 800,000 in 2005 (Oregon, 2005–1). Hatchery programs are currently constrained to releasing no more than 200,000 smolts in any basin. The reduction in the number of hatchery fish released has reduced the potential for competition with, and predation on, natural coho. The proportion of hatchery-origin fish on the spawning ground has been reduced to below 10 percent in all but two populations in the ESU (Oregon, 2005–1). All hatchery coho releases in the ESU are now marked, affording improved monitoring and assessment of naturally produced coho populations. Broodstock management practices have been modified to minimize the potential for hatchery-origin fish to pose risks to the genetic diversity of local natural populations. We conclude the ESU is not in danger of extinction or likely to become endangered in the foreseeable future because of hatchery practices.

Efforts Being Made to Protect the Species

Section 4(b)(1)(A) of the ESA requires the Secretary to make listing determinations solely on the basis of the best scientific and commercial data available after taking into account efforts being made to protect a species. In making listing determinations we first assess the species' level of extinction risk, identify factors that threaten its continued existence, and assess existing efforts being made to protect the species to determine if those measures ameliorate the risks it faces. In our June, 14, 2004, proposed listing for the Oregon Coast coho ESU (69 FR 33102), we evaluated relevant protective efforts and determined that they did not substantially alter our finding that the ESU is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The reader is referred to the June 14, 2004, proposed rule for a summary of efforts other than those under the Oregon Plan being made to protect Oregon Coast coho populations (69 FR 33102, at 33142). We included the best information that was available at the time of the proposal concerning the certainty of implementation and effectiveness of measures under the Oregon Plan, among several other protective efforts. We noted in our assessment of protective efforts that Oregon was in the process of conducting a comprehensive assessment of the viability of the Oregon Coast coho ESU and of the contributions of the Oregon Plan in conserving the ESU.

Based on the available information we cannot conclude that habitat conditions for this ESU will improve in the future (see the discussion under Comment 14 above). At the same time, available evidence suggests it is unlikely that habitat conditions for the ESU are likely to degrade in the foreseeable future, so as to pose a risk to the survival of the Oregon Coast coho ESU. Harvest reductions and improvements in hatchery management have been fully implemented and their effectiveness is manifested in the improved status of Oregon Coast coho populations. The benefits of these noteworthy accomplishments under the Oregon Plan were fully considered in the BRT's assessment of ESU extinction risk.

Conclusion

In making our final listing determination for the Oregon Coast coho ESU we are making several predictions about the future. We must predict the future persistence of the ESU assuming that current threats to the species, as stated in Section 4(a)(1) of the ESA, continue into the future, and next consider whether that assumption is correct—that is, whether current natural and human-caused threats to the species are likely to continue, grow worse, or improve in the future. We then must predict how either the continuation or change of current threats will affect the ESU's persistence. In our response to comments above, and in our consideration of whether Oregon Coast coho warrant listing, we address where the uncertainties lie, both in our assessment of the ESU's persistence under current threats and in our projection of likely future threats to the species, and how we have treated the uncertainties.

The best available information on the biological status of Oregon Coast coho indicates that the ESU is not in danger of extinction throughout all or a significant portion of its range (i.e., the ESU does not satisfy the definition of an endangered species under the ESA). A species is considered ''threatened'' if it is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' As noted in the response to Comment 19, above, we interpret the term ''likely'' to mean that the best available information must indicate that a species is more likely than not to become an endangered species within the foreseeable future throughout all or a significant portion of its range. While acknowledging the uncertainties noted above, particularly regarding the adequacy of current habitat conditions to support ESU viability, we conclude from our review of information regarding factors affecting the species that the Oregon Coast coho ESU is not likely to become endangered in the foreseeable future as a consequence of: the loss or degradation of its habitat or curtailment of its range; overutilization; disease or predation; inadequacy of existing regulatory mechanisms; or other natural or human-made factors. Accordingly, we determine that the Oregon Coast coho ESU does not warrant listing under the ESA at this time and therefore withdraw the proposed listing.

Classification

National Environmental Policy Act (NEPA)

ESA listing decisions are exempt from the requirements to prepare an environmental assessment or environmental impact statement under the NEPA. See NOAA Administrative Order 216 6.03(e)(1) and *Pacific Legal Foundation* v. *Andrus*, 675 F. 2d 825 (6th Cir. 1981). Thus, we have determined that the final listing determination for the Oregon Coast coho ESU described in this notice is exempt from the requirements of the NEPA of 1969.

Executive Order (E.O.) 12866, Regulatory Flexibility Act, and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the final listing determination described in this notice. In addition, this rule is exempt from review under E.O. 12866. This final rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

E.O. 13084—Consultation and Coordination with Indian Tribal Governments

E.O. 13084 requires that if NMFS issues a regulation that significantly or uniquely affects the communities of Indian tribal governments and imposes substantial direct compliance costs on those communities, NMFS must consult with those governments or the Federal

government must provide the funds necessary to pay the direct compliance costs incurred by the tribal governments. The final listing determination described in this notice do not impose substantial direct compliance costs on the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this determination. Nonetheless, we will continue to inform potentially affected tribal governments, solicit their input, and coordinate on future management actions.

E.O. 13132—Federalism

E.O. 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations where a regulation will preempt state law, or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of those circumstances is applicable to this determination.

Withdrawal of Proposed Critical Habitat

On December 14, 2004, we proposed critical habitat for the Oregon Coast coho ESU (69 FR 74572). Because we are withdrawing the proposed listing determination, we are also withdrawing the proposed critical habitat designation.

References

A list of the referenced materials is available on the Internet at *http://www.nwr.noaa.gov*, or upon request (see **ADDRESSES** section above).

Authority: 16 U.S.C. 1531 *et seq.*

Dated: January 11, 2006.

James W. Balsiger,

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

[FR Doc. 06–502 Filed 1–18–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 71, No. 12

Thursday, January 19, 2006

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

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent to Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that U.S. Patent No. 6,018,063, ''Biodegradable Oleic Estolide Ester Base Stocks and Lubricants'', issued on January 25, 2000, is available for licensing and that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Peaks and Prairies, L.L.C. of Malta, Montana, an exclusive license to this invention. Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Peaks and Prairies, L.L.C. of Malta, Montana, an exclusive license to U.S. Patent No. 6,316,649, ''Biodegradable Oleic Estolide Ester Having Saturated Fatty Acid End Group Useful as Lubricant Base Stock'', issued on November 13, 2001. Notice of Availability of this invention for licensing was published in the **Federal Register** on March 13, 2001.

DATES: Comments must be received within ninety (90) calendar days of the date of publication of this Notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to these inventions are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license these inventions as Peaks and Prairies, L.L.C. of Malta, Montana has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. E6–510 Filed 1–18–06; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Great River Energy, Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) in connection with potential impacts related to the construction and operation of a natural gas-fired simple cycle, combustion turbine power generation facility in Cambridge Township in Isanti County, Minnesota. The electrical output from the facility is expected to range from 170 megawatts (MW) to 190 MW depending upon operating conditions. RUS may provide financial assistance for this project.

FOR FUTHER INFORMATION CONTACT: Nurul Islam, Environmental Protection Specialist, Engineering and Environmental Staff, Rural Development, Utilities Programs, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone: (202) 720–1414, FAX: (202) 720–0820; or e-mail: *nurul.islam@wdc.usda.gov.*; or Mark Strohfus, Environmental Project Leader, GRE, 17845 East Highway 10, P.O. Box 800, Elk River, Minnesota 55330–0800, telephone (763) 241–2491, FAX: (763) 241–6033, e-mail: *MStrohfus@grenergy.com.*

SUPPLEMENTARY INFORMATION: Great River Energy (GRE) is proposing to construct a simple-cycle combustion turbine generation plant in Cambridge Township in Isanti County, Minnesota. Total electrical output is expected to range from 170 MW to 190 MW depending on operating conditions. An alternative site for the plant is also being proposed for the project. The alternative site location is at GRE's Elk River headquarters in Sherburne County, Minnesota. The Elk River site presently has a 40 MW facility fueled with refuse derived fuel and it would remain if the proposed plant were to be constructed at this alternative site. No additional land would be purchased if the plant were to be constructed at this location. Due to constraints on natural gas availability, a combustion turbine at the Elk River site would be equipped to fire fuel oil as a backup fuel. The generator would be connected to the Elk River Substation. Construction of the project at the proposed Cambridge site would necessitate upgrading approximately 47 miles of existing 69-kilovolt (kV) transmission lines. Construction at the alternative Elk River site would necessitate upgrading approximately 27 miles of existing 69-kV transmission lines to allow the electricity from the new generator to be reliably delivered from the site. A fuel oil-fired combustion turbine rated at approximately 20 MW exists at the proposed Cambridge site and will remain in operation at the site after construction of the proposed combustion turbine. Additional land would be acquired to facilitate the proposed construction activities. The proposal at the Cambridge site would include upgrades to the existing substation at the Cambridge plant site. A 10-inch high pressure gas lateral pipeline approximately one-half mile long would be constructed to provide a natural gas fuel supply for the proposal.

GRE prepared an environmental analysis for RUS that describes the proposal and assesses the proposal's environmental impacts. RUS has conducted an independent evaluation of the environmental analysis and believes that it accurately assesses the impacts of the proposal. This environmental analysis will serve as RUS' environmental assessment (EA) of the

project. The EA was distributed for public and agency review. Comments were received from two entities: the Minnesota Department of Transportation (MNDOT) and the U.S. Environmental Protection Agency (EPA) Region 5. The MNDOT commented that the project would not impact the local trunk highway system. The EPA commented that: (1) The natural gas pipeline to be installed, owned and operated by a third party was not adequately addressed in the EA, and (2) there should be stronger protective measures, including the consideration of third party oversight/inspection, where the proposal's transmission lines involve environmentally sensitive areas identified by the Minnesota Department of Natural Resources (MNDNR). Construction of the natural gas pipeline must follow the Federal Energy Regulatory Commission (FERC) National Environmental Policy Act requirements. RUS believes that adequate protective measures for the construction of the pipeline will be implemented through the FERC requirements. GRE has agreed to follow the recommendations of the MNDNR; therefore, RUS believes that adequate protective measures will be implemented in the environmentally sensitive areas. Since the MNDNR recommendations are being followed and the MNDNR did not suggest that third party oversight was necessary, RUS believes that third party oversight is not warranted.

GRE published notices of the availability of the EA and solicited public comments per 7 CFR 1794.42. The 30-day comment period on the EA for the proposal ended January 6, 2006.

Based on the EA, RUS has concluded that the proposal will not have a significant effect to various resources, including important farmland, floodplains, wetlands, cultural resources, threatened and endangered species and their critical habitat, air, water quality and noise. RUS has also determined that there would be no negative impacts of the proposal on minority communities and low-income communities as a result of the proposal's construction.

Any final action by RUS related to the proposal will be subject to, and contingent upon, compliance with all relevant Federal environmental laws and regulations and completion of environmental review procedures as prescribed by the 7 CFR part 1794, Environmental Policies and Procedures.

Dated: January 11, 2006.

James R. Newby,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. E6–509 Filed 1–18–06; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2004 Panel of the Survey of Income and Program Participation, Wave 8 Topical Module.

Form Number(s): SIPP/CAPI Automated Instrument; SIPP 24805(L) Director's Letter; SIPP 24003 Reminder Card.

Agency Approval Number: 0607–0905.

Type of Request: Revision of a currently approved collection.

Burden: 148,028 hours.

Number of Respondents: 97,650.

Avg Hours per Response: 30 Minutes.

Needs and Uses: The U.S. Census Bureau requests authorization from the Office of Management and Budget (OMB) to conduct the Wave 8 topical module interview for the 2004 Panel of the Survey of Income and Program Participation (SIPP). We also request approval for a few replacement questions in the reinterview instrument. The core SIPP and reinterview instruments were cleared under Authorization No. 0607–0905.

The SIPP is designed as a continuing series of national panels of interviewed households that are introduced every few years, with each panel having durations of 3 to 5 years. The 2004 Panel is scheduled for five years and will include fifteen waves of interviewing. All household members 15 years old or over are interviewed a total of fifteen times (fifteen waves), at 4-month intervals, making the SIPP a longitudinal survey.

The survey is molded around a central ''core'' of labor force and income questions that remain fixed throughout the life of a panel. The core is supplemented with questions designed to answer specific needs. These supplemental questions are included with the core and are referred to as ''topical modules.'' The topical module for the 2004 Panel Wave 8 is Welfare Reform. The Welfare Reform topical module was last conducted in the SIPP 2001 Panel Wave 8 instrument. Wave 8 interviews will be conducted from June 2006 through September 2006.

Data provided by the SIPP are being used by economic policymakers, the Congress, State and local governments, and Federal agencies that administer social welfare or transfer payment programs, such as the Department of Health and Human Services and the Department of Agriculture. The SIPP represents a source of information for a wide variety of topics and allows information for separate topics to be integrated to form a single and unified database so that the interaction between tax, transfer, and other government and private policies can be examined. Government domestic policy formulators depend heavily upon the SIPP information concerning the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. They also need improved and expanded data on the income and general economic and financial situation of the U.S. population. The SIPP has provided these kinds of data on a continuing basis since 1983, permitting levels of economic well-being and changes in these levels to be measured over time. Monetary incentives to encourage non-respondents to participate is planned for all waves of the 2004 SIPP Panel.

Affected Public: Individuals or households.

Frequency: Every 4 months.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202–395–7245) or e-mail (*susan_schechter@omb.eop.gov*).

Dated: January 12, 2006.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–526 Filed 1–18–06; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904; NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On January 11, 2006, Tembec Inc., Aspen Planers Ltd., Downie Timber Ltd., Federated Co-operatives Ltd., Gorman Bros. Lumber Ltd., Haida Forest Products Ltd., Kenora Forest Products Ltd., Lecours Lumber Co. Ltd., Liskeard Lumber Co. Ltd., Midway Lumber Mills Ltd., Mill & Timber Products Ltd., Nickel Lake Lumber, North Enderby Distribution Ltd., North Enderby Timber Ltd., Olav Haavaldsrud Timber Co. Ltd., Ontario Forest Industries Association and its members, Ontario Lumber Manufacturers Association and its members, R. Fryer Forest Products Ltd., Selkirk Specialty Wood Ltd., Tall Tree Lumber Co., and Tyee Timber Products Ltd. (collectively, ''the Plaintiffs'') filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Seventeen additional Requests for Panel Review were filed on January 11, 2006 on behalf of Dunkley Lumber Ltd.; Abitibi-Consolidated Inc. (''ACI''), Abitibi-Consolidated Company of Canada (''ACCC''), Produits Forestiers Petits Paris Inc. (''PFPP''), Produits Forestiers La Tuque Inc. (''PFLT''), Produits Forestiers Saguenay Inc. (''PFS''), Societe en Commandite Opitciwan (''Opitciwan''), Gestofor_Inc., Scieries Saguenay Ltee., and Abitibi-LP Engineered Wood Inc.; the British Columbia Lumber Trade Council and its constituent associations: The Coast Forest & Lumber Association and the Council of Forest Industries; Weyerhaeuser Company; International Forest Products, Ltd. (''Interfor''); the Canadian Lumber Remanufacturers' Alliance (''CLRA''), and each of its individual members: Alpha Lumber Mills Inc., American Bayridge Corporation, Bois Neos Inc., Brittania Lumber Company Limited, Falcon Lumber Limited, Finmac Lumber Limited, Great Lakes MSR Lumber Ltd., Hughes Lumber Specialties Inc., Les Bois d'Oeuvre Beaudoin & Gauthier Inc., Mid America Lumber, Monterra Lumber Mills Limited, Nicholson and Cates Limited, Palliser Lumber Sales Ltd., Phoenix Forest Products Inc., Weston Forest Corp.; Buchanan Lumber Sales Inc., and the Buchanan affiliated mills, exporters and importers, and other affiliates, including Atikokan Forest Products Ltd.; Buchanan Forest Products Ltd.; Buchanan Northern Hardwoods Inc.; Long Lake Forest Products Inc. (including the Nakina division (Nakina Forest Products)); Buchanan Distribution Inc.; Great West Timber Limited; Dubreuil Forest Products Limited; Northern Sawmills Inc.; McKenzie Forest Products Inc.; and Solid Wood Products Inc.; Leggett & Platt Canada Co., Leggett & Platt Ltd., Leggett & Platt (B.C.) Ltd., and Leggett & Platt, Inc. and Pleasant Valley Remanufacturing Ltd.; West Fraser Mills, Ltd.; Doman Industries Limited, Doman Forest Products Limited, and Doman Western Lumber Ltd. (now doing business as Western Forest Products Inc. and its subsidiaries); Weldwood of Canada Limited; Tolko Industries Ltd. and its affiliates, Gilbert Smith Forest Products Ltd., Compwood Products Ltd., and Pinnacle Wood Products Ltd.; Millar Western Forest Products Ltd.; Riverside Forest Products Ltd.; Lignum Ltd.; Bowater Incorporated and Its Canadian Subsidiaries, Principally Bowater Canadian Forest Products Incorporated; Quebec Lumber Manufacturers Association (''QLMA'') and certain Quebec lumber producers, including: Clermond Hamel Ltee; Carrier & Begin Inc.; Gerard Crete et Fils Inc.; P. Proulx Forest Products Inc. (also known as Proulx, Proulx Forest Products Inc., and Produits Forestiers P. Proulx Inc.); Marcel Lauzon Inc.; Groupe Lebel; Lulumco Inc.; Industries Maibec Inc. (also known as Maibec Industries Inc.); Les Produits Forestiers D.G. Ltee.; Les Produits Forestiers Portbec Ltee. (also known as Portbec Forest Products Ltd.); Les Chantiers de Chibougamau Ltee.; Industries G.D.S. Inc.; G.D.S. Valoribois Inc.; Bois Marsoui G.D.S. Inc.; Bois Granval G.D.S. Inc.; Promobois G.D.S. Inc.; Paul Valee Inc.; Bois d'oeuvre Cedrico Inc. (also known as Cedrico Lumber Inc.); Scierie Lemay Inc.; Scierie Gauthier Ltee.; Industries Perron Inc.; Fenclo Ltee.; Barrette-Chapais Ltee.; Blanchette et Blanchette Inc.; Scierie Norbois Inc.; Les Scieries du Lac St.-Jean Inc.; Bois de l'est F.B. Inc.; Domtar Inc.; Arbec Forest Products Inc.; Uniforet Inc.; Uniforet Scierie-Pate; Bois Kheops Inc.; Les Produits Forestiers F.B.M. Inc.; Les Produits Forestiers Maxibois Inc.; Careau Bois Inc.; Les Produits Forestiers Dube Inc.; Armand Duhamel & Fils Inc.; Precibois Inc.; Byrnexco Inc.; Optibois Inc.; Max Meilleur et Fils Ltee.; Materiau Blanchet Inc.; Bois Cobodex (1995) Inc.; Bois Nor Que Wood Inc.; Produits Forestiers Berscifor Inc.; Boscus Canada Inc.; Rembos Inc.; Les Produits Forestiers Miradas Inc.; Scierie Alexandre Lemay et Fils Ltee.; Les Bois S.& P. Grondin Inc.; Wilfrid Paquet & Fils Ltee.; Beaubois Coaticook Inc.; Scierie Landrienne Inc.; Domexport, Inc.; Kruger, Inc.; Scierie Gallichan Inc.; Fontaine Inc. (doing business as J.A. Fontaine et fils Incorporee), Bois Fontaine, Gestion Natanis Inc., Les Placements Jean-Paul Fontaine Ltee.; Commonwealth Plywood Company Ltd. doing business as Bois Clo-Val (formerly Bois Clo-Val Inc.), and Les Enterprises Atlas (formerly Les Enterprises Atlas (1985) Inc.); Scierie Nord-Sud Inc. (also known as North-South Sawmill Inc.); Mobilier Rustique (Beauce) Inc.; and Bardeaux et Cedres St-Honore Inc. (also known as Bardeaux et Cedres), respectively. Panel review was requested of the final results of the antidumping duty administrative review made by the United States Department of Commerce, International Trade Administration, respecting Certain Softwood Lumber Products from Canada. This determination was published in the **Federal Register** (70 FR 73437), on December 12, 2005. The NAFTA Secretariat has assigned Case Number USA–CDA–2006–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on January 11, 2006, requesting panel review of the final determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is February 10, 2006);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is February 27, 2006); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: January 12, 2006.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E6–530 Filed 1–18–06; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On January 11, 2006, Aspen Planers Ltd., Buchanan Lumber Sales Inc. and the Buchanan affiliated mills, Downie Timber Ltd. Federated Co-operatives Ltd., Gorman Bros. Lumber Ltd., Haida Forest Products Ltd., Kenora Forest Products Ltd., Lecours Lumber Co. Ltd., Liskeard Lumber Ltd., Manitou Forest Products Ltd., Midway Lumber Mills Ltd., Mill & Timber Products Ltd., Nickel Lake Lumber, North Enderby Distribution Ltd., North Enderby Timber Ltd., Olav Haavaldsrud Timber Co. Ltd., R. Fryer Forest Products Ltd., Selkirk Specialty Wood Ltd., Tall Tree Lumber Co., Tembec Inc., and Tyee Timber Products Ltd. (collectively, ''Plaintiffs'') filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. A second, third and fourth Request for Panel Review was filed on January 11, 2006 on behalf of the Canadian Lumber Remanufacturers' Alliance (''CLRA'') and each of its individual members: Alpha Lumber Mills Inc., American Bayridge Corporation, Bois Neos Inc., Brittania Lumber Company Limited, Falcon Lumber Limited, Finmac Lumber Limited, Great Lakes MSR Lumber Ltd., Hughes Lumber Specialties Inc., Les Bois d'Oeuvre Beaudoin & Gauthier Inc., Mid America Lumber, Monterra Lumber Mills Limited, Nicholson and Cates Limited, Palliser Lumber Sales Ltd., Phoenix Forest Products Inc., and Weston Forest Corp.; the Government of Canada, the Governments of the Provinces of Alberta, British Columbia, Manitoba, Ontario, and Saskatchewan, the Gouvernement du Quebec, the Governments of the Northwest Territories and the Yukon Territory, the British Columbia Lumber Trade Council and its constituent associations (The Coast Forest & Lumber Association and the Council of Forest Industries), the Ontario Forest Industries Association, the Ontario Lumber Manufacturers Association, and the Quebec Lumber Manufacturers Association; and Bois Daaquam Inc., Bois Omega Limitee, Fontaine Inc. (also known as J.A. Fontaine et fils incorporee), Maibec Industries Inc., Materaiux Blanchet, St. Pamphile, and Scierie West Brome Inc., respectively. Panel review was requested of the final results of the countervailing duty administrative review made by the United States Department of Commerce, International Trade Administration, respecting Certain Softwood Lumber Products from Canada. This determination was published in the **Federal Register**, (70 FR 73448) on December 12, 2005. The NAFTA Secretariat has assigned Case Number USA–CDA–2006–1904–02 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

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A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on January 11, 2006, requesting panel review of the final determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is February 10, 2006);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is February 27, 2006); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: January 12, 2006.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E6–531 Filed 1–18–06; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Climate Change Science Program (CCSP) Product Development Committee (CPDC) for Synthesis and Assessment Product 1.1

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: The Climate Change Science Program (CCSP) Product Development Committee for Synthesis and Assessment Product 1.1 (CPDC—S&A 1.1) was established by a Decision Memorandum dated October 7, 2005. CPDC—S&A 1.1 is the Federal Advisory Committee charged with responsibility to develop a draft Synthesis and Assessment Product that addresses CCSP Topic 1.1: ''Temperature trends in the lower atmosphere—steps for understanding and reconciling differences''.

Time and Date: The meeting will be held Wednesday, February 8, 2006, from 8 a.m. to 6 p.m. and Thursday, February 9, 2006, from 8 a.m. to 2 p.m. These times and the agenda topics described below are subject to change. Refer to the Web page *http://www.ogp.noaa.gov/ccsp/11.html* for the most up-to-date meeting agenda.

Place: The meeting will be held both days at the Hilton Chicago O'Hare Airport, Chicago, Illinois, 60666.

Status: The meeting will be open to public participation with a 60-minute public comment period on February 8 from 8:15 a.m. to 9:15 a.m. (check Web site to confirm this time). The CPDC—S&A 1.1 expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments (at least 35 copies) should be received by the CPDC—S&A 1.1 Designated Federal Official by February 1, 2006 to provide sufficient time for review. Written comments received after February 1 will be distributed to the CPDC—S&A 1.1, but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-served basis.

Matters To Be Considered: The meeting will include the following topics: (1) Resolution of public comments received on the 2nd Draft of Synthesis and Assessment Product 1.1 (2) Discussion of plans for completion and submission of 3rd Draft of Synthesis and Assessment Product 1.1 to the CCSP Interagency Committee.

FOR FURTHER INFORMATION CONTACT: Christopher Miller, Designated Federal Official, CPDC—S&A 1.1 (NOAA Climate Program Office, 1100 Wayne Avenue, Suite 1210, Silver Spring, Maryland 20910. Phone: 301–427–2376, Fax: 301–427–2073, E-mail: *Christopher.D.Miller@noaa.gov),* or visit the Web site at *http://www.ogp.noaa.gov/ccsp/11.html.*

Dated: January 10, 2006.

Mark Brown,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. E6–513 Filed 1–18–06; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 122205A]

Endangered Species; Permit No. 1266–02

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

ACTION: Notice; modification of scientific research permit.

SUMMARY: Notice is hereby given that John Glass, (Principal Investigator), REMSA, Inc., 124 West Queens Way, Hampton, Virginia 23669 has been issued a modification to scientific research Permit No. 1266–01.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289, fax (301)427–2521;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9200; fax (978)281–9371; and

Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Amy Hapeman, (301)713–2289.

SUPPLEMENTARY INFORMATION: The requested amendment has been granted under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the provisions of 50 CFR 222.306 of the regulations governing the taking, importing, and exporting of endangered and threatened fish and wildlife (50 CFR parts 222–226).

The modification extends the expiration date of the permit from April 30, 2006, to April 30, 2007, for takes of leatherback (*Dermochelys coriacea*), green (*Chelonia mydas*), loggerhead (*Caretta caretta*), hawksbill (*Eretmochelys imbricata*) and Kemp's ridley (*Lepidochelys kempii*) sea turtles. The permit allows REMSA, Inc. to conduct sea turtle abundance and relocation trawling activities in conjunction with the U.S. Army Corps of Engineers dredging projects in the Atlantic Ocean and Gulf of Mexico for scientific research and enhancement purposes.

Issuance of this modification, as required by the ESA was based on a finding that such permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of any threatened and endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: January 11, 2006.

Steve Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–589 Filed 1–18–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120605C]

Vessel Monitoring Systems (VMS); Specification of Requirements for Mobile Communications Service Provider (MCSP) Type Approval

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

ACTION: Notice; revision of type approval requirements.

SUMMARY: This document provides notice of type approval requirements for a Mobile Communications Service Provider (MCSP) to be authorized for use by any vessel participating in the NOAA Vessel Monitoring Systems (VMS) program. Vessels participating in VMS programs must acquire an Office for Law Enforcement - approved mobile

transceiver unit (MTU) and use an authorized MCSP to comply with the standards set forth in NMFS rules requiring the use of VMS.

ADDRESSES: To obtain copies of the list of NOAA-approved VMS MTU and VMS MCSPs, or to obtain information regarding the status of VMS systems being evaluated by NOAA, write to NOAA Fisheries, Office for Law Enforcement (OLE), 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: For current listing information contact Mark Oswell, Outreach Specialist, or for questions regarding VMS installation and status of evaluations contact Jonathan Pinkerton, National VMS Program Manager by phone: 301–427–2300 or by fax: 301–427–2055.

SUPPLEMENTARY INFORMATION: This notice supersedes all previous notices on MCSP type approval requirements. Previously approved MCSPs must comply with the requirements of this notice within 120 days of the publication date of this notice.

Background

The OLE maintains MCSP requirement specifications as an OLE national directive. This document sets prerequisite standards for the purpose of carrier qualification, which an MCSP must meet before it is permitted to be used in an OLE VMS. Vessels participating in VMS programs must use an OLE-qualified MSCP to comply with NMFS rules requiring the use of VMS. An MCSP is an operator of a mobile communications service used to provide wireless connectivity between mobile platforms (such as vessels, trucks, and people) and fixed platforms (such as offices and buildings). In VMS, the MCSP enables location transmission and two-way message exchange between OLE and the vessel when using an onboard MCSP-compatible MTU. (Note: Standards for the MTU are written in the complementary directive titled Mobile Transceiver Unit Specification of Requirements.)

Goal

OLE seeks to deploy an ''open system,'' whereby fishing industry participants may select from a variety of suppliers that qualify and have been approved to participate in VMS programs. Fishermen must comply with their Federal fishery regulations regarding VMS and therefore may be cited for a violation and held accountable for monitoring anomalies not attributable to faults in the MCSP or MTU. Therefore, type approval is essential to establish and maintain uniformly high system integrity. By this notice, OLE seeks to approve reliable, robust, and secure MCSP services and thereby create and maintain a VMS meeting the requirement of high integrity. Specific VMS programs are created to support particular NMFS rules requiring the use of VMS, which typically are designed to manage or protect fish and other marine species within designated areas.

Process

Based on a request for carrier qualification from a candidate MCSP, OLE will conduct a thorough evaluation and then issue a statement to accept or deny the carrier qualification of an MCSP. The MCSP must meet the minimal national VMS standards, as required by this notice, and the requirements of the specific fisheries for which approval is sought. MCSP providers are encouraged to review the national VMS standards and Federal regulations for the fishery of interest prior to submitting a request for approval. Upon successful demonstration of compliance to the standards set forth in this directive, OLE will issue a MCSP carrier qualification for a particular communications class applicable to one or more VMS operations targeting particular fisheries. A class refers to the medium, protocol, and frequency of the mobile communications technology.

OLE approval will not necessarily result in NMFS procurement of MCSP services. Instead, OLE will request a fact sheet from the MCSP to provide information to the fishing industry that includes at minimum, value-added services, account activation procedures, and pricing plans. This will allow fishermen to make purchase decisions that are compatible with the VMS standards and their individual needs. Purchasing strategies will also be determined on a per fishery implementation basis.

Initiation

OLE will initiate the MCSP carrier qualification process upon written request from the provider, subject to the demonstration of compliance with this notice and the availability of test units. The provider, or requestor for carrier qualification, may be the company, systems integrator, distributor, and/or value-added reseller, etc., acting within the constraints of its agreement with the underlying communications company. Consideration will be given to an MCSP that has already passed a comparable carrier qualification process in a foreign fisheries management effort. If applicable, the provider should provide the MCSP's identifying characteristics, the details of foreign VMS requirement specifications, the MCSP's level of compliance, and appropriate contact details of the qualifying authorities. OLE also will consider qualifying an MCSP which resells, packages, or integrates communication services from an MCSP that already received OLE carrier qualification under this notice.

Interoperability

An MCSP seeking carrier qualification within a particular communications class for VMS must demonstrate that it meets the standards when using at least one type approved MTU within that same class. Establishment of the standards in thisDirective are intended to ensure that carrier qualification for a particular MCSP will permit its interoperability with all approved MTU within its same class. To best promote interoperability within a class, MTU and MCSP acceptance standards are outlined in separate directives. However, concurrent with this approval process for an MCSP, the approval for a same-class MTU must be either in place or pending. Data received at OLE from the MCSP must be in a secure and encrypted format compatible with OLE tracking software.

Submission

A provider requesting MCSP type approval shall begin by describing in detail the extent to which the MCSP complies with each of the requirements set forth within this directive. The provider, or requestor for type approval, must provide OLE with one in-class MTU and the required communications service for each of the fisheries for which approval is desired for a 90- day test and approval period. The supplier must also provide thorough MTU documentation, including fact sheets, installation guides, operator manuals, user handbooks, the applicable interfacing software, and technical support. OLE shall review the submissions against the criteria of this directive. Next, OLE shall perform field test and sea trials. To accomplish this, OLE will coordinate test conditions with volunteer and/or contract fishing vessels. These tests may involve demonstrating every aspect of MCSP operation, including programming a registered MTU, location tracking, messaging, and troubleshooting procedures.

Submit requests for type approval, along with hard and soft copies of support material to: U.S. Department of Commerce; National Oceanic and Atmospheric Administration; National

Marine Fisheries Service; Office for Law Enforcement; Attention: Vessel Monitoring System Program; 8484 Georgia Ave. Suite 415; Silver Spring, MD 20910 USA; voice 301–427–2300, fax 301–427–2055.

Litigation Support

Due to the use of VMS for law enforcement, all technical aspects of a provider's submission are subject to being admitted as evidence in a court of law, if needed. The reliability of all technologies utilized in the MCSP may be analyzed in court for, inter alia, testing procedures, error rates, peer review, and general industry acceptance. Further, the provider may be required to provide technical and expert support for litigation to support the MCSP capabilities and establish OLE's case against violators. If the technologies have previously been subject to such scrutiny in a court of law, the provider should describe the evidence and any court finding on the reliability of the technology. Additionally, to maintain the integrity of VMS for fisheries management, the provider will be required to sign a non-disclosure agreement limiting the release of certain information that might compromise either the confidentiality of fishermen's personally identifying information, proprietary fishing data, such as vessel positions, or the effectiveness of the VMS operations, such as details of security procedures. The provider shall include a statement confirming its agreement with these conditions.

Change Control

Once qualified, it is the responsibility of the MCSP to notify OLE of any change in its submission, such as a change affecting interconnect facilities, geographic coverage, performance characteristics, or customer support contacts. OLE reserves the right to reconsider and revoke the MCSP approval if, as a result of the change, the MCSP no longer satisfies the requirement.

Requests for Approval

Requestors must respond to each of the items listed in sections 1 through 10 of this document and any applicable attachments. The response should indicate how the MCSP complies with the requirement referred to in the item. Items that the MCSP does not currently comply with must be responded to by explaining how the MCSP will comply with the requirement prior to approval.

Section 1. Identifiers

The MCSP must provide the following specifications and identifying characteristics:

1.1.1. Communications class, including medium, protocol, and frequency of the mobile communications technology.

1.1.2. Trade name of the service.

1.1.3. Company name.

1.1.4. Corporate headquarters.

1.1.5. Principal business.

1.1.6. Parent and subsidiary companies, if applicable.

1.1.7. Name and locations of principal terrestrial facilities, e.g., downlinks, gateways, switches, and operation centers.

1.2 MCSP must support at least one MTU approved for use in the fishery desired unless the request is made bundled with a new MTU. If the request is made bundled with an MTU, approval of the MCSP will be contingent upon the approval of the MTU. MCSP ireless facilities must also have the following characteristics as applicable:

1.2.1. *Satellite:* MCSP must provide adequate orbit types, constellation size, and coverage footprint to provide comprehensive coverage of the VMS fishery for which application is made

1.2.2. *Cellular:* MCSP must provide adequate coverage footprints, tower distribution density, tower locations, and protocols required to provide comprehensive coverage of the VMS fishery for which application is made.

1.2.3. *Radio:* MCSP must provide adequate coast stations, locations, antennas, and antenna size to provide comprehensive coverage of the VMS fishery for which application is made.

1.2.4. Approved or pending approval MTU(s) supported.

1.3 For the following technical responsibilities, name the business entities, including the MCSP and other parties, who perform the following functions. Include the business mailing address, contact name(s), telephone number, fax number, email addresses.

1.3.1. Operate principal terrestrial facilities.

1.3.2. Operate principal wireless facilities.

1.4 For the following commercial responsibilities, name the business entities, including the MCSP and other parties, who perform the following functions for US customers. Include the business mailing address, contact name(s), telephone number, fax number, email addresses. Designate the US geographic territory or market sector where applicable.

1.4.1. Direct sales.

1.4.2. Indirect/distributor/channel sales.

1.4.3. Billing.

1.4.4. Account management.

1.4.5. Customer service.

1.4.6. Technical support.

1.4.7. Public affairs.

1.4.8. Advertising.

Section 2. Messaging

The MCSP shall be capable of communications that support the following messaging functions:

2.1. Ability to transmit multiple message types:

2.1.1. Automatically generated position reports.

2.1.2. Event-driven position reports.

2.1.3. Safety and distress alerts and messages.

2.1.4. Email text messages.

2.1.5. Ability to remotely create new message-types.

2.1.6. Email forms.

2.2. Ability to provide comprehensive and transparent communications, which function uniformly within the entire area of the geographic coverage area for the particular communications class.

2.3. Ability to perform two-way messaging.

2.4. Ability for OLE to initiate communications to vessels, either individually or by originator-defined groups of vessels.

Section 3. Position Data Formats and Transmission

3.1. An MCSP should support an MTU's ability to transmit automatically-generated position reports that contain the following:

3.1.1. Position fix latitude and longitude, including the hemisphere of each.

3.1.2. The precision of the position fix shall be to the decimal minute hundredths.

3.1.3. Accuracy of the position fix must be within 100 meters, unless otherwise indicated by an existing regulation or FMP requirement.

3.1.4. Unique identification of an MTU within the communications class.

3.1.5. Date (year/month/day with century in the year) and time (GMT) stamp of the position fix.

3.1.6. Date (year/month/day with century in the year) and time (GMT) when the position report is received at the MCSP.

3.1.7. Date (year/month/day with century in the year) and time (GMT) stamp when the position report is sent to OLE.

3.1.8. MTU status information, such as configuration of programming and reporting intervals, power save modes, antenna disconnection, and power-up/power down, and loss of positioning signal.

Section 4. Special Identified Position Reports

4.1. In addition to automatically generated position reports, support the MTU's ability to transmit specially identified position reports. If the MTU is unable to transmit status upon the occurrence of these events below, then the specially identified position reports are transmitted when its ability to transmit is reestablished.

4.1.1. Loss of the positioning reference signals.

4.1.2. Loss of the mobile communications signals.

4.1.3. Security events and other status data.

4.1.4. The vessel crossing a predefined geographic boundary.

4.1.5. Automatically generated position reports sent to OLE from the MCSP must be in a format compatible with OLE monitoring software.

Section 5. Queries

5.1. The MCSP shall allow the initiation of queries to extract information from single and multiple vessels to satisfy the following criteria:

5.1.1. A query addressed to an individual vessel or a group of vessels. The group of vessels may be comprised of:

5.1.1.1. Vessels presently located within a geographic area (for example, defined by a circle or a rectangle, used by Coast Guard for search and rescue coordination);

5.1.1.2. Vessels that are members of an OLE-defined logical grouping (For example, grouped by fish type, gear type, or region of home port);

5.1.1.3. Queries are for the following:

5.1.1.3.1. Reprogramming or reconfiguring position reporting features.

5.1.1.3.2. Determining current position.

5.1.1.3.3. Extracting feature states, such as sensor status.

Section 6. Position Intervals

6.1. The MCSP must support the ability to determine the position of an MTU at fixed, programmable reporting intervals between 5 minutes and 24 hours.

Section 7. Latency

7.1. The MCSP must meet latency requirements from 5 minutes or less (near real time) to 3 hours (store and forward) between the time a position is fixed and the time it is received in OLE.

Section 8. Terrestrial Connectivity

8.1. The OLE VMS program supports multiple VMS rules with incoming data from many vessels that may be using different MTUs within a communications class, or multiple classes. VMS receives data in a class-native format from the MCSP at the appropriate VMS monitoring center in an OLE-standard format. For approval a MCSP must be capable of delivering information from all its within-class subscribers to OLE in a format and protocol compatible with OLE equipment and software facilities. The MCSP must provide:

8.1.1. Redundancy of terrestrial facilities and network connectivity between MCSP and OLE, such that backup circuits or alternate network types automatically replace the primary in the event of failure without any manual intervention.

8.1.2. Two-way communications for delivery and acceptance of data from MCSP to OLE and back, supporting messages, position reports, queries and administrative functions.

8.1.3. Auto-forwarding or auto-delivery of messages without the need for retrieval by OLE.

8.1.4. Geographically transparent communications from OLE to the MTU, such that OLE seamlessly performs communication functions without a need to take additional steps to accommodate the geographic region where the vessel is fishing.

8.1.5. Latency at 5 minutes or less (near real time) for 95 percent of transmissions for two-way messaging between the MCSP and OLE.

8.1.6. Communications between the MCSP and OLE must be provided along secure encrypted channels. The MCSP must provide reasonable mechanisms to prevent:

8.1.6.1. Tampering or interception, including the reading of passwords and data.

8.1.6.2. Interception and ''sniffing'' during transmission from the MCSP to OLE via either wireless or terrestrial facilities.

8.1.6.3. Spoofing, whereby one MTU is fraudulently identifying itself as another MTU.

8.1.6.4. Modification of MTU identification.

8.1.6.5. Interference with Global Maritime Distress and Safety System (GMDSS) or other safety/distress functionalities.

8.1.6.6. Introduction of viruses that may corrupt the messages, transmission, or the VMS system.

Section 9. Wireless Connectivity

9.1. The MCSP shall have the following wireless connectivity features:

9.1.1. Redundancy of wireless facilities and network connectivity between MTU and OLE, such that backup circuits or alternate network types automatically replace the primary in the event of failure without any manual intervention.

9.1.2. Geographically transparent communications to and from OLE and the MTU, such that OLE seamlessly performs communication functions without a need to take additional steps to accommodate the geographic region where the vessel is fishing.

9.1.3. Durability and reliability in a marine environment, without signal degradation or other loss of integrity from adverse meteorological conditions.

9.2. Communications between MCSP and MTU must be secure from tampering or interception, including the reading of passwords and data. The MCSP must provide reasonable mechanisms to prevent:

9.2.1. Interception and ''sniffing'' during transmission to and from the MCSP and MTU via either wireless or terrestrial facilities.

9.2.2. Spoofing, whereby one MTU is fraudulently identifying itself as another MTU.

9.2.3. Modification of MTU identification.

9.2.4. Interference with GMDSS or other safety/distress functionalities.

9.2.5. Introduction of viruses that may corrupt the messages, transmission, or the VMS system.

Section 10. Customer Service

10.1 The MCSP and its designated entities shall provide customer service that is professional, courteous, and responsive.

10.2 The MCSP must have security measures, user authentication, request validation and non-disclosure policies to prevent unauthorized access to the content of reports or other manual interference. The following requirements must be included:

10.2.1. Prevent unauthorized access to data and configuration information by MCSP employees and third parties.

10.2.2. Authorize fishermen access to account info and to enhance the MTU configuration for personal messages, if they pay for the costs of personal messages and configuration changes do not affect the integrity of VMS operations.

10.2.3. Send the MTU email, poll or remotely reconfigure the MTU for position reporting changes upon OLE request.

10.2.4. Keep an audit trail of actions taken by Customer Service.

10.3. MCSP security procedures must support above services whether the access or configuration change is applied to a single MTU or a group of MTUs.

10.4. Service level agreements must clarify constraints, if any, on the geographic territory, personnel availability, and escalation procedures for problem resolution covered by such services.

10.5. Assist in the resolution of communications anomalies, such as data loss, message corruption, and reporting gaps including helping to determine the cause of the problem.

10.6. Provide and documented MTU commissioning procedures for US vessels.

10.7. Provide and documented account and service activation procedures.

10.8. Provide documented and secure MTU configuration strategy or procedures for vessels monitored singly or grouped by fleet.

10.9. All personally identifying information provided by vessels owners or other authorized personnel for the purpose of purchase or activation of MCSP services, or for the participation in any NMFS VMS-approved fishery must be protected from unauthorized disclosure. Personally identifying information includes, but is not limited to, names, addresses, telephone numbers, social security account numbers, credit card numbers, vessel names, federal, state, and local documentation numbers, e-mail addresses, and crew lists. Any information sent electronically to the OLE must be transmitted by a secure means that prevents interception, spoofing, or viewing by unauthorized individuals. Any release of such information must be requested and approved in writing by the vessel owner or authorized personnel, or the OLE. Inadvertent or intentional unauthorized release of personally identifying information will be grounds for reconsideration and possible revocation of the type approval for any offending MCSP.

Dated: January 13, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E6–588 Filed 1–18–06; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Revoking a Commercial Availability Designation under the United States-Caribbean Basin Trade Partnership Act (CBTPA) and the Andean Trade Promotion and Drug Eradication Act (ATPDEA)

January 17, 2006.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for a revocation of a CITA designation under the CBTPA and the ATPDEA regarding certain compacted, plied, ring spun cotton yarns.

SUMMARY: On January 10, 2006 the Chairman of CITA received a petition from The National Council of Textiles Organizations (NCTO), alleging that a substitutable product for certain compacted, plied, ring spun cotton yarns, with yarn counts in the range from 42 to 102 metric, classified in subheadings 5205.42.0020, 5205.43.0020, 5205.44.0020, 5205.46.0020, 5205.47.0020 of the Harmonized Tariff Schedule of the United States (HTSUS), can be supplied by the domestic industry in commercial quantities in a timely manner, and requesting that CITA revoke its previous designation regarding these yarns. On September 29, 2005, following a determination that the subject yarns could not be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and ATPDEA, CITA designated men's and boys' woven cotton trousers and shirts, and women's and girls' woven cotton trousers, shirts, and blouses, made from U.S. formed fabric containing such yarns as eligible for duty-free treatment under the CBTPA and ATPDEA. CITA hereby solicits public comments on this request from NCTO, in particular with regard to whether such yarns or substitutable yarns can be supplied by the domestic industry in commercial quantities. Comments must be submitted by February 3, 2006 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard Stetson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001; Presidential Proclamation 7351 of October 2, 2000; Section 204 (b)(3)(B)(ii) of the ATPDEA; Presidential Proclamation 7616 of October 31, 2002, Executive Order 13277 of November 19, 2002, and the United States Trade Representative's Notice of Further Assignment of Functions of November 25, 2002.

Background

The CBTPA and ATPDEA provides for quota-and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns and fabrics formed in the United States or a beneficiary country. The CBTPA and ATPDEA also provides for duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA and ATPDEA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and ATPDEA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests (66 FR 13502).

On September 29, 2005, following a determination that the compacted, plied, ring spun cotton yarns could not be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and ATPDEA, CITA designated certain apparel made from U.S. formed fabric containing such yarns as eligible for duty-free treatment under the CBTPA and ATPDEA. On January 10, 2006, the Chairman of CITA received a petition from The National Council of Textiles Organizations (NCTO) alleging that yarns substitutable for these yarns can be supplied by the domestic industry in commercial quantities in a timely manner, and requesting that CITA revoke its previous designation regarding these yarns. This petition can be viewed online at *http://otexa.ita.doc.gov/Commercial__Availability.htm*.

CITA is soliciting public comments regarding this request, particularly with respect to whether these yarns or substitutable yarns can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be received by no later than February 3, 2006. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

If a comment alleges that these yarns or substitutable yarns can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarns stating that it produces the yarns that are the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production. Similarly, if a comment alleges that these yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 06–538 Filed 1–17–06; 2:33 pm]

BILLING CODE 3510–DS–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

National Civilian Community Corps (NCCC) Advisory Board Meeting

AGENCY: Corporation for National and Community Service.

ACTION: Cancellation and announcement of a NCCC Advisory Board meeting.

SUMMARY: The Corporation for National and Community Service is issuing this notice under Public Law 92–463 (Federal Advisory Committee Act) to advise the public that the January 19, 2006 meeting of the AmeriCorps NCCC Advisory Board has been cancelled and replaced with a February 8, 2006 meeting. The Board advises the Director of the NCCC concerning the administration of the program and assists in the development and administration of the Corps:

Date and Time: Wednesday, February 8, 2006, 10 a.m.–4 p.m.

Place: Corporation for National and Community Service, 1201 New York Avenue, NW., 8th Floor, Room 8312, Washington, DC 20525.

Status: Open.

Matters To Be Considered: The Board will discuss a proposal that establishes two new committees of the Advisory Board, which should result in the Board being in a position to better support and advance the overall goals and objectives of the NCCC. These two committees will be concerned primarily with Board development and strategic initiatives, respectively.

Accommodations: Upon request, meeting notices will be made available in alternative formats to accommodate visual and hearing impairments. Anyone who needs an interpreter or other accommodation should notify the Corporation's contact person by 5 p.m. Thursday, February 2, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Erma Hodge, Executive Assistant, NCCC, Corporation for National and Community Service, 10th Floor, 202–606–6696. E-mail: *ehodge@cns.gov.*

Dated: January 12, 2006.

Merlene Mazyck,

Director, National Civilian Community Corps.

[FR Doc. E6–507 Filed 1–18–06; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Acceptance of Group Application Under Public Law 95–202 and Department of Defense Directive (Dodd) 1000.20; ''The U.S. and Foreign Civilian Employees of Cat, Inc., and Air America, Inc. Who Participated in Selected Activities''

Authority: Under the provisions of Section 401, Public Law 95–202 and DoD Directive 1000.20.

ACTION: The Department of Defense Civilian/Military Service Review Board has accepted a reconsideration of its prior recommendation concerning certain U.S. and foreign civilian employees of CAT, Inc. and Air America, Inc.

SUMMARY: The specific activities within this reconsideration are the groups known as:

''(a) The U.S. and Foreign Civilian Employees of CAT, Inc., Who Operated in Korea Under Operation Book Lift During 1950 and 1951 and Any Ground Support Personnel Necessary to Support That Mission;

''(b) the U.S. and Foreign Civilian Employees of CAT, Inc., Who Operated Air Force C–119 Aircraft to Drop Ammunition and Other Supplies to French Troops at Dien Bien Phu in 1954 and Any Ground Support Personnel Necessary to Support that Mission;

''(c) the U.S. and Foreign Civilian Employees of CAT, Inc., Who Operated B–26 Aircraft in Indonesia From 1958 Through 1962, and Any Ground Support Personnel Who Supported That Mission:

''(d) the U.S. and Foreign Civilian Employees of Air America, Inc., who Operated Fixed Wing or Helicopter Aircraft in Support of U.S. Army Special Forces in Laos as Part of Operation Hot Foot and Operation White Star From 1959 Through 1962, and in Support of Operation Mill Pond, the Airlift from Thailand to Tibet, and Any Ground Support Personnel Necessary to Support Those Missions;

''(e) the U.S. and Foreign Civilian Employees of Air America, Inc., Who Operated Fixed Wing or Helicopter Aircraft in Direct Support of the U.S. Air Force Operating in Laos in the Steve Canyon Program (Ravens), the Site 85 Operation, Photo Reconnaissance, the Harp Program, and Search and Rescue (SAR) Operations for U.S. Military Flight Crews from 1964 Through 1974, and Any In-Country Ground Support Personnel, Who Were Necessary to Support Those Missions and Held Supervisory Positions; and

''(f) the U.S. and Foreign Civilian Employees of Air America, Inc., Who Operated Fixed Wing or Helicopter Aircraft in Vietnam in Direct Support of the U.S. Army Special Forces from 1964 through 1975, and Any In-Country Ground Support Personnel, Who Were Necessary to Support those Missions and Held Supervisory Positions.''

FOR FURTHER INFORMATION CONTACT: Persons with information or documentation pertinent to the determination of whether the service of these groups should be considered active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 30 days to the DoD Civilian/Military Service Review

Board, 1535 Command Drive, EE-Wing, 3rd third Floor, Andrews AFB, MD 20762–7002. Copies of documents or other materials submitted cannot be returned.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E6–540 Filed 1–18–06; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability (NOA) for the Supplemental Final Environmental Impact Statement (SFEIS) for the Proposed Addition of Maneuver Training Land at Fort Irwin, CA

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the SFEIS for the Proposed Addition of Maneuver Training Land at Fort Irwin. The SFEIS assesses the potential environmental impacts of the addition of maneuver lands to supplement the current training corridors at the National Training Center at Fort Irwin in the Mojave Desert of California by approximately 118,674 acres. The proposed expanded maneuver training will improve necessary field training by providing a more realistic battle corridor. The cooperating agencies for this project are: Bureau of Land Management (as the administrator of the vast majority of the lands within the study area), the National Aeronautics and Space Administration (as a tenant on Fort Irwin), and the Federal Aviation Administration (as some of the alternatives involve possible changes to airspace).

DATES: The waiting period for the SFEIS will end 30 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency. No sooner than the expiration of the waiting period, the Army will sign a Record of Decision (ROD). A Notice of Availability of the ROD will also be published in the **Federal Register**.

ADDRESSES: Direct questions and/or written comments regarding the SFEIS to, or request a copy of the document from, Ms. Jennifer Barry, Strategic Planning Office, PO Box 10309, Fort Irwin, California 92310.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Barry at (760) 380–6174; by e-mail at *Jennifer.Barry@irwin.army.mil*; or by facsimile at (760) 380–6171.

SUPPLEMENTARY INFORMATION: The SFEIS analyzed the following six alternatives to meet the need for additional maneuver training lands at Fort Irwin:

(1) Alternative 1 (preferred alternative) analyzed expanding training to the east and west to include reintroduction of training in Fort Irwin lands previously set aside to the south (UTM 90 area). Additional lands totaling approximately 150,510 acres would be added to the available training lands.

(2) Alternative 2 analyzed expanding training to the east and the south, including the UTM 90 area. Additional lands totaling approximately 156,340 acres would be added to the available training lands.

(3) Alternative 3 analyzed expanding training to the east. Additional lands totaling approximately 48,760 acres would be added to the available training lands.

(4) Alternative 4 analyzed expanding training to the east, west, and south to include reintroducing the UTM 90 area. Additional lands totaling approximately 185,301 acres would be added to the available training lands.

(5) Alternative 5 analyzed expanding training to the east and reintroduction of the UTM 90 area. Additional lands totaling approximately 72,060 acres would be added to the available training lands.

(6) Alternative 6 analyzed no action, under which no expansion would occur and training would continue as currently exists. The Congressionally withdrawn lands would be managed under the Interim Management Plan until further disposition was decided.

Public involvement for this project has included five scoping sessions held for the Supplemental Draft Environmental Impact Statement (SDEIS) which began in November 2001 and ended in January 2002; a 45-day public review of the SDEIS, with a 15-day extension; and public hearings at various locations throughout southern California to receive public comment on the SDEIS. Written comments and other forms of input from public and private entities were addressed in the SFEIS.

Copies of the SFEIS are available for review at the following libraries: Library of Congress; Riverside Main Library; San Diego County Library; and San Bernardino County Libraries at the following locations: Hesperia, San Bernardino, Apple Valley, Trona, Barstow, Big Bear, Lucerne Valley, Victorville, Wrightwood, and Yucca Valley.

The SFEIS may also be viewed at the Land Expansion Web Site: *http://fortirwindlandexpansion.com*.

Dated: January 10, 2006.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) DASA (ESOH).

[FR Doc. 06–475 Filed 1–18–06; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Wilmington Harbor–96 Act, General Reevaluation Report, New Hanover County, NC

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Wilmington Harbor–96 Act project is being constructed for the purpose of enhancing commercial shipping the Cape Fear River and Northeast Cape Fear River, and the State Port in Wilmington, New Hanover County, NC. The project, including turning basin and mitigation efforts were originally addressed in an Environmental Impact Statement, *Cape Fear—Northeast Cape Fear Rivers Comprehensive Study, Wilmington, NC*, dated June 1996, which was supplemented by an Environmental Assessment, *Preconstruction Modifications of Authorized Improvements, Wilmington Harbor, NC*, dated February 2000. However since then, the need for new project features and mitigation issues have arisen. In order to address these issues, a General Reevaluation Report (GRR) will be prepared, and a Draft Environmental Impact Statement (DEIS) will be included as a part of this process. The GRR and DEIS will address the proposed relocation of a turning basin in the Northeast Cape Fear River, and a reevaluation of alternatives for fish passage at the three locks and dams on the Cape Fear River.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Mr. Jeff Richter, Environmental Resources Section; U.S. Army Engineer District, Wilmington; Post Office Box 1890; Wilmington, NC 28402–1890; telephone: (910) 251–4636.

SUPPLEMENTARY INFORMATION: The existing basin used for turning ships in the Northeast Cape Fear River is downstream of the major terminal, and there are two bridges between the basin and terminal. Usually the ships transit

upstream bow-first through the two bridges, but must back downstream stern-first through the bridges to the turning basin. For safety reasons, the docking pilots requested that the turning basis be relocated upstream of the bridges so ships can proceed bow-first through the bridges in both directions. The most significant issue related to a relocated turning basin is mitigation of dredging impacts to primary nursery areas for marine fisheries.

In order to deepen sections of Wilmington Harbor, blasting has been required to remove rock. This blasting could impact the endangered shortnose sturgeon that inhabits the harbor. To mitigate for this potential impact, fish passage was required at the most downstream of the three Cape Fear River locks and dams. The proposed fish passage plan involved the construction of an approximate 3,800-foot long fish bypass channel around the lock-and-dam. This plan has not been implemented due to lack of funds and real estate issues. During the GRR/DEIS process, additional alternatives will be considered that could include modification or removal or the locks and dams. This would require deauthorization of the lock and dam project. This action may be proposed because there is no longer any commercial traffic using the locks and dams, which is the authorized project purpose. Significant issues related to fish passage include water supply users upstream of the locks and dams and recreational and commercial fisheries.

All private parties and Federal, State, and local agencies having an interest in the study are hereby notified of the intent to prepare a DEIS and are invited to comment at this time. A scoping meeting was held on June 30, 2005 to help determine whether an EIS or EA should be prepared. All comments received as a result of this notice of intent and the scoping meeting will be considered in the preparation of the DEIS.

The lead agency for this project is the U.S. Army Engineer District, Wilmington. Cooperating agency status has not be assigned to, nor requested by, any other agency.

The DEIS is being prepared in accordance with the requirements of the National Environmental Policy Act of 1969, as amended, and will address the relationship of the proposed action to all other applicable Federal and State Laws and Executive Orders.

The DEIS is currently scheduled to be available in October 2007.

Dated: January 10, 2006.

John E. Pulliam, Jr.,

Colonel, EN, Commanding.

[FR Doc. 06–485 Filed 1–18–06; 8:45 am]

BILLING CODE 3710–CE–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Supplemental Environmental Impact Statement/ Environmental Impact Report for the Yuba River Basin Project, Yuba County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), the U.S. Army Corps of Engineers (Corps), Sacramento District, is preparing a Draft Supplemental Environmental Impact Statement/Environmental Impact Report (SEIS/EIR) to reevaluate the previously authorized plan and other alternatives to reduce flood damages and restore riparian and aquatic habitat in the lower Yuba River Basin, part of the Feather River Basin, and the city of Marysville, in Yuba County, CA. This notice replaces the one previously published in the **Federal Register** on March 17, 2004 (69 FR 12646). The general reevaluation is needed because recent technical, environmental, and economic studies have indicated that additional refinement and reformulation are needed to determine the feasibility and extent of Federal and non-Federal interest in the project. The basic study authority for the Yuba River Basin study was provided under the Flood Control Act of 1962.

ADDRESSES: Send written comments and suggestions concerning this study to Mr. Robert Koenigs, U.S. Army Corps of Engineers, Sacramento District, Attn: Planning Division (CESPK–PD–R), 1325 J Street, Sacramento, CA 95814. Requests to be placed on the mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Koenigs, E-mail at *Robert.L.Roenigs@usace.army.mil*, telephone (916) 557–6712, or fax (916) 557–7856.

SUPPLEMENTARY INFORMATION:

1. Public Involvement

The Yuba River Basin project will be coordinated between Federal, State, and local governments; local stakeholders; special interest groups, and any other interest individuals and organizations. The Corps will announce availability of the draft supplemental document in the **Federal Register** and other media, and will provide the public, organizations, and agencies with an opportunity to submit comments, which will be addressed in the Final SEIS/EIR. A 45-day public review period will be provided for individuals and agencies to review and comment on the SEIS/EIR. All interested parties should respond to this notice and provide a current address if they wish to be notified SEIS/EIR circulation.

2. Project Information

The Yuba River Basin is located in western Yuba County about 50 miles north of Sacramento. The authorized project focused on approximately 21 miles of levees along the Yuba and Feather Rivers in the variety of Marysville, CA. The Yuba River Basin study area was divided into three reaches: Reach 1—Yuba River/Feather River; reach 2—Feather River (including Bear River and WP Interceptor Canal area); and reach 3—Marysville ring levee.

The Feasibility Report and Final EIS/EIR were completed in April 1998. Congress authorized the project in the Water Resources Development Act of 1999, and the Record of Decision was signed in June 2000. The authorized project included specific levee modifications on 6.1 miles of the left bank of the Yuba River upstream of the confluence with the Feather River; 10 miles of levee on the left bank of the Feather River downstream of the confluence of the Yuba River; and 5 miles of the Marysville ring levee. The levee modification work as authorized was intended to bring the level of flood protection for these levees up to about a 200-year level of protection.

Since the final Yuba River Basin project was authorized, geotechnical investigations and updated hydrology have identified previously unknown levee foundation problems in portions of the study area/authorized project. Levees along the Bear River and the WP Interceptor Canal have also been shown to have stability and seepage problems that may cause flooding in lower Yuba County. Because flooding is still a significant problem for the affected communities along the Yuba, Feather, and Bear Rivers, the State of California Reclamation Board has requested that the Corps initiate a general reevaluation of the project to determine a new feasible project.

3. Proposed Action

The proposed action would be a general reevaluation of the authorized project and other alternative plans to provide the level of flood protection previously planned and to restore riparian and aquatic habitats in the project area.

4. Alternatives

Potential alternatives to reduce flood damages and restore riparian and aquatic habitat could include: (1) No Action, (2) Modified Authorized Project Features and other Levee Improvements, and (3) Modified Authorized Project Features, other Levee Improvements, and Setback Levees. Features of the alternatives could include modifying existing levees, constructing new setback levees, creating seasonal or permanent wetland areas, and planting native riparian and wetland species.

Dated: January 6, 2006.

Ronald N. Light,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 06–483 Filed 1–18–06; 8:45 am]

BILLING CODE 3710–EZ–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 21, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: January 12, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.

Title: 34 CFR part 602, The Secretary's Recognition of Accrediting Agencies.

Frequency: Annually, every 5 years.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden: Responses: 75.

Burden Hours: 1,071.

Abstract: This information is needed to determine if an accrediting agency complies with the Criteria for Recognition and should be recognized by the Secretary.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2933. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to IC *DocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to the e-mail address IC *DocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–575 Filed 1–18–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 21, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested; e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: January 12, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Quarterly Cumulative Caseload Report.

Frequency: Quarterly.

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

Reporting and Recordkeeping Hour Burden:

Responses: 320.

Burden Hours: 320.

Abstract: State VR agencies that administer vocational programs provide key caseload indicator data on this form, including numbers of persons who are applicants, determined eligible/ineligible, waiting for services, and also their program outcomes. This data is used for program, planning, management, budgeting and general statistical purposes.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2840. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to IC *DocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to the e-mail address IC *DocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–576 Filed 1–18–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.330B]

Advanced Placement (AP) Test Fee Program

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education.

ACTION: Notice announcing application deadline.

SUMMARY: Under the AP Test Fee program, we award grants to eligible state educational agencies (SEAs) in order to enable them to pay all or a portion of advanced placement test fees on behalf of eligible low-income students who—(1) Are enrolled in an advanced placement course; and (2) plan to take an advanced placement exam. The program is designed to increase the number of low-income students who take advanced placement tests and receive scores for which college academic credit is awarded. In this notice we establish the deadline for submission of the fiscal year (FY) 2006 AP Test Fee program grant applications.

Applications Available: January 19, 2006.

Application Deadline: February 21, 2006.

Deadline for Intergovernmental Review: April 19, 2006.

SUPPLEMENTARY INFORMATION:

Who Is Eligible for an Award Under the AP Test Fee Program?

Eligible applicants under the AP Test Fee Program are: State educational agencies (SEAs) in any State, including the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Note: For purposes of this program, the Bureau of Indian Affairs is treated as an SEA.

Note: Current grantees under this program that expect to receive continuation awards in FY 2006, or that expect to have sufficient carryover funds to cover FY 2006 exam fees for eligible low-income students, should not apply for a new award under this competition. Applicants requesting new awards for FY 2006 must submit an application to the Department electronically by the deadline established in this notice.

Funding and Award Information

Estimated Available Funds: $4.8 million.

Estimated Range of Awards: $15,000–$500,000.

Estimated Average Size of Awards: $171,000.

Estimated Number of Awards: 28.

Project Period: 12 months.

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

Statutory Funding Requirement: In accordance with section 1703 of the Elementary and Secondary Education Act of 1965 as amended (ESEA), the Department gives priority to applications submitted under this competition over applications submitted under the Advanced Placement Incentive program competition (CFDA No. 84.330C).

Award Basis: The Department intends to fund, at some level, all applications that meet the minimum Requirements for Approval of Application as described in the application package for this competition and that demonstrate a need for new or additional funds for FY 2006. Also, in determining whether to approve an application for a new award (including the amount of the award) from an applicant with a current grant under the program, the Department will consider the amount of any remaining carryover funds under the existing grant.

Electronic Submission of Applications: An eligible SEA that seeks FY 2006 funding under the AP Test Fee program must submit its application electronically to the Department on or before the application deadline date. Submission of an electronic application involves the use of the Grants.gov Apply site.

You can access the electronic application, along with complete instructions for applying via Grants.gov, for the AP Test Fee program at: *http://www.Grants.gov/.* Once you access this site, you will receive specific instructions for completing your application and the electronic submission process. You must follow these requirements to ensure that your application is received by the Department no later than 4:30 p.m., Washington, DC, time, on the application deadline date.

FOR FURTHER INFORMATION CONTACT: Ms. Madeline Baggett or Ms. Lynyetta Johnson, 400 Maryland Ave., SW., Washington, DC 20202–6200. Telephone: (202) 260–2502 or (202) 260–1990 or via Internet: *advancedplacementprogram@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 notice in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: You may view this document, as well as other Department of Education documents published in the **Federal Register**, in text or Adobe Portable

Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/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.*

Program Authority: 20 U.S.C. 6531–6537.

Dated: January 13, 2006.

Henry L. Johnson,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E6–582 Filed 1–18–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission of Data by State Educational Agencies

AGENCY: National Center for Education Statistics, Institute of Education Sciences, Department of Education.

ACTION: Notice of dates of submission of State revenue and expenditure reports for fiscal year (FY) 2005 and of revisions to those reports.

SUMMARY: The Secretary announces dates for the submission by State educational agencies (SEAs) of expenditure and revenue data and average daily attendance statistics on ED Form 2447 (the National Public Education Financial Survey (NPEFS)) for FY 2005. The Secretary sets these dates to ensure that data are available to serve as the basis for timely distribution of Federal funds. The U.S. Bureau of the Census (Bureau of the Census) is the data collection agent for the National Center for Education Statistics (NCES). The data will be published by NCES and will be used by the Secretary in the calculation of allocations for FY 2007 appropriated funds.

DATES: The date on which submissions will first be accepted is March 13, 2006. The mandatory deadline for the final submission of all data, including any revisions to previously submitted data, is September 5, 2006.

ADDRESSES: SEAs may mail ED Form 2447 to: Bureau of the Census, ATTENTION: Governments Division, Washington, DC 20233–6800.

SEAs may submit data via the World Wide Web using the interactive survey form at *http://www.surveys.nces.ed.gov/ccdnpefs.* If the Web form is used, it includes a digital confirmation page where a pin number may be entered. A successful entry of the pin number serves as a signature by the authorizing official. A certification form also may be printed from the Web site, and signed by the authorizing official and mailed to the Governments Division of the Bureau of the Census, at the address listed in the previous paragraph. This signed form must be mailed within five business days of Web form data submission.

Alternatively, SEAs may hand deliver submissions by 4 p.m. (Eastern Time) to: Governments Division, Bureau of the Census, 8905 Presidential Parkway, Washington Plaza II, room 508, Upper Marlboro, MD 20772.

If an SEA's submission is received by the Bureau of the Census after September 5, 2006, in order for the submission to be accepted, the SEA must show one of the following as proof that the submission was mailed on or before the mandatory deadline date:

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.
4. Any other proof of mailing acceptable to the Secretary.

If the SEA mails ED Form 2447 through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

1. A private metered postmark.
2. A mail receipt that is not dated by the U.S. Postal Service.

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

FOR FURTHER INFORMATION CONTACT: Ms. Terri Kennerly, Chief, Bureau of the Census, ATTENTION: Governments Division, Washington, DC 20233–6800. Telephone: (301) 763–1559. 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: Frank Johnson, National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, Washington, DC 20208–5651. Telephone: (202) 502–7362.

SUPPLEMENTARY INFORMATION: Under the authority of section 153(a)(1)(I) of the Education Sciences Reform Act of 2002 (Pub. L. 107–279), 20 U.S.C. 9543, which authorizes NCES to gather data on the financing of education, NCES collects data annually from SEAs through ED Form 2447. The report from SEAs includes attendance, revenue, and expenditure data from which NCES determines the average State per pupil expenditure (SPPE) for elementary and secondary education, as defined in the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7801(2)).

In addition to utilizing the SPPE data as general information on the financing of elementary and secondary education, the Secretary uses these data directly in calculating allocations for certain formula grant programs, including Title I of the ESEA, Impact Aid, and Indian Education programs. Other programs such as the Educational Technology State Grants program (Title II of the ESEA, Part D), the Education for Homeless Children and Youth Program under Title VII of the McKinney-Vento Homeless Assistance Act, the Teacher Quality State Grants program (Title II of the ESEA, Part A), and the Safe and Drug-Free Schools and Communities program (Title IV of the ESEA, Part A) make use of SPPE data indirectly because their formulas are based, in whole or in part, on State Title I allocations.

In January 2006, the Bureau of the Census, acting as the data collection agent for NCES, will mail to SEAs ED Form 2447 with instructions and request that SEAs submit data to the Bureau of the Census on March 13, 2006, or as soon as possible thereafter. SEAs are urged to submit accurate and complete data on March 13, or as soon as possible thereafter, to facilitate timely processing. Submissions by SEAs to the Bureau of the Census will be checked for accuracy and returned to each SEA for verification. All data, including any revisions, must be submitted to the Bureau of the Census by an SEA not later than September 5, 2006.

Having accurate and consistent information on time is critical to an efficient and fair allocation process and to the NCES statistical process. To ensure timely distribution of Federal education funds based on the best, most accurate data available, NCES establishes, for allocation purposes, September 5, 2006, as the final date by which the NPEFS Web form or ED Form 2447 must be submitted. If an SEA submits revised data after the final deadline that results in a lower SPPE figure, its allocations may be adjusted

downward or the Department may request the SEA to return funds. SEAs should be aware that all of these data are subject to audit and that, if any inaccuracies are discovered in the audit process, the Department may seek recovery of overpayments for the applicable programs. If an SEA submits revised data after September 5, 2006, the data also may be too late to be included in the final NCES published dataset.

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.*

Authority: 20 U.S.C. 9543.

Dated: January 13, 2006.

Grover J. Whitehurst,

Director, Institute of Education Sciences.

[FR Doc. E6–586 Filed 1–18–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC06–716–000; FERC–716]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

January 11, 2006.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due March 10, 2006.

ADDRESSES: Copies of sample filings of the proposed collection of information can be obtained from the Commission's Web site (*http://www.ferc.gov/docs-filings/elibrary.asp*) or from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director Officer, ED–34, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filing, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC06–716–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing'', and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–716 ''Good Faith Request for Transmission Service and Response by Transmitting Utility Under Sections 211(a) and 213(a) of the Federal Power Act'' (OMB No. 1902–0170) is used by the Commission to implement the statutory provisions of sections 211 and 213 of the Federal Power Act (FPA) as amended and added by the Energy Policy Act 1992. The information is not filed with the Commission, however, the request and response may be analyzed as a part of a section 211 proceeding. This collection of information covers the information that must be contained in the request and in the response.

The Energy Policy Act of 1992 amended section 211 of the FPA and expanded the Commission's authority to order transmission service. Under the revised section 211, the Commission may order transmission services if it finds that such action would be in the public interest, would not unreasonably impair the continued reliability of electric systems affected by the order, and would meet the requirements of amended section 211 of the FPA.

The Commission's policy statement in Public Law 93–3, Policy Statement Regarding Good Faith Requests for Transmission Services and Responses by Transmitting Utilities Under Sections 211(a) and 213(a) of the Federal Power Act, as amended, implemented a data exchange between a transmission requester and a transmitting utility prior to the submission of section 211 request with the Commission. Components of the data exchange are identified in the Code of Federal Regulations (CFR), 18 CFR 2.20. The general policy sets forth standards by which the Commission determines whether and when a valid good faith request for transmission has been made under section 211 of the FPA. In developing the standards, the Commission sought to encourage an open exchange of information with a reasonable degree of specificity and completeness between the party requesting transmission services and the transmitting utility. As a result, twelve components of a good faith estimate are identified under 18 CFR 2.20.

Information in the data exchange is not filed as noted above with the Commission, unless negotiations between the transmission requestor and the transmitting utility have not been successful and the transmission requestor files a section 211 request (FERC–716A, 1902–0168) with the Commission. The request and response may be analyzed by the Commission as part of the section 211 proceeding.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
8	1	800	800

Estimated cost burden to respondents is $5,421. (800 hours/2080 hours per year times $112,767 per year average per employee = $43,372). The cost per respondent is $5,421.00.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) 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; (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 those who are to respond, including 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.

Magalie R. Salas,

Secretary.

[FR Doc. E6–551 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC06–716A–000; FERC–716A]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

January 11, 2006.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due March 10, 2006.

ADDRESSES: Copies of sample filings of the proposed collection of information can be obtained from the Commission's Web site (*http://www.ferc.gov/docs-filings/elibrary.asp*) or from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, ED–34, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filing, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC06–716A–000. Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing'', and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–716A ''Application for Transmission Services Under Section 211 of the Federal Power Act'' (OMB No. 1902–0168) is used by the Commission to implement the statutory provisions of sections 211 of the Federal Power Act (FPA) 16 U.S.C. (824) as amended by the Energy Policy Act 1992 (Pub. L. 102–486) 106 Stat. 2776. Under section 211, the Commission may order transmission services if it finds that such action would be in the public interest and would not unreasonably impair the continued reliability of systems affected by the order. Section 211 allows any electric utility, Federal power marketing agency or any other person generating electric energy for sale or resale to apply to the Federal Energy Regulatory Commission for an order and notify the affected parties.

The Commission uses the information to carry out its responsibilities under Part II of the Federal Power Act. The requirements in the Code of Federal Regulations (CFR) under 18 CFR Part 36.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
8	1	2.5 hours	20 hours

Estimated cost burden to respondents is $1,084. (25 hours/2080 hours per year times $112,767 per year average per employee = $ 1,084). The cost per respondent is $136.00.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) 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; (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 those who are to respond, including 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.

Magalie R. Salas,

Secretary.

[FR Doc. E6–552 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–138]

ANR Pipeline Company; Notice of Negotiated Rate Filing

January 11, 2006.

Take notice that on January 5, 2006, ANR Pipeline Company (ANR) tendered for filing and approval a secondary point amendment to an existing negotiated rate service agreement between ANR and DTE Energy Trading, Inc.

ANR requests that the Commission accept and approve the subject point amendment to be effective January 5, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 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. E6–544 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. IS01–504–002; IS03–74–001]

BP Transportation (Alaska) Inc.; Notice of Amendment Settlement

January 10, 2006.

Take notice that on December 13, 2005, The State of Alaska (Alaska) and BP Transportation (Alaska) Inc., (BPTA) jointly filed a request that the Commission approve the First Amendment to the Northstar Interstate Settlement (First Amendment) which Alaska and BPTA executed effective December 13, 2005. The First Amendment amends the Settlement Agreement, Northstar Oil Pipeline (NSA) dated May 14, 2003, between Alaska and BPTA, and provide that maximum rate for interstate and intrastate service will be calculated in the identical manner.

BPTA and Alaska entered the NSA and, the Commission approved the NSA on July 23, 2003, finding it to be in the public interest. *BP Transportation (Alaska) Inc.,* 104 FERC ¶ 61,112 (2003).

Alaska and BPTA respectfully request that the Commission issue an order approving the First Amendment as in the public interest.

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 online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on January 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–487 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–171–000]

Central New York Oil and Gas Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

January 11, 2006.

Take notice that, on January 6, 2006, Central New York Oil and Gas Company, LLC (CNYOG), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets, to become effective February 6, 2006:

Third Revised Sheet No. 0
First Revised Sheet No. 2
First Revised Sheet No. 4
First Revised Sheet No. 10
First Revised Sheet No. 11
First Revised Sheet No. 12
First Revised Sheet No. 13
Second Revised Sheet No. 15
Second Revised Sheet No. 16
Third Revised Sheet No. 19
Second Revised Sheet No. 23
Second Revised Sheet No. 25
First Revised Sheet No. 26
First Revised Sheet No. 33
Third Revised Sheet No. 72
First Revised Sheet No. 73
First Revised Sheet No. 74
First Revised Sheet No. 75
Original Sheet No. 75A
Original Sheet No. 75B
First Revised Sheet No. 76
First Revised Sheet No. 78
First Revised Sheet No. 79
Third Revised Sheet No. 80
Second Revised Sheet No. 98
First Revised Sheet No. 99
Third Revised Sheet No. 104
First Revised Sheet No. 120
First Revised Sheet No. 121
First Revised Sheet No. 122
Second Revised Sheet No. 132
Second Revised Sheet No. 134
Second Revised Sheet No. 138
First Revised Sheet No. 139

CNYOG states that copies of the filing were served on the company's jurisdictional customers and interested state commissions

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–556 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–46–001]

Cheniere Corpus Christi Pipeline Company; Notice of Compliance Filing

January 11, 2005

Take notice that on June 17, 2005, Cheniere Corpus Christi Pipeline Company (Corpus Christi Pipeline), tendered for filing First Revised Pro Forma Tariff Sheet Nos. 1 through 512, in compliance with the Commission's April 18, 2005 Order in Docket Nos. CP04–37–000 and CP04–44–000, *et al.* (111 FERC ¶ 61,081).

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for

review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 1, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–545 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–38–002]

Cheniere Sabine Pass Pipeline Company; Notice of Compliance Filing

January 11, 2006.

Take notice that on February 22, 2005, Cheniere Sabine Pass Pipeline Company (Sabine Pipeline), tendered for filing First Revised Pro Forma Tariff Sheet Nos. 1 through 512, in compliance with the Commission's December 21, 2004 Order in Docket Nos. CP04–47–000 and CP04–38–000, et al. (109 FERC ¶ 61,324).

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 1, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–557 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–406–000]

Columbia Gas Transmission Corporation; Notice of Pending Release of Document

January 11, 2006.

Columbia Gas Transmission Corporation (Columbia) filed an application in this docket to abandon by sale certain natural gas facilities located in West Virginia and Kentucky. On September 27, 2005, Geoex, Inc. (Geoex), an independent producer/shipper, filed a timely motion to intervene in the Columbia proceeding stating that it would be adversely affected by the abandonment. On the same date, Geoex filed a three-page document in this docket that was stamped ''Keep Confidential.'' The document was entered into the Commission's eLibrary database as a non-public document with the accession number 20050929–0120.

The Commission's regulations require that a person seeking privileged treatment of information must file a written statement to justify such special treatment (18 CFR 388.112 (b)(1)). Geoex did not provide a written statement to support a claim of privilege. Further, the information contained in the document does not appear to qualify it as a Commission record exempt from public disclosure under 18 CFR 388.107. Accordingly, take notice that the Commission is considering releasing the Geoex document and that we are hereby giving Geoex the opportunity to comment on the release of such document within ten days from the issuance of this notice. *See* 18 CFR 388.112(d). Geoex may explain why the document should be deemed privileged or may request that the document be withdrawn from the record in this contested proceeding.

Magalie R. Salas,

Secretary.

[FR Doc. E6–546 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–632–019]

Dominion Transmission, Inc.; Notice of Compliance Filing

January 11, 2006.

Take notice that on January 5, 2006, Dominion Transmission, Inc. (DTI) tendered for filing a compliance filing to the Commission's letter order issued December 21, 2005, in Docket Nos. RP00–632–013 and RP00–623–017.

DTI 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. E6–555 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF06–4081–000]

Southwestern Power Administration, Robert Douglas Willis Hydropower Project; Notice of Filing

January 9, 2006.

Take notice that on December 23, 2005, the Deputy Secretary of the Department of Energy, confirmed and approved on an interim basis Rate Order No. SWPA–55 effective January 1, 2006 through September 30, 2009, which establishes the annual rate of $648,096 for the sale of power and energy by the Southwestern Power Administration from the Robert Douglas Will Hydropower Project to the Sam Rayburn Municipal Power Agency. The Rate Order states this rate supersedes the annual rate which was confirmed and approved on a final basis by the Commission on June 24, 2004 for the period of November 1, 2004, through September 30, 2007, in Docket No. EF04–4081–000. The new rate was submitted to the Commission for final confirmation and approval on December 27, 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, 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 January 26, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–478 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF06–4021–000]

United States Department of Energy; Southwestern Power Administration, Sam Rayburn Dam Project Rate; Notice of Filing

January 9, 2006.

Take notice that on December 23, 2005, the Deputy Secretary of the Department of Energy, confirmed and approved on an interim basis Rate Order No. SWPA–54 effective January 1, 2006 through September 30, 2009, which establishes the annual rate of $2,816,064 for the sale of power and energy by the Southwestern Power Administration from the Sam Rayburn Dam Project to the Sam Rayburn Dam Electric Cooperative, Inc. The Rate Order states this rate supersedes the annual rate which was confirmed, approved and placed in effect on an interim basis by the Deputy Secretary of the Department of Energy on November 16, 2004, for the period January 1, 2005 through September 20, 2008. The new rate was submitted to the Commission for final confirmation and approval on December 27, 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, 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 January 26, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–480 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–082]

Gas Transmission Northwest Corporation; Notice of Negotiated Rate

January 10, 2006.

Take notice that on December 30, 2005, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, Twenty-Ninth Revised Sheet No. 15, to become effective January 1, 2006.

GTN states that this sheet is being filed to update GTN's reporting of negotiated rate transactions that it has entered into.

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. E6–485 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–458–002]

Gas Transmission Northwest Corporation; Notice of Compliance Filing

January 10, 2006.

Take notice that on December 30, 2005, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, the following tariff sheets, to become effective December 31, 2005:

Fourth Revised Sheet No. 231.
Original Sheet No. 232.
Sheet Nos. 233–249.

GTN states that these tariff sheets are being submitted to reflect implementation of certain North American Energy Standards Board standards.

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. E6–489 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER05–1318–000, ER05–1318–001 and ER05–1318–002]

Geneva Energy, LLC; Notice of Issuance of Order

January 9, 2006.

Geneva Energy LLC (Geneva) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for the sales of energy and capacity at market-based rates and for the reassignment of transmission capacity. Geneva also requested waiver of various Commission regulations. In particular, Geneva requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Geneva.

On January 9, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, 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 Geneva 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 February 8, 2006.

Absent a request to be heard in opposition by the deadline above, Geneva 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 Geneva, 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 Nuclear Geneva'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. E6–479 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP–91–143–056]

Great Lakes Gas Transmission Limited Partnership; Notice of Revenue Sharing Report

January 10, 2006.

Take notice that on December 8, 2005, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing its Interruptible/Overrun (I/O) Revenue Sharing Report pursuant to the stipulation and agreement filed on September 24, 1992, and approved by the Commission's February 3, 1993 order issued in Docket No. RP91–143–000.

Great Lakes states that copies of the filing has been served upon the parties on the official service list, firm customers and the Public Service Commission's of Minnesota, Wisconsin and Michigan.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on January 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–493 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC06–61–000]

Mirant NY-Gen, LLC, Orange and Rockland Utilities, Inc.; Notice of Filing

January 11, 2006.

Take notice that on January 5, 2005, Mirant NY-Gen, LLC (Mirant NY-Gen) as debtors and debtors in possession, and Orange and Rockland Utilities, Inc. (O&R) (collective, Applicants) submitted an application pursuant to section 203 of the Federal Power Act for authorization of the disposition by New York NY-Gen and acquisition by O&R of jurisdictional facilities associated with the 18 MW Grahamsville hydroelectric generating facility. O&R states that it seeks concurrent authorization for the disposition of the same jurisdictional facilities to the City of New York, New York.

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 January 26, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–548 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–496–002]

North Baja Pipeline, LLC; Notice of Compliance Filing

January 10, 2006.

Take notice that on December 30, 2005, North Baja Pipeline, LLC (NBP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Eighth Revised Sheet No. 201 and First Revised Sheet No. 201A, to become effective December 31, 2005.

NBP states that these tariff sheets are being submitted to reflect implementation of certain North American Energy Standards Board standards.

NBP further states that a copy of this filing has been served on NBP's jurisdictional customers and interested state regulatory agencies.

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. E6–490 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–214–000; ER06–214–001]

Power Bidding Strategies, LLC; Notice of Issuance of Order

January 9, 2006.

Power Bidding Strategies, LLC (Power Bidding) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for the sales of energy and capacity at market-based rates. Power Bidding also requested waiver of various Commission regulations. In particular, Power Bidding requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Power Bidding.

On January 9, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, 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 Power Bidding 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 February 8, 2006.

Absent a request to be heard in opposition by the deadline above, Power Bidding 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 Power Bidding, 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 Power Bidding'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. E6–477 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–23–009]

Public Service Electric & Gas Company; Notice of Compliance Filing

January 11, 2006.

Take notice that on December 30, 2005, Public Service Electric & Gas Company (PSE&G) tendered for filing in compliance with Commission's Order of May 18, 2005, an information filing concerning operation of the ''Protocols'' adopted by the Commission in this proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on January 20, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–549 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–157–001]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

January 10, 2006.

Take notice that on January 3, 2006, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Substitute Sixth Revised Sheet No. 95B, with an effective date of February 1, 2006.

Tennessee states that it is tendering the substitute tariff sheet as a correction to a tariff sheet that was filed on December 29, 2005 in this docket.

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. E6–491 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–066]

TransColorado Gas Transmission Company; Notice of Compliance Filing

January 10, 2006.

Take notice that on January 4, 2006, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff First Revised Volume No. 1, Eleventh Revised Sheet No. 21 and Fourth Revised Sheet No. 22B, to be effective January 1, 2006.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–494 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–170–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 10, 2006.

Take notice that on January 4, 2006, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Third Revised Sheet No. 33B, to become effective December 31, 2005.

Transco states that the purpose of the instant filing is to remove South Marsh Island Block 130 C from the list of gathering points included in its currently effective tariff.

Transco states that copies of the filing are being mailed to 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. E6–492 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC06–60–000; ER01–3103–010]

Weichert Enterprise IV, LLC, EIF Astoria II, LLC, Astoria Energy, LLC; Notice of Filing

January 11, 2006.

Take notice that on January 5, 2006, the Weichert Enterprise IV, LLV, EIF Astoria II, LLC, and Astoria Energy, LLC (collectively, applicants), filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization of an indirect disposition of jurisdictional facilities that would result from an internal change in ownership involving upstream equity holders of Astoria Energy, LLC (Astoria). Astoria is developing a generating facility in Queens County, New York, and holds market-based rate authority. The application seeks privileged treatment of certain agreements.

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. 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 email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on January 26, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–547 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–45–000]

El Paso Electric Company, Complainant, v. Tucson Electric Power Company, Respondent; Notice of Complaint

January 11, 2006.

Take notice that on January 10, 2006, El Paso Electric Company (EPE) filed a formal Complaint against Tucson Electric Power Company (TEP) pursuant to 18 CFR 385.206 of the Commission regulations, alleging that TEP has asserted its intent to transmit power generated at the Luna generating facility on EPE's transmission system from the Luna substation near Deming, New Mexico to interconnection points at Springerville and/or Greenlee, Arizona, but that TEP does not have, and has failed to acquire, contractual right to do so. EPE seeks interim relief to assure that testing of the Luna generating facility will not be adversely affected. TEP states that subject to the grant of such relief, it is the only party affected by the complaint.

EPE states that copies of the complaint were served on the contacts for TEP.

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. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

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 January 30, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–550 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC06–41–000, et al.]

Hardee Power Partners Limited, et al.; Electric Rate and Corporate Filings

January 9, 2006.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Hardee Power Partners Limited

[Docket No. EC06–41–000]

Take notice that on December 15, 2005, Hardee Power Partners Limited (Hardee Power) submitted an application pursuant to section 203 of the Federal Power Act for authorization to dispose of and acquire discrete interconnection transmission facilities located at the switchyard it owns in connection with its approximately 370 MW nature gas/No. 2 oil-fired electricity generation facility located in Hardee Power and Polk Counties, Florida.

Comment Date: 5 p.m. eastern time on January 23, 2006.

2. Duquesne Keystone, LLC

[Docket No. EG06–27–000]

Take notice that on December 27, 2005, Duquesne Keystone, LLC, a Delaware limited liability company (Applicant) with its principal executive

office at 411 Seventh Avenue, Pittsburgh, PA 15219, filed with the Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations and section 32 of the Public Utility Holding Company Act of 1935, as amended.

Applicant states it will be acquiring 2.47 percent undivided interests in the Keystone Electric Generating Station in Shelocta, Pennsylvania (Facilities) and sell electric energy at wholesale. Applicant further states its interest in the Facilities is 42.3 MW.

Comment Date: 5 p.m. eastern time on January 30, 2006.

3. Duquesne Conemaugh, LLC

[Docket No. EG06–28–000]

Take notice that on December 27, 2005, Duquesne Conemaugh, LLC, a Delaware limited liability company (Applicant) with its principal executive office at 411 Seventh Avenue, Pittsburgh, PA 15219, filed with the Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations and Section 32 of the Public Utility Holding Company Act of 1935, as amended.

Applicant will be acquiring 3.83 percent undivided interests in the Conemaugh Electric Generating Station in New Florence, Pennsylvania (''Facilities'') and sell electric energy at wholesale. The total capacity of the Applicant's interest in the Facilities is approximately 65.5 MW.

Comment Date: 5 p.m. eastern time on January 30, 2006.

4. Decatur Energy Center, LLC

[Docket No. EG06–29–000]

Take notice that on December 30, 2005, Decatur Energy Center, LLC (Applicant), Calpine Center, 717 Texas Avenue, Suite 1000, Houston, TX 77002, filed with the Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant states that it owns and operates a nominal 780 MW power generation facility located in Decatur, Morgan County, Alabama. Applicant further states that copies of the application were served upon the United States Securities and Exchange Commission and Alabama Public Service Commission.

Comment Date: 5 p.m. eastern time on January 30, 2006.

5. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER99–2506–003]

Take notice that on December 1, 2005, Deseret Generation & Transmission Co-operative, Inc. submitted for filing a supplement to its second updated triennial market power analysis originally submitted on June 30, 2005.

Comment Date: 5 p.m. eastern time on January 19, 2006.

6. JMC Wind, LLC

[Docket No. QF06–3–000]

Take notice that on December 6, 2005, JMC Wind, LLC (JMC Wind) submitted for filing an application as a Qualifying Small Power Production Facility. JMC Wind states that this facility will only transmit power generated by JMC Wind or another Bingham Lake Facility or to transmit maintenance or back-up power from Interstate to a Bingham Lake Facility.

Comment Date: 5 p.m. eastern time on January 19, 2006.

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. E6–481 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

January 10, 2006.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER01–1807–015, 016, 017, 018; ER01–2020–012, 013, 014, 015.

Applicants: Carolina Power & Light Company. Florida Power Corporation.

Description: Carolina Power & Light Co. dba Progress Energy Carolina, Inc. submits an amended refund report reflecting the correct amounts for energy imbalance interest refunds pursuant to FERC's December 9, 2005 Order.

Filed Date: December 30, 2005.

Accession Number: 20060106–0148.

Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER02–2330–040.

Applicants: ISO New England Inc.

Description: ISO New England submits Independent Assessment of Demand Response Programs and impact evaluation and market assessment.

Filed Date: December 30, 2005.

Accession Number: 20060104–0261.

Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER05–487–002.

Applicants: FPL Energy Cowboy Wind, LLC.

Description: PL Energy Cowboy Wind, LLC submits notice of change in status including but not limited to ownership or control of generation facilities.

Filed Date: November 18, 2005.

Accession Number: 20051118–5138.

Comment Date: 5 p.m. Eastern Time on Thursday, January 19, 2006.

Docket Numbers: ER05–1221–003.

Applicants: Commonwealth Edison Company.

Description: Commonwealth Edison Co. submits a status report and request that it serve as an amendment to its pending Transmission Interconnection Agreement.

Filed Date: December 30, 2005.

Accession Number: 20060105–0147.

Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–190–001.

Applicants: Electric Energy, Inc.
Description: Electric Energy Inc. submits an amended and restated copy of the Power Contract which incorporates all changes to the Power Contract after September, 1987 which remained in effect as of January 1, 2003.
Filed Date: December 30, 2005.
Accession Number: 20060104–0262.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–263–001.
Applicants: Cleco Power LLC.
Description: Cleco Power LLC submits an errata to its November 30, 2005 letter.
Filed Date: December 30, 2005.
Accession Number: 20060104–0258.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–429–000.
Applicants: Florida Power Corporation.
Description: Florida Power Co. dba Progress Energy Florida, Inc submits revisions to their Open Access Transmission Tariffs, FERC Electric Tariff, Second Revised Volume No. 6, consistent with FERC's December 12, 2005 Order.
Filed Date: December 30, 2005.
Accession Number: 20060103–0008.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–430–000.
Applicants: Progress Energy Services Company, LLC.
Description: Progress Energy Service Co., LLC on behalf of Carolina Power & Light Co. submits Second Revised Sheet 433 et al to FERC Electric Tariff, Third Revised Volume No. 3 in compliance with Order 661–A, issued December 12, 2005.
Filed Date: December 30, 2005.
Accession Number: 20060103–0007.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–431–000.
Applicants: Progress Energy Services Company, LLC.
Description: Progress Energy Service on behalf of Florida Power Corp. amends Exhibit A of the revised Contract for interchange service with Reedy Creek Improvement District, First Revised Schedule No. 119.
Filed Date: December 30, 2005.
Accession Number: 20060103–0006.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–432–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool submits revisions to its Open Access Transmission Tariff consistent with Order 663.
Filed Date: December 30, 2005.
Accession Number: 20060103–0016.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–433–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits an unexecuted Large Generator Interconnection Agreement among Twin Creeks Wind, LLC and Midwest ISO.
Filed Date: December 30, 2005.
Accession Number: 20060103–0015.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–434–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp. submits an amendment to the Responsible Participating Transmission Owner Agreement with Pacific Gas & Electric Co.
Filed Date: December 30, 2005.
Accession Number: 20060103–0005.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–435–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits a Large Generator Interconnection Agreement with Great River Energy, Generation and Midwest ISO.
Filed Date: December 30, 2005.
Accession Number: 20060103–0014.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–436–000.
Applicants: Avista Corporation.
Description: Avista Corp. submits an unsigned pro-forma Network Integration Transmission Service Agreement with the Bonneville Power Administration.
Filed Date: December 30, 2005.
Accession Number: 20060103–0010.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–437–000–001.
Applicants: Entergy Services, Inc.
Description: Entergy Services, Inc. on behalf of Entergy Arkansas, Inc. submits a Service Agreement providing for cost-based, short term, power sales to the City of Prescott, Arkansas and on January 4, 2006 submitted copies of signature page of executed service agreement.
Filed Date: December 30, 2005.
Accession Number: 20060103–0011.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–438–000.
Applicants: New England Power Pool.
Description: The New England Power Pool Participants Committee submits signature pages to the Agreement dated September 1, 1971 with CalBear Energy, LP, et al.
Filed Date: December 30, 2005.
Accession Number: 20060103–0012.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–439–000.
Applicants: Otter Tail Power Company.
Description: Otter Tail Power Co. submits Amendment to the Interconnection & Transmission Service Agreement with Minnkota Power Cooperative Inc.
Filed Date: December 30, 2005.
Accession Number: 20060105–0130.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–440–000.
Applicants: Electric Energy, Inc.
Description: Electric Energy, Inc.'s Modification No. 17 to a Power Contract dated September 2, 1987 with the Department of Energy designated as Contract DE–AC05–760R1312.
Filed Date: December 30, 2005.
Accession Number: 20060105–0105.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–441–000.
Applicants: Decatur Energy Center, LLC.
Description: Decatur Energy Center, LLC submits a proposed rate schedule under which it will have authority to make wholesale sales of electric energy, capacity, replacement reserves and certain ancillary services etc.
Filed Date: December 30, 2005.
Accession Number: 20060105–0064.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–442–000.
Applicants: Midwest Electric Power, Inc.
Description: Midwest Electric Power, Inc. submits a Power Supply Agreement dated December 21, 2005 with Electric Energy, Inc., effective January 1, 2006.
Filed Date: December 30, 2005.
Accession Number: 20060105–0063.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–443–000.
Applicants: Select Energy, Inc.
Description: Select Energy Inc., Northeast Utilities Service Co. et al submit a Notice of Amendments to Power Sales Agreements and Termination of Rate Schedules with Groveland Electric Light Department et al.
Filed Date: December 30, 2005.
Accession Number: 20060105–0062.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–444–000.
Applicants: Western Kentucky Energy Corp.; and LG&E Energy Marketing Inc.
Description: Application of Western Kentucky Energy Corp. & LG&E Energy Marketing, Inc. for approval of reassignment of Network Transmission Rights & Confirmation of Waviers & Blanket Authorizations.
Filed Date: December 30, 2005.
Accession Number: 20060105–0065.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

Docket Numbers: ER06–445–000.
Applicants: PJM Interconnection L.L.C.
Description: PJM Interconnection, LLC submits an executed Interconnection Service Agreement w/ Prime Energy Limited Partnership and PSE&G Services Corp.
Filed Date: December 30, 2005.
Accession Number: 20060105–0131.
Comment Date: 5 p.m. Eastern Time on Friday, January 20, 2006.

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. E6–483 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC06–54–000, et al.]

Duke Energy Marketing America, LLC, et al.; Electric Rate and Corporate Filings

January 10, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Duke Energy Marketing America, LLC and J. Aron & Company

[Docket No. EC06–54–000]

Take notice that on December 28, 2005, Duke Energy Marketing America, LLC (DEMA) and J. Aron & Company (J. Aron) (collectively, Applicants) filed with the Commission an application pursuant to section 203 of the Federal Power Act for authorization of the transfer by DEMA of a wholesale power transaction to J. Aron. Applicants have requested privileged treatment for commercially sensitive information contained in the application.

Comment Date: 5 p.m. Eastern Time on January 23, 2006.

2. Union Electric Company d/b/a AmerenUE and NRG Audrain Generating, LLC

[Docket No. EC06–55–000]

Take notice that on December 28, 2005, Union Electric Company d/b/a AmerenUE, and NRG Audrain Generating, LLC jointly submitted an application pursuant to Section 203 of the Federal Power Act and Part 33 the sale by NRG Audrain to AmerenUE of NRG Audrain's interest in a 640 MW simple-cycle, natural gas-fired power generation facility and associated interconnection facilities located in Audrain County, Missouri.

Comment Date: January 30, 2006.

3. Union Electric Company and Aquila Piatt County Power, L.L.C.; MEP Flora Power, LLC; Aquila Merchant Services, Inc.

[Docket Nos. EC06–56–000; ER06–410–000]

Take notice that on December 28, 2005, Union Electric Company, MEP Flora Power, LLC (MEP Flora), Aquila Piatt County Power, L.L.C. (Aquila Piatt County and together with MEP Flora, Sellers), and Aquila Merchant Services, Inc. (Aquila Merchant Services) (collectively, Applicants) jointly submitted an application (Application) pursuant to sections 203 and 205 of the Federal Power Act and Parts 33 and 35 of the regulations of the Commission for all necessary Commission authorizations and approvals for: (1) the sale of Sellers' interest in two generating facilities located in southern Illinois, the Raccoon Creek and Goose Creek generating facilities, to AmerenUE; (2) approving the assignment to AmerenUE of Aquila Merchant Services' existing Master Purchase and Sale Agreement dated December 17, 2004 (the PPA) with Illinois Power Company d/b/a AmerenIP (AmerenIP); and (3) accepting the PPA and authorizing sales by AmerenUE to AmerenIP pursuant to the PPA.

Comment Date: January 23, 2006.

4. Blue Canyon Windpower II LLC; Flat Rock Windpower LLC

[Docket No. EC06–57–000]

Take notice that on December 30, 2005, Blue Canyon Windpower II LLC (Blue Canyon II) and Flat Rock Windpower LLC (Flat Rock (collectively, Applicants) submitted an application pursuant to section 203 of the Federal Power Act for authorization for the disposition of jurisdictional facilities related to the internal corporate reorganization of Applicants' upstream ownership. Blue Canyon II is an exempt wholesale generator that is constructing and will own and operate a 151 MW wind farm located in southwestern Oklahoma. Flat Rock is an exempt wholesale generator that is constructing and will own and operate a 231 MW wind farm located in Lewis County, New York.

Comment Date: 5 p.m. Eastern Time on January 23, 2006.

5. Western Kentucky Energy Corp.; LG&E Energy Marketing Inc.

[Docket No. EC06–58–000]

Take notice that on December 30, 2005, Western Kentucky Energy Corp.

(WKEC) and LG&E Energy Marketing Inc. (LEM) (collectively, the Applicants) tendered for filing pursuant to section 203 of the Federal Power Act, for authorization of a disposition of jurisdictional facilities in connection with an intra-corporate consolidation of various contracts, rights and obligations. Applicants state that the proposed transactions are intended to consolidate in one entity, WKEC, to the maximum extent possible, the operation and maintenance of, and sale of power generated by, certain generating plants located in Western Kentucky. Applicants request flexibility with respect to how the transaction will be consummated.

Comment Date: 5 p.m. Eastern Time on January 23, 2006.

6. PacifiCorp; TransAlta Centralia Generation LLC

[Docket No. EC06–59–000]

Take notice that on January 5, 2006, PacifiCorp and TransAlta Centralia Generation LLC (collectively, Applicants) pursuant to section 203 of the Federal Power Act submit a joint application for authorization of a disposition of jurisdictional facilities whereby PacifiCorp will sell and TransAlta Centralia Generation LLC will acquire a 3-mile unidirectional 230 kV transmission line and related facilities extending from and including the tap and disconnecting switches near Tower No. 47 of BPA's Chehalis-Covington Line to the dead-end structures at the Generating Plant, and all associated easements and rights-of-way located near Centralia, Washington.

Comment Date: 5 p.m. Eastern Time on January 26, 2006.

7. United States Department of Energy; Western Area Power Administration

[Docket No. EF06–5111–000]

Take notice that on December 27, 2005, the Deputy Secretary of the Department of Energy, confirmed and approved Rate Order No. WAPA–124 and Rate Schedules CAP–FT2, CAP NFT2, and CAP–NITS2 for the Central Arizona Project transmission services. Rate Schedules CAP–FT2, CAP–NFT2, and CAP–NITS2 will be placed into effect on an interim basis effective January 1, 2006. These Rate Schedule will be submitted for conformation and approval on a final basis effective January 1, 2006, and ending December 31, 2010.

Comment Date: 5 p.m. Eastern Time on January 20, 2006.

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.

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Magalie R. Salas,

Secretary.

[FR Doc. E6–496 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

January 6, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER05–717–003; ER05–721–003; ER04–374–002; ER99–2341–005.

Applicants: Spring Canyon Energy LLC; Judith Gap Energy LLC; Invenergy TN LLC; Hardee Power Partners Limited.

Description: Spring Canyon Energy LLC, Judith Gap Energy LLC et al submit a notice of certain changes in the characteristics relied upon to grant market-based rate authority; tariff amendments by Hardee Power and Invenergy also included.

Filed Date: 12/22/2005.

Accession Number: 20051230–0048.

Comment Date: 5 p.m. eastern time on Thursday, January 12, 2006.

Docket Numbers: ER06–375–000.

Applicants: Southern Company Services, Inc.

Description: Southern Co. Services, Inc agent for Alabama Power Co. et al submits the Rollover Service Agreement for Long-Term Firm Point-to-Point Transmission Service under Open Access Transmission Tariff etc.

Filed Date: 12/22/2005.

Accession Number: 20051228–0065.

Comment Date: 5 p.m. eastern time on Thursday, January 12, 2006.

Docket Numbers: ER06–424–000.

Applicants: Elkem Metals Company—Alloy L.P.

Description: Elkem Metals Co.—Alloy, LP submits the Shared Facilities Agreement with West Virginia Alloys, Inc.

Filed Date: 12/20/2005.

Accession Number: 20051230–0066.

Comment Date: 5 p.m. eastern time on Thursday, January 12, 2006.

Docket Numbers: ER06–388–000.

Applicants: Kentucky Utilities Company.

Description: Kentucky Utilities Co. submits an amendment to a contract with the City of Barbourville, Kentucky.

Filed Date: 12/27/2005.

Accession Number: 20051229–0188.

Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–389–000.

Applicants: Kentucky Utilities Company.

Description: Kentucky Utilities Co. submits an amendment to a contract with City of Bardstown, KY.

Filed Date: 12/27/2005.

Accession Number: 20051229–0187.

Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–390–000.

Applicants: Kentucky Utilities Company.

Description: Kentucky Utilities Co. submits amendments to a contract between the City of Bardwell, KY.

Filed Date: 12/27/2005.

Accession Number: 20051229–0189.

Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–391–000.

Applicants: Kentucky Utilities Company.

Description: Kentucky Utilities submits an amendment to a contract with Benham, KY.

Filed Date: 12/27/2005.

Accession Number: 20051229–0168.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–392–000.
Applicants: Kentucky Utilities Company.
Description: Kentucky Utilities Co. submits an amendment to a contract with City of Falmouth, KY.
Filed Date: 12/27/2005.
Accession Number: 20051229–0169.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–393–000.
Applicants: Kentucky Utilities Company.
Description: Kentucky Utilities Co. submits an amendment to a contract with City of Frankfort, KY.
Filed Date: 12/27/2005.
Accession Number: 20051229–0170.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–394–000.
Applicants: Kentucky Utilities Company.
Description: Kentucky Utilities Co. submits an amendment to a contract with the City of Paris, KY.
Filed Date: 12/27/2005.
Accession Number: 20051229–0171.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–395–000.
Applicants: Kentucky Utilities Company.
Description: Kentucky Utilities Co. submit an amendment to a contract with the City of Madisonville, KY.
Filed Date: 12/27/2005.
Accession Number: 20051229–0172.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–396–000.
Applicants: Entergy Services, Inc.
Description: Entergy Services, Inc. as agent for the Entergy Operating Companies submits a mutually-executed Sixth Revised Network Integration Transmission Service Agreement with East Texas Electric Coop, Inc *et al.*
Filed Date: 12/27/2005.
Accession Number: 20051229–0173.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–397–000.
Applicants: American Electric Power Service Corporation.
Description: American Electric Power Service Corp as agent for its affiliates Ohio Power Co. et al submit an Interconnection Agreement with West Penn Power & Monongahela Power Co.
Filed Date: 12/27/2005.
Accession Number: 20051229–0174.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–398–000; ER06–399–000.
Applicants: Duquesne Keystone, LLC; Duquesne Conemaugh, LLC.
Description: Application of Duquesne Keystone, LLC & Duquesne Conemaugh, LLC for order accepting initial market-based tariff and granting certain waivers and blanket approvals and notice of change in status.
Filed Date: 12/27/2005.
Accession Number: 20051229–0191.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–400–000.
Applicants: MidAmerican Energy Company.
Description: MidAmerican Energy Co. submits First Revised Sheet No. 13 et al to Third Revised FERC Rate Schedule No. 62, Electric Transmission Interconnection Agreement with Corn Belt Power Cooperative etc.
Filed Date: 12/27/2005.
Accession Number: 20051229–0192.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–401–000.
Applicants: Avista Corporation.
Description: Avista Corporation submits a non-conforming agreement under its Open Access Transmission Tariff, Original Volume No. 8 consisting of an Interconnection & Operating Agreement with Kootenia Electric Coop, Inc.
Filed Date: 12/27/2005.
Accession Number: 20051229–0064.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–402–000.
Applicants: Avista Corporation.
Description: Avista Corporation submits a non-conforming agreement under its Open Access Transmission Tariff, Original Volume No. 8 consisting of an Interconnection & Operating Agreement with Big Bend Electric Coop, Inc.
Filed Date: 12/27/2005.
Accession Number: 20051229–0065.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

Docket Numbers: ER06–403–000.
Applicants: Avista Corporation.
Description: Avista Corp submits a non-conforming agreement under its Open Access Transmission Tariff, Original Volume No. 8 & an interconnection & operating agreement with Public Utility District 1 of Asotin County etc.
Filed Date: 12/27/2005.
Accession Number: 20051229–0066.
Comment Date: 5 p.m. eastern time on Tuesday, January 17, 2006.

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. E6–497 Filed 1–18–06; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

January 11, 2006.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER04–268–002; ER98–4159–005; ER99–1293–004.
Applicants: Duquesne Power, L.P.; Duquesne Light Co.; Monmouth Energy, Inc.
Description: Notice of Change in Status re Duquesne LP, Duquesne Light Co, and Monmouth Energy Inc.
Filed Date: January 5, 2006.
Accession Number: 20060109–0099.
Comment Date: 5 p.m. Eastern Time on Thursday, January 26, 2006.

Docket Numbers: ER04–994–001; ER04–657–006; ER04–660–006; ER04–659–006.
Applicants: Boston Generating, LLC; Mystic I, LLC; Mystic Development, LLC; Fore River Development, LLC.
Description: Boston Generating et al. submits notification of non-material change in status related to market rate authority granted to the Applicants.
Filed Date: January 5, 2006.
Accession Number: 20060109–0097.
Comment Date: 5 p.m. Eastern Time on Thursday, January 26, 2006.

Docket Numbers: ER05–1472–002.
Applicants: Michigan Electric Transmission Co., LLC.
Description: Michigan Electric Transmission Co., LLC submits revisions to its Interconnection Facilities Agreement in compliance with Order December 7, 2005.
Filed Date: January 4, 2006.
Accession Number: 20060111–0019.
Comment Date: 5 p.m. Eastern Time on Wednesday, January 25, 2006.

Docket Numbers: ER05–406–000.
Applicants: Williams Power Company, Inc.
Description: Williams Power Co. Inc. et al. submits an Offer of Settlement establishing the terms and conditions for service under Reliability Must-Run Agreement with Williams and the CAISO.
Filed Date: January 6, 2006.
Accession Number: 20060110–0010.
Comment Date: 5 p.m. Eastern Time on Friday, January 27, 2006.

Docket Numbers: ER06–74–001.
Applicants: Commonwealth Edison Company.
Description: Commonwealth Edison Co submits a cancelled designation effective date of January 1, 2006 Rate Schedule No. 80.
Filed Date: January 5, 2006.
Accession Number: 20060109–0096.
Comment Date: 5 p.m. Eastern Time on Thursday, January 26, 2006.

Docket Numbers: ER06–200–002.
Applicants: Big Horn Wind Project LLC.
Description: Big Horn Wind Project LLC submits First Revised Tariff sheets to its FERC Electric Tariff, Original Volume No.1.
Filed Date: January 5, 2006.
Accession Number: 20060109–0098.
Comment Date: 5 p.m. Eastern Time on Thursday, January 26, 2006.

Docket Numbers: ER06–454–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp. submits this informational filing pursuant to a Stipulation and Agreement approval by the Commission on May 28, 1999.
Filed Date: January 5, 2006.
Accession Number: 20060109–0111.
Comment Date: 5 p.m. Eastern Time on Thursday, January 26, 2006.

Docket Numbers: ER06–455–000.
Applicants: Duquesne Power, LLC.
Description: Duquesne Power LLCP submits notice of succession to all rate schedules and supplements filed by Duquesne Power, L.P.
Filed Date: January 5, 2006.
Accession Number: 20060109–0103.
Comment Date: 5 p.m. Eastern Time on Thursday, January 26, 2006.

Docket Numbers: ER06–456–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits a report of the allocations of cost responsibility for certain transmission upgrades approved by the Board of Managers as part of their Regional Transmission Expansion Plan etc.
Filed Date: January 5, 2006.
Accession Number: 20060109–0041.
Comment Date: 5 p.m. Eastern Time on Thursday, January 26, 2006.

Docket Numbers: ER06–457–000.
Applicants: Ameren Services Company.
Description: Ameren Services Co. on behalf of Central Illinois Light Co. dba AmerenCILCO et al. submits an executed Transmission Interconnection Agreement with the City of Springfield, Illinois et al.
Filed Date: January 5, 2006.
Accession Number: 20060109–0104.
Comment Date: 5 p.m. Eastern Time on Thursday, January 26, 2006.

Docket Numbers: ER06–458–000.
Applicants: El Paso Electric Company.
Description: El Paso Electric Co. submits changes to the Pro Forma Standard Large Generator Interconnection Procedures and Large Generator Interconnection Agreement.
Filed Date: January 5, 2006.
Accession Number: 20060109–0105.
Comment Date: 5 p.m. Eastern Time on Thursday, January 26, 2006.

Docket Numbers: ER06–459–000.
Applicants: IPP Energy LLC.
Description: IPP Energy, LLC submits the amended application for an order accepting market based rate schedule, waiving regulations and granting blanket approvals.
Filed Date: January 4, 2006.
Accession Number: 20060111–0020.
Comment Date: 5 p.m. Eastern Time on Thursday, January 19, 2006.

Docket Numbers: ER06–460–000.
Applicants: Old Dominion Electric Cooperative.
Description: Old Dominion Electric Cooperative submits the application for providing cost-based reactive power and voltage control from generation sources service etc.
Filed Date: January 6, 2006.
Accession Number: 20060111–0024.
Comment Date: 5 p.m. Eastern Time on Friday, January 27, 2006.

Docket Numbers: ER94–1188–037; ER98–4540–006; ER99–1623–006; ER98–1279–008; EL05–99–001.
Applicants: LG&E Energy Marketing Inc.; Louisville Gas & Electric Company; Kentucky Utilities Company, Western Kentucky Energy Corporation; LG&E Energy Marketing Inc., et al.
Description: LG&E Energy Marketing, Inc et al. submits Second Revised Sheet No. 1 et al. to Rate Schedule FERC No. 1 in compliance with FERC's December 1, 2005 Order.
Filed Date: January 3, 2006.
Accession Number: 20060111–0018.
Comment Date: 5 p.m. Eastern Time on Tuesday, January 24, 2006.

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

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Magalie R. Salas,

Secretary.

[FR Doc. E6–558 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

January 11, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER05–1506–001.

Applicants: American Transmission Co., LLC; Midwest Independent Transmission System Operator, Inc.

Description: American Transmission Co., LLC et al submits Third Revised Sheet Nos. 1346 and 1346–A to FERC Electric Tariff, Third Revised Volume No. 1 in compliance with FERC's order dated December 20, 2005.

Filed Date: January 4, 2006.

Accession Number: 20060105–0146.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 25, 2006.

Docket Numbers: ER06–17–001.

Applicants: Participating Transmission Owners.

Description: Participating Transmission Owners correct error in October 7, 2005 filing proposing to modify ISO–NE's OATT.

Filed Date: January 4, 2006.

Accession Number: 20060105–0149.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 25, 2006.

Docket Numbers: ER06–120–001.

Applicants: Duke Energy Corporation.

Description: Duke Energy Corp.'s response to FERC's December 21, 2005 Data Request regarding the Catawba Nuclear Station Joint Ownership Support Agreement etc. with Piedmont Municipal Power Agency.

Filed Date: January 4, 2006.

Accession Number: 20060105–0067.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 25, 2006.

Docket Numbers: ER06–446–000.

Applicants: Connecticut Light & Power Company.

Description: Northeast Utilities Service Co. on behalf of Connecticut Light and Power Co. et al. submits a notice of termination to the Dispatchable System Power Sales Agreement with Sterling Municipal Light Department.

Filed Date: January 3, 2006.

Accession Number: 20060105–0132.

Comment Date: 5 p.m. Eastern Time on Tuesday, January 24, 2006.

Docket Numbers: ER06–447–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits an executed Amended & Restated Interconnection Agreement with SPP, Public Service Co. of Oklahoma & Western Farmer Electric Cooperative, designated Service Agreement No. 1160.

Filed Date: January 3, 2006.

Accession Number: 20060105–0133.

Comment Date: 5 p.m. Eastern Time on Tuesday, January 24, 2006.

Docket Numbers: ER06–448–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits unexecuted service agreement for Network Integration Transmission Service between SPP & Oklahoma Municipal Power Authority.

Filed Date: January 3, 2006.

Accession Number: 20060105–0106.

Comment Date: 5 p.m. Eastern Time on Tuesday, January 24, 2006.

Docket Numbers: ER06–449–000.

Applicants: Florida Power Corporation.

Description: Florida Power Corp. amends Exhibit A of the Revised Contract for Interchange Service w/ Orlando Utilities Commission.

Filed Date: January 3, 2006.

Accession Number: 20060105–0061.

Comment Date: 5 p.m. Eastern Time on Tuesday, January 24, 2006.

Docket Numbers: ER06–450–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits revisions to their Open Access Transmission & Energy Markets Tariff, FERC Electric Tariff, Third Revised Volume No. 1.

Filed Date: January 4, 2006.

Accession Number: 20060105–0150.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 25, 2006.

Docket Numbers: ER06–451–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits proposed changes to its Open Access Transmission Tariff to implement a real-time energy imbalance market.

Filed Date: January 4, 2006.

Accession Number: 20060105–0066.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 25, 2006.

Docket Numbers: ER06–452–000.

Applicants: East Central Area Reliability Council.

Description: East Central Area Reliability Council, on behalf of its members Allegheny Power et al. submits its Notice of Cancellation of its Inadvertent Settlement Tariff with a requested effective date of January 1, 2006.

Filed Date: January 4, 2006.

Accession Number: 20060109–0100.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 25, 2006.

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.

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Magalie R. Salas,

Secretary.

[FR Doc. E6–559 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2210–116]

Appalachian Power Company; Notice of Availability of Environmental Assessment

January 10, 2006.

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 prepared an Environmental Assessment (EA) for Appalachian Power Company's application requesting Commission approval of a non-project use of project lands and waters for the Smith Mountain Pumped Storage Project, FERC No. 2210. This project is located on the Roanoke River, in Bedford, Pittsylvania, Franklin, and Campbell Counties, Virginia.

The EA contains the staff's analysis of the potential environmental impacts of the proposal and concludes that approval of the proposal would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is attached to a Commission Order entitled ''Order Modifying and Approving Non-Project Use of Project Lands and Waters'' issued on January 5, 2006 (See 114 FERC ¶ 62,006) which is available for review at the Commission in the Public Reference Room, or it may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number (prefaced by P-) and excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free (866) 208–3676, or for TTY, contact (202) 502–8659.

For further information, contact Jon Cofrancesco at 202–502–8951.

Magalie R. Salas,

Secretary.

[FR Doc. E6–488 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent to Prepare a Supplemental Environmental Impact Statement for the Proposed Millennium Phase I Project, Columbia Line A–5 Replacement Project, Empire Connector Project, Algonquin Ramapo Expansion Project, and Iroquois Marketaccess Project and Request for Comments on Environmental Issues

January 10, 2006.

In the matter of: Millennium Pipeline Company L.P., Columbia Gas Transmission Corporation, Empire Pipeline, Inc., Algonquin Gas Transmission LLC, Iroquois Gas Transmission System, L.P., Docket Nos. CP98–150–006 and –007, CP05–19–000, CP06–5–000, PF06–5–000, PF06–6–000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare a supplemental environmental impact statement (SEIS) that discusses the environmental impacts of Millennium Pipeline L.P.'s (Millennium) proposed Millennium Phase I Project (Phase I Project) which involves design and route changes to the pipeline facilities previously approved as part of the Millennium Pipeline Project [1] and the related projects proposed by other pipeline companies. These related projects are: Columbia Gas Transmission Corporation's (Columbia) Line A–5 Replacement Project, Empire Pipeline, Inc.'s (Empire) Empire Connector Project, Algonquin Gas Transmission's (Algonquin) Ramapo Expansion Project, and Iroquois Gas Transmission System, L.P.'s MarketAccess Project. Together, these projects are referred to as the Northeast (NE)–07 Project.

The SEIS will incorporate by reference the analyses completed in the Final EIS for the Millennium Pipeline Project and the environmental assessment (EA) issued for the Brookfield Project. It will address the impacts of the facility modifications including route changes proposed by Millennium for the Phase I Project and Columbia for the Line A–5 Replacement Project and the new facilities proposed by Empire, Algonquin, and Iroquois.

This notice announces the opening of the scoping period that will be used to gather environmental information from the public and interested agencies on the NE–07 Project. Please note that the scoping period will close on February 10, 2006. Details on how to submit comments are provided in the Public Participation section of this notice.

This notice is being sent to potentially affected landowners along the NE–07 Project route and within a half mile of the new and modified compressor stations; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; and local libraries and newspapers.

With this notice, we [2] are asking Federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the SEIS. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies which would like to request cooperating status should follow the instructions for filing comments described later in this notice. We encourage government representatives to notify their constituents of this planned project and

[1] On September 19, 2002, the Commission issued an order approving construction of the Millennium Pipeline Project in Docket Nos. CP98–150 *et al.* On July 12, 2005, Millennium was granted approval of its request for an extension of time to file its implementation plan for the project and to complete construction since its amendment application was expected soon.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects.

encourage them to comment on their areas of concern.

Some affected landowners may be contacted by a project representative about the acquisition of an easement to construct, operate, and maintain the proposed pipeline. If so, the company should seek to negotiate a mutually acceptable agreement. In the event that the NE–07 Project is certificated by the Commission, that approval conveys the right of eminent domain for securing easements for the pipeline. Therefore, if easement negotiations fail to produce an agreement, the 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?'' 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*).

Background

In the Commission's September 19, 2002 Order, Millennium was authorized to construct and operate approximately 424 miles of pipeline (MPS 0 to 424) and related facilities, and to acquire certain pipeline facilities from Columbia in New York and Pennsylvania. These facilities (or the Authorized Pipeline) would be used to transport natural gas on an open-access basis from and interconnection with the pipeline facilities owned by TransCanada PipeLines Ltd at the United States-Canada border in Lake Erie to Mount Vernon, New York.

Millennium has indicated that based on market demand at this time it is now proposing its Phase I Project by which it would transport gas received from Empire via the proposed Empire Expansion Project at an interconnection in Corning, New York, and from other pipelines. It would transport gas for and deliver gas to existing Columbia and new Millennium transportation customers between this point and the Phase I Project terminus at the Ramapo M&R Station where it would interconnect with Algonquin's facilities. Algonquin would need to construct the proposed facilities to accommodate transportation downstream of the Ramapo M&R Station. Similarly, Iroquois would need to construct its proposed facilities to provide transportation downstream from an interconnection with Algonquin's facilities in Brookfield, Connecticut. Maps illustrating the proposed construction are in appendix 1.[3]

Proposed NE–07 Project Facilities

Millennium's amendment applications would involve construction of Phase I facilities consisting of about 181.7 miles of 30-inch-diameter pipeline between milepost (MP) 190.6 to 376.6 in Steuben, Chemung, Tioga, Broome, Delaware, Sullivan, Orange, and Rockland Counties, New York. This is in lieu of the originally approved project involving the construction of 373.4 miles of 36-inch-diameter pipeline from the United States-Canada border in Lake Erie to the Ramapo Metering and Regulating (M&R) Station in Rockland County, New York; and about 50.6 miles of 24-inch-diameter pipeline from the Ramapo M&R Station to the pipeline terminus in Mount Vernon, New York. Millennium would also construct about 15,002 horsepower (hp) of compressor facilities next to Columbia's existing Corning Compressor Station (CS) within Columbia's property in Steuben County, New York. The Phase I Project would have a maximum allowable operating pressure (MAOP) of 1,200 pounds per square inch gauge (psig) rather than 1,440 psig of the original project. It would allow for the transportation and delivery of about 525,400 decatherms per day (Dth/d) of gas as opposed to the 714,000 Dth/d for the original project. The Phase I Project would include several route variations which Millennium proposes to use as the final route (these are identified below).

Columbia's Line A–5 Replacement Project[4] would consist of about 8.8 miles of 30-inch-diameter pipeline replacing 8- and 16-inch-diameter pipeline, modifications to three existing M&R stations, and related facilities all in Orange and Rockland Counties, New York. The pipeline replacement would occur between Columbia's Tuxedo/Central Hudson and Ramapo M&R Stations. These two M&R stations would be modified, as would a third, the Sloatsburg M&R Station, to accommodate the larger diameter pipeline. The Ramapo M&R Station would also be modified to allow bi-directional flow.

Empire's Empire Connector Project[5] would consist of about 80 miles of 24-inch-diameter pipeline extending from its existing pipeline in Victor, New York, to an interconnection with the Millennium Pipeline near Corning, New York; and about 22,000 hp of compression at a new compressor station on Empire's exiting pipeline in Oakfield, New York.

Algonquin's Ramapo Expansion Project would consist of:

- Construction of about 4.8 miles of 42-inch-diameter pipeline replacing a segment of an existing 26-inch-diameter pipeline;
- Relocation of two mainline valves along the replaced pipeline;
- Modification of the crossover piping on-shore and west of Algonquin's Hudson River crossing in Rockland County, New York;
- Modification of facilities at the existing M&R 202, in Rockland County, New York;
- Installation of compressor modifications and upgrades to add about 8,400 hp of compression at the existing Stony Point CS in Rockland County, New York;
- Adding about 7,700 hp of compression and related facilities and buildings at the Hanover CS in Morris County, New Jersey;
- Adding about 18,010 hp of compression and related facilities and buildings at the existing Southeast CS in Putnam County, New York;
- Constructing a new M&R station in Brookfield, Fairfield County, Connecticut, at the existing Iroquois meter site (M&R #251); and
- Constructing the new Oxford CS which would have about 37,700 hp of compression and related facilities in the Town of Oxford, New Haven County, Connecticut.

Algonquin's 42-inch-diameter pipeline would have a MAOP of 850 psig.

Iroquois' MarketAccess Project would consist of construction of the Brookfield CS in Brookfield, Fairfield County, Connecticut, which was approved by the Commission in Docket No. CP02–31–000.[6] This facility would be at MP

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Internet Web site (*http://www.ferc.gov*) at the ''eLibrary'' link or from the Commission's Public Reference and Files Maintenance Branch at 1–202–502–8371. For instructions on connecting to eLibrary refer to the Additional Information section of this notice.

[4] A Notice of Intent (NOI) to Prepare an Environmental Assessment and Request for comments on Environmental Issues for the Line A–5 Replacement Project was issued on December 6, 2004. On April 7, 2005, Columbia was informed that this project would be considered with the amendment to the Millennium Pipeline Project and Empire's project that were to be filed soon.

[5] An NOI for the Empire Connector Project was issued on October 4, 2004.

[6] On October 21, 2002, the Commission approved the construction of the Brookfield Project which included the construction of the Brookfield CS. On November 3, 2005, Iroquois received a letter approving its request for an extension of time to construct the facilities authorized in this docket to coincide with the analysis of the applications of Millennium *et al.*

308.83 on Iroquois' mainline system. That project involved the construction of a 10,000 hp compressor station. Iroquois would be amending that certificate to allow for the modification of some of the compressor facilities and would also propose the addition of gas cooling facilities at its existing Dover CS in Duchess County, New York, at MP 283.11 of Iroquois mainline system.

The Ramapo Expansion Project and the MarketAccess Project are currently in the preliminary stages of design and at this time a formal application has not been filed with the Commission. For these projects, the Commission is initiating the National Environmental Policy Act (NEPA) review prior to receiving the formal application. This allows interested stakeholders to become involved early in the project planning and to identify and resolve issues before a formal application is filed with the FERC. Docket numbers (PF06–5–000 and PF06–6–000) have been established to place information filed by Algonquin and Iroquois and related documents issued or received by the Commission, into the public record.[7] Once formal applications are filed with the FERC, new docket numbers will be established.

Non-Jurisdictional Facilities

Millennium states that Orange and Rockland Utilities (O&R) would modify its distribution system near Line A–5 to insure that it has maximum flexibility to continue to receive gas from Line A–5 during the construction period. None of these modifications would connect directly the Millennium's facilities. O&R's modifications would be constructed under the jurisdiction of the New York State Public Service Commission (NYSPSC).

Land Requirements for Construction

Construction of the NE–07 Project would require both pipeline and aboveground construction. Land requirements for each applicant's project are provided separately.

Phase I Project

Typically, Millennium would use a nominal 75-foot-wide construction right-of-way and would require a 50-foot-wide permanent right-of-way centered over the pipeline. The construction right-of-way width would increase to 100 feet in agricultural areas and areas of rugged terrain; additional temporary workspaces may also be required on a site-specific basis.

Between MPs 285.6 and 376.4, Millennium would install the new pipeline within the existing pipeline trench by the lift and lay method of construction (except in those areas where variations away from the existing right-of-way are proposed). Pipeline in other areas would be installed within either new right-of-way or adjacent to or overlapping existing pipeline or powerline rights-of-way.

Pursuant to environmental condition 45 of the September 19, 2002 Order, Millennium was required to work with New York State Electric and Gas (NYSEG) on the pipeline route along and within the existing NYSEG powerline right-of-way between MPs 232.2 and 243.5. This consultation has resulted in Millennium proposing pipeline realignments at three locations some of which are outside the required area of condition 45. These variations are: the NYSEG Chemung Variation between MPs 198.0 and 203.6, the NYSEG Tioga-Broome Variation between MPs 232.2 and 245.0, and the NYSEG Delaware Variation between MPS 284.4 and 284.9. The three variations are referred to collectively as the NYSEG Route Variation. It is proposed to maintain NYSEG's buffer distance (typically about 55 feet minimum) from the electric facilities. The variation moves the pipeline from the center of the powerline right-of-way and between the power poles to either the north or south side of the right-of-way as determined by terrain, environmental features, or landowner needs. The NYSEG Route Variation would require about 221.7 acres for construction and about 120.9 acres for operation.

Millennium now proposes to use a 7.1-mile-long segment of the existing Line A–5 Pipeline between MPs 340.5 and 347.7 rather than constructing across the Neversink River (MP 341.0). The Neversink River has federally endangered dwarf wedge mussel populations. This segment of the Line A–5 Pipeline is 24 inches in diameter except for a 1,278-foot-long segment at and near the Interstate 84 crossing where it is 10 inches in diameter. Other than the change in pipeline diameter, no other construction would be required within this 7.1-mile-long segment. Construction of this segment of 24-inch-diameter pipeline would require about 2.2 acres for construction assuming a nominal 75-foot-wide right-of-way and about 1.5 acres for operation. This change would reduce total project construction land requirements by about 65.2 acres compared to the original Millennium Pipeline Project.

The Warwick Isle Route Variation would be in the Town of Warwick between MPs 350.8 and 351.6. It is proposed due to a new housing development that was constructed since Millennium's certificate was issued. Warwick Isle Route Variation would avoid the development. It would require about 11.6 acres for construction and about 7.3 acres for operation.

The proposed compressor station would be constructed within the existing 60-acre Columbia Corning CS property. About 6.5 acres would be required permanently for the aboveground facility. An additional 6.0 acres would be required as temporary workspace for construction.

The estimated total construction right-of-way requirement for the Phase I Project is 2,169.9 acres. This total includes 242 acres for construction of the described new compressor station and the route variations. About 1,079.6 acres would be used as temporary workspace including about 138.9 acres for storage yards. The permanent right-of-way would require about 1,132.3 acres which includes about 135.7 acres of permanent requirement for the compressor station and the permanent right-of-way along the proposed route variations.

Line A–5 Replacement Project

Columbia's Line A–5 Replacement Project would require about 139.8 acres for construction based on a nominal 75-foot-wide construction right-of-way and including all temporary workspaces and staging areas. About 54.3 acres would be required for the 50-foot-wide permanent right-of-way. Most of the pipeline would be installed by the lift and lay method except in locations where the pipeline route would deviate from the Line A–5 right-of-way. Proposed facilities at the M&R stations would be installed within the existing facilities, but about 1.1 acres may be affected during construction at each location.

Empire Connector Project

Typically, pipeline construction would occur within a nominal 75-foot-wide right-of-way. The width of the construction right-of-way would increase to 100 feet in agricultural areas where segregated topsoil would be stored and in areas with rugged terrain which would require additional right-of-way width for tiered construction or for extra workspace for spoil storage or safety. Additional temporary workspaces may be required on a site-specific basis.

Pipeline construction would require about 841.5 acres of which about 473.3 acres would be included in the

[7] To view information in the dockets, follow the instructions for using the eLibrary link at the end of this notice.

permanent right-of-way after construction. About 17.8 acres would be required for construction and operation of the proposed compressor station.

Ramapo Expansion Project

Algonquin's Ramapo Expansion Project would require a total of about 60.5 acres for pipeline construction. About 44.8 acres would be within Algonquin's existing permanent right-of-way. No new permanent right-of-way would be required for construction of the pipeline.

Construction of the compressor station additions would be within property owned by Algonquin. Work at the Hanover CS would require about 16.8 acres of temporary workspace and about 13.8 acres would be affected permanently. At the Stony Point CS, about 12.8 acres would be required for temporary workspace and about 15.6 acres would be required permanently. About 14.2 acres would be required temporarily and 9.9 acres would be required permanently at the Southeast CS. The new Oxford CS would require about 17.8 acres of temporary workspace and about 12.0 acres permanently. Temporary and permanent workspace would be required at M&R Station 202 and the new Brookfield M&R Station, but this information is being developed at this time. The work on the crossover piping on the west side of Algonquin's Hudson River crossing would have about 0.55 acre of both temporary and permanent requirements.

Market Access Project

The total land requirement for Iroquois' Market Access Project would be about 10.0 acres. The permanent land requirement at the Brookfield CS would be about 6.2 acres and an additional 1.1 acres would be required as temporary workspace. Construction of the cooler facilities at the Dover CS would require about 1.7 acres permanently and about 1.0 acres temporarily.

The EIS Process

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 under section 7 of the Natural Gas Act. 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 SEIS 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 EIS. All comments received are considered during the preparation of the SEIS. By this notice, we are also asking Federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the SEIS. Agencies that would like to request cooperating status should follow the instructions for filing comments below.

In the SEIS we will discuss impacts that could occur as a result of the construction and operation of the proposed Project under these general headings:

- Geology and soils.
- Land use.
- Water resources, fisheries, and wetlands.
- Cultural resources.
- Vegetation and wildlife.
- Air quality and noise.
- Endangered and threatened species.
- Hazardous waste.
- Public safety.

We will also evaluate possible alternatives to the proposed NE–07 Project or portions of the NE–07 Project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues is included in the SEIS. Depending on the comments received during the scoping process, the SEIS would be published and mailed to Federal, state, and local agencies, Native American tribes, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period would be allotted for review of the SEIS. All comments received on the SEIS would be considered before we make our recommendations to the Commission. The SEIS is used by the Commission in its decision-making process to determine whether the NE–07 Project is in the public convenience and necessity.

To ensure your comments are considered, please carefully follow the instructions in the public participation section described later in this notice.

Currently Identified Environmental Issues

We have identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by the applicants. This preliminary list of issues may be changed based on your comments and our analysis.

- Water Resources.

—Impact on water quality.
—Impact on wetlands.

- Endangered and Threatened Species.

—Impact on Indiana bats.
—Impact on bog turtles.

- Impacts on soils.

—Restoration of soils in agricultural areas.
—Soil compaction.

- Impacts on recreational areas.

—State and local parklands.
—Trail crossings.
—Harriman (Millennium, Columbia and Algonquin) and Sterling Forest® State Parks (Millennium and Columbia).
—Private recreation areas (golf courses, hunting clubs, etc.).

- Reliability and Safety.

—Assessment of hazards associated with natural gas pipelines.
—Assessment of hazards associated with compressor stations.

- Air Quality and Noise.

—Temporary impacts from construction of the pipeline on residences.
—Impacts of operation of the new compressor stations and compressor station additions.

- Alternatives.

—Laurel Ridge route variation for Columbia's Line A–5 Replacement Project.
—Modifications to the proposed route variations for Millennium's Phase I Project.
—Alternative locations for Algonquin's proposed new Oxford CS.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the NE–07 Project. By becoming a commentor, your concerns may be addressed in the SEIS and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they may 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 the docket number of the project about which you are commenting on the original and both

copies. For these projects, please reference:

Phase I Project—CP98–150–006 and –007

Line A–5 Replacement Project—CP05–19–000

Empire Connector Project—CP05–6–000

Ramapo Expansion Project—PF06–5–000

MarketAccess Project—PF06–6–000

• Mail your comments so that they will be received in Washington, DC on or before February 10, 2006.

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 open a free account which can be created on-line.

Becoming an Intervenor

In addition to involvement in the SEIS scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. However, there is no procedure for parties to become interveners during the pre-filing process. You may request intervener status after Algonquin and Iroquois file their formal certificate applications with the Commission and are assigned ''CP'' docket numbers.

Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, see Appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

If you do not want to send comments at this time, but still want to remain on our mailing list, please return the attached Mailing List Retention Form (Appendix 3). If you do not return the form, you will be taken off the mailing list.

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet website (*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 1–202–502–8659. 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. E6–486 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–33–002]

Wyckoff Gas Storage Company, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Amended Wyckoff Gas Storage Project and Request for Comments on Environmental Issues

January 10, 2006.

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 Amended Wyckoff Gas Storage Project involving construction and operation of facilities by Wyckoff Gas Storage Company, LLC (Wyckoff) in Steuben County, New York.[1] The FERC Staff issued a notice of intent to prepare an EA on the original Wyckoff Gas Storage Project on February 10, 2003. The EA was issued for public comment on August 26, 2003. The certificate order was issued on October 6, 2003.

The amended project requests authorization to: (1) Relocate certain of the approved facilities at its certificated storage field; (2) downsize certain of the approved facilities; (3) permit phasing of the construction of certain of the approved facilities; and (4) confirm the previously approved maximum reservoir pressure for the field. This EA will be used by the Commission in its decision-making process to determine whether the amended 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 Wyckoff provided to landowners. This fact sheet addresses a number of

[1] Wyckoff's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

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 website (*www.ferc.gov*).

Summary of the Proposed Project

Wyckoff's current authorization is to construct and operate a natural gas storage facility in two nearly depleted reservoirs in Steuben County, New York, capable of storing up to 6 billion cubic feet of natural gas (CP03–33–000). Wyckoff is asking for authorization to:

1. Relocate the compressor station about 900 feet to the southern end of the Wyckoff parcel.
2. Construct 1.2 miles of 6-inch-diameter lateral called the Chase Lateral; 0.5 mile of 6-inch-diameter lateral called the Banks Lateral; and 0.7 mile 8-inch-diameter lateral called the Banks/Cornell Lateral.
3. Install two 2,370 horsepower (hp) units for a total of 4,740 hp and one dehydration unit, instead of two 4,735 hp compressor units and two dehydration units. Wyckoff intends to install the remaining 4,735 hp of approved compression and the additional dehydration unit within a few years.
4. Defer the construction of the 7.7-mile southern pipeline to Dominion Transmission, Inc. (Dominion) Interconnect for three years. Wyckoff would assume ownership of National Fuel Gas Supply Corporation's (National Fuel) Line Z–67 being abandoned by National Fuel, and would continue Line Z–67 in operation for transporting gas between the storage field and National Fuel's system.
5. Directionally drill six new injection/withdrawal wells rather than vertically drilling each well.
6. Reduce the diameter of the 3.6-mile northern pipeline, the 0.07 mile of pipeline interconnection with Tennessee Gas Pipe Line Company, and the 0.15 mile of pipeline interconnection with Columbia Gas Transmission Corporation from 20-inch-diameter to 16-inch-diameter.
7. Phase facilities: Phase I would include 3 existing wells to be converted to injection/withdrawal wells, the six new injection/withdrawal wells and the observation wells, the associated lateral piping, the initial 4,740 hp of compression, the single dehydration unit and the 3.6-mile northern 16 inch-diameter pipeline.
8. Phase II would consist of the additional 4,735 hp compression, the additional dehydration unit, and the southern pipeline consisting of 7.7 miles of 20-inch-diameter southern pipeline to the point of interconnection with pipeline facilities operated by Dominion.

Wyckoff would also like confirmation that the authorized maximum reservoir pressure of 1,790 pounds per square inch is the maximum authorized wellhead pressure for the Wyckoff facility as stated in the Commission's October 6, 2003 Order.

There are no nonjurisdictional facilities identified for the project.

The location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction affecting the amended facilities that include the well laterals, injection withdrawal wells, and compressor station would require about 21.1 acres of land. Following construction, about 13.6 acres would be maintained as new permanent right-of-way and aboveground facility sites. The remaining 7.5 acres of land would be restored and allowed to revert to its former use.

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:

- Soils
- Land use
- Water resources, fisheries, and wetlands
- Cultural resources
- Vegetation and wildlife
- Air quality and noise
- Endangered and threatened species

We will not discuss impacts to the following resource areas since they are not changed from the original application or would not be affected by the proposed facilities.

- Geology
- Hazardous waste
- Public safety

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 Wyckoff. This preliminary list of issues may be changed based on your comments and our analysis.

- The compressor station would be moved about 900 feet south of the original location. Two nearby residences and one church would be impacted by noise from the new compressor station (the same impacted by the original project).
- About 1.7 miles of new 6-inch-diameter lateral pipeline and about 0.6 mile of 8-inch-diameter pipeline would be constructed.
- Eight intermittent streams would be crossed by the new laterals.
- Seven wetlands would be affected by the amended lateral pipeline changes affecting about 0.7 acre.

[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 website at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

• Minor route changes have been proposed for the northern pipeline route between about milepost (MP) 1.19 and MP 1.58 and along the southern pipeline route.

• Endangered species may be affected by the project's modifications.

• The land use impacts would be changed by the amended facilities.

• New York Department of Agriculture and Markets has commented that topsoil stripping and stockpiling problems in early spring through the spring thaw would destroy the topsoil and hamper effective sediment and runoff controls.

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/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. CP03–33–002.

• Mail your comments so that they will be received in Washington, DC on or before February 9, 2006.

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.

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.

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 *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. E6–495 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Soliciting Comments, Motions To Intervene, and Protests

January 11, 2006.

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:* 2165–023.

c. *Date Filed:* December 6, 2005.

d. *Applicant:* Alabama Power Company (APC).

e. *Name of Project:* John H. Bankhead.

f. *Location:* The project is located on Sipsey Fork and the Black Warrior River in Cullman County, Alabama. The project does not occupy any Federal or tribal lands. The proposed non-project use would be located on Smith Lake near Cullman County, Alabama.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Keith Bryant, Senior Engineer, APC Hydro Services,

600 18th Street North, Birmingham, AL 35203. Phone: (205) 257–1000.

i. *FERC Contact:* Gina Krump, *gina.krump@ferc.gov*, 202–502–6704.

j. *Deadline for filing comments and or motions:* February 13, 2006.

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 Web site under the ''e-Filing'' link. Please reference ''John H. Bankhead Project, FERC Project No. 2165–023'' on any comments or motions filed.

k. *Description of the Application:* APC requests Commission approval to permit Crane Hill Development, LLC to construct two docks each with 20 floating boat slips and a 70-foot-long walkway to connect the boat slips to the shore. The proposed structures would be for private-use of owners of Windmere Lakeside Garden Homes being constructed on adjoining non-project lands. The proposed structures would be constructed of galvanized steel and wood or aluminum, with encapsulated flotation. The licensee is not proposing any boat launching, fueling, sewage pump-out (or other shoreline development activities), and is not proposing any dredging.

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, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. 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.

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. E6–553 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Apllication for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

January 11, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands and waters.

b. *Project Number:* P–271–085.

c. *Date Filed:* December 13, 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)–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) 844–2197.

i. *FERC Contact:* Any questions on this notice should be addressed to Lorance Yates at (770) 452–3784, or by e-mail: *lorance.yates@ferc.gov.*

j. *Deadline for filing comments and or motions:* February 13, 2006.

k. *Description of the Application:* The project licensee requests Commission authorization to permit Mr. James Halsey of El Dorado, Arkansas to install a 22-boatslip multi-family dock complex with associated boardwalks to be built on piling on Lake Hamilton. The dock facilities would be used by residents in a new multi-family housing development known as Grand Pointe View Condominiums.

l. *Location of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* or for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must

be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers (P–271–085). All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–554 Filed 1–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Notice

January 12, 2006.

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: January 12, 2006; 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, Telephone (202) 502–8400.

For a recorded listing item stricken from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

898TH MEETING

[Regular Meeting January 19, 2005; 10 a.m.]

Item No.	Docket No.	Company
Administrative Agenda		
A–1	AD02–1–000	Agency Administrative Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD06–3–000	Energy Market Update.
Markets, Tariffs, and Rates—Electric		
E–1	Omitted.	
E–2	RM06–8–000	Long-Term Firm Transmission Rights in Organized Electricity Markets.
	AD05–7–000	Long-Term Transmission Rights in Markets Operated by Regional Transmission Organizations and Independent System Operators.
E–3	RM06–10–000	New PURPA Section 210(m) Regulations Applicable to Small Power Production and Cogeneration Facilities.
E–4	Omitted.	
E–5	ER06–18–000	Midwest Independent Transmission System Operator, Inc.
E–6	Omitted.	
E–7	ER02–1884–002	Waterside Power, L.L.C.
E–8	TX05–1–000	East Kentucky Power Cooperative, Inc.
	TX05–1–001.	
	TX05–1–002.	
	TX05–1–003.	
	TX05–1–004.	
	TX05–1–005.	
E–9	Omitted.	
E–10	Omitted.	
E–11	Omitted.	
E–12	EC05–58–001	Mirant Corporation and Its Public Utility Subsidiaries.
E–13	Omitted.	
Markets, Tariffs, and Rates—Miscellaneous		
M–1	RM06–3–000	Prohibition of Energy Market Manipulation.
Markets, Tariffs, and Rates—Gas		
G–1	PL02–6–001	Natural Gas Pipeline Negotiated Rate Policies and Practices.
G–2	OR05–7–000	Sunoco Pipeline L.P.
G–3	TS06–3–000	Pine Prairie Energy Center, LLC.
	TS05–14–000	Gulf South Pipeline Company, LP.

898TH MEETING—Continued

[Regular Meeting January 19, 2005; 10 a.m.]

Item No.	Docket No.	Company
	TS05–8–000	SG Resources Mississippi, LLC.
Energy Projects—Hydro		
H–1	P–2082–039	PacifiCorp.
	P–2082–040.	
H–2	EL06–41–000	Tribal Comprehensive Plans and Federal Power Act Section 10(a)(2)(A).
H–3	P–5044–010	Avondale Mills, Inc.
	P–2935–017	Enterprise Mills, LLC.
H–4	P–459–141	Union Electric Company d/b/a Ameren UE.
H–5	P–11301–013	Fall Line Hydro Company, Inc.
Energy Projects—Certificates		
C–1	CP04–36–001	Weaver's Cove Energy, LLC.
	CP04–41–001	Mill River Pipeline, LLC.
	CP04–42–001.	
	CP04–43–001.	
C–2	CP04–223–001	KeySpan LNG, L.P.
	CP04–293–001.	
	CP04–358–001	Algonquin Gas Transmission, LLC.
C–3	CP05–418–000	Tennessee Gas Pipeline Company.
C–4	CP05–76–001	Dominion South Pipeline Company, LP.
	CP05–77–002.	
	CP05–78–001.	

A free Webcast of this event is available through *http://www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *http://www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its Webcast. The Capitol Connection provides technical support for the free Webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in Hearing Room 2. Members of the public may view this briefing in the Commission Meeting overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

Magalie R. Salas,

Secretary.

[FR Doc. 06–514 Filed 1–13–06; 5:13 pm]

BILLING CODE 6717–01–P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Farm Credit Insurance Corporation Board; Regular Meeting

SUMMARY: Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

Date and Time: The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on January 19, 2006, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit System Insurance Corporation Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- December 8, 2005 (Regular Meeting).

B. New Business

- Premium Rates for 2006.

Dated: January 12, 2006.

Roland E. Smith,

Secretary, Farm Credit System Insurance Corporation Board.

[FR Doc. E6–541 Filed 1–18–06; 8:45 am]

BILLING CODE 6710–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

January 11, 2006.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of

information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (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 the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before February 21, 2006. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov*. If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC PRA web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1014.

Title: Ku-Band NGSO FSS.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1.

Estimated Time Per Response: 1 hour.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 1 hour.

Total Annual Cost: $2,235.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The Commission is submitting this information collection to OMB as a revision in order to obtain the full three-year clearance from them. The Commission has revised this information collection because it eliminated the milestone certification and software demonstrations that the systems meet power flux density limits. The only information collection requirement remaining in this submission is the annual report. Once applicants are licensed, they will be required to file annual reports on the status of their space station construction and launch.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 06–479 Filed 1–18–06; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting Friday, January 20, 2006

January 13, 2006.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Friday, January 20, 2006, which is scheduled to commence at in Room TW–C305, at 445 12th Street, SW., Washington, DC. The Meeting will focus on presentations by senior agency officials regarding implementations of the agency's strategic plan and a comprehensive review of FCC policies and procedures.

Presentations will be made in four panels:

Panel One will feature the Chief of the Office of Strategic Planning and Policy Analysis and the Managing Director.

Panel Two will feature the Chiefs of the Wireless Telecommunications Bureau, the Office of Engineering and Technology and the International Bureau.

Panel Three will feature the Chief of the Consumer & Governmental Affairs Bureau, the Director of the Office of Workplace Diversity and the Chief of the Enforcement Bureau.

Panel Four will feature the Chief of the Media Bureau, the General Counsel and the Chief of the Wireline Competition Bureau.

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC's Audio/Video Events Web page at *www.fcc.gov/realaudio.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.com.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 06–536 Filed 1–17–06; 2:13 pm]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements 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.: 011930.

Title: Crowley Liner Services-FTD Shipping Lines Space Charter and Sailing Agreement.

Parties: Crowley Liner Services and Nina (Bermuda) Ltd., d/b/a FTD Shipping Lines.

Filing Party: Michael G. Roberts, Esq.; Venable LLP; 575 7th Street, NW.; Washington, DC 20004.

Synopsis: The agreement authorizes FTD Shipping to charter space to Crowley in the trade between U.S. Atlantic and Gulf Coast ports and ports in the Dominican Republic.

Agreement No.: 011931.

Title: CMA CGM/CP Ships/Marfret Vessel Sharing Agreement.

Parties: CMA CGM, S.A./CMA CGM (UK) Limited; CP Ships (UK) Limited; Compagnie Maritime Marfret S.A.; and Hapag-Lloyd Container Linie GmbH.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The agreement authorizes the parties to operate and share space on a service between ports on the U.S. Atlantic Coast and ports in North Europe, the South Pacific Islands, Australia, and New Zealand. The parties request expedited review.

By order of the Federal Maritime Commission.

Dated: January 13, 2006.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E6–567 Filed 1–18–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 008790N.
Name: A.S.A.P. Transport Ltd.
Address: 2414 Morris Avenue, Union, NJ 07083.
Date Revoked: January 5, 2006.
Reason: Failed to maintain a valid bond.

License Number: 002525F.
Name: Export Services, Incorporated.
Address: 7101 North Green Bay Avenue, Glendale, WI 53209–2800.
Date Revoked: January 10, 2006.
Reason: Surrendered license voluntarily.

License Number: 019286NF.
Name: Frontline Sourcing, Inc.
Address: 1053–B Willingham Drive, Atlanta, GA 30344.
Date Revoked: December 28, 2005.
Reason: Surrendered license voluntarily.

License Number: 017090N.
Name: Inter-Connect Transportation, Inc.
Address: 8901 S. La Cienega Blvd., #203, Inglewood, CA 90301.
Date Revoked: December 30, 2005.
Reason: Failed to maintain a valid bond.

License Number: 001675F.
Name: Monti Forwarding Corp.
Address: 925 Bergen Street, Brooklyn, NY 11238.
Date Revoked: October 1, 2005.
Reason: Failed to maintain a valid bond.

License Number: 013725N.
Name: Pan Ocean Line, Inc.
Address: 245 E. Main Street, #110, Alhambra, CA 91801.
Date Revoked: January 7, 2006.
Reason: Failed to maintain a valid bond.

License Number: 006151N.
Name: Sirva Container Lines, Inc.
Address: 5001 U.S. Highway 30 West, Ft. Wayne, IN 46818.
Date Revoked: November 1, 2005.
Reason: Surrendered license voluntarily.

License Number: 009755N.
Name: Topman Express (USA), Inc.
Address: 4425 Atlantic Avenue, Suite A–14, Long Beach, CA 90807.
Date Revoked: January 5, 2006.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.

[FR Doc. E6–565 Filed 1–18–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
017080N	General Cargo & Logistics, 19113 S. Hamilton Avenue, Gardena, CA 90248	November 7, 2005.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.

[FR Doc. E6–564 Filed 1–18–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

Khan Trans Inc., 1550 E. Higgins Road, #115, Elk Grove Village, IL 60007. Officer: Jin Hyung Cho, President (Qualifying Individual).

NY International Shipping Inc., 227 East 81 Street, New York, NY 10028. Officer: David Mazafi, President (Qualifying Individual).

Evox Logistics, Inc., 700 El Tesorito, South Pasadena, CA 91030. Officers: Chi Man Leung, CEO (Qualifying Individual), Yuen Yi Leung, Secretary.

US Pacific Transport, Inc., 126 Common Wealth Avenue, Massapequa, NY 11758. Officers: Chi Ming Szeto, Vice President (Qualifying Individual), Ada Lai Yin Tam, President.

Echo Global Logistics LLC, 600 West Chicago Avenue, Chicago, IL 60610. Officer: Jan Carl Steiner, Director (Qualifying Individual).

Alpine Freight Services, Inc., 4 Winchester, Irvine, CA 92620. Officers: Chihhao Chang, President (Qualifying Individual), Shia Shung Shih, Secretary.

TT Ocean Logistics, LLC, 1725 Duke Street, Suite 240, Arlington, VA 22314. Officers: Collin Anday, Director (Qualifying Individual), Michael Scotch, Manager.

Air Sea Cargo Logistic LLC, 10 Molteg Drive, Parlin, NJ 08859. Officers: Satish K. Sharma, Manager, (Qualifying Individual), Sushma K. Sharma, President.

Cargo Net International, LLC, 2801 NW. 74th Avenue, Suite 218, Miami, FL 33122. Officers: Eric E. Diaz, Managing Director (Qualifying Individual), German E. Muchico, Manager.

Direct Overseas Transport, Inc., 7916 Kern Lane, Fort Worth, TX 76137. Officers: Jason Hays, President (Qualifying Individual), Daphne Hays, Vice President.

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Move Management, Inc. dba MMI Ocean Services, 16346 East Airport Circle, Aurora, CO 80011. Officers: William H. Graebel, President (Qualifying

Individual), Benjamin Graebel, Vice Chairman.

Oriental Logistics Miami, Inc., 7200 NW 19th Street, Suite 302, Miami, FL 33126. Officers: Anly Liu, Vice President (Qualifying Individual), Samuel Wong, President.

St. John Freight Systems, Inc., #404, 190 Middlesex Essex Turnpike, Iselin, NJ 08830. Officers: Kenneth Carr, Secretary (Qualifying Individual), Chandramouleesware Jagadeeswari, President.

TMO Global Logistics, LLC, 600 Peter Jefferson Parkway, Suite 310, Charlottesville, VA 22911. Officer: Mia Josephine Aguilar, Manager (Qualifying Individual).

Global International Shipping Inc. dba G.I.S., 125 S. Elm Street, Suite 202, Greensboro, NC 27401. Officers: Ziad H. Najjar, President, Huthaifa Al-adwan, Partner (Qualifying Individuals).

Shipex LLC, 3341 Rauch Street, Houston, TX 77029. Officers: Mohamed F. El-Khodiry, C.O.O. (Qualifying Individual), Sari Ghazal, Member.

KPAC Aerocean, Inc. dba Aerocean Transport Services, 550 E. Carson Plaza Drive, Suite 109, Carson, CA 90746. Officer: Young Ho Kang, President (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

West Coast Forwarding, Inc., 1028 North Lake Avenue, Suite 202, Pasadena, CA 91104. Officers: David O'Donnell, President (Qualifying Individual), Aimee Saye, Vice President.

RG Logistics Ltd., 111 Madison Avenue, Hempstead, NY 11550. Officer: Roy Ghirdarry, President (Qualifying Individual).

Dated: January 13, 2006.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E6–566 Filed 1–18–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *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 February 13, 2006.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. BB&T Corporation, Winston Salem, North Carolina; to acquire 100 percent of the voting shares of Main Street Banks, Inc., Atlanta, Georgia, and thereby indirectly acquire Main Street Bank, Covington, Georgia. In connection with this application, applicant also proposes to engage in data processing activities, pursuant to Section 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, January 13, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–571 Filed 1–18–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a meeting. The meeting is open to the public.

DATES: The meeting will be held on February 7, 2006, from 9 a.m. to 5 p.m., and on February 8, 2006, from 9 a.m. to 1 p.m.

ADDRESSES: Department of Health and Human Services; Hubert H. Humphrey Building, Room 800; 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Ms. Emma English, Program Analyst, National Vaccine Program Office, Department of Health and Human Services, Room 443–H Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; (202) 690–5566, *nvac@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 2101 of the Public Service Act (42 U.S.C. 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The National Vaccine Advisory Committee was established to provide advice and make recommendations to the Assistant Secretary for Health, as the Director of the National Vaccine Program, on matters related to the program's responsibilities.

Topics to be discussed at the meeting include the 2006–2007 influenza season, state pandemic influenza preparedness, poliomyelitis outbreaks in Minnesota, and the insurance coverage for vaccines. Updates will be given by various subcommittees and working groups. A tentative agenda will be made available on or about January 23, 2006 for review on the NVAC Web site: *http://www.hhs.gov/nvpo/nvac.*

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the Humphrey Building. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed material distributed to NVAC members should submit materials to the Executive Secretary, NVAC, through the contact person listed above prior to close of business January 31, 2006. Preregistration is required for both

public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should e-mail *nvac@osophs.dhhs.gov* or call 202–690–5566.

Dated: January 11, 2006.

Bruce Gellin,

Director, National Vaccine Program Office.

[FR Doc. 06–493 Filed 1–18–06; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health; Proposed Changes to the Dose Reconstruction Target Organ Selection for Lymphoma Under the Energy Employees Occupational Illness Compensation Program Act of 2000

Authority: 42 CFR 82.32, 67 FR 22335–22336.

AGENCY: Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC).

ACTION: Notice for public comment.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) proposes to change the selection of target organs used in dose reconstructions NIOSH produces under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) for energy employees with lymphoma cancers. This proposed change is in response to an evaluation by NIOSH of current scientific data on lymphoma, which revealed that the site of the radiation injury can differ from the site of the tumor or cancer origin documented in the medical files of a lymphoma cancer patient. The new process for selecting dose reconstruction target organs for energy employees with lymphoma cancers would include selecting the target organ that would have received the highest radiation dose from among relevant, possibly irradiated organs, as determined through the dose reconstruction process, when the identity of the target organ is in question. This change would result in the Department of Labor calculating higher probability of causation determinations for select lymphoma cases among previously decided and current EEOICPA cancer claims.

DATES: NIOSH must receive public comments on this proposed change on or before 15 days after the date of publication in the **Federal Register**.

ADDRESSES: Mail comments concerning this proposed change to Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Mailstop C–46, Cincinnati, Ohio 45226. Submit electronic comments to *OCAS@CDC.GOV*.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Mailstop C–46, Cincinnati, OH 45226, Telephone: (513) 533–6800 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: NIOSH conducts radiation dose reconstructions under EEOICPA in compliance with the dose reconstruction methods specified in HHS regulations at 42 CFR part 82. These regulations provide for NIOSH to update its dose reconstruction methods as necessary on the basis of improved scientific understanding and specify a process for deciding and implementing such updates (41 CFR 82.30–82.33). Accordingly, NIOSH is currently proposing to update its method for reconstructing radiation doses in cases involving certain lymphoma cancers. Specifically, NIOSH is proposing to change its method for identifying the target organ for which radiation doses will be reconstructed in these cases, for the reasons described below. As required for certain updates in dose reconstruction methods, NIOSH will present the proposed change to the Advisory Board on Radiation and Worker Health for its comments. NIOSH will also consider all public comments concerning this change that are received prior to the comment deadline, as specified above.

NIOSH has re-examined the appropriateness of the current method of selecting dosimetry target organs for lymphoma cases in light of the current scientific knowledge on the diagnosis and etiology of the various forms of lymphoma.[1] This re-examination has revealed that for many non-Hodgkin's lymphomas, there are two problems with NIOSH's current target organ selection method. First, the site of occurrence of the tumor is not necessarily the site of the original radiation injury. Second, the site listed in the diagnosis may not actually be the site of primary involvement. Rather, it is common to list the site of the biopsy, which may be selected on the basis of medical considerations in terms of the clinical symptoms and condition of the patient and the ease of surgical access. Both of these problems contribute to the possibility that under current methods for select lymphoma cases, NIOSH is not certain to be basing its dose reconstruction on the organ that has the highest radiation dose and may have been the site of origin of the lymphoma of the energy employee.

As a result of this re-evaluation, NIOSH proposes to modify the selection of target organs in select lymphoma cases so that the organ that would have received the highest radiation dose from among relevant, possibly irradiated organs, as determined through the dose reconstruction process, is used in the dose reconstruction. For the subset of lymphomas where tumor location is informative about the probable site of the original radiation injury (*e.g.* Hodgkin's disease, lymphosarcoma, etc.), information related to the site of diagnosis would be considered in target organ selection.

This proposed change pertains only to the selection of the appropriate target organ as the site of radiation injury (i.e., for calculation of effective radiation dose during the dose reconstruction process). It has no bearing on the selection of the appropriate Interactive Radiological Epidemiology Program (IREP) cancer risk model for determining probability of causation, nor does it impact the cancer risk models themselves.

This proposed change in NIOSH dose reconstruction methods would be likely to have a substantial effect on certain EEOICPA cancer cases involving lymphomas. NIOSH would review all relevant completed dose reconstructions for cases that have not been compensated to identify those for which this new method is applicable, and would re-complete these dose reconstructions using this new method, and would apply this new method to all current and future cases undergoing dose reconstruction. Application of this new method would result in the Department of Labor calculating higher probability of causation determinations for select lymphoma cases among previously decided and current EEOICPA cancer claims.

[1] Crowther, M. Consultant's Report, Dose Reconstruction Project. Prepared for the National Institute for Occupational Safety and Health Office of Compensation Analysis and Support. 2005; Eckerman, K.F. Target Organs for Lymphatic and Hematopoietic Cancers Comments/Suggestions. Prepared for the National Institute for Occupational Safety and Health Office of Compensation Analysis and Support. 2005. Available online at: *http://www.cdc.gov/niosh/ocas/ocasdose.html*. (This information can be found on the aforementioned Web page under the ''Miscellaneous Items'' heading in the section ''Evaluation of Target Organ for Lymphomas.'')

The proposed change may be discussed at meetings of the Advisory Board on Radiation and Worker Health on January 9, 2006 (teleconference) and January 24–26, 2006 in Oak Ridge, TN. Only after the close of the public comment period will NIOSH make a final decision regarding the proposed change.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 10, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–542 Filed 1–18–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Portfolio Review of Single Gene Disorders and Disability

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Portfolio Review of Single Gene Disorders and Disability.

Times and Dates: 9 a.m.–5 p.m., February 10, 2006 (Closed).

Place: National Center on Birth Defects and Developmental Disabilities, CDC, 12 Executive Park Drive, Atlanta, GA 30329, Telephone Number 404.498.3800.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review and discussion of the Single Gene Disorders and Disability Team's strategies and activities.

For Further Information Contact: Esther Sumartojo, Acting Associate Director for Science and Public Health, National Center on Birth Defects and Developmental Disabilities, CDC, 1600 Clifton Road, NE., Mailstop E–87, Atlanta, GA 30333, Telephone Number 404.498.3800.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: January 12, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–538 Filed 1–18–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following federal advisory committee meeting:

Name: National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect (NTFFASFAE).

Times and Dates: 8:30 a.m.–4:30 p.m., February 16, 2006. 8:30 a.m.–1 p.m., February 17, 2006.

Place: Embassy Suites Hotel Buckhead, 3285 Peachtree Road, NE., Atlanta, Georgia 30305, telephone 404/261–7733, fax 404/262–0522.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 65 people.

Purpose: The Secretary is authorized by the Public Health Service Act, section 399G (42 U.S.C. Section 280f, as added by Pub. L. 105–392), to establish a NTFFASFAE to: (1) Foster coordination among all governmental agencies, academic bodies and community groups that conduct or support Fetal Alcohol Syndrome (FAS) and Fetal Alcohol Effect (FAE) research, programs and surveillance; and (2) to otherwise meet the general needs of populations actually or potentially impacted by FAS and FAE.

Matters to be Discussed: Agenda items include: (1) Discussion of the Task Force's Post-Exposure working group activities; (2) presentations regarding prevention initiatives from other relevant health topics such as tobacco use and HIV; (3) presentation and discussion regarding evidence-based review of FAS prevention strategies; (4) Task Force next steps; (5) updates from the Interagency Coordinating Committee on FAS, CDC, and other federal agencies, and liaison members; (6) and scheduling of the next meeting.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Mary Kate Weber, M.P.H., Executive Secretary, National Center on Birth Defects and Developmental Disabilities, CDC, 1600 Clifton Road, NE., (E–86), Atlanta, Georgia 30333, telephone 404/498–3926, fax 404/498–3550.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the CDC and Agency for Toxic Substances and Disease Registry.

Dated: January 10, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. E6–543 Filed 1–18–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announce the following Federal committee meeting.

Name: Advisory Committee on Immunization Practices (ACIP).

Time and Date: 8 a.m.–6:15 p.m., February 21, 2006.

8 a.m.–5 p.m., February 22, 2006.

Place: Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Building 19, Room 232, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters To Be Discussed: The agenda will include discussions on Rotavirus Vaccine which may include a possible VFC Vote; Human Papillomavirus Vaccine; general recommendations on immunization; Influenza; Herpes Zoster Vaccine; Tetanus Toxoid, Diphtheria Toxoid, and Acellular Pertussis (Tdap) Vaccines; and departmental updates.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Demetria Gardner, Epidemiology and Surveillance Division, National Immunization Program, CDC, 1600 Clifton Road, NE., (E–61), Atlanta, Georgia 30333, telephone 404/639–8096, fax 404/639–8616.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the CDC and ATSDR.

Dated: January 10, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–529 Filed 1–18–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0010]

Able Laboratories, Inc.; Withdrawal of Approval of 43 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 43 abbreviated new drug applications (ANDAs) held by Able Laboratories, Inc. (Able Labs), One Able Dr., Cranbury, NJ 08512. The drug products are no longer marketed, and Able Labs has requested that the approval of the applications be withdrawn.

DATES: Effective January 19, 2006.

FOR FURTHER INFORMATION CONTACT: Florine P. Purdie, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The applications listed in the table in this document are no longer marketed, and Able Labs has requested that FDA withdraw approval of the applications. The company has also, by its request, waived its opportunity for a hearing.

Application No.	Drug
40–390	Butalbital, Acetaminophen, and Caffeine Tablets USP, 50 milligrams (mg)/325 mg/40 mg
40–394	Butalbital, Acetaminophen, and Caffeine Tablets USP, 50 mg/500 mg/40 mg
40–402	Phentermine Hydrochloride (HCl) Tablets USP, 37.5 mg
40–403	Phentermine HCL Capsules USP, 30 mg (powder)
40–413	Methocarbamol Tablets USP, 500 mg and 750 mg
40–421	Carisoprodol Tablets USP, 350 mg
40–427	Phentermine HCl Capsules USP, 30 mg (beads)
40–449	Promethazine HCl Suppositories USP, 50 mg
40–464	Hydrocodone Bitartrate and Acetaminophen Tablets USP, 7.5 mg/325 mg and 10 mg/325 mg
40–469	Hydrocodone Bitartrate and Acetaminophen Tablets USP, 7.5 mg/750 mg
40–473	Hydrocodone Bitartrate and Acetaminophen Tablets USP, 10 mg/500 mg
40–474	Hydrocodone Bitartrate and Acetaminophen Tablets USP, 7.5 mg/650 mg
40–476	Hydrocodone Bitartrate and Acetaminophen Tablets USP, 10 mg/650 mg
40–477	Hydrocodone Bitartrate and Acetaminophen Tablets USP, 5 mg/500 mg
40–478	Hydrocodone Bitartrate and Acetaminophen Tablets USP, 5 mg/325 mg
40–483	Bethanechol Chloride Tablets USP, 10 mg
40–485	Bethanechol Chloride Tablets USP, 25 mg
40–490	Hydrocodone Bitartrate and Acetaminophen Tablets USP, 7.5 mg/500 mg
40–492	Bethanechol Chloride Tablets USP, 5 mg
40–497	Phentermine HCl Capsules USP, 15 mg
40–504	Promethazine HCl Suppositories USP, 12.5 mg and 25 mg
40–509	Bethanechol Chloride Tablets USP, 50 mg
40–529	Methamphetamine HCl Tablets USP, 5 mg
40–539	Theophylline Extended-Release Tablets, 600 mg
40–543	Theophylline Extended-Release Tablets, 400 mg
40–546	Theophylline Extended-Release Tablets, 450 mg

Application No.	Drug
40–548	Theophylline Extended-Release Tablets, 300 mg
40–558	Promethazine HCl Tablets USP, 12.5 mg, 25 mg, and 50 mg
40–559	Hydroxyzine HCl Tablets USP, 10 mg
40–562	Hydroxyzine HCl Tablets USP, 25 mg
40–563	Hydroxyzine HCl Tablets USP, 50 mg
76–114	Indomethacin Extended-Release Capsules USP, 75 mg
76–121	Lithium Carbonate Capsules USP, 300 mg
76–382	Lithium Carabonate Extended-Release Tablets USP, 300 mg
76–462	Metronidazole Extended-Release Tablets, 750 mg
76–505	Metronidazole Capsules, 375 mg
76–519	Metronidazole Tablets USP, 250 mg and 500 mg
76–528	Butalbital, Acetaminophen, Caffeine, and Codeine Phosphate Capsules, 50 mg/325 mg/40 mg/30 mg
76–544	Naproxen Sodium Tablets USP, 275 mg and 550 mg
76–666	Indomethacin Capsules USP, 25 mg and 50 mg
76–814	Dextroamphetamine Sulfate Extended-Release Capsules, 5 mg, 10 mg, and 15 mg
76–823	Lithium Carbonate Capsules USP, 150 mg, 300 mg, and 600 mg
76–907	Atenolol Tablets USP, 25 mg, 50 mg, and 100 mg

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research, by the Commissioner of Food and Drugs, approval of the applications listed in the table in this document, and all amendments and supplements thereto, is hereby withdrawn, effective January 19, 2006.

Dated: January 4, 2006.

Douglas C. Throckmorton,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. E6–506 Filed 1–18–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 60-Day Proposed Information Collection: Indian Health Service Chief Executive Officer Retention Survey

AGENCY: Indian Health Service, HHS.

SUMMARY: The Department of Health and Human Services, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Indian Health Service (IHS) is providing a 60-day advance opportunity for public comment on a proposed extension of current information collection activity to be submitted to the Office of Management and Budget for review.

Proposed Collection

Title: 0917–NEW, ''Indian Health Service Chief Executive Officer Retention Survey''.

Type of Information Collection Request: New Collection.

Form Number: None.

Forms: The IHS Chief Executive Officer Retention Survey.

Need and Use of Information Collection: The National Council of Chief Executive Officers (NCCEO) was established to ensure that the IHS Service Unit Chief Executive Officers (CEO) effectively participate in the establishment and implementation of strategies to achieve the IHS mission. Part of their responsibility (as stated in their Charter) includes: ongoing recruitment, development, and retention of professional CEOs. The NCCEO's purpose is to ensure that the IHS Service Unit CEO and their Tribal CEO counterparts effectively participate in the establishment and implementation of an agency strategy to achieve the IHS mission. The current Executive Committee is actively addressing recruitment, retention and succession planning for their constituents, the IHS CEOs. To enhance their ability to be effective in this challenging task, the NCCEO needs to know more about IHS CEOs and the issues that affect retention and recruitment including the competitive influences of private sector health care delivery systems. The chosen method to obtain this critical information from the CEOs of IHS, Tribal and Urban facilities is by electronic survey. The goal of the IHS is to raise the health status of American Indians and Alaska Natives to the highest possible level. To meet this goal, the IHS is committed to providing high quality health services to the eligible service population. An important factor

in improving the quality of services is: ensuring that our clinics and hospitals recruit and retain the best possible CEO reasonably available. The proposed survey is designed to ascertain current demographics: age, gender, years of experience, education, pay compared to complexity of facilities, job satisfaction and retirement eligibility.

Affected Public: Individuals.

Type of Respondents: Individuals.

The table below provides the estimated burden hours for this information collection:

ESTIMATED BURDEN HOURS

Data collection instrument	Estimated number of respondents	Responses per respondent	Average burden hour per response *	Total annual burden hrs
CEO Retention Survey	120	1	0.15 (10 mins)	20

*For ease of understanding, burden hours are also provided in actual minutes.

There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request For Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Comment and Requests for Further Information: Send your written comments and requests for more information on the proposed collection or requests to obtain a copy of the data collection instruments(s) and instructions to: Mrs. Chris Rouleau, IHS Reports Clearance Officer, 801 Thompson Avenue, TMP Suite 450, Rockville, MD 20852.1601, call non-toll free (301) 443–5938, send via facsimile to (301) 443–2316, or send your E-mail requests, comments, and return address: *crouleau@hqe.ihs.gov.*

Comment Due Date: Your comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: January 12, 2006.

Charles W. Grim,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 06–452 Filed 1–18–06; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

List of Recipients of Indian Health Scholarships Under the Indian Health Scholarship Program

The regulations governing Indian Health Care Improvement Act Programs (Pub. L. 94–437) provide at 42 CFR 136.334 that the Indian Health Service shall publish annually in the **Federal Register** a list of recipients of Indian Health Scholarships, including the name of each recipient, school and Tribal affiliation, if applicable. These scholarships were awarded under the authority of Sections 103 and 104 of the Indian Health Care Improvement Act, 25 U.S.C. 1613–1613a, as amended by the Indian Health Care Amendments of 1988, Pub. L. 100–713.

The following is a list of Indian Health Scholarship Recipients funded under Sections 103 and 104 for Fiscal Year 2005:

Abeita, Steven John, University of New Mexico, Pueblo of Isleta, New Mexico

Adams Moses, Cynthia Regina, Langston University, Musogee (Creek) Nation, Oklahoma

Adams, Melissa Lynn, Rosalind Franklin University, Cherokee Nation, Oklahoma

Alcorn, Winter Dawn, Rogers State College, Cherokee Nation, Oklahoma

Allen, Bryan Zachary, Southwestern Oklahoma State University, Choctaw Nation of Oklahoma

Allery, Rhea Neachet, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota

Anderson, Debra Jean, College of St. Scholastica, White Earth Band

Arredondo, Michael Howard, University of Minnesota, Eastern Shawnee Tribe of Oklahoma

Arviso, Kellie Lynn, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah

Ashley, Natalie Lynn, Arizona State University, Navajo Nation, Arizona, New Mexico & Utah

Augare-Deal, Raek, University of Kansas, Blackfeet Tribe of the Blackfeet Indian Reservation of Montana

Babbitt, Jaime Lynn, Indiana University, Navajo Nation, Arizona, New Mexico & Utah

Baker, Allison Marie, University of North Dakota, Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota

Baker, Jennifer Lee, Oklahoma State University, Cherokee Nation, Oklahoma

Baker, Valerie, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah

Banteah, Melinda Erika, University of New Mexico, Zuni Tribe of the Zuni Reservation, New Mexico

Beals, Bryan James, University of North Dakota, Muscogee (Creek) Nation, Oklahoma

Beaver, Aaron Don, University of Oklahoma, Choctaw Nation of Oklahoma

Beaver, Allen Don, University of Oklahoma, Choctaw Nation of Oklahoma

Becenti, Elton, New Mexico State University, Navajo Nation, Arizona, New Mexico & Utah

Becker, Tischa Lee, University of New Mexico, Cherokee Nation, Oklahoma

Beetso, Allyson Nicole, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah

Begay, Melanie, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah

Begay, Tashina Nanabah Litanya, University of Portland, Navajo Nation, Arizona, New Mexico & Utah

Begay, Velma Mae, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah

Begay, Amelia June, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah

Begay, Julianna, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
Bekis, Olin Jimmie, Oberlin College, Navajo Nation, Arizona, New Mexico & Utah
Bell, Lauren Beth, University of Oklahoma, Cherokee Nation, Oklahoma
Ben, Lynndella, Arizona State University, Navajo Nation, Arizona, New Mexico & Utah
Benally, Gerald Dean, San Juan Community College, Navajo Nation, Arizona, New Mexico & Utah
Benally, Jolene, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah
Berg, Emily Wauneka, Fort Lewis College, Navajo Nation, Arizona, New Mexico & Utah
Bernard, Kenneth Richard Lee, Yale University, Turtle Mountain Band of Chippewa Indians of North Dakota
Big Hair, Andrea Rochelle, Montana State University, Crow Tribe of Montana
Big Leggins, Sonya Irene, Montana State University, Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation, Montana
Bighorse, Amanda Nicole, Northeastern State University, Cherokee Nation, Oklahoma
Bingham, Zachary Scott, University of New Mexico, Cherokee Nation, Oklahoma
Bissonette, Melvina Deneal, University of New Mexico, Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
Black, Deborah Helen Pierce, Johns Hopkins University, Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota
Blackhorse, Amanda Leeh, University of Kansas, Navajo Nation, Arizona, New Mexico & Utah
Blankenship, Lacey Kay, Southwestern Oklahoma State University, Cherokee Nation, Oklahoma
Blevins, Regina Kay, North Dakota State University, Choctaw Nation of Oklahoma
Blindman, Charlene Sue, Arizona State University, Navajo Nation, Arizona, New Mexico & Utah
Boatwright, Melinda Lea, University of Oklahoma, Choctaw Nation of Oklahoma
Bolton Baldwin, Marjorie Elsie, University of Alaska, Native Village of Kotzebue
Bost, Dekoda Kole, University of Central Oklahoma, Choctaw Nation of Oklahoma
Bosquet, Andrea Nicole, Northeastern State University, Cherokee Nation, Oklahoma
Bradfield, Lavone Glema, Emory University, Standing Rock Sioux Tribe of North & South Dakota
Branham-Williams, Jamie Kathleen, University of Iowa, Cherokee Nation, Oklahoma
Bressman, Rebecca Rae, Portland State University, Citizen Potawatomi Nation, Oklahoma
Brewster, Sarah Kate, University of Tulsa, Muscogee (Creek) Nation, Oklahoma
Briggs, Misty Elaine, University of Oklahoma, Cherokee Nation, Oklahoma
Bright, Crystal Deann, Oklahoma Wesleyan University, Cherokee Nation, Oklahoma
Brockelman, Cassandra May, Southwestern Oklahoma State University, Seminole Nation of Oklahoma
Brooks, Seth Russell, University of Oklahoma, Choctaw Nation of Oklahoma
Brown, Cerissa Kalani, Oklahoma State University, Cherokee Nation, Oklahoma
Brown, Christinia Ann, University of North Dakota, Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California
Brown, Lindsay Renee, Rogers State College, Sac & Fox Nation, Oklahoma
Buckner, Jennifer Lynn, Arizona State University, Cheyenne-Arapaho Tribes of Oklahoma
Buettner, Brian Edwin, University of Oklahoma, Citizen Potawatomi Nation, Oklahoma
Burr-Selle, Kandi Kay, University of North Dakota, Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
Bushyhead, Ian Dow, Oklahoma State University, Cherokee Nation, Oklahoma
Byrd, Alpheus Lee, Carl Albert State College, Cherokee Nation, Oklahoma
Cain, Melanie Joy, Oklahoma State University, Pueblo of Santa Clara, New Mexico
Calhoun, Matthew East, University of Alaska, Takotna Village
Carey, Amanda Kay, Arizona School of Health Sciences, Cherokee Nation, Oklahoma
Carey, Candice Joy, Northeastern State University, Cherokee Nation, Oklahoma
Carter, Nani Danielle, University of Oklahoma, Cherokee Nation, Oklahoma
Casillas, Denise Myra, University of South Dakota, Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Cavanaugh, Casey Lynne, Idaho State University, Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
Cavanaugh, Erica Rose, University of North Dakota, Spirit Lake Tribe, North Dakota
Chapman, Ashley Elizabeth, Nova Southeastern University, Mohegan Indian Tribe of Connecticut
Charley, Cherilynn Lea, San Juan Community College, Navajo Nation, Arizona, New Mexico & Utah
Chihuly, Theresa Catherine, Johns Hopkins University, Ninilchik Village
Clark, Ernestine, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
Clark, Jacqueline Renee, East Central University, Chikasaw Nation, Oklahoma
Clark, Kari Rose, Arizona State University, Navajo Nation, Arizona, New Mexico & Utah
Clarke, Alberta D, University of Phoenix, Navajo Nation, Arizona, New Mexico & Utah
Clarkson, Rachel Beth, Oklahoma State University, Cherokee Nation, Oklahoma
Clauschee, Susan Francine, University of Arizona, Navajo Nation, Arizona, New Mexico & Utah
Clement, Brenda Lea, University of South Dakota, Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Clemons, Danielle Nicole, Northern Arizona University, Pueblo of Acoma, New Mexico
Collins, John Tate, University of Oklahoma, Cherokee Nation, Oklahoma
Comb, Savanah, Dine College, Navajo Nation, Arizona, New Mexico & Utah
Condon, Travis Wayne, North Dakota State University, Standing Rock Sioux Tribe of North & South Dakota
Constanine, Angie Casina, TVI Community College, Native Village of Tyonek
Cook, Brandon Christopher, Oklahoma State University, Seminole Nation of Oklahoma
Cook, Elizabeth Jane, East Central University, Choctaw Nation of Oklahoma
Cook, Lyle C., University of California, Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Cooledge, Debroah Lena, University of Alaska, Native Village of Aleknagik
Coon, Teresa Lynne, University of Oklahoma, Seminole Nation of Oklahoma
Cope, Robin Marie, University of Washington, Alaska Native
Corbin, Christopher Neal, University of Oklahoma, Cherokee Nation, Oklahoma
Corcoran, Lauren Rae, University of Montana, Chippewa Cree Indians of the Rocky Boy's Reservation, Montana

Couch, Ashley Ariel, Northeastern State University, Cherokee Nation, Oklahoma
Coulter, Daniel Lee, Creighton University, Citizen Potawatomi Nation, Oklahoma
Crain, Stacy Rae, North Dakota State University, Turtle Mountain Band of Chippewa Indians of North Dakota
Crawley, Misti Kay, Oklahoma State University, Choctaw Nation of Oklahoma
Cribbs, Carolyn Suze, Sonoma State University, Cherokee Nation, Oklahoma
Cullen Carroll, Shanna Marie, Alliant International University, Osage Tribe, Oklahoma
Curry, Traci Renee, Murray State College, Chickasaw Nation, Oklahoma
Damon, Dezbaa Altaalkii, Arizona School of Dentistry, Navajo Nation, Arizona, New Mexico & Utah
Damon, Mallary Jenna, Geneva College, Navajo Nation, Arizona, New Mexico & Utah
Davis, Abby Sue, University of Alaska, Turtle Mountain Band of Chippewa Indians of North Dakota
Davis, Brandy Darlene, Western Carolina University, Eastern Band of Cherokee Indians of North Carolina
Davis, Krissie Lee, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
Davis, Kristina Faye, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
Davis, Kylie Louise, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
Davis-Counts, Heather Rae, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
Dedam, Jean-Paul Henri, Dartmouth Medical School, Aroostook Band of Micmac Indians of Maine
Delgado, Jamael Theresa, University of North Dakota, Navajo Nation, Arizona, New Mexico & Utah
Dixon, Christian Brooke, University of Oklahoma, Cherokee Nation, Oklahoma
Dixon, Heather Renee, Black Hills State University, Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
Dixon, Malia K, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
Dominguez, Shonna Larae, Rocky Mountain College, Crow Tribe of Montana
Dowty, Raneva June, University of Washington, Confederated Tribes of the Warm Springs Reservation of Oregon
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Howell, Jesse Ray, University of Oklahoma, Choctaw Nation of Oklahoma
Huerth, Benjamin Walter, University of Vermont, Winnebago of Nebraska
Huskon, Philbert, Arizona State University, Navajo Nation, Arizona, New Mexico & Utah
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Norris, Valerie, University of Minnesota, Red Lake Band of Chippewa Indians, Minnesota
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Peltier, Luke Joseph, North Dakota State University, Turtle Mountain Band of Chippewa Indians of North Dakota
Penner, Amanda Victoria, University of Oklahoma, Chicksaw Nation, Oklahoma
Pete, Dornell, Yale University, Navajo Nation, Arizona, New Mexico & Utah
Peterman, Sawyer, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
Petersen, Heather Rae, University of South Dakota, Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
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Phillips, Lydia Elaine, Southeastern Oklahoma State University, Choctaw Nation of Oklahoma
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Sennett, Floy Lumae, Oklahoma Wesleyan University, Cherokee Nation, Oklahoma
Shadaram, Sara Roya, University of Oklahoma, Cheyenne-Arapaho Tribes of Oklahoma
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Shea-Walters, Tamara Renee, Southwest Missouri State University, Alaska Native
Shepard, Cristopher Allan Joseph, University of Nevada, Santee Sioux Tribe of the Santee Reservation of Nebraska
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Sixkiller, Cheryl Lynn, University of Oklahoma, Cherokee Nation, Oklahoma
Skeets, Jennifer A., University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
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Tarbell, Stephen Charles, University of Buffalo, St. Regis Band of Mohawk Indians of New York
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Taylor, Timothy Michael, Missouri Southern State College, Citizen Potawatomi Nation, Oklahoma
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Vitz, Kelly Anne, George Washington University, Hopi Tribe of Arizona
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Walker, Lindsay Allison, University of North Carolina, Eastern Band of Cherokee Indians of North Carolina
Walker, Marshall Austin, University of Oklahoma, Cherokee Nation, Oklahoma
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FOR FURTHER INFORMATION CONTACT: The Indian Health Service Scholarship Branch, 801 Thompson Avenue, Suite 120, Rockville, MD 20852, Telephone: (301) 443–6197, Fax: (301) 443–6048.

Dated: January 11, 2006.

Charles W. Grim,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 06–453 Filed 1–18–06; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Field Test of the Discovering the Science of Alcohol Curriculum

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve

the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 15, 2005, page 47840 and allowed 60 days for public comment. One public comment was received from the New York State Office of Alcoholism and Substance Abuse Services (OASAS) and was responded to on August 31, 2005. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Field Test of the Discovering the Science of Alcohol Curriculum.

Type of Information Collection Request: New.

Need and Use of Information Collection: The Discovering the Science of Alcohol curriculum (DSA) was developed with a Phase II SBIR grant to bring accurate, research-based information to high school students in biology and science classrooms. The curriculum includes standards-based content objectives and assessment activities. Curriculum materials include a teacher's guide and Web site. The field test is necessary to estimate the DSA curriculum's effectiveness in conveying information to students and teachers.

Specifically, the field study is designed to enable NIAAA to determine whether teachers and students who complete the DSA curriculum demonstrate significantly greater knowledge of the topics covered in the curriculum than teachers and students who do not use the DSA curriculum. In addition, the study is designed to enable NIAAA to determine whether the students who are exposed to the curriculum components self-report different beliefs, attitudes, and intentions regarding alcohol use than their counterparts who are not exposed to the curriculum at their schools.

Participating in this field test will be an experimental group of 30 high school biology classrooms with a total of approximately 400 to 500 students and a control group of 30 high school biology classrooms with approximately 400 to 500 students. Teachers and students from grades 9, 10, 11, and 12 will comprise both groups. The field test will include two surveys: (1) An online, computerized survey that measures teachers' knowledge of the DSA curriculum components and teacher satisfaction with the DSA curriculum components. (2) For students, an anonymous, online, computerized survey that measures three factors: (a) Student knowledge of the DSA components, (b) student attitudes, beliefs, and intentions, and (c) student satisfaction with the DSA curriculum components.

Frequency of response: Once per respondent.

Affected Public: Individuals.

Type of Respondents: Biology/Science teachers and high school students.

The reporting burden is as follows: *Estimated Number of Respondents:* It is estimated that we will be able to recruit approximately 60 teachers and approximately 1000 students.

Estimated Number of Responses per Respondent: One Response per respondent.

Average Burden Hours per Response: 15 minutes per individual in the control group and 30 minutes per individual in the experimental group, for a total respondent burden of 662.5 hours.

Estimated Costs to Respondents: Assuming an hourly rate of $22 for teachers, we estimate the total costs to be $825. There are no Capital Costs to report. There are no Operating or Maintenance costs to report.

TABLE 1.—TOTAL RESPONDENTS AND BURDEN

Instrument	Number of respondents	Hours per respondent	Hourly rate	Total hour burden	Estimated monetary cost of burden
Experimental Group:					
Teacher content knowledge instrument & curriculum satisfaction survey	30	0.75	$22	22.5	$495
Student survey (knowledge, attitudes and intentions) & curriculum satisfaction survey	500	0.75	0	375	0
Control Group:					
Teacher content knowledge instrument	30	0.50	22	15	330
Student survey (knowledge, attitudes and intentions)	500	0.50	0	250	0
Total	1060	—	—	662.5	$825

Request for comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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; (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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other form of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the items(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Jason I. Lazarow, NIH/NIAAA/ORTC/HSEB, 5635 Fishers Lane, Room 3101, MSC 9304, Bethesda, MD 20892–9304, or e-mail your request to: *jlazarow@mail.nih.gov.* Mr. Lazarow can be contacted by telephone at 301–435–8043.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: January 5, 2005.

Stephen Long,

Executive Officer, NIAAA.

[FR Doc. 06–490 Filed 1–18–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee G—Education.

Date: February 13–14, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Sonya Roberson, PhD, Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8045, Bethesda, MD 20892, (301) 594–1182, *robersos@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS.)

Dated: January 9, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–489 Filed 1–18–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Security of Aircraft and Safety of Passengers Transiting Denpesar, Bali, Indonesia

AGENCY: Department of Homeland Security.

ACTION: Notice.

SUMMARY: This document informs the public that the Department of Homeland Security (DHS) has determined that Bandara Ngurah Rai International Airport, Denespar, Bali, Indonesia, does not maintain and carry out effective security measures. Pursuant to this determination, the Department of Homeland Security is directing all U.S. and foreign air carriers (and their agents) providing service between the U.S. and Bandara Ngurah Rai International Airport to provide notice of this determination to any passenger purchasing a ticket for transportation between the United States and Bandara Ngurah Rai International Airport. DHS also is requiring that U.S. airports post a notice of the determination, in accordance with statutory requirements.

FOR FURTHER INFORMATION CONTACT: Richard H. Stein, General Manager, International, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220, Telephone: (571) 227–2764, e-mail: *Richard.Stein@dhs.gov*.

Notice

Pursuant to 49 U.S.C. 44907(a), the Secretary of Homeland Security (the Secretary) is authorized to assess periodically the effectiveness of the security measures maintained by foreign airports that handle air carriers serving the United States or that may pose a ''high risk of introducing danger to international air travel.'' If the Secretary determines that a foreign airport does not maintain and carry out effective security measures, the Secretary is required to ''notify the appropriate authorities of the government of the foreign country of the decision and recommend the steps necessary to bring the security measures up to the standard used * * * in making the assessment.'' 49 U.S.C. 44907(c).

Further, the Secretary must: (a) Publish the identity of the foreign airport in the **Federal Register**, (b) post the identity of such airport at all U.S. airports that regularly provide scheduled air carrier operations, and (c) notify the news media of the identity of the airport. 49 U.S.C. 44907(d). In addition, the statute requires all air carriers providing service between the United States and the airport to provide written notice of the determination, either on or with the ticket, to all passengers purchasing transportation between the United States and the airport. 49 U.S.C. 44907(d)(1)(B).

On December 23, 2005, the Secretary of Homeland Security notified the Government of Indonesia that, under 49 U.S.C. 44907, he had determined that Bandara Ngurah Rai International Airport (DPS), Denpesar, Bali, Indonesia, did not maintain and carry-out effective security measures. He based the determination on Transportation Security Administration (TSA) assessments that security measures used at DPS did not meet the standards established by the International Civil Aviation Organization (ICAO).

The Department of Homeland Security (DHS) is issuing this document, pursuant to 49 U.S.C. 44907(d)(1), to inform the public of this determination. DHS directs that all U.S. airports with regularly scheduled air carrier operations prominently display a notice of the determination. Further, DHS is notifying the news media of this determination. In addition, as a result of this determination, 49 U.S.C. 44907(d)(1)(B) requires that each U.S. and foreign air carrier (and their agents) providing transportation between the United States and DPS provide notice of the Department's determination to each passenger buying a ticket for transportation between the United States and DPS, with such notice to be made by written material included on or with such ticket.

Dated: December 23, 2005.

Michael Chertoff,

Secretary.

[FR Doc. E6–523 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HOMELAND SECURITY

National Bio and Agro-Defense Facility (NBAF); Notice of Request for Expression of Interest for Potential Sites for the NBAF

AGENCY: Science and Technology Directorate (Office of Research & Development), DHS.

SUMMARY: The U.S. Department of Homeland Security (DHS) is exploring potential sites for a proposed new national research and development (R&D) asset, the National Bio and Agro-Defense Facility (NBAF), which is in the planning phase. The proposed facility size is approximately 500,000 ft^2 and its site will require a minimum of 30 acres.

DHS is requesting Expressions of Interest from Federal agencies, State and Local governments, industry, academia, interested parties and organizations for potential locations that would accommodate the construction and operation of the NBAF. A consortium could be an appropriate respondent.

DHS will ultimately compile a short list of sites for analysis as reasonable alternatives to be considered in a National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS), which will assess the environmental impacts of constructing and operating the NBAF facility at the various alternative sites.

DHS currently expects to publish a Notice of Intent (NOI) to prepare an EIS in the fall of 2006, at which time the public will have the opportunity to comment on the scope of the analysis.

DATES: Interested parties wishing to make an Expression of Interest should do so in writing by March 31, 2006 to ensure their consideration.

ADDRESSES: Please submit Expressions of Interest to: Department of Homeland Security, 245 Murray Lane SW., Bldg. 410, Attn: Glynis Fisher, Washington, DC 20528. For FEDEX, UPS, DHL, etc. deliveries use the mailroom phone number 202–772–9747.

FOR FURTHER INFORMATION CONTACT: Glynis Fisher by e-mail at glynis.*fisher@dhs.gov* or by fax to 202–205–3204.

SUPPLEMENTARY INFORMATION:

Background

Development of an integrated, national bio and agro-defense strategy has revealed that the current national bio and agro-defense capabilities are inadequate to meet future research requirements supporting both agricultural and public health national security. Foreign animal disease studies, public health threats from emerging, high-consequence zoonotic pathogens, and the need for development and licensure of medical countermeasures, are generating additional demands for biocontainment laboratory space. Current laboratory space available in the U.S. is not sufficient to support the increasing levels of research, development, and testing needed to meet the growing concerns about accidental or intentional introduction of foreign animal diseases into this country. Additional capability and capacity are also needed for high-consequence zoonotic disease countermeasures research and development and medical countermeasure testing and evaluation.

Why a New Facility? The proposed NBAF is an integrated human, foreign animal, and zoonotic disease research, development and testing facility that will support the complementary missions of the Department of Homeland Security (DHS), the Department of Human Health and Services (HHS) and the United States Department of Agriculture (USDA). NBAF would provide new research, development, testing and evaluation infrastructure that will allow for research to enhance agricultural and public health. This capability is needed to fill a critical gap in the nation's agro and biodefense plan.

The proposed NBAF is envisioned to provide the nation with the first integrated agricultural, zoonotic disease, and public health research, development, testing, and evaluation facility with the capability to address threats from human pathogens, high-consequence zoonotic disease agents, and foreign animal diseases. The NBAF would enhance the national bio-defense complex by modernizing and integrating agriculture biocontainment laboratories for foreign animal disease, human pathogens, and zoonotic diseases and could require Biosafety Level (BSL) 3 Agricultural and BSL 4 laboratory spaces. It would also provide the additional infrastructure required for threat and vulnerability assessments and for testing and evaluating promising foreign animal disease countermeasures.

Currently, the Plum Island Animal Disease Center (PIADC) provides the only U.S. research and confirmatory diagnostic capability for high-consequence foreign animal diseases. It is also the only laboratory in the U.S. equipped with research facilities that permit study of these diseases in livestock, such as cattle, sheep and swine. Recognizing that protecting the agricultural infrastructure is a critical element of our Nation's homeland security, the Homeland Security Act of 2002 transferred the ownership of the PIADC from the United States Department of Agriculture (USDA) to the DHS. While DHS now has responsibility for operating PIADC, both DHS and USDA conduct programs there as part of an integrated agro-defense strategy. The proposed NBAF would replace the existing PIADC facility and enhance capabilities to meet the mandated national bio and agro-defense mission requirements of DHS, HHS and USDA. *Request for Expression of Interest:* DHS requests Expressions of Interest from Federal agencies, State and Local governments, industry, academia, interested parties and organizations to identify potential sites with the capabilities needed to host the NBAF facility. A consortium could be an appropriate respondent. NBAF is the proposed new facility and is in the planning phase. All viable options will be evaluated for the location of the facility (*i.e.*, Federal government property, Federal research property, land deeded to the government, long-term lease, commercial site, etc.).

This request for expression of interest, published in today's **Federal Register**, is the first step in the process to consider site options for the NBAF.

DHS will evaluate each EOI submission using 4 site criteria categories (research capabilities, workforce, acquisition/construction/operating and community acceptance) to determine if it should be further evaluated as part of the site planning process.

Research capabilities includes proximity to: (a) Existing research programs [medical/veterinary/agriculture] that can be linked to NBAF mission requirements, (b) strength and breadth of scientific community and infrastructure, (c) ability of the proposed site and surrounding community to absorb additional research programs and infrastructure, (d) experience of existing research programs with BSL3 and/or 4 agents, (e) proximity to other related scientific programs and research infrastructure, and (f) proximity to vaccine industry capability.

Workforce includes proximity to the following: (a) Critical mass of intellectual research capacity, (b) recruiting opportunities for research staff, (c) local labor force availability for operations staff with expertise in operating a biocontainment facility, and (d) capability to meet mutual aid (police/fire/hospital) requirements to operate facility and be able to meet physical security requirements for a BSL3/4 facility.

Acquisition/construction/operations includes: (a) Land acquisition/development potential to locate the facility, (b) access to the site by highways and proximity to international airports, (c) environmental compatibility with the intended use of the site, (d) adequate utility infrastructure to support operations of facility, and (e) availability of local labor force for construction.

Community acceptance includes letters of support for locating NBAF at the site (i.e., local and state governments, national and local agricultural producer and commodity stakeholders, industry, academia, etc.).

DHS requires the following information for each proposed NBAF location:

1. A description of your consortium/organization, its capabilities to support the location of the NBAF at its recommended site, and its interest in the DHS's NBAF program.

2. Letters of support for locating the NBAF facility at the site (i.e., local and state government, academia, industry, etc.).

3. A description of how the potential site addressed the four site criteria categories (research capabilities, workforce, and acquisition/construction/operating) described above.

4. A map showing the location of the potential site, nearby (within 10 miles) political boundaries, demographics and characteristics of surrounding communities (within 10 miles), historical and cultural resources on site and contiguous to property, roads, railroads, airports, water bodies, parkland or other environmentally sensitive areas, and ecological characteristics of site.

5. A site description including ownership, total site acreage and acreage available for development (*minimum 30 acres for NBAF facility*); existing physical infrastructure including number of structures, their size, vintage and current use; current activities; on-site tenants (if applicable); estimated cost as tenant, access control systems; bioagent and hazardous materials handling at the site; waste management activities and capabilities for solid and liquid waste; previous regulatory compliance problems and past/current environmental concerns/contamination and clean up.

6. Availability/access to utilities (electric, water, steam, chilled water, distilled water) at the site for state-of-the-art biocontainment laboratory.

7. Safety and occupational health, risk management and environmental surveillance at the site.

Expression of Interest Format: The length of the Expression of Interest should be no more than 20 pages (letters of support do not count against page limit) using 12-point font. While the responder may determine how best to use the 20 pages, we recommend the following format: SECTION 1—Summary; SECTION 2—Description of location with specific reference to the 7 items requested by DHS above; SECTION 3—Discussion of the site criteria categories related to state-of-the-art biocontainment laboratories or operations of similar complexity. When describing similar work that has been performed, include the name of the organization, contract number if applicable, and name and telephone number of the organization's point of contact and contracting officer, as applicable.

Proprietary Information: If the Expression of Interest contains information that the submitter believes is privileged or confidential, the appropriate portions of the submission should be marked ''Proprietary Information.'' This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the respondent.

Submission: Submissions received after the closing date will not be considered. Each submittal (with full contact information: name, address, phone, fax and e-mail) should consist of an original plus three photocopies, and DHS also requests that the submittal include an electronic version of all materials, preferably in PDF format.

DHS will not consider attachments or appendices. Faxed or e-mailed submissions will not be accepted. Respondents may submit written questions within 20 business days of this notice being published. Questions may be submitted by e-mail to *glynis.fisher@dhs.gov* or by fax to 202–205–3204. The responses to frequently asked questions, any other significant questions and any amendments or corrections to the EOI will be posted on the NBAF Planning and Outreach Web site at *www.dhs.gov/nbaf.*

DHS is under no obligation to pay for any costs associated with the preparation or submission of Expressions of Interest in response to this notice. DHS reserves the right to respond or not respond to any portion, all, or none of the Expressions of Interest submitted in response to this Notice. Responders whose submissions are deemed worthy of further consideration given the criteria expressed herein may be asked to provide additional information. DHS's further consideration of certain Responders' Expressions of Interest does not obligate DHS to provide funds to such Responders or to enter into contractual relationships with such Responders.

Dated: December 28, 2005.

Maureen I. McCarthy,

Director, Office of Research and Development, Department of Homeland Security.

[FR Doc. E6–512 Filed 1–18–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[DHS–2005–0054]

Privacy Act of 1974; Systems of Records

AGENCY: Privacy Office; Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

SUMMARY: The Bureau of Customs and Border Protection proposes to revise its system of records for collecting carrier, broker and importer/exporter account information to both update the system and to add as a category of records the customs declarations that postal mailers are required to complete for international mail transactions.

DATES: The new system of records will be effective February 21, 2006 unless comments are received that result in a contrary determination.

ADDRESSES: You may submit comments, identified by *DHS–2005–0054*, by *one* of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments via docket number DHS–2005–0054.
- Fax: 202–572–8727.
- Mail: Comments by mail are to be addressed to the Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229. Comments by mail may also be submitted to Maureen Cooney, Acting Chief Privacy Officer, Department of Homeland Security, 601 S. 12th Street, Arlington, VA 22202–4220.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Bureau of

Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT: Laurence E. Castelli (202–572–8712), Chief, Privacy Act Policy and Procedures Branch, Bureau of Customs and Border Protection, Office of Regulations & Rulings, Mint Annex, 1300 Pennsylvania Ave., NW., Washington, DC 20229.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) is engaged in a multi-year modernization effort to update its information systems. As part of this modernization effort, CBP has developed the Automated Commercial Environment (ACE) to streamline business processes, to facilitate growth in trade, to ensure cargo security, to provide means to combat terrorism through monitoring what materials and which persons enter and leave the country, and to foster participation in global commerce, while ensuring compliance with U.S. laws and regulations. ACE replaces CBP's current Automated Commercial System, a twenty-plus-year-old trade information database.

The operation of ACE will require that CBP collect personally identifiable information from importers, brokers, truck carriers, and U.S. Postal Service customs declarations. The system will also include personally identifiable information about CBP employees and employees of other agencies. The information that is collected will be used to operate the automated commercial environment in order to assist in protecting the country's borders by monitoring and regulating incoming cargo and people.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, individual is defined to encompass United States citizens and legal permanent residents. ACE involves the collection of information that will be maintained in a system of records.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency recordkeeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist the individual to more easily find such files within the agency.

DHS is here publishing a description of the Automated Commercial Environment system of records. In accordance with 5 U.S,C. 552a(r), a report concerning this record system has been sent to the Office of Management and Budget and to the Congress.

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. CBP also invites comments that relate to the economic, environmental, or federalism affects that might result from this proposed rule. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

DHS/CBP–001

SYSTEM NAME:

Automated Commercial Environment/International Trade Data System (ACE/ITDS).

SYSTEM LOCATION:

This computer database is located at the Bureau of Customs and Border Protection (CBP) National Data Center in Washington, DC. Computer terminals are located at Customhouses and ports throughout the United States and at CBP Headquarters, Washington, DC, as well as appropriate facilities for other participating government agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in the importation of merchandise, members of the trade community, including but not limited to truck carriers, vessel, vehicle, and aircraft operators or crew, Customhouse brokers, importers and their authorized agents (*i.e.*, trade users), persons required to file Customs Declarations for international mail transactions (including sender and recipient), DHS/CBP employees, and employees of other Federal Government agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

The database is comprised of carrier, broker, and importer/exporter account information (this includes personally identifying information (name and address, phone and/or fax), as well as the Significant Activity Log (a message log between the ACE Portal Account Owner and CBP that tracks their communications sent through ACE) and the Action Plans referenced in the Significant Activity Log), entry information, and manifest information. The database also includes information obtained from Customs declarations filed with the United States Postal Service in connection with the import or export of goods through the mail. System files may contain information about DHS/CBP employees, other Federal employees, companies, and individuals involved in commercial land, sea, and/or air border transactions.

The following information may be stored in the database for the establishment of an ACE Secure Data Portal truck carrier account: Carrier name, Carrier address, Carrier identification (*i.e.*, the truck carrier identification SCAC code (the unique Standard Carrier Alpha Code) assigned for each carrier by the National Motor Freight Traffic Association), Department of Transportation number, Taxpayer ID number, DUNS (Dun and Bradstreet Number), Organizational structure, Name of Insurer, Policy number, Date of Issuance and Amount. The carrier can create users and points of contact, and may also choose to store details associated with driver/crew, conveyance, and equipment for purposes of expediting the creation of manifests.

The ACE database is also comprised of manifest information that includes specific details regarding the crew or drivers as well as passengers involved in a commercial land border crossing. For crew or drivers, the system will include:

(1) Person on arriving conveyance who is in charge; (2) Names of all crew members; (3) Date of birth of each crew member; (4) Commercial driver's license (CDL)/drivers license number for each crew member; (5) CDL/driver's license State/province of issuance for each crew member; (6) CDL country of issuance for each crew member; (7) Travel document number for each crew member; (8) Travel document country of issuance for each crew member; (9) Travel document State/province of issuance for each crew member; (10) Travel document type for each crew member; (11) Address for each crew member; (12) Gender of each crew member; (13) Nationality/citizenship of each crew member; (14)

Hazmat endorsement for each crew member.

For passengers, the information consists of: (1) Names of all passengers; (2) Date of birth of each passenger; (3) Travel document number for each passenger; (4) Travel document country of issuance for each passenger; (5) Travel document State/province of issuance for each passenger; (6) Travel document type for each passenger; (7) Gender of each passenger; (8) Nationality of each passenger.

Further, the ACE database includes specific details regarding trips, equipment, conveyances, and shipments, but this information does not primarily identify individuals, except those who might be shippers or consignees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 66, 1448, 1481, 1483, 1484, 1505, 1624, and 2071.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To the Bureau of the Census by providing magnetic tapes or other form of electronic data transmission containing foreign trade data;

(2) To appropriate Federal, State, local, foreign, or tribal agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where CBP becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(3) To a Federal, State, local, tribal, territorial, foreign, or international agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings;

(5) To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(6) To an agency, organization, or individual for the purposes of performing authorized audit or oversight operations;

(7) To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains;

(8) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records;

(9) To the Department of Justice, the United States Attorney's Office, or a consumer reporting agency for further collection action on any delinquent debt when circumstances warrant;

(10) To a former employee of the Department for purposes of: responding to an official inquiry by a Federal, State, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility;

(11) To an organization or individual in either the public or private sector, either foreign or domestic, where there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, to the extent the information is relevant to the protection of life or property;

(12) To the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) DHS, or (b) any employee of DHS in his/her official capacity, or (c) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation;

(13) To the National Archives and Records Administration or other federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. Sections 2904 and 2906;

(14) To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a Department of Homeland Security decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit;

(15) To a Federal agency, pursuant to the International Trade Data System Memorandum of Understanding, consistent with the receiving agency's legal authority to collect information pertaining to and/or regulate transactions in international trade.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The data is stored electronically at the CBP Data Center for current data and offsite at an alternative data storage facility for historical logs and system backups.

RETRIEVABILITY:

The data is retrievable by name or personal identifier from an electronic database. Only individuals with a need to know can access the data. The system manager, in addition, has the capability to maintain system back-ups for the purpose of supporting continuity of operations and the discrete need to isolate and copy specific data access transactions for the purpose of conducting security incident investigations.

SAFEGUARDS:

Access to the computer area is controlled by a security pass arrangement and personnel not connected with the operation of the computer are prohibited from entering. The building security is protected by a uniformed guard. Access at the ports is in the booths and from any PC connected to the LAN. At the ports of processing, terminal rooms are under close supervision during working hours and locked after close of business. The system security officer issues a unique private five digit identification code to each authorized user. Access to the computer from other than system terminals is controlled through a security software package. Users must input a unique identification code and password during the terminal log-in procedure to gain access to the system. The password is not printed or displayed at the port of processing. The system validates the user ID by transaction type, thereby limiting a

system user's access to information on a ''need-to-know'' basis. A listing of identification codes of authorized users can be printed only by request of the security officer. The passwords are changed periodically to enhance security.

RETENTION AND DISPOSAL:

Files are retained on-line in a system database. Personal information collected in ACE as part of the regulation of incoming cargo and people will be retained in accordance with the U.S. Customs Records Schedules approved by the National Archive and Records Administration for the forms on which the data is submitted. This means that cargo, crew, driver, and passenger information collected from a manifest presented in connection with the arrival of a vessel, vehicle or aircraft will be retained for six years. Information collected in connection with the submission of a Postal Declaration for a mail importation will be retained for a maximum of six years and three months (as set forth pursuant to NARA Authority N1–36–86–1, U.S. Customs Records Schedule, Schedule 9 Entry Processing, Items 4 and 5). Personal information collected in connection with the creation of a carrier, broker, or importer/exporter account will be retained for up to three years following the closing of the account either through withdrawal by the individual or denial of access by CBP. Lastly, information pertaining to CBP and PGA employees will be retained for as long as the individual maintains her or his portal access to ACE and authorization to access the information.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Automated Systems, U.S. Customs and Border Protection Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

NOTIFICATION PROCEDURES:

To determine whether this system contains records relating to you, write to Customer Satisfaction Unit, Office of Field Operations, U.S. Customs and Border Protection, Room 5.5–C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229 (phone: (202) 344–1850 and fax: (202) 344–2791).

RECORD ACCESS PROCEDURES:

Requests for notification or access must be in writing and should be addressed to the Customer Satisfaction Unit, Office of Field Operations, U.S. Customs and Border Protection, Room 5.5–C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Requests should conform to the requirements of 6 CFR part 5, subpart B, which provides the rules for requesting access to Privacy Act records maintained by DHS. The envelope and letter should be clearly marked ''Privacy Act Access Request.'' The request should include a general description of the records sound and must include the requester's full name, current address, and data and place of birth. The request must be signed and either notarized or submitted under penalty of perjury.

Additionally, operational record access may be obtained through the ACE Secure Data Portal for those individuals and entities who have been approved access in accordance with the procedures published in the **Federal Register** at 67 FR 21800 dated May 1, 2002.

CONTESTING RECORD PROCEDURES:

Same as ''Record Access Procedures.''

RECORD SOURCE CATEGORIES:

The system contains data received on authorized CBP forms or electronic formats from individuals and/or companies incidental to the conduct of foreign trade and required by CBP in administering the tariff laws and regulations of the United States. The system also contains information pertaining to International Mail Transactions, which is obtained from the United States Postal Service by electronic data transmission.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: December 22, 2005.

Maureen Cooney,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E6–511 Filed 1–18–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revised information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the National Fire Incident Reporting System (NFIRS).

SUPPLEMENTARY INFORMATION: The Federal Fire Prevention and Control Act of 1974 (Pub. L. 93–498) authorizes the National Fire Data Center in the United States Fire Administration (USFA)[1] to gather and analyze information on the magnitude of the Nation's fire problem, as well as its detailed characteristics and trends. The Act further authorizes the USFA to develop uniform data reporting methods, and to encourage and assist state agencies in developing and reporting data. In order to carry out the intentions of the Act, the National Fire Data Center established the National Fire Incident Reporting System (NFIRS) in 1975.

NFIRS serves as a cooperative effort of local, State, and Federal authorities to improve uniformity in fire incident reporting and to ensure that data is usable for fire protection planning and management. It also enables the USFA, and many others, to identify common trends in collected data, which may be applicable to fire problems on a national, regional, state, and local scale.

Collection of Information

Title: National Fire Incident Reporting System (NFIRS) v5.0.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0069.

Form Numbers: Version 5.0 NFIRS-forms/modules No. 1–12.

Abstract: NFIRS provides a mechanism using standardized reporting methods to collect and analyze fire incident data at the Federal, State, and local levels. Data analysis helps local fire departments and States to focus on current problems, predict future problems in their communities, and measure whether their programs are working.

Affected Public: Federal, State, and local governments.

Estimated Total Annual Burden Hours: 7,583,585 hours.

[1] The National Fire Incident Reporting System is currently being transferred to the newly created Preparedness Directorate of the Department of Homeland Security. During this transition FEMA, also part of the Department of Homeland Security, will continue to support this program as the new Directorate stands up. Ultimately this data collection will be transferred to the Preparedness Directorate.

ANNUAL BURDEN HOURS

Project/Activity (survey, form(s), focus group, worksheet, etc.)	No. of respondents	Frequency of responses [1]	Burden hours per respondent	Annual Responses [2]	Total annual burden hours
	(A)	(B)	(C)	(A×B)	(A×B×C)
NFIRS v5.0:					
Manual	1,700	1	12.00 hrs.	1,484,100	1,633,325
Electronic	15,300	1	4.75 hrs.	13,640,400	5,944,500
Subtotal—Modules	17,000			15,124,500	7,577,825
Training v5.0	390	1		390	5,760
Total	17,390	1		15,124,890	7,583,585

[1] Each response may include several module submissions, though majority only NFIRS 1. Same respondent may respond more than once depending on the number of incidents being reported.
[2] Based on an estimated total of 10,000,000 incidents reported annually.

Estimated Cost: The wage burden for collection of information at the local level including training is estimated at $113,667.375 for both manual and electronic submissions (7,583,585 hrs @ $15/hr). The average cost to respondent per incident reported is $180.00 and $71.00 for the manual and electronic submission, respectively.

Comments: Written comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments must be submitted on or before March 20, 2006.

ADDRESSES: Interested persons should submit written comments to Chief, Records Management Section, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Mark A. Whitney, Fire Program Specialist, United States Fire Administration, National Fire Data Center, (301) 447–1836, or e-mail *mark.whitney@dhs.gov* for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov*.

Dated: January 12, 2006.

Darcy Bingham,

Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. E6–527 Filed 1–18–06; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed new information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning a survey of property owners in communities with high densities of disaster recipients to identify flood insurance purchasing patterns and develop strategies to improve overall compliance with flood insurance regulations.

SUPPLEMENTARY INFORMATION: The 1994 National Flood Insurance Act requires flood victims in Federally declared disaster areas to purchase flood insurance as a condition of Federal financial assistance if their property is located in a Special Flood Hazard Area (SFHA). This flood insurance coverage must be maintained for the life of a property loan or if an Individual and Household Program (IHP) grant is received, funds to cover the insurance for three years are deducted from the grant. Following the three-year, grant recipients must maintain their insurance coverage. If these victims do not comply with these requirements, they will not be eligible for future Federal disaster assistance. Flood insurance compliance among victims of federally declared flood events appears to be problematic. FEMA post-disaster records indicate that a significant number of flood-damaged structures, located both in and outside SFHAs, have either (a) never had flood insurance, or (b) purchased flood insurance but did not maintain the policies.

Collection of Information

Title: Flood Insurance Policy Acquisition and Retention Among Recipients of Federal Assistance Study.

Type of Information Collection: New Collection.

OMB Number: 1660–NW19.

Form Numbers: None.

Abstract: This survey will collect information on flood insurance purchasing patterns among property owners in communities with high densities of disaster recipients. Data findings will be used to develop strategies to improve compliance with flood insurance regulations.

Affected Public: Individuals and Households.

Estimated Total Annual Burden Hours: 400 hours.

ANNUAL BURDEN HOURS

Project/Activity (survey, form(s), focus group, worksheet, etc.)	No. of respondents	Frequency of responses	Burden hours per respondent	Annual responses	Total annual burden hours
	(A)	(B)	(C)	(A×B)	(A×B×C)
Telephone Survey	1,200	1	.33 hr (20 min)	1,200	400
Total	1,200	1	.33	1,200	400

Estimated Cost: $5,592.00 for all respondents combined, based on the 2004 Bureau of Labor Statistics national median hourly rate of $13.98. Average cost to respondents is approximately $4.62 based on a response time of 20 minutes or .33 hours.

Comments: Written comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments must be submitted on or before March 20, 2006.

ADDRESSES: Interested persons should submit written comments to Chief, Records Management Section, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact David C. Thomas, Acting Chief, Risk Management Section at (202) 646–3842 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov*.

Dated: December 12, 2005.

Darcy Bingham,

Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. E6–528 Filed 1–18–06; 8:45 am]

BILLING CODE 9110–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5043–N–01]

Notice of Proposed Information Collection for Public Comment: Notice of Funding Availability for the Hispanic Serving Institutions Assisting Communities (HSIAC) Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* March 20, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8228, Washington, DC 20410–6000.

FOR FURTHER INFORMATION CONTACT: Susan Brunson, 202–708–3061, ext. 3852 (this is not a toll-free number), for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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; including through the use of appropriate automated collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: Notice of Funding Availability for the Hispanic Serving Institutions Assisting Communities Program.

OMB Control Number: 2528–0198 (exp. 02/28/06).

Description of the need for the information and proposed use: The information is being collected to select applicants for award in this statutorily created competitive grant program and to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Agency Form Numbers: SF–424, SF–424 Supplement, HUD–424–CB, SFLLL, HUD–27300, HUD–2880, HUD–2991, HUD–2990, HUD–2993, HUD–2994, A, HUD–96010, and HUD–96011.

Members of the Affected Public: Nonprofit Hispanic-Serving Institutions that meet the definition of an HSI established in Title V of the 1998 Amendments to the Higher Education Act of 1965 (Pub. L. 105–244; enacted October 7, 1998).

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Information pursuant to grant award will be submitted once a year. The following chart details the respondent burden on an annual and semi-annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Applicants	40	40	40	1600
Semi-Annual Reports	15	30	6	180
Final Reports	15	15	8	120
Recordkeeping	15	15	5	75
Total			59	1975

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 11, 2006.

Darlene F. Williams,

Assistant Secretary for Policy Development and Research.

[FR Doc. 06–501 Filed 1–18–06; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–03]

Notice of Submission of Proposed Information Collection to OMB; Master Appraisal Reports (MARS)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Lenders, working with developers, submit the Master Appraisal Reports. Information provided permits the listing of builder's models that cover the types of individual homes proposed for construction. This eliminates the need for appraisal reports from each individual property in a development. General and specific conditions must be addressed before a property can be endorsed, including providing an estimate of value for each property type.

DATES: *Comments Due Date:* February 21, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0493) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian L. Deitzer, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (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, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Master Appraisal Reports (MARS).

OMB Approval Number: 2502–0493.

Form Numbers: HUD–91322, HUD–91322.1, HUD–91322.2 and HUD–91322.3.

Description of the Need for the Information and Its Proposed Use: Lenders, working with developers, submit the Master Appraisal Reports. Information provided permits the listing of builder's models that cover the types of individual homes proposed for construction. This eliminates the need for appraisal reports from each individual property in a development. General and specific conditions must be addressed before a property can be endorsed, including providing an estimate of value for each property type.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	7,545	1.16		0.24		2,136

Total Estimated Burden Hours: 2,136.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 13, 2006.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–579 Filed 1–18–06; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–02]

Notice of Submission of Proposed Information Collection to OMB; Assistance Payment Contract—Notice of (1) Termination, (2) Suspension, or (3) Reinstatement

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Section 235 Program makes payments to lenders on behalf of qualified mortgagors. Information provided documents the conditions for termination, suspension, or reinstatement of the assistance payment contract for Section 235 mortgages.

DATES: *Comments Due Date:* February 21, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0094) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian L. Deitzer, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (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; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Assistance Payment Contract—Notice of (1) Termination, (2) Suspension, or (3) Reinstatement.

OMB Approval Number: 2502–0094.

Form Numbers: HUD–93114.

Description of the Need for the Information and Its Proposed Use: The Section 235 Program makes payments to lenders on behalf of qualified mortgagors. Information provided documents the conditions for termination, suspension, or reinstatement of the assistance payment contract for Section 235 mortgages.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	50	2		0.75		75

Total Estimated Burden Hours: 75.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 12, 2006.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–580 Filed 1–18–06; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Patent, Trademark & Copyright Acts

AGENCY: U.S. Geological Survey.

ACTION: Notice of Prospective Intent to Award Co-Exclusive Licenses.

SUMMARY: The United States Geological Survey (USGS) is contemplating awarding co-exclusive licenses to: Columbia Analytical Services, Inc., 1317 South 13th Avenue, Kelso, WA 98626 and EON Products, Inc., P.O. Box 443, Snellville, GA 30078 on U.S. Patent Application Serial No. 10/767,496, entitled "Porous Polyethylene Diffusion Sampler for Ground Water."

Inquiries: If other parties are interested in similar activities, or have comments related to the prospective awards, please contact Neil Mark, USGS, 12201 Sunrise Valley Drive, MS 201, Reston, Virginia 20192, voice (703) 648–4344, fax (703) 648–7219, or e-mail *nmark@usgs.gov.*

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the requirements of 35 U.S.C. 208 *et seq.*

Dated: January 10, 2006.

Karen D. Baker,

Acting Associate Director, Office of Administrative Policy and Services.

[FR Doc. 06–500 Filed 1–18–06; 8:45 am]

BILLING CODE 4311–AM–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–1410PN–ARAC]

Notice of Public Meeting, Alaska Resource Advisory Council

AGENCY: Bureau of Land Management, Alaska State Office, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S.

Department of the Interior, Bureau of Land Management (BLM) Alaska Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held February 14–15, 2006 in Fairbanks, Alaska. On February 14 the meeting will begin at 10 a.m. at the BLM Fairbanks Office and the council will visit the Alaska Fire Service in the afternoon. On February 15, the meeting will begin at 8 a.m. at the Fairbanks Princess Riverside Lodge and the public comment period starts at 1 p.m.

FOR FURTHER INFORMATION CONTACT: Danielle Allen, Alaska State Office, 222 W. 7th Avenue #13, Anchorage, AK 99513. Telephone (907) 271–3335 or e-mail *Danielle_Allen@ak.blm.gov.*

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Alaska. At this meeting, topics we plan to discuss include:

- Status of land use planning in Alaska
- National Petroleum Reserve—Alaska integrated activity plans
- Alaska Fire Service history/current events
- North Slope Science Initiative
- Other topics the Council may raise

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allotted for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact the BLM.

Dated: January 10, 2006.

Henri Bisson,

State Director.

[FR Doc. E6–476 Filed 1–18–06; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–923–1310–FI; NVN–78650; 6–08808]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and(b)(1), a petition for reinstatement of oil and gas lease NVN–78650 for lands in Elko County, Nevada, was timely filed and was accompanied by all the required rentals accruing from August 1, 2005, the date of termination.

No valid lease has been issued affecting the lands. The lessee, Standard Oil Corporation, has agreed to new lease terms for rentals and royalties at rates of $5.00 per acre or fraction thereof and 16⅔ percent, respectively. Standard Oil Corporation has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

Standard Oil Corporation has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate the lease effective August 1, 2005, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

FOR FURTHER INFORMATION CONTACT: Elaine Lewis, BLM Nevada State Office, 775–861–6537.

Del Fortner,

Deputy State Director, Minerals Management.

[FR Doc. E6–508 Filed 1–18–06; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–926–06–1420–BJ–TRST]

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Filing of Plat of Survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plats of survey of the lands described below in the BLM Montana State Office, Billings, Montana, (30) days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4469, telephone (406) 896–5124 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Rocky Mountain Regional Director, Bureau of Indian Affairs and was necessary to determine Trust and Tribal land.

The lands we surveyed are:

Principal Meridian

Montana

T. 27 N., R. 50 E.

The plat, in one sheet, representing the dependent resurvey of a portion of the 12th Guide Meridian East, through Township 27 North, a portion of the subdivisional lines, the adjusted original meanders of the left bank of the Missouri River, downstream, through sections 24, 25, and 26, the subdivision of sections 24 and 25, certain division of accretion lines, and subdivision of sections 24 and 25, and the survey of the meanders of the present left bank of the Missouri River, downstream, through sections 24, 25, and 26, and certain division of accretion lines, in Township 27 North, Range 50 East, Principal Meridian, Montana, was accepted December 23, 2005.

T. 27 N., R. 51 E.

The plat, in one sheet, representing the dependent resurvey of a portion of the 12th Guide Meridian East, through Township 27 North, a portion of the subdivisional lines, the adjusted original meanders of the left bank of the Missouri River, downstream, through sections 18 and 19, the subdivision of sections 18 and 19, and the subdivision of section 18, and the survey of the meanders of the present left bank of the Missouri River, downstream, through sections 18 and 19, the limits of erosion, downstream through section 18, the meanders of the left bank and medial line of a relicted channel of the Missouri River, downstream, through section 18, certain division of accretion lines, a certain partition line, and Tract 37, Township 27 North, Range 51 East, Principal Meridian, Montana, was accepted December 23, 2005.

We will place a copy of the plats, in two sheets, and related field notes we described in the open files. They will be available to the public as a matter of information.

If BLM receives a protest against these surveys, as shown on these plats, in two sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file these plats, in two sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Dated: January 11, 2006.

Thomas M. Deiling,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. E6–475 Filed 1–18–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

Denali National Park and Preserve, AK; Final Backcountry Management Plan, General Management Plan Amendment and Environmental Impact Statement

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of the Final Backcountry Management Plan, General Management Plan Amendment and Environmental Impact Statement.

SUMMARY: The National Park Service (NPS) announces the availability of the Final Backcountry Management Plan, General Management Plan Amendment and Environmental Impact Statement (EIS) for Denali National Park and Preserve. The document describes and analyzes the environmental impacts of a preferred alternative and three other action alternatives for managing the park and preserve's backcountry. A no action alternative also is evaluated.

DATES: A Record of Decision will be made no sooner than 30 days after the date the Environmental Protection Agency's Notice of Availability for this final EIS appears in the **Federal Register**.

ADDRESSES: The Final Plan and EIS may be viewed online at *http://www.nps.gov/dena* through the ''in Depth'' link on our homepage under ''Planning and Management.'' Hard copies or CDs of the Final Backcountry Management Plan and General Management Plan Amendment and EIS are available on request from the address below.

FOR FURTHER INFORMATION CONTACT: Mike Tranel, Chief of Planning, Denali National Park and Preserve, 240 West 5th Avenue, Anchorage, Alaska 99501. Telephone: (907) 644–3611, Fax: (907) 644–3803.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended), the NPS has prepared a final environmental impact statement that considers five alternatives for managing the park and preserve's backcountry. The five alternatives evaluated in this EIS included four action alternatives and a no action alternative.

Alternative 1 (No Action): The National Park Service would continue the present management direction, guided by the 1986 *General Management Plan,* the 1997 *Entrance Area Road Corridor Development Concept Plan,* the 1997 *South Side Denali Development Concept Plan,* the 1997 *Strategic Plan,* and the 1976 backcountry management plan with amendments. Recreational use and access patterns would continue to develop and the agency would respond as necessary on a case-by-case basis. No new services or facilities would be developed to meet increased levels of use in the backcountry, except for those identified in the Entrance Area or South Side plans.

Alternative 2: This alternative would distinguish a unique Denali experience based on dispersed use in a wilderness landscape with few sights or sounds of people or mechanized civilization. There would be few services, facilities, or signs of management presence. This alternative would most clearly distinguish the backcountry experience in Denali from the surrounding public lands, providing a place primarily for visitors who are very self-reliant, and including many opportunities for extended expeditions in very remote locations. Backcountry users seeking other experiences would find those opportunities on neighboring lands.

Alternative 3: This alternative would provide a variety of wilderness recreational activities by establishing areas to serve those visitors who want to experience the wilderness resource values of the Denali backcountry but require services, assistance, or short time-commitments. The areas would be the minimum necessary to provide these experiences based on present demand and would be focused along the park road in the Old Park and Kantishna and at the existing high activity areas at the Ruth Glacier and Kahiltna Base Camp. The majority of the backcountry would be managed for dispersed, self-reliant travel and would include opportunities for extended expeditions in very remote locations.

Alternative 4: Modified (Preferred Alternative): Alternative 4 from the Revised Draft was modified for the final plan to respond to substantive public comments. Management area allocations and corridors were adjusted slightly, and indicators and standards for wildlife were added. The hierarchy for guided services and educational programs was removed and replaced with a statement indicating that NPS and Murie Science and Learning Center activities would have a priority for available backcountry capacity where such capacity is limited. Definitions of scenic air tours and air taxis were clarified. The restriction that would prohibit scenic air tours from landing on the Pika or Eldridge Glaciers when climbers or mountaineers are present was modified. Scenic air tour landings may take place when climbers are present, but those landings are subject to management area standards, cannot occur when other landing locations are available, and are discouraged when climbers are present. Guided day-hiking in the Old Park would be restricted to areas west of Toklat River with access from Kantishna, plus the hiking in the Wonder Lake area authorized by the *Entrance Area and Road Corridor DCP.* The total number of groups would be limited to the average number of groups over the previous 5 years. Language describing backcountry facilities and administrative and scientific activities was also modified to address substantive public comments. Specifically, the requirement to develop management area-specific criteria for research and resource management activities was removed in favor of a requirement to obtain research permits.

This modified alternative would guide the National Park Service in providing opportunities for a variety of wilderness recreational activities and experiences while recognizing and protecting the premier wilderness resource values of the entire backcountry. Areas in the Dunkle Hills and around the Ruth and Tokositna Glaciers on the south side of the Alaska Range would be managed for those visitors who want to experience the wilderness resource values or other resource values of the Denali backcountry but require services or assistance, or who are unable to make a lengthy time commitment. Areas along the park road in the Old Park and the Kantishna Hills would provide accessible opportunities for short- or long-duration wilderness recreational activities with only limited options for guidance or assistance the farther one gets from the park road. The remainder of the backcountry would be managed for dispersed, self-reliant travel, and would include opportunities for extended expeditions in very remote locations.

Alternative 5: This alternative would create two distinct geographic areas that provide different kinds of visitor experiences in the Denali backcountry. The Old Park and the Denali Additions north of the Alaska Range would be primarily managed for dispersed, self-reliant travel although no areas would be managed specifically to preserve opportunities for extended expeditions in remote locations. Areas along the park road and in Kantishna that presently receive a relatively high volume of use and large parts of the additions south of the Alaska Range would be managed for a greater intensity and variety of appropriate recreational activities and would have more visible management presence and

opportunities for more services and facilities.

The responsible official for a Record of Decision on the proposed action is the NPS Regional Director in Alaska.

Dated: December 23, 2006.

Marcia Blaszak,

Regional Director, Alaska Region.

[FR Doc. 06–481 Filed 1–18–06; 8:45 am]

BILLING CODE 4310–PF–M

DEPARTMENT OF THE INTERIOR

National Park Service

Proposed Ten Percent Increase in Glacier Bay Cruise Ship Quota Beginning in Year 2007

AGENCY: National Park Service, Interior.

ACTION: Notice of availability; Proposed Ten Percent Increase in the Seasonal Cruise Ship Quota for Glacier Bay National Park and Preserve for Year 2007.

SUMMARY: The Superintendent of Glacier Bay National Park and Preserve proposes to increase the number of cruise ships allowed to enter Glacier Bay during the summer visitor season by ten percent beginning in 2007. The current cruise ship limit is a seasonal quota of 139 visits during June, July and August. The proposal, if implemented, would increase the seasonal cruise ship quota to 153.

DATES: Comments on the proposal must be received no later than February 21, 2006.

ADDRESSES: The proposal memorandum and related documents may be viewed online at *http://www.nps.gov/glba/pphtml/documents.html.* Please submit electronic comments on the proposal memorandum at *http://parkplanning.nps.gov/parkHome.cfm?parkId=12.* Written comments can be mailed to the Superintendent, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, AK 99826 or faxed to (907) 697–2654.

Comments may be hand delivered to the Superintendent at Glacier Bay National Park and Preserve, 1 Park Road, Room 204, Gustavus, AK 99826.

FOR FURTHER INFORMATION CONTACT: Tomie Lee, Superintendent, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, AK 99826; (907) 697–2230.

SUPPLEMENTARY INFORMATION: Cruise ship use in Glacier Bay is currently limited to no more than two ships per day and a further seasonal quota of 139 total visits during June, July, and August of each year. The superintendent may adjust this seasonal quota upwards or downwards, but may not exceed two ships per day. The Glacier Bay National Park and Preserve Vessel Quota and Operating Requirements Environmental Impact Statement and Record of Decision (VQOR EIS and ROD) provide additional background information regarding vessel management within the park area.

Federal regulations specific to Glacier Bay National Park and Preserve (36 CFR 13.65(b)(2)(v)(C)) provide that ''[b]y October 1 of each year (beginning in 1998), the superintendent will determine, with the director's approval, the number of cruise ship entries for the following summer season (June 1 through august 31). this determination will be based upon available scientific and other information and applicable authorities. The number will be subject to the maximum daily limit of two vessel use-days. The superintendent will publish a document of any revision in seasonal entries in the **Federal Register** with opportunity for public comment.''

This proposal is the result of the VQOR EIS public planning process. In making the proposal the Superintendent considered reviews of the best available scientific information collected both by the National Park Service and by scientists independent of the agency, which were incorporated in the report and recommendations from the Glacier Bay National Park Science Advisory Board, and an assessment of that report provided by the NPS Alaska Regional Science Advisor.

Following a review of public comments submitted in response to this notice, the Superintendent will submit the final decision for submission to the Director of the National Park Service for approval. If an increase is approved it will be announced in the **Federal Register**.

Dated: December 22, 2005.

Marcia Blaxzak,

Regional Director, Alaska.

[FR Doc. 06–482 Filed 1–18–06; 8:45 am]

BILLING CODE 4312–HX–M

DEPARTMENT OF JUSTICE

Bureau of Justice Statistics; Agency Information Collection Activities: Existing Collection; Comments Requested

ACTION: 60–Day Notice of Information Collection Under Review: National Corrections Reporting Program.

The Department of Justice (DOJ), Bureau of Justice Statistics, 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 March 20, 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 Allen J. Beck, Ph.D., Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the 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:* National Corrections Reporting Program. The collection includes the forms: National Corrections Reporting Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form number(s): NCRP–1A, NCRP–1B, NCRP–1C, and NCRP–1D. Corrections Statistics Unit, Bureau of Justice Statistics, Office of Justice

Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The National Corrections Reporting Program (NCRP) is the only national data collection furnishing annual individual-level information for State prisoners admitted or released during the year, those in custody at year-end, and persons discharged from parole supervision. The NCRP collects data on sentencing, time served in prison and on parole, offense, admission/release type, and demographic information. BJS, the Congress, researchers, and criminal justice practitioners use these data to describe annual movements of adult offenders through State correctional systems. Providers of the data are personnel in the State Departments of Corrections and Parole.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* BJS anticipates 42 respondents for report year 2006 with a total annual burden of 2,298 hours. Magnetic media or other electronic formats are expected from 40 respondents and 2 respondents are expected to report manually. The respondents who have an automated data system will require an estimated 24 hours of time to supply the information for their annual caseload and an additional 2 hours documenting or explaining the data. The estimate of respondent burden for these States includes time required for modifying computer programs, preparing input data, and documenting the tape format and record layout.

The estimated average amount of time required to manually complete the NCRP–1A, NCRP–1B, and NCRP–1C questionnaires are 10 minutes, 5 minutes, and 3 minutes per inmate, respectively. The respondent burden is directly related to the number of cases reported. For 2000, the two manually reporting States submitted about 2,600 completed questionnaires for the NCRP–1A; about 2,400 for the NCRP–1B; and about 400 for the NCRP–1C. The estimated total burden for these respondents who submitted data manually was 654 hours. We expect no additional manual reporters in the future; and we expect an insignificant amount of increase in the number of prison admissions, prison releases and parole exits in the three States that currently report manually.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 2,298 total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: January 13, 2006.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. E6–536 Filed 1–18–06; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Emergency Notice of Information Collection Under Review: Voluntary Magazine Questionnaire for Agencies/Entities Who Store Explosives Materials.

The Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by January 12, 2006. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Comments are encouraged and will be accepted for 60 days until March 20, 2006.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, including a copy of the proposed information collection instrument with instructions, should be directed to Mr. Gary Taylor, Explosives, Room 7400, 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:

(1) *Type of information collection:* new collection.

(2) *The title of the form/collection:* Voluntary Magazine Questionnaire for Agencies/Entities Who Store Explosives Materials.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: none. Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Government. Other: none. The information from the questionnaires will be used to identify the number and locations of public explosive storage facilities including those facilities used by state and local law enforcement. The information will also help ATF account for all explosives materials during emergency situations, such as the recent hurricanes in the Gulf, forest fires, or other disasters.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 1,000 respondents will complete the application in approximately 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total annual public burden associated with this application is 500 hours.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice

Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 12, 2006.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 06–476 Filed 1–18–06; 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: Notification to Fire Marshal and Chief Law Enforcement Officer of Storage of Explosive Materials.

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 March 20, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments on the estimated public burden, or associated response time, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gary Taylor, Explosives Industry Programs Branch, Room 7400, 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:* Notification to Fire Marshal and Chief Law Enforcement Officer of Storage of Explosive Materials.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Farms, State, local, or tribal government, individuals or households. The information is provided both orally and in writing to the chief law enforcement officer and the fire marshal of the jurisdiction in which explosives are stored. The information is necessary for the safety of emergency response personnel responding to fires at sites where explosives are stored.

(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 5,000 respondents will take 30 minutes to complete the notifications.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 2,500 annual total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, Department of Justice, Justice Management Division, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 13, 2006.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. E6–570 Filed 1–18–06; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: Federal coal lease reserves.

The Department of Justice (DOJ), Antitrust Division 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 211, on page 66466, on November 2, 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 February 21, 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:* Federal Coal Lease Reserves.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Numbers: ATR–139 and ATR–140, Antitrust Division, Department of Justice.

(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 Department of Justice evaluates the competitive impact of issuances, transfers and exchanges of Federal coal leases. These forms seek information regarding a prospective coal lessee's existing coal reserves. The Department uses this information to determine whether the issuance, transfer or exchange of the Federal coal lease is consistent with the antitrust laws.

(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 20 respondents will complete each form, with each response taking approximately two hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 40 annual burden hours associated with this collection, in total.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 12, 2006.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. E6–569 Filed 1–18–06; 8:45 am]

BILLING CODE 4410–01–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Reinstatement of a Previous Approved Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: 2006 Census of Law Enforcement Training Academies.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics (BJS), 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 205, page 61645 on October 25, 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 February 21, 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 Matthew Hickman, Bureau of Justice Statistics, 810 Seventh St., NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluation 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:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* 2006 Census of Law Enforcement Training Academies.

(3) *Agency form number, if any, and the application component of the Department of Justice sponsoring the collection:* Form Number: CJ–52.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal, State, and Local Government. This information collection is a census of law enforcement training academies. The information will provide national statistics on law enforcement training staff, recruits/trainees, curricula, facilities, and policies.

(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 650 respondents will complete a one and one-half form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 975 total annual burden hours associated with this collection.

If additional information is required contact: Robert B. Briggs, Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 11, 2006.

Robert B. Briggs,

Clearance Officer, United States Department of Justice.

[FR Doc. 06–473 Filed 1–18–06; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collected Under Review: Financial Status Report (Short Form).

The Department of Justice (DOJ), Office of Justice Programs (OJP), Office of the Comptroller (OC), 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 216, pages 68091–68092 on November 9, 2005, allowing for a 60-day comment period.

The purpose of this notice is to allow an additional 30 days for public comment until February 21, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) 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 20530. 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 proposal collection of information are encouraged. Your comments should address on or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Financial Status Report (Short Form).

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* N/A; The Office of the Comptroller.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: The form is completed by State, Local or Tribal Governments who were awarded grants by the Department of Justice, Office of Justice Programs and other cross servicing agencies. It is used as an aid for grant recipient to report the status of their expenditures.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated number of respondents were 15,304 and the estimated time for an average respondent to reply is .5 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* These are approximately 30,608 annual burden hours associated with this information collection.

If additional information is required contact: Robert B. Briggs, Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 12, 2006.

Robert B. Briggs,

Clearance Officer, Department of Justice.

[FR Doc. 06–474 Filed 1–18–06; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Parole Commission

[6P04091]

Sunshine Act Meeting; Public Announcement Pursuant to the Government in the Sunshine Act (Public Law 94–409) (5 U.S.C. 552b)

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commiss

TIME AND DATE: 10 a.m., Friday, January 20, 2006.

PLACE: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of Minutes of Previous Commission Meeting.
2. Reports from the Chairman, Commissioners, Chief of Staff, and Section Administrators.
3. Discussion on Commission budget-priorities and directions.
4. Discussion on a policy regarding treatment of sex offenders and sex offenses.
5. Discussion on a policy regarding the treatment of domestic violence offenders and domestic violence offenses.
6. Discussion on a revised policy regarding prisoner escapes.
7. Discussion on Commissioner participation in hearings.
8. Discussion regarding revised amendment to 28 CFR 2.26 and 2.54 pertaining to appeals and requests for review by the Attorney General.
9. Discussion regarding Commission handling of crime victims.

AGENCY CONTACT: Thomas W. Hutchison, Chief of Staff, United States Parole Commission, (301) 492–5990.

Dated: January 13, 2006.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 06–525 Filed 1–17–06; 11:15 am]

BILLING CODE 4410–31–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

January 12, 2006.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension of currently approved collection.

Title: Asbestos in Construction Standard (29 CFR 1926.1101).

OMB Number: 1218–0134.

Frequency: On occasion and Annually.

Type of Response: Recordkeeping and Third party disclosure.

Affected Public: Business or other for-profit; Federal Government; and State, Local, or Tribal Government.

Number of Respondents: 286,821.

Number of Annual Responses: 53,719,202.

Estimated Time Per Response: Varies from 5 minutes to maintain records to 17.3 hours to train a competent person.

Total Burden Hours: 5,569,658.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $30,730,200.

Description: The information collection requirements specified in the Asbestos in Construction Standard protect employees from the adverse health effects that may result from asbestos exposure. The major information collection requirements of the Asbestos in Construction Standard include: implementing an exposure-monitoring program that informs employees of their exposure-monitoring results; and at multi-employer worksites, notification of other onsite employers by employers establishing regulated areas for the type of work performed with asbestos-containing materials (ACMs) and/or presumed asbestos-containing materials (PACMs); the requirements that pertain to regulated areas; and the measures they can use to protect their employees from asbestos overexposure. Other provisions associated with paperwork requirements include: evaluating and certifying alternative control methods for Class I and Class II asbestos work and informing laundry personnel of the requirement to prevent release of airborne asbestos above the time-weighted average and excursion limit; notification by employers and building/facility owners of designated personnel and employees regarding the presence, location, and quantity of ACMs and/or PACMs; using information, data, and analyses to demonstrate that PACM does not contain asbestos; posting signs in mechanical rooms/areas that employees may enter and that contain ACMs and PACMs, informing them of the identity and location of these materials and work practices that prevent disturbing the materials; posting warning signs demarcating regulated areas; and affixing warning labels to asbestos-containing products and to containers holding such products. Additional provisions of the Standard that contain paperwork requirements include: developing specific information and training programs for employees; providing medical surveillance for employees potentially exposed to ACMs and/or PACMs, including administering an employee medical questionnaire, providing information to the examining physician, and providing the physician's written opinion to the employee; maintaining records of objective data used for exposure determinations, employee exposure-monitoring and medical surveillance records, training records, the record (*i.e.*, information, data, and analyses) used to demonstrate that PACM does not contain asbestos, and notifications made and received by building/facility owners regarding the content of ACMs and PACMs; making specified records (*e.g.*, exposure-monitoring and medical surveillance records) available to designated parties; and transferring exposure-monitoring and medical surveillance records to the National Institute for Occupational Safety and Health on cessation of business.

These paperwork requirements permit employers, employees and their designated representatives, OSHA, and other specified parties to determine the effectiveness of an employer's asbestos-control program. It provides notification to building owners, subsequent building owners, contractors and employees of the presence of asbestos so that precautions can be taken to protect workers. It provides for monitoring and medical surveillance to assure that exposures are kept low and early symptoms are detected. Accordingly, the requirements ensure that employees exposed to asbestos receive all of the protection afforded by the Standard.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension of currently approved collection.

Title: Asbestos in Shipyards (29 CFR 1915.1001).

OMB Number: 1218–0195.

Frequency: On occasion; Semi-annually; and Annually.

Type of Response: Recordkeeping and Third party disclosure.

Affected Public: Business or other for-profit; Federal Government; and State, Local, or Tribal Government.

Number of Respondents: 19.

Number of Annual Responses: 2,210.

Estimated Time Per Response: Varies from 5 minutes to maintain records to 17.3 hours for training a competent person.

Total Burden Hours: 1,426.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $33,635.

Description: Several provisions of the Standard specify paperwork requirements, including: Implementing an exposure-monitoring program that informs employees of their exposure-monitoring results; and, at multi-employer worksites, notification of other onsite employers by employers establishing regulated areas of the type of work performed with asbestos-containing materials (ACMs) and/or presumed asbestos-containing materials (PACMs), the requirements that pertain to regulated areas, and the measures they can use to protect their employees from asbestos overexposure. Other provisions associated with paperwork requirements include: Evaluating and certifying alternative control methods for Class I and Class II asbestos work and, for Class I asbestos work, a requirement to send a copy of the evaluation and certification to the OSHA national office; informing laundry personnel of the requirement to prevent release of airborne asbestos above the time-weighted average and excursion limit; notification by employers and building/facility owners of designated personnel and employees regarding the presence, location, and quantity of ACMs and/or PACMs; using information, data, and analyses to demonstrate that PACM does not contain asbestos; posting signs in mechanical rooms/areas that employees may enter and that contain ACMs and PACMs, informing them of the identity and location of these materials and work practices that prevent disturbing the materials; posting warning signs demarcating regulated areas; and affixing warning labels to asbestos-containing products and to containers holding such products.

Additional provisions of the Standard that contain paperwork requirements include: Developing specific information and training programs for employees; providing medical surveillance for employees potentially exposed to ACMs and/or PACMs, including administering an employee medical questionnaire, providing information to the examining physician, and providing the physician's written opinion to the employee; maintaining records of objective data used for exposure determinations, employee exposure-monitoring and medical-surveillance records, training records, the record (*i.e.*, information, data, and analyses) used to demonstrate that PACM does not contain asbestos, and notifications made and received by building/facility owners regarding the content of ACMs and PACMs; making specified records (*e.g.*, exposure-monitoring and medical-surveillance records) available to designated parties; and transferring exposure-monitoring and medical-surveillance records to the National Institute for Occupational Safety and Health on cessation of business.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. E6–534 Filed 1–18–06; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

January 12, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13,44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *Mills.Ira@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Experience Rating Report.

OMB Number: 1205–0164.

Frequency: Annual.

Affected Public: State, local, or tribal gov't.

Type of Response: Reporting.

Number of Respondents: 53.

Annual Responses: 53.

Average Response time: 15 minutes per State.

Total Annual Burden Hours: 13.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: The ETA–204 provides data to ETA for the study of seasonality, employment or payroll fluctuations, and stabilization, expansion or contraction in operations on employment experience. The data are used to provide an indication of whether solvency problems exist in the State's Trust Fund accounts and in analyzing factors that give rise to solvency problems. The data are also used to complete the Experience Rating Index.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. E6–537 Filed 1–18–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Statement of Recovery Forms (CA/EN–1108, SOL/EN–1108, CA/EN–1122). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before March 20, 2006.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC. 20210, telephone (202) 693–0418, fax (202) 693–1451, e-mail *hbell@fenix2.dol-esa.gov.* Please use only one method of transmission for comments (mail, fax, or e-mail).

SUPPLEMENTARY INFORMATION:

I. Background

Under section 8131 a Federal employee can sustain a work-related injury, for which he or she is eligible for compensation under the Federal Employees' Compensation Act (FECA), under circumstance that create a legal liability in some third party to pay damages for the same injury. When this occurs, section 8131 of the FECA (5 U.S.C. 8131) authorizes the Secretary of Labor to either require the employee to assign his or her right of action to the United States or to prosecute the action. When the employee receives a payment for his or her damages, whether from a final court judgment on or a settlement of the action, section 8132 of the FECA (5 U.S.C. 8132) provides that the employee ''shall refund to the United States the amount of compensation paid by the United States * * *'' To enforce the United States' statutory right to this refund, the Office of Workers' Compensation Programs (OWCP) has promulgated regulations that require

both the reporting of these types of payments (20 CFR 10.710) and the submission of the type of detailed information necessary to calculate the amount of the required refund (20 CRF 10.707(e)). The information collected by Form CA/EN–1122 is requested from the claimant if he or she received a payment for damages without hiring an attorney. Form CA/EN–1108 requests this information from the attorney if one was hired to bring suit against the third party. Form SOL/EN–1108 request the same information as the CA/EN–1108 if the claimant's attorney contacts the Office of the Solicitor (SOL) directly. This information collection is currently approved for use through July 31, 2006.

II. Review Focus

The Department of Labor is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks approval to collect this information in order to exercise its responsibility to enforce the United States' right to this refund. These forms will be used to obtain information about amounts received as the result of a final judgment in litigation, or a settlement of the litigation, brought against a third party who is liable for damages due to compensable work-related injury.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Statement of Recovery Forms.

OMB Number: 1215–0200.

Agency Number: CA/EN–1108, SOL/EN–1108, CA/EN–1122.

Affected Public: Business or other for-profit, Individuals or households.

Form/requirement	Respondents/responses	Time per response (min.)	Burden hours
CA/EN–1108	2,720	30	1,360
SOL/EN–1108	160	30	80
CA/EN–1122	320	15	80

Total Respondents/Responses: 3,200.

Frequency: As needed.

Estimated Total Burden Hours: 1,520.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $1,344.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 12, 2006.

Sue Blumenthal,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E6–535 Filed 1–18–06; 8:45 am]

BILLING CODE 4510–CH–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–003)]

Aerospace Safety Advisory Panel Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES:

1. Thursday, February 2, 2006, 1 p.m. to 2 p.m. Central Time. (Briefing, Teleconference).

2. Friday, February 3, 2006, 8 a.m. to 9 a.m. Central Time. (Briefing, Teleconference).

3. Friday, February 3, 2006, 10 a.m. to 12 p.m. Central Time. (ASAP Public Meeting).

ADDRESSES:

1. Marshall Space Flight Center, 4200 Room P110, Huntsville, AL (Briefings 1 and 2).

2. Marshall Institute Educator Resource Center at the U. S. Space and Rocket Center, Auditorium/Room 105, One Tranquility Base, Huntsville, AL 35805. (ASAP Public Meeting).

FOR FURTHER INFORMATION CONTACT: Mr. John D. Marinaro, Aerospace Safety Advisory Panel Executive Director, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–0914.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will receive two status briefings and hold its Quarterly Meeting on February 2 and 3, respectively. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The major subjects covered will be NASA organizational areas of interest as they relate to safety. The Aerospace Safety Advisory Panel is composed of nine members.

The two briefings will cover the following topics:

1. STS–121 (Shuttle Transport System) Return to Flight Activities Teleconference phone number: 888–455–3612. Passcode: ASAP.

2. NASA Crew Launch Vehicle (CLV) Teleconference phone number: 888–455–3612. Passcode: ASAP.

The following two Status Briefings will be given to the Panel and open to the public, via teleconference, up to the capacity of the phone bridge (25). The Public Meeting will be held at the Marshall Institute Educator Resource Center and open to the public up to the seating capacity of the room (128). Teleconference access and seating will be on a first-come, first-serve basis. Please contact Ms. Susan Burch at *Susan.Burch@nasa.gov* or by telephone at (202) 358–0914 by January 30 to reserve a seat. Visitors will be requested

to sign a visitor's register. Photographs will only be permitted during the first 10 minutes of the meeting. During the first 30 minutes of the Public Meeting, members of the public may make a 5-minute verbal presentation to the Panel on the subject of safety in NASA. To do so, please contact Ms. Susan Burch at (202) 358–0914 at least 24 hours in advance. Any member of the public is permitted to file a written statement with the Panel at the time of the meeting. Verbal presentations and written comments should be limited to the subject of safety in NASA. Rationale for this notice being posted less than 15 days prior to the meeting is due to the scheduling difficulties of the meeting venue and Panel member availability.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E6–581 Filed 1–18–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Proposed Collection, Comment Request, Program Guidelines

ACTION: Notice of requests for information collection.

SUMMARY: The Institute of Museum and Library Services as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3508(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Institute of Museum and Library Services is soliciting comments concerning the proposed collection of application information for the Museum Grants for African American History and Culture program.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before March 20, 2006.

IMLS is particularly interested in comments that help the agency to:

- 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 collocation of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submissions of responses.

ADDRESSES: Rebecca Danvers, Director of Research and Technology, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036; telephone 202–653–4680, fax 202–653–4625, e-mail *rdanvers@imls.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act, 20 U.S.C. 9191, *et seq.* The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs. The Museum and Library Services Act, 20 U.S.C. 9101, *et seq.* authorizes the Director of the Institute of Museum and Library Services to make grants to museums and other entities as the Director considers appropriate. In addition, the National Museum of African American History and Culture Act (the ''Act'') authorizes the Director of the Institute of Museum and Library Services to establish grant and scholarship programs to improve operations, care of collections, and development of professional management of African American museums throughout the country, and to establish grant programs with the purpose of providing internship and fellowship opportunities at African American Museums. See, generally, 20 U.S.C. 80r–5(b). The Institute's new Program is developed pursuant to the provisions of this Act.

I. The National Museum of African American History and Culture Act authorizes the Institute to develop, among other things, the following:

(A) A grant program with the purpose of improving operations, care of collections, and development of professional management at African American museums;

(B) A grant program with the purpose of providing internship and fellowship opportunities at African American museums. 20 U.S.C. 80r–5(b). Pursuant to this authority, IMLS proposes the program of grants to support and enhance African American museums throughout the country.

II. Current Actions:

To administer this program of grants, IMLS must develop application guidelines.

Agency: Institute of Museum and Library Services.

Title: Application Guidelines.

OMB Number: n/a.

Agency Number: 3137.

Frequency: Annually.

Affected Public: Museums.

Number of Respondents: 50.

Estimated Time Per Respondent: 35 hours.

Total Burden Hours: 1750.

Total Annualized capital/startup costs: $0.

Total Annual costs: $32,900.

FOR FURTHER INFORMATION CONTACT: Rebecca Danvers, Direct of Research and Technology, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036; telephone 202–653–4680, fax 202–653–4625, e-mail *rdanvers@imls.gov.*

Dated: January 12, 2006.

Rebecca Danvers,

Director, Office of Research and Technology.

[FR Doc. 06–462 Filed 1–18–06; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of January 16, 23, 30; February 6, 13, 20, 2006.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of January 16, 2006

Tuesday, January 17, 2006

1:30 p.m. Discussion of Security Issues (Closed—Ex. 1 & 3.

Week of January 23, 2006—Tentative

There are no meetings scheduled for the Week of January 23, 2006.

Week of January 30, 2006—Tentative

Tuesday, January 31, 2006

9:30 a.m. Briefing on Strategic Workforce Planning and Human Capital Initiatives (Closed—Ex. 2).

Wednesday, February 1, 2006

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1 & 3).

Week of February 6, 2006—Tentative

Monday, February 6, 2006

9:30 a.m. Briefing on Materials Degradation Issues and Fuel Reliability (Public Meeting). (Contact: Jennifer Uhle, 301–415–6200.)

This meeting will be Webcast live at the Web address—*http://www.nrc.gov*.

2 p.m. Discussion of Security Issues (Closed—Ex. 1 & 3).

Wednesday, February 8, 2006

9:30 a.m. Briefing on Office of Nuclear Materials Safety and Safeguards (NMSS) Programs, Performance, and Plans—Materials Safety (Public Meeting). (Contact: Teresa Mixon, 301–415–7474; Derk Widmayer, 301–415–6677).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov*.

1:30 p.m. Briefing on Office of Research (RES) Programs, Performance and Plans (Public Meeting). (Contact: Gene Carpenter, 301–415–7333).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov*.

Week of February 13, 2006—Tentative

Tuesday, February 14, 2006

2 p.m. Briefing on Office of Nuclear Materials Safety and Safeguards (NMSS) Programs, Performance, and Plans—Waste Safety (Public Meeting). (Contact: Teresa Mixon, 301–415–7474; Derek Widmayer, 301–415–6677).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov*.

Wednesday, February 15, 2006

9:30 a.m. Briefing on Status of OCFO Programs, Performance, and Plans (Public Meeting). (Contact: Edward New, 301–415–5646).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov*.

Week of February 20, 2006—Tentative

There are no meetings scheduled for the Week of February, 2006.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http//www.nrc.gov/what-we-do/policy-making/schedule.html*.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.*, braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at 301–415–7080, TDD: 301–415–2100, or by e-mail at *aks@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov*.

Dated: January 12, 2006.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 06–524 Filed 1–17–06; 11:15 am]

BILLING CODE 7590–01–M

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 15c2–8; SEC File No. 270–421; OMB Control No. 3235–0481.

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.

Rule 15c2–8 Delivery of Prospectus

Rule 15c2–8 requires broker-dealers to deliver preliminary or final prospectuses to specified persons in association with securities offerings. This requirement ensures that information concerning issuers flows to purchasers of the issuers' securities in a timely fashion. It is estimated that there are approximately 8,000 broker-dealers, any of which potentially may participate in an offering subject to rule 15c2–8. The Commission estimates that rule 15c2–8 creates approximately 10,600 burden hours with respect to 120 initial public offerings and 460 other offerings.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. 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, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

Dated: January 11, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. 06–480 Filed 1–18–06; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–13955]

Issuer Delisting; Notice of Application of Cash Systems, Inc. To Withdraw Its Common Stock, $.001 Par Value, From Listing and Registration on the American Stock Exchange LLC

January 12, 2006.

On December 28, 2005, Cash Systems, Inc., a Delaware corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section

12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.001 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

On December 23, 2005, the Board of Directors (''Board'') of the Issuer approved resolutions to withdraw the Security from listing and registration on Amex and to list the Security on the Nasdaq National Market (''Nasdaq''). The Issuer stated in its application that the Board is taking such action because after considering, among other things, the capital market alternatives, the Board believes, it is advisable and in the best interests of the Issuer and its stockholders to list its Security on Nasdaq and 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 Delaware, in which it is incorporated, and provided written notice of withdrawal to Amex.

The Issuer's application relates solely to withdrawal of the Security from listing on Amex and from registration under Section 12(b) of the Act,[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before February 8, 2006, 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 1–13955 or;

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number 1–13955. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Nancy M. Morris,

Secretary.

[FR Doc. E6–517 Filed 1–18–06; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78l(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Smart Online, Inc.; Order of Suspension of Trading

January 17, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Smart Online, Inc. (''SOLN'') because of possible manipulative conduct occurring in the market for the company's stock.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EST, on January 17, 2006 through 11:59 p.m. EST, on January 30, 2006.

By the Commission.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 06–519 Filed 1–17–06; 11:16 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53105; File No. SR–Amex–2005–059]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 3 and 4 Thereto Relating to the Listing and Trading of the DB Commodity Index Tracking Fund

January 11, 2006.

I. Introduction

On May 27, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade the DB Commodity Index Tracking Fund under new Commentary .07 to Amex Rule 1202. On September 15, 2005, the Amex filed Amendment No. 1 to the proposed rule change. On November 15, 2005, the Amex filed Amendment No. 2 to the proposed rule change. The proposed rule change, as amended by Amendment Nos. 1 and 2, was published for comment in the **Federal Register** on December 16, 2005 for a 15-day comment period, which ended on January 3, 2006.[3] The Commission received no comments on the proposal. On January 5, 2006, the Amex filed Amendment No. 3 to the proposed rule change.[4] On January 11,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 52940 (December 12, 2005), 70 FR 74850.

[4] In Amendment No. 3, the Amex: (1) Added language to clarify that the composition of the Index may be adjusted in the event that the Index Sponsor is not able to obtain information necessary from the relevant futures exchanges to calculate the daily and/or closing prices for the Index commodities; (2) stated that, in connection with adjustments to the Index, if futures prices are not available, the Index Sponsor will typically use the prior day's futures price and that, in exceptional cases, the Index Sponsor may employ a ''fair value'' price; (3) stated that, in the case of a temporary disruption in connection with the trading of the futures contracts comprising the Index, the Exchange believes that it is unnecessary for a filing pursuant to Section 19(b) under the Exchange Act to be submitted to the Commission and represented that if the use of a prior day's price or ''fair value'' pricing for an Index commodity or commodities is more than of a temporary nature, a rule filing will be submitted pursuant to Section 19(b) of the Exchange Act; (4) represented that, if a successor or substitute Index is used by the Managing Owner, the Exchange will file a proposed rule change pursuant to Rule 19b–

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2006, the Amex filed Amendment No. 4 to the proposed rule change.[5] This order grants accelerated approval of the proposed rule change, as amended by Amendment Nos. 1 and 2. Simultaneously, the Commission is providing notice of filing of, granting accelerated approval of, and soliciting comments from interested persons on Amendment Nos. 3 and 4.

II. Description of the Proposal

The Exchange proposes to add new Commentary .07 to Amex Rule 1202 for the purpose of permitting the listing and trading of Trust Issued Receipts (''TIRs'') where the trust holds shares (''Investment Shares'') that are issued by a trust, partnership, commodity pool, or other similar entity that holds investments in any combination of securities, futures contracts, options on futures contracts, swaps, forward contracts, commodities or portfolios of investments. For each separate Investment Share, the Exchange would submit a filing pursuant to Section 19(b) of the Act. The Shares will conform to the initial and continued listing criteria under proposed Commentary .07(d) to Amex Rule 1202.[6] In its proposal, the Amex initially proposes to list and trade the shares (the ''Shares'') of a specific trust, DB Commodity Index Tracking Fund (the ''Fund''), that invests in the securities of a commodity pool.

The Fund will invest substantially all of its assets in the common units of beneficial interests of DB Commodity Index Tracking Master Fund (the ''Master Fund''). The Master Fund is a trust created under Delaware law that will consist primarily of futures contracts on the commodities comprising the Deutsche Bank Liquid Commodity Index™—Excess Return (the ''DBLCI'' or ''Index''). Both the Fund and the Master Fund are commodity pools operated by DB Commodity Services LLC (the ''Managing Owner'').[7] The Managing Owner will be registered as a commodity pool operator and commodity trading advisor with the Commodity Futures Trading Commission (''CFTC'') and a member of the National Futures Association (''NFA'').

The Managing Owner will serve as the commodity pool operator and commodity trading advisor of the Fund and the Master Fund. In this particular case, the Managing Owner of the Master Fund will manage only the futures contracts in order to track the performance of the Index. The Master Fund may also include U.S. Treasury securities for margin purposes and other high credit quality short-term fixed income securities.

III. Index Description

DBLCI is intended to reflect the performance of certain commodities. The Index tracks the performance of futures contracts on crude oil, heating oil, aluminum, gold, corn and wheat, and the notional amounts of each commodity included in the Index are approximately in proportion to historical levels of the world's production and supplies of such commodities. The sponsor of the Index is Deutsche Bank AG London (''DB London'').

The Index value is calculated by DB London during the trading day on the basis of the most recently reported trade price for the relevant futures contract relating to each of the Index commodities. Therefore, the market value of each Index commodity during the trading day will be equal to the number of futures contracts of each commodity represented in the Index multiplied by the real-time futures contract price (*i.e.*, the most recently reported trade price).[8] The Index value will be calculated and disseminated at least every 15 seconds during the period the Shares trade on the Exchange. The closing level of the Index is calculated by DB London on the basis of closing prices for the applicable futures contracts relating to each of the Index commodities and applying such prices to the relevant notional amount. For each Index commodity, the market value will be equal to the number of futures contracts represented in the Index multiplied by the futures contract closing price. The Index includes provisions for the replacement of expiring futures contracts. This replacement takes place over a period of time in order to lessen the impact on the market for such Index commodity. Such replacements occur monthly (other than in November) during the first week of the month in the case of futures contracts relating to crude oil and heating oil and annually in November in the case of futures contracts relating to aluminum, gold, corn and wheat.

The Index is adjusted annually in November to rebalance its composition to ensure that each of the Index commodities are weighted in the same proportion that such commodities were weighted on December 1, 1988 (the ''Base Date''). The Index has been calculated back to the Base Date. On the Base Date, the closing level was 100.

The following table reflects the index base weights (''Index Base Weights'') of each Index commodity on the Base Date:

Index commodity	Index base weight (%)
Crude Oil	35.00
Heating Oil	20.00
Aluminum	12.50
Gold	10.00
Corn	11.25
Wheat	11.25
Closing Level on Base Date	100.00

The composition[9] of the Index may be adjusted in the event that the Index Sponsor is not able to obtain information necessary from the relevant futures exchanges to calculate the daily and/or closing prices for the Index commodities. If futures prices are not available, the Index Sponsor will typically use the prior day's futures price. In exceptional cases (such as when a daily price limit is reached on a futures exchange), the Index Sponsor may employ a ''fair value'' price (*i.e.*, the price for unwinding the futures position by dealers OTC).[10] In the case of a temporary disruption in connection with the trading of the futures contracts comprising the Index, the Exchange believes that it is unnecessary for a filing pursuant to Section 19(b) under the Exchange Act to be submitted to the

4 under the Exchange Act to address, among other things, the listing and trading characteristics of the successor or substitute index and the Exchange's surveillance procedures applicable to the successor or substitute index; and (5) requested accelerated approval of Amendment No. 3.

[5] In Amendment No. 4, the Amex amended the rule text to require that the Index value will be disseminated through one or more major market data vendors at least every 15 seconds during the time the Shares trade on Amex.

[6] Proposed Commentary .07(d) to Rule 1202 for listing the Shares is substantially similar to current Rule 1202A relating to Commodity-Based Trust Shares.

[7] The Exchange stated that the Fund is not a registered investment company under the Investment Company Act of 1940 (''1940 Act'') and is not required to register under the 1940 Act.

[8] Quote information and last sale information is available from the applicable futures markets and from data vendors.

[9] The Exchange represents that should the Index Sponsor replace or delete the current Index components, the Exchange will submit a rule filing, for Commission approval, pursuant to Section 19(b) of the Exchange Act. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on January 10, 2006.

[10] The Exchange notes that this is similar to the case for index options when prices are unavailable or unreliable. Article XVII, Section 4 of OCC's By-Laws permits it to use the prior day's closing price to fix an index option's exercise settlement value. In addition, OCC may also use the next day's opening price, a price or value at such other time as determined by OCC or an average of prices or values as determined by OCC.

Commission. However, the Exchange represents that if the use of a prior day's price or ''fair value'' pricing for an Index commodity or commodities is more than of a temporary nature, a rule filing will be submitted pursuant to Section 19(b) of the Exchange Act.

The Managing Owner has represented that it will seek to arrange to have the Index calculated and disseminated on a daily basis through a third party if DB London ceases to calculate and disseminate the Index. If, however, the Managing Owner is unable to arrange the calculation and dissemination of the Index (or a Successor Index), the Exchange will undertake to delist the Shares.[11]

IV. Commodity Futures Contracts and Related Options

The Index Sponsor will calculate each day the closing level of the Index on the basis of the closing prices for the futures contracts on the relevant primary markets, indicated below.

Crude Oil. Crude oil is the world's most actively traded commodity. The Light Sweet Crude Oil futures contract traded on the New York Mercantile Exchange (''NYMEX'') is the world's most liquid forum for crude oil trading, as well as the world's most liquid futures contract on a physical commodity.[12] Due to the excellent liquidity and price transparency of the futures contract, it is used as a principal international pricing benchmark.

Heating Oil. The heating oil futures contract, listed and traded at the NYMEX, trades in units of 42,000 gallons (1,000 barrels) and is based on delivery in New York harbor, the principal cash market center.[13] The heating oil futures contract is also used to hedge diesel fuel and jet fuel, both of which trade in the cash market at an often stable premium to the heating oil futures contract.

Gold. NYMEX is the world's largest physical commodity futures exchange and the dominant market for the trading of energy and precious metals.[14]

Aluminum. Aluminum is the most heavily produced and consumed non-ferrous metal in the world. Its low density and malleability has been recognized and championed by the industrial world. In 2001, world primary refined production totaled over 24 million tonnes. The total turnover for the London Metal Exchange (''LME'') primary aluminum futures and options in 2001 was over 25 million lots or 625 million tonnes. The LME has the most liquid aluminum contracts in the world.[15]

Corn. Corn futures are traded on the Chicago Board of Trade (''CBOT'') with a unit of trading of 5,000 bushels.[16]

Wheat. Wheat futures are traded on the CBOT with a unit of trading of 5,000 bushels.[17]

V. Structure of the Fund

Fund. The Fund is a statutory trust formed pursuant to the Delaware Statutory Trust Act and will issue units of beneficial interest or shares that represent units of fractional undivided beneficial interest in and ownership of the Fund. Unless terminated earlier, the Fund will expire on December 31, 2055. The investment objective of the Fund is to reflect the performance of the DBLCI less the expenses of the operation of the Fund and the Master Fund. The Fund will pursue its investment objective by investing substantially all of its assets in the Master Fund. The Fund will hold no investment assets other than Master Fund Units.[18] Each Share will correlate with a Master Fund share issued by the Master Fund and held by the Fund.

Master Fund. The Master Fund is a statutory trust formed pursuant to the Delaware Statutory Trust Act and will issue units of beneficial interest or shares that represent units of fractional undivided beneficial interest in and ownership of the Master Fund. Unless terminated earlier, the Master Fund will expire on December 31, 2055. The investment objective of the Master Fund is to reflect the performance of the DBLCI less the expenses of the operations of the Fund and the Master Fund. The Master Fund will pursue its investment objective by investing primarily in a portfolio of futures contracts on the commodities comprising the DBLCI. In addition, the Master Fund will also hold cash and U.S. Treasury securities for deposit with futures commission merchants (''FCMs'') as margin and other high credit quality short-term fixed income securities.

Trustee. Wilmington Trust Company is the trustee of the Fund and the Master Fund. The trustee has delegated to the Managing Owner the power and authority to manage and operate the day-to-day affairs of the Fund and the Master Fund.

Managing Owner. The Managing Owner is a Delaware limited liability company that will be registered with the CFTC as a commodity pool operator and commodity trading advisor and is an affiliate of Deutsche Bank AG, the sponsor of the Fund and Master Fund. The Managing Owner will serve as the commodity pool operator and commodity trading advisor of the Fund and the Master Fund and will manage and control all aspects of the business of the Funds.

Clearing Broker. Deutsche Bank Securities, Inc., the Clearing Broker, is an affiliate of the Managing Owner and is registered with the CFTC as an FCM. The Clearing Broker will execute and clear each of the Master Fund's futures contract transactions and will perform certain administrative services for the Master Fund.

Administrator. The Bank of New York is the administrator for both the Fund and the Master Fund (the ''Administrator''). The Administrator will perform or supervise the performance of services necessary for the operation and administration of the

[11] If the Index is discontinued or suspended, Managing Owner, in its sole discretion, may substitute the Index with an index substantially similar to the discontinued or suspended Index (the ''Successor Index''). The Successor Index may be calculated and/or published by any other third party. The Exchange represents that if a successor or substitute Index is used by the Managing Owner, the Exchange will file a proposed rule change pursuant to Rule 19b–4 under the Exchange Act to address, among other things, the listing and trading characteristics of the successor or substitute index and the Exchange's surveillance procedures applicable to the successor or substitute index. *See also infra* note 32 and accompanying text.

[12] In 2004, ADTV on NYMEX for futures contracts on light sweet crude oil were 212,382 (with each contract representing 1,000 barrels); ADTV through August 2005 was 241,673. Annual contracts traded on NYMEX on light sweet crude oil in 2004 were 52.8 million; annual contracts traded through August 2005 were 40.6 million.

[13] In 2004, ADTV on NYMEX for futures contracts on heating oil were 51,745 (with each contract representing 1,000 barrels); ADTV through August 2005 was 52,413. Annual contracts traded on NYMEX on heating oil in 2004 were 12.8 million; annual contracts traded through August 2005 were 8.8 million.

[14] In 2004, ADTV on NYMEX for futures contracts on gold were 60,079 (with each contract representing 100 troy ounces); ADTV through August 2005 was 61,085. Annual contracts traded on NYMEX on gold in 2004 were 14.9 million; annual contracts traded through August 2005 were 10.2 million.

[15] In 2004, ADTV on LME for futures contracts on aluminum were 116,004 (with each contract representing 25 tonnes); ADTV through August 2005 was 113,743. Annual contracts traded on LME on aluminum in 2004 were 29.2 million; annual contracts traded through August 2005 were 18.9 million.

[16] In 2004, ADTV on CBOT for futures contracts on corn were 95,390 (with each contract representing 5,000 bushels); ADTV through August 2005 was 120,237. Annual contracts traded on CBOT on corn in 2004 were 24.038 million; annual contracts traded through August 2005 were 20.19 million.

[17] In 2004, ADTV on CBOT for futures contracts on wheat were 31,568 (with each contract representing 5,000 bushels); ADTV through August 2005 was 41,249. Annual contracts traded on CBOT on wheat in 2004 were 7.95 million; annual contracts traded through August 2005 were 6.92 million.

[18] *See* Pre-Effective Amendment No. 4 to the Fund's Form S–1, Registration No. 333–125325, dated October 26, 2005.

Fund and the Master Fund. These services include, but are not limited to, investment accounting, financial reporting, broker and trader reconciliation, net asset value (''NAV'') calculation,[19] risk transparency, and receiving and processing orders from Authorized Participants (as defined below), and coordinating the processing of orders with the Managing Owner and the Depository Trust Company (''DTC'').

VI. Product Description

A. Creation and Redemption of Shares

Issuances of the Shares will be made only in baskets of 200,000 Shares or multiples thereof (the ''Basket Aggregation'' or ''Basket''). The Fund will issue and redeem the Shares on a continuous basis, by or through participants that have entered into participant agreements (each, an ''Authorized Participant'') [20] with the Fund and its Managing Owner at the NAV per Share determined shortly after 4 p.m. Eastern Time (''ET'') or the last to close futures exchanges on which the Index commodities are traded, whichever is later, on the business day on which an order to purchase the Shares in one or more Baskets is received in proper form. Following issuance, the Shares will be traded on the Exchange similar to other equity securities. The Shares will be registered in book entry form through DTC.

The procedures for creating a Basket are as follows. On any business day, an Authorized Participant may place an order with the Distributor, ALPS Distributors, Inc. (the ''Distributor''), to create one or more Baskets. Purchase orders must be placed by 10 a.m. ET and are irrevocable. By placing a purchase order, and prior to delivery of such Basket(s), an Authorized Participant's DTC account will be charged the non-refundable $500 transaction fee due for the purchase order, regardless of the number of Baskets to be created in connection with such order.

The total payment required to create a Basket during the continuous offering period is the cash amount equal to the NAV per Share times 200,000 Shares (the ''Basket Amount'') on the purchase order date. Thus, the Basket Amount usually will be determined on each business day by the Administrator shortly after 4 p.m. ET. Baskets are issued as of 12 noon ET, on the business day immediately following the purchase order date (T+1) at NAV per Share on the purchase order date if the required payment has been timely received.

Authorized Participants that have placed a purchase order to create a Basket must transfer the Basket Amount to the Administrator (the ''Cash Deposit Amount'') by 10 a.m. the next day. Authorized Participants that wish to redeem a Basket will be required to accumulate enough Shares to constitute a Basket Aggregation (*i.e.*, 200,000 Shares) and, upon surrender of the Shares and payment of applicable redemption transaction fee, taxes or charges, the Administrator will deliver to the redeeming Authorized Participant cash in exchange for each Basket surrendered in an amount equal to the NAV per Basket (the ''Cash Redemption Amount''). The Shares will not be individually redeemable but will only be redeemable in Basket Aggregations.

Because orders to purchase Baskets must be placed by 10 a.m. ET, but the total payment required to create a Basket will not be determined until shortly after 4 p.m. ET, on the date the purchase order is properly received, Authorized Participants will not know the total amount of the payment required to create a Basket at the time they submit an irrevocable purchase order. The Exchange states that this is similar to exchange-traded funds and mutual funds. The Fund's prospectus discloses that NAV and the total amount of the payment required to create a Basket could rise or fall substantially between the time an irrevocable purchase order is submitted and the time the amount of the purchase order is determined.

On each business day, the Administrator will make available immediately prior to the opening of trading on the Amex, an estimate of the Cash Deposit Amount for the creation of a Basket. The Amex will disseminate every 15 seconds throughout the trading day, via the facilities of the Consolidated Tape Association (''CTA''), an amount representing, on a per Share basis, the current value (intra-day) of the Basket Amount (the ''Indicative Fund Value''). It is anticipated that the deposit of the Cash Deposit Amount in exchange for a Basket will be made primarily by institutional investors, arbitrageurs, and the Exchange specialist. Baskets are then separable upon issuance into identical Shares that will be listed and traded on the Amex.[21] The Shares are expected to be traded on the Exchange by professionals, as well as institutional and retail investors. Shares may be acquired in two (2) ways: (1) Through a deposit of the Cash Deposit Amount with the Administrator during normal business hours by Authorized Participants, or (2) through a purchase on the Exchange by investors.

B. Net Asset Value

Shortly after 4 p.m. ET each business day, the Administrator will determine the NAV for the Fund and Master Fund, utilizing the current day's settlement value of the particular commodity futures contracts in the Master Fund's portfolio and the value of the Master Fund's cash and high-credit quality, short-term fixed income securities. However, if a futures contract on a trading day cannot be liquidated due to the operation of daily limits or other rules of an exchange upon which such futures contract is traded, the settlement price on the most recent trading day on which the futures contract could have been liquidated will be used in determining the Fund's and the Master Fund's NAV. Accordingly, for both U.S. and non-U.S. futures contracts, the Administrator will typically use that day's futures settlement price for determining NAV.

The NAV for the Fund is total assets of the Master Fund less total liabilities of the Master Fund. The NAV is calculated by including any unrealized profit or loss on futures contracts and any other credit or debit accruing to the Master Fund but unpaid or not received by the Master Fund. This preliminary NAV is then used to compute all NAV-based fees (including the management and administrative fees, accrued through and including the date of publication) that are calculated from the value of Master Fund assets. The Administrator will calculate the NAV per Share by dividing the NAV by the number of Shares outstanding. Then once the final, published NAV is determined, shortly after 4 p.m. ET each business day, the Administrator also will determine the Basket Amount for orders placed by Authorized Participants received by 10 a.m. ET that day.

[19] NAV is the total assets of the Master Fund less total liabilities of the Master Fund, determined on the basis of generally accepted accounting principles. NAV per Master Fund share is the NAV of the Master Fund divided by the number of outstanding Master Fund shares. This will be the same for the Shares of the Fund because of a one-to-one correlation between the Shares and the shares of the Master Fund.

[20] An ''Authorized Participant'' is a person, who at the time of submitting to the trustee an order to create or redeem one or more Baskets, (i) is a registered broker-dealer, (ii) is a DTC Participant, and (iii) has in effect a valid Participant Agreement with the Fund issuer.

[21] The Shares are separate and distinct from the shares of the Master Fund. The Master Fund's assets will consist of long positions in the futures contracts on the commodities comprising the DBLCI. The Exchange expects that the number of outstanding Shares will increase and decrease from time to time as a result of creations and redemptions of Baskets.

Shortly after 4 p.m. ET each business day, the Administrator, Amex, and Managing Owner will disseminate the NAV for the Shares and the Basket Amount (for orders placed during the day). The NAV and the Basket Amount are available to all market participants at the same time and will be disseminated accordingly. The Basket Amount and the NAV are communicated by the Administrator to all Authorized Participants via facsimile or electronic mail message and will be publicly available on the Fund's Web site at *http://www.dbcfund.db.com*. The Amex will also publicly disclose via its Web site at *http://www.amex.com* the NAV and Basket Amount (for orders placed that day). The Exchange also will disseminate the Basket Amount by means of CTA/CQ High Speed Lines.

The Exchange stated that it believes that the Shares will not trade at a material discount or premium to NAV due to potential arbitrage opportunities in the event of any discrepancy between the two. Due to the fact that the Shares can be created and redeemed daily only in Basket Aggregations at NAV by Authorized Participants, the Exchange submitted that arbitrage opportunities should provide a mechanism to diminish the effect of any premiums or discounts that may exist from time to time.

C. Dissemination of the Index and Underlying Futures Contracts Information

DB London as the Sponsor of the Index will publish the value of the Index at least every fifteen (15) seconds during Amex trading hours through Bloomberg, Reuters, and other market data vendors. In addition, the Index value will be available on the DB London (Sponsor) Web site at *https://index.db.com* and Fund's Web site at *http://www.dbcfund.db.com* on a twenty (20) minute delayed basis.[22] The closing Index level will similarly be provided by DB London and the Fund. In addition, any adjustments or changes to the Index will also be provided by DB London and the Fund on their respective Web sites.[23]

The closing prices and daily settlement prices for the futures contracts held by the Master Fund are publicly available on the Web sites of the futures exchanges trading the particular contracts. The particular futures exchange for each futures contract with Web site information is as follows: (i) Aluminum—London Metal Exchange (LME) at *http://www.lme.com*; (ii) corn and wheat—Chicago Board of Trade (CBOT) at *http://www.cbot.com*; and (iii) crude oil, heating oil and gold—New York Mercantile Exchange (NYMEX) at *http://www.nymex.com*. The Exchange on its Web site at *http://www.amex.com* will include a hyperlink to the Index Sponsor's Web site at *https://index.db.com*, which will contain hyperlinks to each of the futures exchanges Web sites for the purpose of disclosing futures contract pricing. In addition, various data vendors and news publications publish futures prices and data. The Exchange has represented that futures quotes and last sale information for the commodities underlying the Index are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange has represented that complete real-time data for such futures is available by subscription from Reuters and Bloomberg. The CBOT, LME, and NYMEX also provide delayed futures information on current and past trading sessions and market news free of charge on their respective Web sites. The specific contract specifications for the futures contracts are also available from the futures exchanges on their Web sites as well as other financial informational sources.

D. Availability of Information Regarding the Shares

The Web site for the Fund (*http://www.dbcfund.db.com*), which will be publicly accessible at no charge, will contain the following information: (a) The prior business day's NAV and the reported closing price; (b) the mid-point of the bid-ask price[24] in relation to the NAV as of the time the NAV is calculated (the ''Bid-Ask Price''); (c) calculation of the premium or discount of such price against such NAV; (d) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four (4) previous calendar quarters; (e) the prospectus; and (f) other applicable quantitative information.

As described above, the NAV for the Fund will be calculated and disseminated daily. The Amex also intends to disseminate, during Amex trading hours, for the Fund on a daily basis by means of CTA/CQ High Speed Lines information with respect to the Indicative Fund Value (as discussed below), recent NAV, and Shares outstanding. The Exchange will also make available on its Web site daily trading volume, closing prices, and the NAV.

E. Dissemination of Indicative Fund Value

As noted above, the Administrator calculates the NAV of the Fund once each trading day. In addition, the Administrator causes to be made available on a daily basis the Cash Deposit Amount to be deposited in connection with the issuance of the Shares in Basket Aggregations. In addition, other investors can request such information directly from the Administrator.

In order to provide updated information relating to the Fund for use by investors, professionals, and persons, the Exchange will disseminate through the facilities of CTA an updated Indicative Fund Value. The Indicative Fund Value will be disseminated on a per Share basis at least every 15 seconds from 9:30 a.m. to 4:15 p.m. ET.[25] The Indicative Fund Value will be calculated based on the cash required for creations and redemptions (*i.e.*, NAV × 200,000) adjusted to reflect the price changes of the Index commodities through investments held by the Master Fund, *i.e.*, futures contracts.

The Indicative Fund Value will not reflect price changes to the price of an underlying commodity between the close of trading of the futures contract at the relevant futures exchange and the close of trading on the Amex at 4:15 p.m. ET. The value of a Share may accordingly be influenced by non-concurrent trading hours between the Amex and the various futures exchanges on which the futures contracts based on the Index commodities are traded.

[22] Amex will provide a hyperlink from its Web site to the Fund's Web site (*http://www.dbcfund.db.com*) and the DB London Web site (*https://index.db.com*). Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on January 11, 2006.

[23] The Index Sponsor has in place procedures to prevent the improper sharing of information between different affiliates and departments. Specifically, an information barrier exists between the personnel within DB London that calculate and reconstitute the Index and other personnel of the Index Sponsor, including but not limited to the Managing Owner, sales and trading, external or internal fund managers, and bank personnel who are involved in hedging the bank's exposure to instruments linked to the Index, in order to prevent the improper sharing of information relating to the recomposition of the Index. The index is not calculated by a broker-dealer. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on January 11, 2006.

[24] The bid-ask price of Shares is determined using the highest bid and lowest offer as of the time of calculation of the NAV.

[25] Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Kate Robbins, Attorney, Division of Market Regulation, Commission, on November 28, 2005.

While the Shares will trade on the Amex from 9:30 a.m. to 4:15 p.m. ET, the table below lists the trading hours for each of the Index commodities underlying the futures contracts.

Index commodity	Futures exchange	Trading hours (ET)
Aluminum	LME	6:55 a.m.–12:00 p.m.
Gold	COMEX	8:20 a.m.–1:30 p.m.
Crude Oil	NYMEX	10:00 a.m.–2:30 p.m.
Heating Oil	NYMEX	10:05 a.m.–2:30 p.m.
Corn	CBOT	10:30 a.m.–2:15 p.m.
Wheat	CBOT	10:30 a.m.–2:15 p.m.

While the market for futures trading for each of the Index commodities is open, the Indicative Fund Value can be expected to closely approximate the value per Share of the Basket Amount. However, during Amex trading hours when the futures contracts have ceased trading, spreads and resulting premiums or discounts may widen, and therefore, increase the difference between the price of the Shares and the NAV of the Shares. Indicative Fund Value on a per Share basis disseminated during Amex trading hours should not be viewed as a real time update of the NAV, which is calculated only once a day.

The Exchange stated that it believes that dissemination of the Indicative Fund Value based on the cash amount required for a Basket Aggregation provides additional information that is not otherwise available to the public and is useful to professionals and investors in connection with the Shares trading on the Exchange or the creation or redemption of the Shares.

VII. Criteria for Initial and Continued Listing

The Fund will be subject to the criteria in proposed Commentary .07(d) of Amex Rule 1202 for initial and continued listing of the Shares. The proposed continued listing criteria provides for the delisting or removal from listing of the Shares under any of the following circumstances:

- Following the initial twelve month period from the date of commencement of trading of the Shares: (i) If the Fund has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of the Shares for 30 or more consecutive trading days; (ii) if the Fund has fewer than 50,000 Shares issued and outstanding; or (iii) if the market value of all Shares is less than $1,000,000.
- If the value of the underlying index or portfolio is no longer calculated or available on at least a 15-second basis through one or more major market data vendors during the time the Shares trade on the Exchange.
- The Indicative Fund Value is no longer made available on at least a 15-second basis.
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

It is anticipated that a minimum of 2,000,000 Shares will be required to be outstanding at the start of trading. It is anticipated that the initial price of a Share will be approximately $25. The Fund expects to accept subscriptions for Shares in Basket Aggregations (*i.e.*, $5 million) from Authorized Participants during an initial offering period with a finite term of approximately six (6) months, subject to earlier termination. After the initial offering period has closed and trading commences, the Fund will then issue Shares in the normal Basket Aggregations of 200,000 Shares to Authorized Participants. Once the initial offering period has closed and trading commences, the Master Fund will issue shares in Master Fund Baskets (200,000 shares) to the Fund continuously at NAV. The Master Fund will be owned by the Fund and the Managing Owner.[26] Each Share issued by the Fund will correlate with a Master Fund share issued by the Master Fund and held by the Fund. The Exchange stated that it believes that the anticipated minimum number of Shares outstanding at the start of trading is sufficient to provide adequate market liquidity and to further the Fund's objective to seek to provide a simple and cost effective means of accessing the commodity futures markets.

The Exchange has represented that it prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Exchange Act.[27]

VIII. Trading Rules

The Shares are equity securities subject to Amex Rules governing the trading of equity securities, including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities and account opening and customer suitability (Amex Rule 411). Initial equity margin requirements of 50% will apply to transactions in the Shares. Shares will trade on the Amex until 4:15 p.m. ET each business day[28] and will trade in a minimum price variation of $0.01 pursuant to Amex Rule 127. Trading rules pertaining to odd-lot trading in Amex equities (Amex Rule 205) will also apply.

The Amex original listing fee applicable to the listing of the Fund is $5,000. In addition, the annual listing fee applicable under Section 141 of the Amex *Company Guide* will be based upon the year-end aggregate number of Shares in all series of the Fund outstanding at the end of each calendar year.

Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary thereto) the price of which is derivatively based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c)(i–v). The Exchange has designated the Shares as eligible for this treatment.[29]

[26] The Managing Owner will own 1% or less of the Master Fund and will share pro rata in the income and expenses of the Master Fund.

[27] *See* Rule 10A–3(c)(7), 17 CFR 240.10A–3(c)(7) (stating that a listed issuer is not subject to the requirements of Rule 10A–3 if the issuer is organized as a trust or other unincorporated association that does not have a board of directors and the activities of the issuer are limited to passively owning or holding securities or other assets on behalf of or for the benefit of the holders of the listed securities).

[28] Commentary .01, .02, and .03 to Exchange Rule 1200 are applicable to transactions in the Shares, however, the Shares will trade from 9:30 a.m. to 4:15 p.m. each business day. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on January 11, 2006.

[29] *See* Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) at note 9, regarding the Exchange's designation of equity derivative securities as eligible for such treatment under Amex Rule 154, Commentary .04(c).

The Shares will be deemed ''Eligible Securities,'' as defined in Amex Rule 230, for purposes of the Intermarket Trading System Plan and therefore will be subject to the trade through provisions of Amex Rule 236 which require that Amex members avoid initiating trade-throughs for ITS securities.

Specialist transactions of the Shares made in connection with the creation and redemption of Shares will not be subject to the prohibitions of Amex Rule 190.[30] Unless exemptive or no-action relief is available, the Shares will be subject to the short sale rule, Rule 10a-1 and Regulation SHO under the Act.[31] If exemptive or no-action relief is provided, the Exchange will issue a notice detailing the terms of the exemption or relief. The Shares will generally be subject to the Exchange's stabilization rule, Amex Rule 170, except that specialists may buy on ''plus ticks'' and sell on ''minus ticks,'' in order to bring the Shares into parity with the underlying commodity or commodities and/or futures contract price. Proposed Commentary .07(f) to Amex Rule 1202 sets forth this limited exception to Amex Rule 170 to bring the Shares into parity with the underlying Index.

The adoption of Commentary .07(e) to Amex Rule 1202 relating to certain specialist prohibitions will address potential conflicts of interest in connection with acting as a specialist in the Shares. Specifically, Commentary .07(e) provides that the prohibitions in Amex Rule 175(c) apply to a specialist in the Shares so that the specialist or affiliated person may not act or function as a market maker in an underlying asset, related futures contract or option or any other related derivative. An affiliated person of the specialist consistent with Amex Rule 193 may be afforded an exemption to act in a market making capacity, other than as a specialist in the Shares on another market center, in the underlying asset, related futures or options or any other related derivative. In particular, proposed Commentary .07(e) provides that an approved person of an equity specialist that has established and obtained Exchange approval for procedures restricting the flow of material, non-public market information between itself and the specialist member organization, and any member, officer, or employee associated therewith, may act in a market making capacity, other than as a specialist in the Shares on another market center, in the underlying asset or commodity, related futures or options on futures, or any other related derivatives.

Adoption of Commentary .07(g) to Amex Rule 1202 will also ensure that specialists handling the Shares provide the Exchange with all the necessary information relating to their trading in physical assets or commodities, related futures contracts and options thereon or any other derivative. As a general matter, the Exchange has regulatory jurisdiction over its members, member organizations, and approved persons of a member organization. The Exchange also has regulatory jurisdiction over any person or entity controlling a member organization, as well as a subsidiary or affiliate of a member organization that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

IX. Trading Halts

Prior to the commencement of trading, the Exchange will issue an Information Circular (described below) to members informing them of, among other things, Exchange policies regarding trading halts in the Shares. First, the circular will advise that trading will be halted in the event the market volatility trading halt parameters set forth in Amex Rule 117 have been reached. Second, the circular will advise that, in addition to the parameters set forth in Amex Rule 117, the Exchange will halt trading in the Shares if trading in the underlying related futures contract(s) is halted or suspended. Third, with respect to a halt in trading that is not specified above, the Exchange may also consider other relevant factors and the existence of unusual conditions or circumstances that may be detrimental to the maintenance of a fair and orderly market. Additionally, the Exchange has represented that it will cease trading the Shares if the conditions in Commentary .07(d)(2)(ii) or (iii) to Amex Rule 1202 exist (*i.e.*, if there is a halt or disruption in the dissemination of the Indicative Fund Value and/or underlying Index value).[32]

X. Suitability

The Information Circular (described below) will inform members and member organizations of the characteristics of the Fund and of applicable Exchange rules, as well as of the requirements of Amex Rule 411 (Duty to Know and Approve Customers).

The Exchange noted that pursuant to Amex Rule 411, members and member organizations are required in connection with recommending transactions in the Shares to have a reasonable basis to believe that a customer is suitable for the particular investment given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member.

XI. Information Circular

The Amex will distribute an Information Circular to its members in connection with the trading of the Shares. The Information Circular will inform members and member organizations, prior to commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange noted that investors purchasing Shares directly from the Fund (by delivery of the Cash Deposit Amount) will receive a prospectus. Amex members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors.

The Information Circular also will discuss the special characteristics and risks of trading this type of security. Specifically, the Information Circular, among other things, will discuss what the Shares are, how a Basket is created and redeemed, the requirement that members and member firms deliver a prospectus to investors purchasing the Shares prior to or concurrently with the confirmation of a transaction, applicable Amex rules, dissemination of information regarding the per Share Indicative Fund Value, trading information and applicable suitability rules. The Information Circular will also explain that the Fund is subject to various fees and expenses described in the registration statement.

The Information Circular will also reference the fact that there is no regulated source of last sale information regarding physical commodities and that the SEC has no jurisdiction over the trading of physical commodities such as

[30] *See* Commentary .05 to Amex Rule 190.

[31] The Fund expects to seek relief, in the near future, from the Commission in connection with the trading of the Shares from the operation of certain Exchange Act Rules.

[32] In the event the Index value or Indicative Fund Value is no longer calculated or disseminated, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on November 22, 2005.

aluminum, gold, crude oil, heating oil, corn and wheat, or the futures contracts on which the value of the Shares is based.

The Information Circular will also notify members and member organizations about the procedures for purchases and redemptions of Shares in Baskets and that Shares are not individually redeemable but are redeemable only in Basket-size aggregations or multiples thereof. The Information Circular will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

The Information Circular will disclose that the NAV for Shares will be calculated shortly after 4 p.m. ET each trading day and that other information will be publicly available about the Shares and underlying Index.

XII. Surveillance

The Exchange has represented that its surveillance procedures are adequate to monitor Exchange trading of the Shares and to detect violations of applicable rules and regulations. Exchange surveillance procedures applicable to trading in the proposed Shares will be similar to those applicable to TIRs, Portfolio Depository Receipts and Index Fund Shares currently trading on the Exchange. The Exchange currently has in place an Information Sharing Agreement with the NYMEX and the CBOT for the purpose of providing information in connection with trading in or related to futures contracts traded on the NYMEX and CBOT, respectively. The Exchange also noted that the CBOT is a member of the Intermarket Surveillance Group (''ISG''). As a result, the Exchange has asserted that market surveillance information is available from the CBOT, if necessary, due to regulatory concerns that may arise in connection with the CBOT futures. In addition, the Exchange has negotiated a Memorandum of Understanding with the LME for the purpose of providing information in connection with the trading in or related to futures contracts traded on the LME.

XIII. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[33] In particular, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6(b)(5) of the Act,[34] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

A. Surveillance

Information sharing agreements with primary markets trading index components underlying a derivative product are an important part of a self-regulatory organization's ability to monitor for trading abuses in derivative products. The Commission believes that the Exchange's Information Sharing Agreement with the NYMEX and the CBOT and the Exchange's Memorandum of Understanding with the LME, along with the Exchange's participation in the ISG, in which the CBOT participates, and Commentaries .07(e), (g)(1), (g)(2) and (g)(3) to Amex Rule 1202, create the basis for the Amex to monitor for fraudulent and manipulative practices in the trading of the Shares.

In particular, Commentaries .07(g)(1) and (g)(2) to Amex Rule 1202 require that the specialist handling the Shares provide the Exchange with information relating to its trading in the Shares and the accounts of the member organization acting as specialist, member organization, or approved person of such member organization in the Index components, related futures or options on futures, or any other related derivatives. Commentary .07(g)(3) to Amex Rule 1202 also prohibits the specialist in the Shares from using any material nonpublic information received from any person associated with a member, member organization or employee of such person regarding trading by such person or employee in the Index commodities, related futures or options on futures, or any other related derivatives. In addition, Commentary .07(e) to Amex Rule 1202 prohibits the specialist in the Shares from being affiliated with a market maker in the Index commodities, related futures or options on futures, or any other related derivatives, unless information barriers are in place that satisfy the requirements of Amex Rule 193. Furthermore, as noted above, the Exchange has represented that: (i) its surveillance procedures are adequate to monitor Exchange trading of the Shares and to detect violations of applicable rules and regulations; and (ii) Exchange surveillance procedures applicable to trading in the proposed Shares will be similar to those applicable to TIRs, Portfolio Depository Receipts and Index Fund Shares currently trading on the Exchange. Accordingly, the Commission believes that the Amex can adequately surveil trading in the Shares.

B. Dissemination of Information

The Commission believes that sufficient venues for obtaining reliable futures contract price information exist so that investors in the Shares can monitor the underlying futures contract markets relative to the NAV of their Shares. There is a considerable amount of futures contract price and market information available through public Web sites and professional subscription services, including Bloomberg and Reuters. In addition, the futures exchanges for the futures contracts held by the Master Fund each have their own Web sites, which will be able to be reached directly from hyperlinks on the Index Sponsor's Web site *(https://index.db.com)*.

The Commission notes that information about the Index is also widely available. The Index Sponsor, DB London, will publish the value of the Index at least every 15 seconds during Amex trading hours through Bloomberg, Reuters, and other market data vendors, and the Fund's Web site *(http://www.dbcfund.db.com)* and the Index Sponsor's Web site *(https://index.db.com)* will publish the value of the Index on a 20 minute delayed basis.

The Commission further notes that information about the Shares will also be widely available. The Exchange will disseminate via the CTA/CQ High Speed Lines the NAV, Basket Amount, Shares outstanding and the Indicative Fund Value, which will be disseminated every 15 seconds during Amex trading hours, and will display the NAV, Basket Amount, daily trading volume and closing prices on the Exchange's Web site *(http://www.amex.com)*. In addition, the NAV and Basket Amount will be available on the Fund's Web site *(http://www.dbcfund.db.com)*. As described in detail above, the Fund's Web site, which will be publicly accessible at no charge, will contain useful information, including a copy of the prospectus. The Commission believes that the wide availability of information about the underlying futures contracts, the Index and the Shares will facilitate transparency with respect to the proposed Shares and diminish the risk of manipulation or unfair informational advantage.

[33] In approving this proposed rule change, the Commission notes that it has cnsidered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78(c)(f).

[34] 15 U.S.C. 78(f)(b)(5).

C. Listing and Trading

The Commission finds that the Exchange's proposed rules and procedures for the listing and trading of the proposed Shares are consistent with the Act. Shares will trade as equity securities subject to Amex rules including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities, account opening and customer suitability requirements. The Commission believes that the listing and delisting criteria for the Shares should help to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Shares. Finally, the Commission notes that the Information Circular the Exchange will distribute will inform members and member organizations about the terms, characteristics and risks in trading the Shares, including their prospectus delivery obligations.

D. Accelerated Approval of the Proposed Rule Change, as Amended by Amendment Nos. 1 and 2 Thereto, and Accelerated Approval of Amendment Nos. 3 and 4 Thereto

The Commission finds good cause for approving the proposed rule change, as amended by Amendment Nos. 1 and 2, prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. The Exchange has requested the Commission to approve the proposal, as amended by Amendment Nos. 1 and 2, on an accelerated basis, after a 15-day comment period, to enable investors to begin trading the Shares promptly. The Commission notes that the proposed rule change, as amended by Amendment Nos. 1 and 2, was noticed for a 15-day comment period and no comments were received. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,[35] to approve the proposal, as amended by Amendment Nos. 1 and 2, on an accelerated basis.

The Commission finds good cause for approving Amendment Nos. 3 and 4 to the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. The Exchange has requested the Commission to approve Amendment Nos. 3 and 4 [36] on an accelerated basis so that approval of the proposal is not unnecessarily delayed. In Amendment No. 3, the Exchange made clarifying changes to the purpose section regarding adjustments to the Index, specifically indicating the Index Sponsor will use the prior day's futures price or, in exceptional cases, the ''fair value'' price if futures prices are not available. In addition, the Exchange stated that it would submit a rule filing pursuant to Section 19(b) of the Exchange Act if the use of a prior day's price or ''fair value'' pricing for an Index commodity or commodities is more than of a temporary nature or if a successor or substitute Index is used by the Managing Owner. Amendment No. 4 clarifies that the Index value will be disseminated through one or more major market data vendors at least every 15 seconds during the time the Shares trade on Amex. The Commission notes that the changes contained in Amendment Nos. 3 and 4 are necessary to clarify the proposal. Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,[37] to approve Amendment Nos. 3 and 4 on an accelerated basis.

[35] 15 U.S.C. 78s(b)(2).

[36] Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on January 11, 2006 (requested accelerated approval of Amendment No. 4).

[37] *Id.*

XIV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment Nos. 3 and 4 are consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml)*; or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2005–059 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–Amex–2005–059. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml)*. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. 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–Amex–2005–059 and should be submitted on or before February 9, 2006.

XV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR–Amex–2005–059), as amended by Amendment Nos. 1 and 2, is approved on an accelerated basis and that Amendment Nos. 3 and 4 thereto are approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

Nancy M. Morris,

Secretary.

[FR Doc. E6–515 Filed 1–18–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53102; File No. SR–BSE–2005–48]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Change and Amendment No. 1 Thereto Requiring Exchange Members To Provide Electronic Mail Addresses to the Exchange

January 11, 2006.

On October 28, 2005, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to require its members to provide

[38] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

electronic mail addresses to the Exchange. On November 23, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on December 12, 2005.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

Proposed Section 1(o) of Chapter XXV of BSE's rules provides that every member and member organization shall designate one or more electronic mail addresses for the purpose of receiving Exchange notices and communications and shall promptly update those electronic mail addresses when those addresses change or are no longer valid. In addition, proposed Section 1(o) of Chapter XXV provides that an authorized representative of the Exchange may elect to transmit notices or other communications to members and member organizations electronically, but that nothing in Section 1(o) of Chapter XXV shall be construed to supersede or modify either the method for service of process or other materials in any disciplinary proceeding or any other provisions of the Exchange rules setting out a specific method for the receipt of information from the Exchange.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] The Commission believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it promotes just and equitable principles of trade, serves to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protects investors and the public interest by allowing the Exchange to take advantage of available technology to communicate with its members in an efficient and cost-effective manner.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–BSE–2005–48), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Nancy M. Morris,

Secretary.

[FR Doc. E6–516 Filed 1–18–06; 8:45 am]

BILLING CODE 8010–01–P

[3] In Amendment No. 1, BSE made clarifying changes to its statement of purpose for the proposed rule change.

[4] Securities Exchange Act Release No. 52895 (December 5, 2005), 70 FR 73490 (December 12, 2005) (SR–BSE–2005–48).

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53101; File No. SR–CBOE–2006–03]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Matching Algorithm Possibilities for Equity Options To Match Those Available for Index Options

January 11, 2006.

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 January 9, 2006, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange''), 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 CBOE. The Exchange has filed the proposal pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to expand the matching algorithm possibilities for equity options to match those available for index options. The Exchange has designated this proposal as non-controversial and has requested that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b–4(f)(6)(iii) under the Act.[5]

The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room. The text of the proposed rule change is also set forth below. Proposed new language is *italicized*; deletions are in [brackets].

Rule 6.45A. Priority and Allocation of Equity Option Trades on the CBOE Hybrid System

* * * * *

(a) Allocation of Incoming Electronic Orders: [The Exchange shall apply, for each class of options, the following rules of trading priority.] *The appropriate Exchange procedures committee will determine to apply, for each class of options, one of the following rules of trading priority described in paragraphs (i) or (ii). The Exchange will issue a Regulatory Circular periodically specifying which priority rules will govern which classes of options any time the appropriate Exchange committee changes the priority.*

(i) Ultimate Matching Algorithm (''UMA''): No change.

(A) Priority of Orders in the Electronic Book—No Change.

(ii) Price-Time or Pro-Rata Priority

Price-Time Priority: Under this method, resting quotes and orders in the book are prioritized according to price and time. If there are two or more quotes or orders at the best price then priority is afforded among these quotes or orders in the order in which they were received by the Hybrid System; or

Pro-Rata Priority: Under this method, resting quotes and orders in the book are prioritized according to price. If there are two or more quotes or orders at the best price then trades are allocated proportionally according to size (in a pro-rata fashion). The executable quantity is allocated to the nearest whole number, with fractions ½ or greater rounded up and fractions less than ½ rounded down. If there are two market participants that both are entitled to an additional ½ contract and there is only one contract remaining to be distributed, the additional contract will be distributed to the market participant whose quote or order has time priority.

Additional Priority Overlays Applicable to Price-Time or Pro-Rata Priority Methods

In addition to the base allocation methodologies set forth above, the appropriate Exchange procedures committee may determine to apply, on a class-by-class basis, one or more of the following designated market participant overlay priorities in a sequence determined by the appropriate Exchange procedures committee. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b–4(f)(6)(iii).

Exchange will issue a Regulatory Circular periodically which will specify which classes of options are subject to these additional priorities as well as any time the appropriate Exchange procedures committee changes these priorities.

(1) Public Customer: When this priority overlay is in effect, the highest bid and lowest offer shall have priority except that public customer orders shall have priority over non-public customer orders at the same price. If there are two or more public customer orders for the same options series at the same price, priority shall be afforded to such public customer orders in the sequence in which they are received by the System, even if the Pro-Rata Priority allocation method is the chosen allocation method. For purposes of this Rule, a Public Customer order is an order for an account in which no member, non-member participant in a joint-venture with a member, or non-member broker-dealer (including a foreign broker-dealer) has an interest.

(2) Participation Entitlement: The appropriate Exchange procedures committee may determine to grant Market-Makers participation entitlements pursuant to the provisions of Rules 8.87, 8.13, or 8.15B. In allocating the participation entitlement, all of the following shall apply:

(A) To be entitled to their participation entitlement, the Market-Maker's order and/or quote must be at the best price on the Exchange.

(B) The Market-Maker may not be allocated a total quantity greater than the quantity that it is quoting (including orders not part of quotes) at that price. If Pro-Rata Priority is in effect, and Market-Maker's allocation of an order pursuant to its participation entitlement is greater than its percentage share of quotes/orders at the best price at the time that the participation entitlement is granted, the Market-Maker shall not receive any further allocation of that order.

(C) In establishing the counterparties to a particular trade, the participation entitlement must first be counted against that Market-Maker's highest priority bids or offers.

(D) The participation entitlement shall not be in effect unless the Public Customer priority is in effect in a priority sequence ahead of the participation entitlement and then the participation entitlement shall only apply to any remaining balance.

(3) Market Turner: ''Market Turner'' means a party that was the first to enter an order or quote at a better price than the previous best disseminated Exchange price and the order (quote) is continuously in the market until the particular order (quote) trades. There may be a Market Turner for each price at which a particular order trades. When this priority overlay is in effect, the Market Turner has priority at the highest bid or lowest offer that he established. The Market Turner priority at a given price remains with the order (quote) once it is earned. For example, if the market moves in the same direction as the direction in which the order from the Market Turner moved the market, and then the market moves back to the Market Turner's original price, then the Market Turner retains priority at the original price. Market Turner priority cannot be established until after the opening print and/or the conclusion of the opening rotation and, once established, shall remain in effect until the conclusion of the trading session.

The appropriate Exchange procedures committee may determine, on a class-by-class basis, to reduce the Market Turner priority to a percentage of each inbound order that is executable against the Market Turner. In such cases, the Market Turner may participate in the balance of an order, pursuant to the allocation procedure in effect, after the Market Turner priority has been applied. To the extent the Market Turner order (quote) is not fully exhausted, it shall retain Market Turner priority for subsequent inbound orders until the conclusion of the trading session.

(b) Allocation of Orders Represented in Open Outcry: The allocation of orders that are represented in open outcry by floor brokers or PAR Officials shall be as described below in subparagraphs (b)(i) and (b)(ii). With respect to subparagraph (b)(ii), the floor broker or PAR Official representing the order shall determine the sequence in which bids (offers) are made.

(i) Priority of Orders in the Electronic Book.

(A) Public Customer Orders: No change.

(B) Broker-dealer Orders: If pursuant to Rule 7.4(a) the appropriate FPC determines to allow broker-dealer orders to be placed in the electronic book, then for purposes of this rule, the cumulative number of broker-dealer orders in the electronic book at the best price shall be deemed one ''book market participant'' regardless of the number of broker-dealer orders in the book. The allocation due the broker-dealer orders in the electronic book by virtue of their being deemed a ''book market participant'' shall be in accordance with paragraph (ii) below and shall be distributed among each broker-dealer order comprising the ''book market participant'' in accordance with the Allocation Algorithm formula *in effect pursuant to Rule 6.45A(a)* [described in paragraph 6.45A(a)(i)(B)].

(ii)–(iv) No change.

(c)–(e) No change.

* * * Interpretations and Policies:

.01–.02 No change.

* * * * *

Rule 6.45B Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System

* * * * *

(a) No change.

(b) Allocation of Orders Represented in Open Outcry: The allocation of orders that are represented in the trading crowd by floor brokers or PAR Officials shall be as described below in subparagraphs (b)(i) and (b)(ii). With respect to subparagraph (b)(ii), the floor broker or PAR Official representing the order shall determine the sequence in which bids (offers) are made.

(i) Priority of Orders in the Electronic Book.

(A) Public Customer Orders: No change.

(B) Broker-dealer Orders: If pursuant to Rule 7.4(a) the appropriate Exchange procedures committee determines to allow broker-dealer orders to be placed in the electronic book, then for purposes of this rule, the cumulative number of broker-dealer orders in the electronic book at the best price shall be deemed one ''book market participant'' regardless of the number of broker-dealer orders in the book. The allocation due the broker-dealer orders in the electronic book by virtue of their being deemed a ''book market participant'' shall be in accordance with paragraph (ii) below and shall be distributed among each broker-dealer order comprising the ''book market participant'' in accordance with the Allocation Algorithm formula *in effect pursuant to Rule 6.45B(a)* [described in paragraph 6.45B(a)(ii)(B)].

(ii)–(iii) No change.

(c)–(d) No change.

* * * Interpretations and Policies:

.01–.02 No change.

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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE Rule 6.45A sets forth, among other things, the manner in which electronic Hybrid trades in equity options are allocated. Paragraph (a) of CBOE Rule 6.45A essentially governs how orders received electronically by the Exchange are electronically executed against interest in the CBOE quote. Paragraph (a) of CBOE Rule 6.45A currently provides that such electronic trades be allocated pursuant to a matching algorithm called the Ultimate Matching Algorithm (''UMA''). CBOE Rule 6.45B establishes the manner in which electronic Hybrid trades in Index options and options on exchange traded funds (''ETFs'') are allocated.[6] Unlike CBOE Rule 6.45A, which is applicable to equity options (which essentially requires UMA for all electronic Hybrid equity option trading), CBOE Rule 6.45B provides a ''menu'' of matching algorithms to choose from for each product traded pursuant to that rule. That menu includes UMA as well as price-time priority and pro-rata priority matching scheme (with several optional priority overlays). The menu format allows the Exchange to utilize different matching algorithms by product.

The Exchange states that the purpose of the proposed rule change is to adopt a menu for equity option trading by carrying over the matching options available under CBOE Rules 6.45B(a) to 6.45A(a). The Exchange states that this will enable the Exchange to utilize price-time priority or pro-rata priority (along with the optional market turner priority,[7] customer priority, and participation entitlement priority overlays) for equity option trading. As proposed, these ''new'' matching algorithms are identical to the matching algorithms available to index and ETF options. Thus, the Exchange states that there are no new types of matching algorithms being proposed herein, and this proposed rule change would merely expand the products that can use these other priority allocation algorithms.

Moreover, the proposed rule change also proposes a minor change to the open outcry section of the Hybrid trading rules (CBOE Rule 6.45A(b) for equity options and CBOE Rule 6.45B(b) for index options) to ensure they are consistent with whichever electronic matching algorithm is in place pursuant to paragraph (a) of both rules. More specifically, paragraph (b) of both rules governs how orders represented in open outcry interact with interest resting in the Hybrid quote. The Exchange states that broker-dealer orders resting in that quote at the execution price are deemed one ''book market participant'' for purposes of determining how many contracts should be allocated to the broker-dealers' orders collectively. Once that determination has been made, however, the allocation of those contracts between the broker-dealer orders is handled systematically. Currently, the rules provide that the UMA formula is used to systematically distribute the contracts between those orders (that is because UMA is the only available algorithm for equity options under CBOE Rule 6.45A). However, the system is programmed to allocate those contracts between those broker-dealer orders using whichever matching algorithm is in place for electronic executions for the subject option class under paragraph (a) of both rules (which under the ''menu'' structure could be matching algorithms other than UMA). As proposed, CBOE Rule 6.45A(b) as well as CBOE Rule 6.45B(b) would be modified to reflect that possibility.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[8] in general, and furthers the objectives of section 6(b)(5) of the Act[9] in particular, in that the rules of an exchange be designed to promote just and equitable principles of trade, and 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 result in 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is subject to section 19(b)(3)(A)(iii) of the Act[10] and Rule 19b–4(f)(6) thereunder[11] because the proposal: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission 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 filing of the proposed rule change, or such shorter time as designated by the Commission.

The CBOE has satisfied the five-day pre-filing requirements. In addition, the Exchange has requested that the Commission waive the 30-day operative delay. The Commission notes that this proposal would provide equity option products with a similar menu of priority allocation methodologies currently available for index option products (such as price-time, pro-rata, and several optional priority overlays). Thus, the Commission believes that there is no new regulatory issues herein such that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The waiver will permit the Exchange to implement the proposed rule change without delay and thereby providing additional priority allocation options to equity option trading on the Exchange. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is

[6] For details on that rule, *see* Securities Exchange Release No. 51822 (June 10, 2005), 70 FR 35321 (June 17, 2005) (SR–CBOE–2004–87).

[7] For information on market-turner priority, *see* Securities Exchange Release No. 52659 (October 24, 2005), 70 FR 62149 (October 28, 2005) (SR–CBOE–2005–85).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.[13]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml)*; or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2006–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303

All submissions should refer to File Number SR–CBOE–2006–03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the 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–2006–03 and should be submitted on or before February 9, 2006.

[13] *See* section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–519 Filed 1–18–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53106; File No. SR–FICC–2005–21]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Fee Structures of the Government Securities Division and the Mortgage-Backed Securities Division

January 11, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 22, 2005, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC. FICC filed the proposed rule change pursuant to section 19(b)(3)(A)(ii) of the Act[2] and Rule 19b–4(f)(2) thereunder[3] whereby the proposal became effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FICC is revising the fee structures of its Government Securities Division (''GSD'') and Mortgage-Backed Securities Division (''MBSD'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC 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. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change updates certain provisions of the fee structures of the GSD and the MBSD. The fee structures are modified as follows:

1. GSD Fee Structure Revisions

(a) *Trade Submission.* The charge for submitting trade data to the GSD is revised from $.50 per submission to $.30 per submission.

(b) *Communication Corrections.* Language pertaining to the implementation of a new communications framework is deleted since FICC plans to utilize the communications feature of its parent company, The Depository Trust & Clearing Corporation.

(c) *Netting Fee.* The fixed component of the netting fee is revised from $.43 per side to $.16 per side. The fixed netting fee along with an existing variable component of $.012 per $1 million par value will be extended to apply to the netting of outstanding fail obligations with current settlement activity.

2. MBSD Fee Structure Revisions

(a) *Broker Trade Processing.* The charge for Broker Give-up Trade Creates is revised from $.25 per side to $.20 per side.

(b) *Dealer Trade Processing.* The monthly charge for Dealer Trade Creates for SBO Destined Trades is revised as follows:

Number of trade creates	Current charge (MM)	Revised charge (MM)
1–2,500	$2.00	$1.68
2,501–5,000	1.85	1.56
5,001–7,500	1.70	1.43
7,501–10,000	1.60	1.35
10,001–12,500 ..	1.45	1.22
12,501 & over ...	1.30	1.09

Also, the charges for both Dealer Trade-for-Trade Trade Creates and Dealer Option Trade Creates are revised from $2.50 per side to $2.25 per side.

(c) *Electronic Pool Notification (''EPN'') Message Processing Fees.* MBSD's EPN Message Processing Fees are modified as follows:

(1) The fee for a Notification Send from the Opening of Business to 1 p.m. is revised from $.25 per million current

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(ii).

[3] 17 CFR 240.19b–4(f)(2).

[4] The Commission has modified the text of the summaries prepared by FICC.

face value to $.15 per million current face value.

(2) The fee for a Notification Send from 1 p.m. to 2 p.m. is revised from $1.25 per million current to $.75 per million current face value.

(3) The fee for a Notification Receive from Opening of Business to 1 p.m. is revised from $.50 per million current face value to $.40 per million current face value.

(4) The fee for a Notification Receive from 1 p.m. to 2 p.m. or 2 p.m. to 3 p.m. is revised from $.25 per million current face value to $.20 per million current face value.

(5) The fee for (i) a Notification Send from 2 p.m. to 3 p.m. or 3 p.m. to Close of Business and (ii) a Notification Receive from 3 p.m. to Close of Business remains unchanged.

FICC believes the proposed rule change is consistent with the requirements of section 17A of the Act [5] and the rules and regulations thereunder applicable to FICC because it clarifies and updates FICC's fee schedule. As such, it provides for the equitable allocation of fees among its participants and aligns fees for services with the associated cost to deliver the service.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have an impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act [6] and Rule 19b–4(f)(2) [7] thereunder because the rule establishes a due, fee, or other charge. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FICC–2005–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–FICC–2005–21. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.ficc.com.* 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–FICC–2005–21 and should be submitted on or before February 9, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Nancy M. Morris,

Secretary.

[FR Doc. E6–539 Filed 1–18–06; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53104; File No. SR–ISE–2006–02]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Directed Orders System Change

January 11, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 5, 2006, the International Securities Exchange, Inc. (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the ISE. The proposed rule change has been filed by the ISE as effecting a change in an existing order-entry or trading system pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(5) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to change its existing system as it relates to ''Directed Orders.'' Specifically, the Exchange is proposing to identify to a Directed Market Maker (''DMM'') the identity of the firm entering a Directed Order. This system change will be effective until June 30, 2006, while the Commission considers a corresponding ISE proposal to amend its rules to specify that order-entry firm identity is disclosed to the DMM. In addition, the Exchange commits that it will reverse this system change prior to June 30, 2006, if the Commission staff prohibits all options exchanges from disclosing the identity

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(5).

of order entry firms in their directed order systems. In that case, the Exchange will reverse this system change effective simultaneously with all other exchanges enforcing anonymity in their systems.[5] The text of the proposed rule change is available on the ISE's Web site *http://www.iseoptions.com/legal/proposed_rule_changes.asp*), at the principal office of the ISE, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange operates a Directed Order system in which Electronic Access Members (''EAMs'') can send an order to a DMM for possible price improvement.[6] If a DMM accepts Directed Orders generally, that DMM must accept all Directed Orders from all EAMs. Once such a DMM receives a Directed Order, it either must enter the order into the Exchange's ''Price Improvement Mechanism'' (''PIM'') or must release the order into the Exchange's limit order book, in which case there are certain restrictions on the DMM interacting with the order. While ISE rules do not specify that Directed Orders are sent to a DMM on an anonymous basis, prior to this filing, the Exchange did not disclose to a DMM the identity of the EAM sending a Directed Order.

The Boston Options Exchange (''BOX'') operates a system almost identical to ISE's Directed Order system, with one important distinction. Based on BOX's published rules, ISE believed that BOX's system had the same anonymity feature as ISE's system. However, BOX's system is not in fact anonymous, and its system provides BOX directed market makers with the identity of the firm entering an order.[7] ISE's market makers find this feature very attractive in that it provides a DMM with relevant information when deciding whether or not to guarantee price improvement for an order. Without ISE also disclosing the identity of the order entry firm, ISE's Directed Order system is not competitive with the BOX's system. While the Boston Stock Exchange, Inc. (''BSE'') has filed a proposed rule change to conform the BOX rules to the actual operation of its system,[8] BOX continues to identify firms entering directed orders while the Commission considers the pending rule filing.

ISE believes that BOX has been non-compliant with its rules and that this places the ISE at a significant competitive disadvantage. ISE further believes that the only way that ISE can address the immediate inequity in the market is to modify ISE's system to disclose the identity of the EAM entering a Directed Order on a temporary basis while the Commission considers whether to approve the BOX Proposal. Thus, the purpose of this filing is to remove the anonymity feature from ISE's Directed Order system for a period ending on June 30, 2006. This system change is effective on filing under Rule 19b–4(f)(5). The ISE has simultaneously filed a proposed rule change, similar to the BOX Proposal, to specify in its rules that the identity of the entering firm is disclosed to a DMM,[9] which if approved by the Commission, will make the system change permanent (the ''Permanent Rule Change'').[10] The Permanent Rule Change has been filed pursuant to section 19(b)(2) of the Act to provide the Commission an opportunity to consider both the BOX and ISE proposals contemporaneously.

Through this proposal, the ISE will be able to operate on an equal competitive basis with BOX while the Commission evaluates whether exchanges should be permitted to disclose order flow provider identities. The ISE commits that it will submit another rule change under Rule 19b–4(f)(5) to reverse this system change prior to June 30, 2006, if the Commission staff determines not to approve the Permanent Rule Change and the BOX Proposal and prohibits all options exchanges from disclosing the identity of order entry firms in their directed order systems. In that case, the Exchange will reverse this system change effective simultaneously with BOX, and all other options exchanges having similar systems, enforcing anonymity in their systems.

2. Statutory Basis

The Exchange believes that the basis under the Act is found in section 6(b)(5),[11] in that the proposed rule change is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the system change will enable the Exchange to remain competitive in the market place while the Commission considers anonymity issues across all options markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change effects a change in an existing order entry or trading system that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting access to or availability of the system, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[12] and Rule 19b–4(f)(5) thereunder.[13]

[5] In the event that the issue of anonymity in the Directed Order process is not resolved by June 30, 2006, the Exchange intends to submit another filing under Rule 19b–4(f)(5) extending this temporary system change.

[6] *See* Securities Exchange Act Release No. 52331 (August 24, 2005), 70 FR 51856 (August 31, 2005) (SR–ISE–2004–16).

[7] *See* Securities Exchange Act Release No. 53015 (December 22, 2005), 70 FR 77207 (December 29, 2005) (the ''BOX Proposal'').

[8] Id.

[9] *See* Securities Exchange Act Release No. 53103 (January 11, 2006) (File No. SR–ISE–2006–01).

[10] The ISE also enforces anonymity in certain other trading systems, such as its Facilitation Mechanism. The Exchange also plans to file a proposed rule change eliminating the anonymity provisions in certain of these areas.

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 19b–4(f)(5).

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2006–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–ISE–2006–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2006–02 and should be submitted on or before February 9, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–518 Filed 1–18–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53103; File No. SR–ISE–2006–01]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend Exchange Rule Governing Directed Orders

January 11, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 5, 2006, the International Securities Exchange, Inc. (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the ISE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its ISE Rule 811 with respect to identifying to a Directed Market Maker (''DMM'') the identity of the firm entering a Directed Order.

The text of the proposed rule change is below. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

Rule 811. Directed Orders

* * * * *

(b) Exchange market makers may only receive and handle orders on an agency basis if they are Directed Orders and only in the manner prescribed in the Rule 811. A market maker can elect whether or not to accept Directed Orders on a daily basis. If a market maker elects to be a Directed Market Maker, it must accept Directed Orders from all Electronic Access Members[. A Directed market maker] *and* cannot reject a Directed Order. *The identity of the Electronic Access Member that entered the Directed Order will be made available to the Directed Market Maker.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange operates a Directed Order system in which Electronic Access Members (''EAMs'') can send an order to a DMM for possible price improvement.[3] If a DMM accepts Directed Orders generally, that DMM must accept all Directed Orders from all EAMs. Once such a DMM receives a Directed Order, it either must enter the order into the Exchange's ''Price Improvement Mechanism'' (''PIM'') or must release the order into the Exchange's limit order book, in which case there are certain restrictions on the DMM interacting with the order.

The Boston Options Exchange (''BOX'') operates a system almost identical to ISE's Directed Order system. Based on BOX's published rules, the ISE believed that BOX's system had the same anonymity feature as ISE's system. However, the Boston Stock Exchange, Inc. (''BSE'') has filed a proposed rule change that acknowledges that BOX provides its directed market makers with the identity of the order entry firm and seeks to amend the BOX rules to be consistent with the actual operation of the BOX system (the ''BOX Proposal'').[4]

The ISE has significant concerns with the BOX Proposal and will be filing a comment letter arguing against its approval. Notwithstanding ISE's concerns with the BOX Proposal, the ISE believes it needs to remain competitive in the market place if the Commission determines to approve the BOX Proposal and allow exchanges to disclose the identity of order–entry

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[14] 17 CFR 200.30–3(a)(12)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 52331 (August 24, 2005), 70 FR 51856 (August 31, 2005) (SR–ISE–2004–16).

[4] *See* Securities Exchange Act Release No. 53015 (December 22, 2005), 70 FR 77207 (December 29, 2005) (SR–BSE–2005–52).

firms in their order routing and execution systems. In this respect, the ISE has modified its system to disclose the identity of order entry firms to DMMs on a temporary basis.[5] The purpose of this proposed rule change is to specify in the ISE rules that Directed Orders are not anonymous, which if approved by the Commission, will make the temporary system change permanent.[6]

2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is found in section 6(b)(5),[7] in that the proposed rule change is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change will enable the Exchange to remain competitive in the market place.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–ISE–2006–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–ISE–2006–01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2006–01 and should be submitted on or before February 9, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Nancy M. Morris,

Secretary.

[FR Doc. E6–521 Filed 1–18–06; 8:45 am]

BILLING CODE 8010–01–P

[5] *See* Securities Exchange Act Release No. 53104 (January 11, 2006) (File No. SR–ISE–2006–02). This temporary system change was effective upon filing pursuant to Rule 19b–4(f)(5) under the Act. 17 CFR 240.19b–4(f)(5).

[6] Currently, the ISE rules do not specify that Directed Orders are sent to a DMM on an anonymous basis. The ISE also enforces anonymity in certain other trading systems, such as its Facilitation Mechanism. The Exchange plans to file a proposed rule change eliminating the anonymity provisions in certain of these areas as well.

[7] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53096; File No. SR–PCX–2005–141]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to Modifications to Archipelago Exchange's Closing Auction

January 11, 2006.

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 December 21, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), through its wholly owned subsidiary (''PCXE'' or the ''Corporation''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by PCX. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules governing the Archipelago Exchange (''ArcaEx''), the equity trading facility of PCXE. With this filing, the Exchange proposes to clarify the ArcaEx's Closing Auction functionality and limit the use of the Closing Auction to primary listed securities. The text of the proposed rule change is available on the PCX Web site (*http:/www.pacificex.com*), at the PCX's Office of the Secretary and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make clarifying changes to the Closing Auction rule contained in PCXE Rule 7.35. In particular, the Exchange proposes to make conforming changes that were recently incorporated into the ArcaEx Market Order Auction rules.[3] In addition, the Exchange proposes to limit the use of its Closing Auction to Exchange-listed securities, including Exchange-listed exchange traded funds, for which the Corporation is the primary market.

The conforming changes that the Exchange proposes are as follows. First, PCXE Rule 7.35(e)(2)(A) would be clarified to reflect that orders on the side of the Imbalance[4] shall be executed as follows: (i) Market-on-Close (''MOC'') Orders[5]; (ii) Limit Orders entered prior to the Closing Auction; and (iii) Limit-on-Close (''LOC'') Orders.[6] Second, the language in PCXE Rule 7.35(e)(3) would be modified to be substantively consistent with that of the Market Order Auction changes recently adopted.[7] Specifically, when there are Limited Price Orders[8] eligible for execution in the Closing Auction, the Closing Auction price would be the Indicative Match Price.[9] If there were no Limited Price Orders eligible for execution in the Closing Auction, MOC Orders would be rejected. In addition, MOC Orders that are eligible for, but not executed in, the Closing Auction would be cancelled immediately upon conclusion of the Closing Auction. The Exchange also proposes to delete PCXE Rule 7.35(e)(3)(C), regarding limiting the Closing Auction Price to prices within a threshold amount. In the rule filing where modifications were made to the ArcaEx Market Order Auction, the same concept as described in PCXE Rule 7.35(e)(3)(C), was incorporated into PCXE Rule 1.1(r)(A).[10]

Further, the Exchange proposes a few, non-substantive changes to clarify the existing language in the Closing Auction rule. First, the Exchange proposes to modify PCXE Rule 7.35(e)(1)(A) to clarify that the Total Imbalance[11] and Market Imbalance[12] would be published via electronic means. Second, Examples 1 and 2 of that provision would be clarified to make the reference to the last sale during normal market hours as determined by the consolidated tape to be consistent with the reference in the ''Indicative Match Price'' definition. Lastly, PCXE Rule 7.35(e)(2)(B) would be modified to reflect that Limited Price Orders, with the exception of LOC Orders, may be cancelled.

The Exchange also proposes to limit the use of its Closing Auction to Exchange-listed securities, including Exchange-listed exchange traded funds, for which the Corporation is the primary market. Accordingly, PCXE Rule 7.31(dd) that defines MOC Orders and PCXE Rule 7.31(ee) that defines LOC Orders would be modified to reflect that such orders might be cancelled in the following circumstances: (i) in securities for which the Corporation is not the primary market; or (ii) when the auction is suspended pursuant to PCXE Rule 7.35(g). In addition, PCXE Rule 7.35(e) would be modified to reflect that the Closing Auction would be limited to Exchange-listed securities, including Exchange-listed exchange traded funds, for which the Corporation is the primary market. The Exchange proposes to limit the use of its Closing Auction to certain securities because of limited participation in the Closing Auction to date. Accordingly, with limited liquidity to participate in the Closing Auction, orders are frequently executed at prices that vary from the closing prices at other primary markets. In order to protect ETP Holders[13] from this execution occurring, the Exchange proposes to limit its Closing Auctions to only those securities where the Corporation is the primary market.

Lastly, the Exchange proposes to clarify that in the case of unusual system problems or other malfunctions, the Exchange may suspend auctions. Accordingly, PCXE Rule 7.35(g) would be modified to reflect this. This exception would only be used on an infrequent basis when needed to maintain a fair and orderly market. In addition, the Exchange would reject MOC and LOC Orders as indicated in proposed PCXE Rules 7.31(dd) and (ee), respectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[14] of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest. In particular, the Exchange believes that making such changes to the Closing Auction procedures would better protect ETP Holders from executions at the close that are substantially away from the primary market closing prices.[16]

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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed modifications, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

[3] *See* Securities Exchange Act Release No. 52361 (August 30, 2005), 70 FR 53704 (September 9, 2005)(SR–PCX–2005–58).

[4] *See* PCXE Rule 1.1(q).

[5] *See* PCXE Rule 1.1(dd).

[6] *See* PCXE Rule 1.1(ee).

[7] *See supra* note 3. Note that the Market Order Auction rule text can be distinguished from the Closing Auction because the Market Order Auction applies both to Nasdaq-listed and Exchange-listed securities for which the Corporation is the primary market and all Exchange-listed exchange traded funds.

[8] *See* PCXE Rule 1.1(s).

[9] *See* PCXE Rule 1.1(r).

[10] *See supra* note 3.

[11] *See* PCXE Rule 1.1(q)(1)(A).

[12] *See* PCXE Rule 1.1(q)(1)(B).

[13] *See* PCXE Rule 1.1(n).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] Clarified in telephone conference among Bridget Farrell, Director, Strategy, ArcaEx, Timothy Fox, Special Counsel, Division of Market Regulation (''Division''), Commission and Mitra Mehr, Special Counsel, Division, Commission on January 10, 2006.

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 *rules-comments@sec.gov.* Please include File No. SR–PCX–2005–141 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File No. SR–PCX–2005–141. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. 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 No. SR–PCX–2005–141 and should be submitted February 9, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Nancy M. Morris,

Secretary.

[FR Doc. E6–520 Filed 1–18–06; 8:45 am]

BILLING CODE 8010–01–P

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before March 20, 2006.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Gary Jackson, Assistant Administrator, Office of Size Standards, Small Business Administration, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Gary Jackson, Assistant Administrator, Office of Size Standards, 202–205–6464, *gary.jackson@sba.gov.* Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION:

Title: ''Application for Small Business Size Standards''.

Description of Respondents: Small Businesses.

Form No.: 355.

Annual Responses: 10,500.

Annual Burden: 42,000.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Cynthia Pitts, Office of Disaster Assistance, Administrative Officer, Small Business Administration, 409 3rd Street, SW., Suite 6000, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Cynthia Pitts, Administrative Officer, Office of Disaster Assistance, 202–205–7570, *cynthia.pitts@sba.gov.* Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION:

Title: ''Governor's Request for Disaster Declaration''.

Description of Respondents: Victims in Presidential Declared Disaster.

Form No.: N/A.

Annual Responses: 47.

Annual Burden: 940.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Patricia Branch, Office of Procurement and Grants Management, Grants Management Specialist, Small Business Administration, 409 3rd Street, SW., Suite 5000, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Patricia Branch, Grants Management Specialist, Office of Procurement and Grants Management, 202–205–7081, *patricia.branch@sba.gov.* Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION:

Title: ''Notice of Award and Grant/Cooperative Agreement Cost Sharing Proposal''.

Description of Respondents: Participating Colleges.

Form No.: 1222.

Annual Responses: 2,526.

Annual Burden: 202,080.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Darryl Glover, Office of Small Business Administration, 409 3rd Street, SW., Suite 6000, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Darryl Glover, Grants Management Specialist, Office of Small Business Development Centers, 202–205–7306, *darryl.glover@sba.gov.* Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION:

Title: ''Grant Cooperative Agreement Cost Sharing Proposal''.

Description of Respondents: Grants Management Offices.

Form No.: 1224.

Annual Responses: 2,526.

Annual Burden: 202,080.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. E6–514 Filed 1–18–06; 8:45am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Delegation of Authority 287]

Delegation by the Under Secretary of State for Management to Frank J. Coulter of Authorities Normally Vested in the Assistant Secretary for Administration

By virtue of the authority vested in me as Under Secretary for Management by the laws of the United States and by delegation, including Delegation of Authority No. 198 from the Secretary of State, I hereby delegate to Frank J. Coulter, to the extent authorized by law, all authorities vested in the Assistant Secretary for Administration, including all authorities that have been or may be delegated or re-delegated to the Assistant Secretary for Administration.

Any act, executive order, regulation, or procedure subject to, or affected by, this delegation shall be deemed to be such act, executive order, regulation, or procedure as amended from time to time.

This delegation shall enter into effect upon signature and shall expire upon the appointment and entry upon duty of a new Assistant Secretary for Administration.

This delegation of authority shall be published in the **Federal Register**.

Dated: January 4, 2006.

Henrietta H. Fore,

Under Secretary for Management, Department of State.

[FR Doc. E6–568 Filed 1–18–06; 8:45 am]

BILLING CODE 4710–35–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) this notice announces the Department of Transportation's (DOT) intention to request an extension without change for a currently approved information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 9, 2005 (FR Vol. 70, No. 216, page 68126). No comments were received.

DATES: Comments on this notice must be received by February 21, 2006: Attention DOT/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia A. Roscoe, Committee Management Officer, Executive Secretariat, Office of the Secretary, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Telephone (202) 366–9764.

SUPPLEMENTARY INFORMATION:

Title: Advisory Committee Candidate Biographical Information Request, DOT F1120.1.

OMB Control Number: 2105–0009.

Affected Public: Individuals who have contacted DOT to indicate an interest in appointment to an advisory committee and individuals who have been recommended for membership on an advisory committee. Only one collection is expected per individual.

Annual Estimated Burden: 35 hours.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 10, 2006.

Steven B. Lott,

Manager, Strategic Integration, IT Investment Management Office.

[FR Doc. E6–573 Filed 1–18–06; 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 December 23, 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–1999–5868 and OST–2005–22228.

Date Filed: December 20, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 10, 2006.

Description: Amendment number one of Continental Airlines, Inc. to its application for renewal and amendment of its Route 561 U.S.-Mexico certificate authority to provide seasonal scheduled air transportation of persons, property and mail between the additional U.S.-Mexico city-pairs currently operated by Continental.

Docket Number: OST–2005–23461.

Date Filed: December 22, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 12, 2006.

Description: Application of Virgin Nigeria Airways Limited requesting authority to engage in foreign scheduled and charter air transportation of persons, property and mail between Nigeria and the United States.

Docket Number: OST–2005–23467.

Date Filed: December 23, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 13, 2006.

Description: Application of Arrow Panama, S.A. requesting a foreign air carrier permit authorizing it to engage in scheduled air transportation of property and mail from points behind the Republic of Panama, via the Republic of Panama and intermediate points to a point or points in the United States, and beyond.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E6–574 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Final Environmental Assessment with a Finding of No Significant Impact and Record of Decision (FONSI/ROD) for the Midwest Airspace Enhancement (MASE) Project

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Availability of the MASE Final Environmental Assessment with FONSI/ROD.

SUMMARY: The Federal Aviation Administration (FAA), Central Terminal Service Area, is issuing this notice to advise the public of the availability of the Final Environmental Assessment Final (EA) and FONSI/ROD for the MASE project.

FOR FURTHER INFORMATION CONTACT: Ms. Annette Davis, Federal Aviation Administration, Central Terminal Operations Service Area, 2300 East Devon Avenue, Des Plaines, Illinois 60018, (847) 294–8091 or MASE Web site, *http:/www.faa.gov/ats/nar/mase.htm.*

SUPPLEMENTARY INFORMATION: The MASE project would implement new en route and terminal airspace procedures to increase efficiency and enhance safety of aircraft movements in the airspace overlying and beyond the Cleveland and Detroit Metropolitan areas. The MASE airspace redesign would integrate high-altitude and en route airspace changes with low-altitude terminal airspace changes to provide for a more seamless operation between the two airspace areas. In addition, MASE would allow for more efficient utilization of the runway configurations at Detroit Metropolitan Wayne County and Cleveland Hopkins International airports. Overall, MASE would maintain safety while reducing delays, accommodating growth, and incorporating new technology.

* * * * *

Issued in Des Plaines, Illinois, on January 5, 2006.

Nancy B. Kort,

Area Director, Central Terminal Operations Service Area.

[FR Doc. 06–492 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket Number: FTA–2006–23636]

Notice of Availability of Guidance on New Starts Policies and Procedures and Request for Comments

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability; Request for comments.

SUMMARY: This notice announces the availability of the Federal Transit Administration's (FTA's) Guidance on New Starts Policies and Procedures and requests your comments on it. The guidance explains proposed changes to the New Starts program that will become effective April 30, 2006 and longer-term changes to the New Starts program that FTA plans to be the subject of rulemaking in the future. FTA requests comments on both aspects of the guidance, which is available in DOT's electronic docket and on FTA's Web site.

DATES: Comments must be received by March 10, 2006. Late filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FTA–2006–23636] by any of the following methods:

Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.

Fax: 202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, PL–401, Washington, DC 20590–0001.

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.

Instructions: You must include the agency name (Federal Transit Administration) and the docket number (FTA–2006–23636). You should submit two copies of your comments if you submit them by mail. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed stamped postcard. Note that all comments received will be posted without change to the Department's Docket Management System (DMS) Web site located at *http://dms.dot.gov.* This means that if your comment includes any personal identifying information, such information will be made available to users of DMS.

FOR FURTHER INFORMATION CONTACT: Ron Fisher, Office of Planning and Environment, telephone (202) 366–4033, Federal Transit Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 or *Ron.Fisher@fta.dot.gov.*

SUPPLEMENTARY INFORMATION:

1. Background

On August 10, 2005, President Bush signed the Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU). Section 3011 of SAFETEA–LU made a number of changes to 49 U.S.C. 5309, which authorizes the FTA's fixed guideway capital investment program known as ''New Starts.'' This notice announces the availability of FTA's Guidance on New Starts Policies and Procedures and requests your comment as described below. The document is available in the docket, which can be accessed by going to *http://dms.dot.gov* at any time, or you can view the document on FTA's Web site at *http://www.fta.dot.gov/15052_ENG_HTML.htm.*

A. New Starts Program Changes To Be Effective April 30, 2006

The first purpose of the policy guidance is to solicit comments on and document the changes to FTA's New Starts project development and program management procedures that are proposed to become effective on April 30, 2006. The changes apply to all New Starts submittals received after that date and prior to the effective date of future New Starts rulemaking. The proposed improvements to the project review and evaluation process and criteria include: National Environmental Policy Act interfaces; preservation of information for the before and after study; certification of technical methods, planning assumptions and project development procedures; development of costs and ridership forecasts; project development agreements; setting the New Starts maximum dollar funding level at the time of final design approval; and use of mode specific constants. Comments received will be used to develop the New Starts ratings, evaluations and procedures which will be issued in Spring 2006. FTA will respond to comments received on this Notice in a second **Federal Register** notice to be published after the close of the comment period, which will announce the availability of the Reporting Instructions for the Section 5309 New Starts Criteria reflecting the changes implemented as a result of this policy guidance and comments received thereon.

B. Long-term New Starts Program Changes for Future Rulemaking

The second purpose of the policy guidance is to discuss various New Starts implementation issues relating to SAFETEA–LU, discuss the merits of alternative approaches, and solicit input, through a series of questions, on the options that FTA is considering. Issues discussed include project eligibility; project evaluation and ratings; and project development procedures. Comments received will be considered and addressed in future rulemaking for the New Starts program, which FTA hopes to initiate later in 2006.

Issued in Washington, DC, this 12th day of January 2006.

David B. Horner,

Chief Counsel.

[FR Doc. E6–563 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. 2006–23613]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ADIRONDACK.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–23613 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before February 21, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006–23613. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ADIRONDACK is:

Intended Use: ''Occasional charter of short trips on Lake Superior, mostly around the Apostle Islands, but may include trips to Minnesota and/or Michigan.''

Geographic Region: Lake Superior, including Minnesota, Wisconsin and Michigan.

Dated: January 11, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–562 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. 2006–23614]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ARCTIC TRAVELLER.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–23614 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before February 21, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006–23614. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ARCTIC TRAVELLER is:

Intended Use: ''We intend to provide hands-on Trawler operation training emphasizing active participation in all aspects of offshore and inshore passage making. Our emphasis will be on full participation and skill development at

all levels including trip planning, docking, navigation, provisioning, anchoring, watch standing, engine room maintenance and troubleshooting, weather forecasting, basic safety procedures, etc. Trips will not focus on fishing, sight seeing, hunting, kayaking, whale watching, wildlife viewing or other full service cruise experiences. Clients will be expected to participate in all aspects of voyaging including provisioning, food preparation and storage, housekeeping, etc.''

Geographic Region: The coastal areas of California, Oregon, Washington and the Inside Passage to Alaska.

Dated: January 11, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–561 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. 2006 23616]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CECILIA.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–23616 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before February 21, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 23616. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CECILIA is:

Intended Use: ''Dinner cruises, Sightseeing cruises.''

Geographic Region: South Florida.

Dated: January 11, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–577 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. 2006 23615]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MO–JO.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–23615 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before February 21, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 23615. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MO–JO is:

Intended Use: ''Sportfishing Charters.''

Geographic Region: Florida's East Coast/Fort Pierce area and surrounding waters.

Dated: January 11, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–560 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2006–23554; Notice 1]

Kawasaki Motors Corp., U.S.A., Receipt of Petition for Decision of Inconsequential Noncompliance

Kawasaki Motors Corp., U.S.A. (Kawasaki) has determined that the tires on certain motorcycles that it imported do not comply with S6.5(d) of 49 CFR 571.119, Federal Motor Vehicle Safety Standard (FMVSS) No. 119, ''New pneumatic tires for vehicles other than passenger cars.'' Kawasaki has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Kawasaki has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Kawasaki's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise judgment concerning the merits of the petition.

Affected are the tires on a total of approximately 2,655 motorcycles which were manufactured between June 14, 2003 and October 27, 2005. S6.5(d) of FMVSS No. 119 requires that the maximum load rating and corresponding inflation pressure of the tires be marked on the tire in both English and metric units. The noncompliant tires do not have the metric markings.

Kawasaki believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Kawasaki states that there is little or no reason to expect an owner of these vehicles to have difficulty inflating the tires properly or understanding the loading information ''since the motorcycle owner is provided with the appropriate information in English units, which are far more prevalent in use in the United States.'' Further, Kawasaki states that the motorcycles are small and most often used for short distance commuting, and therefore ''not likely to be ridden outside of the United States to jurisdictions where tire inflation equipment would be less likely to be calibrated in English units.''

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods. Mail: Docket Management Facility, U.S. Department of Transportation, Nassif Building, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at *http://dms.dot.gov.* Click on ''Help'' to obtain instructions for filing the document electronically. Comments may be faxed to 1–202–493–2251, or may be submitted to the Federal eRulemaking Portal: go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: February 21, 2006.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8.

Issued on: January 12, 2006.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. 06–463 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2006–23553; Notice 1]

Pacific Coast Retreaders, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

Pacific Coast Retreaders, Inc. (Pacific Coast) has determined that certain tires that it imported do not comply with S6.5(b) of 49 CFR 571.119, Federal Motor Vehicle Safety Standard (FMVSS) No. 119, ''New pneumatic tires for vehicles other than passenger cars.'' Pacific Coast has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Pacific Coast has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Pacific Coast's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Affected are a total of approximately 780 tires produced in March 2005 by Linglong Rubber Company in China and imported by Pacific Coast in April 2005. One requirement of S6.5 of FMVSS No. 119, tire markings, is that the tire identification shall comply with 49 CFR Part 574, ''Tire Identification and Recordkeeping,'' which includes the marking requirements of 574.5(b) DOT size code. The subject tires are missing the required tire size code.

Pacific Coast believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Pacific Coast explains that, as a result of mold cleaning and repair, some of the tire size code symbols were not restamped after repair, and worn symbols were not re-traced. Pacific Coast states that ''the tire size is embossed in very larger (sic) raised characters on both sidewalls and [is] easily identifiable from a great distance.'' The petitioner states that as a result, there is no confusion as to the tire size.

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods. Mail: Docket Management Facility, U.S. Department of Transportation, Nassif Building, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590–0001. Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at *http://dms.dot.gov*. Click on ''Help'' to obtain instructions for filing the document electronically. Comments may be faxed to 1–202–493–2251, or may be submitted to the Federal eRulemaking Portal: go to *http://*

www.regulations.gov. Follow the online instructions for submitting comments.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: February 21, 2006.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8.)

Issued on: January 12, 2006.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E6–522 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2005–22969; Notice 2]

Nissan North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

Nissan North America, Inc. (Nissan) has determined that certain vehicles that it produced in 2005 do not comply with S4.2.2 of 49 CFR 571.114, Federal Motor Vehicle Safety Standard (FMVSS) No. 114, ''Theft protection.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Nissan has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of a petition was published, with a 30-day comment period, on November 18, 2005, in the **Federal Register** (70 FR 70026). NHTSA received no comments.

Affected are a total of approximately 3400 Nissan Maximas produced between March 29, 2005 and May 26, 2005. S4.2.2 of FMVSS No. 114 requires that,

(a) Notwithstanding S4.2.1, provided that steering is prevented upon the key's removal, each vehicle specified therein may permit key removal when electrical failure of this system (including battery discharge) occurs or may have a device which, when activated, permits key removal. The means for activating any such device shall be covered by a non-transparent surface which, when installed, prevents sight of and activation of the device. The covering surface shall be removable only by use of a screwdriver or other tool.

(b) Notwithstanding S4.2.1, each vehicle specified therein may have a device which, when activated, permits moving the transmission shift lever from ''park'' after the removal of the key. The device shall either be operable:

(1) By the key, as defined in S3; or

(2) By another means, provided that steering is prevented when the key is removed from the ignition, and provided that the means for activating the device is covered by a non-transparent surface which, when installed, prevents sight of and activation of the device. The covering surface shall be removable only by use of a screwdriver or other tool.

The subject vehicles are equipped with an override device but the steering wheel may not lock under some circumstances when the key is removed.

Nissan believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Nissan states that the vehicles are equipped with an engine control module immobilizer system which prevents forward movement of the vehicle if the key is not present.

Nissan points out that NHTSA recently granted inconsequential noncompliance petitions for similar noncompliances by Bentley, Volkswagen, and Porsche. Nissan also points out that NHTSA recently published a Notice of Proposed Rulemaking (70 FR 48362, 8/17/05), and that under this proposal, the system in the subject Maximas would be allowed.

Nissan further states,

The requirement that the steering be locked when the ignition key is removed through use of an ''override device'' was added to S4.2.2 ''to ensure that Standard No. 114's theft protection aspects are not jeopardized.'' See 57 FR 2039, 2040 (January 17, 1992). In the Maxima vehicles at issue here, when the key is removed through use of the ''override device,'' which will occur rarely if at all, the immobilizer will prevent the vehicle from being jump-started without the electronically coded ignition key, because the key-code is recorded in the engine control module and cannot be electrically bypassed.

NHTSA agrees with Nissan that the noncompliance is inconsequential to safety. The agency issued an interpretation letter to an unnamed person on September 24, 2004, which stated in pertinent part as follows:

The engine control module immobilizer described in your letter satisfies the requirements of S4.2(b) because it locks out the engine control module if an attempt is made to start the vehicle without the correct key or to bypass the electronic ignition system. When the engine control module is locked, the vehicle is not capable of forward self-mobility because it is incapable of moving forward under its own power.

Theft protection of vehicles is addressed under S4.2 of the standard. Section 4.2(b) can be met by preventing ''either steering or forward self-mobility of the vehicle or both.'' Therefore, an equivalent level of theft protection is provided by preventing either steering or forward self-mobility.

NHTSA amended FMVSS No. 114 in 1990 to require that vehicles with an automatic transmission and a ''park'' position be shifted to ''park'' or become locked in park before the key can be removed to reduce incidents of vehicle rollaway. S4.2.2(a) was added in 1991 to permit key removal when an electrical failure occurred and the transmission could not be manually shifted into park, provided that steering was prevented for theft protection. The forward self-mobility feature does not prevent vehicle rollaway by itself. However, the parking brake used in combination with the forward self-mobility feature will prevent rollaway.

In addition, as Nissan states in its petition, NHTSA recently granted inconsequential noncompliance petitions for similar noncompliances by Bentley (69 FR 67211, 11/16/04), Volkswagen (69 FR 67211, 11/16/04), and Porsche (70 FR 32398, 6/2/05).

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Nissan's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8.

Issued on: January 12, 2006.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E6–524 Filed 1–18–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–600 (Sub-No. 1X)]

Yakima Interurban Lines Association—Abandonment Exemption—in Yakima County, WA

Yakima Interurban Lines Association (YILA) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a line of railroad known as the Naches Branch, from milepost 2.97 (near Yakima) to milepost 14.26 (near Naches), a distance

of approximately 11.29 miles in Yakima County, WA. The line traverses United States Postal Service Zip Codes 98902, 98904, 98908, and 98937.[1]

YILA 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 (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 of 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 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 the 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, the exemption will be effective on February 18, 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 January 30, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 8, 2006, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Charles H. Montange, 426 NW. 162nd St., Seattle, WA 98177.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

YILA has filed an environmental report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by January 24, 2006. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) 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), YILA 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 YILA's filing of a notice of consummation by January 19, 2007, 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: January 12, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–500 Filed 1–18–06; 8:45 am]

BILLING CODE 4915–01–P

[1] YILA seeks exemption from 49 U.S.C. 10904 (offer of financial assistance procedures). Also included with the verified notice of exemption is a request on behalf of Yakima County for issuance of a notice of interim trail use pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). The Board will address these requests in a subsequent decision.

[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 a $1,200 filing fee. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0610]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 21, 2006.

For Further Information or a Copy of the Submission Contact: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, FAX (202) 565–6590 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0610.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0610'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Ecclesiastical Endorsing Organization, Request to Designate Ecclesiastical Endorsing Official, VA Form 10–0379.

OMB Control Number: 2900–0610.

Type of Review: Extension of a currently approved collection.

Abstract: The information collected on VA Form 10–0379 is used to assure that individuals employed by VA as chaplains are qualified to provide for the constitutional rights of veterans to free exercise of religion. Applicants are required to submit an official statement (''ecclesiastical endorsement'') from their religion or faith group, certifying that they are in good standing with the faith group and is qualified to perform the full range of ministry required in VA setting. VA uses this information to determine (1) who the faith group designates as its endorsing official(s); (2) whether the faith group provides ministry to a lay constituency; and (3) what is the constituency to which person endorsed by this group may minister.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on October 5, 2005, at page 58256.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 8 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 10.

By direction of the Secretary.

Dated: January 3, 2006.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–501 Filed 1–18–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0209]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine a claimant's eligibility for work-study benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 20, 2006.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov*. Please refer to ''OMB Control No. 2900–0209'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden 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 through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Application for Work-Study Allowance (Chapters 30, 31, 32 or 35, Title 38, U.S.C.; Chapter 1606 and 1607), VA Form 22–8691.

b. Student Work-Study Agreement (Student Services), VA Form 22–8692.

c. Extended Student Work-Study Agreement, VA Form 22–8692a.

d. Work-Study Agreement (Student Services), VA Form 22–8692b.

OMB Control Number: 2900–0209.

Type of Review: Revision of a currently approved collection.

Abstract:

a. Eligible veterans, reservists, and survivors or dependents complete VA Form 22–8691 to apply for work-study benefits.

b. VA Form 22–8692 is used by claimants to request an advance payment of work-study allowance.

c. VA Form 22–8692a is used by the claimant to extend his or her work-study contract.

d. VA Form 22–8692b is used by claimants who do not want a work-study advanced allowance payment.

VA uses the data collected to determine the applicant's eligibility for work-study allowance and the amount payable.

Affected Public: Individuals or households.

Estimated Annual Burden: 11,984.

a. Application for Work-Study Allowance (Chapters 30, 31, 32 or 35, Title 38, U.S.C., Chapter 1606 and 1607), VA Form 22–8691—9,125 hours.

b. Student Work-Study Agreement (Student Services), VA Form 22–8692—1,167 hours.

c. Extended Student Work-Study Agreement, VA Form 22–8692a—275 hours.

d. Work-Study Agreement (Student Services), VA Form 22–8692b—1,417 hours.

Estimated Average Burden Per Respondent:

a. Application for Work-Study Allowance (Chapters 30, 31, 32 or 35, Title 38, U.S.C.; Chapter 1606 and 1607), VA Form 22–8691—15 minutes.

b. Student Work-Study Agreement (Student Services), VA Form 22–8692—5 minutes.

c. Extended Student Work-Study Agreement, VA Form 22–8692a—3 minutes.

d. Work-Study Agreement (Student Services), VA Form 22–8692b—5 minutes.

Frequency of Response: Semi-Annually.

Estimated Number of Respondents: 73,000.

a. Application for Work-Study Allowance (Chapters 30, 31, 32 or 35, Title 38 U.S.C.; Chapter 1606 and 1607), VA Form 22–8691—36,500.

b. Student Work-Study Agreement (Student Services), VA Form 22–8692—14,000.

c. Extended Student Work-Study Agreement, VA Form 22–8692a—5,500.

d. Work-Study Agreement (Student Services), VA Form 22–8692b—17,000.

Dated: January 3, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–502 Filed 1–18–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each existing collection in use without an OMB Control Number, and allow 60 days for

public comment in response to the notice. This notice solicits comments on information needed to change or correct an insured claimant's name.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 20, 2006.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov*. Please refer to ''OMB Control No. 2900–New'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden 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 through the use of automated collection techniques or the use of other forms of information technology.

Title: Certification of Change or Correction of Name, VA Form 29–586.

OMB Control Number: 2900–New.

Type of Review: Existing collection in use without an OMB Control Number.

Abstract: Claimants complete VA Form 29–586 to certify a change or correction to their name on Government Life Insurance policies.

Affected Public: Individuals or households.

Estimated Annual Burden: 20 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 120.

Dated: January 9, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–503 Filed 1–18–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0386]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine whether lenders computed the loan amount on interest rate reduction refinancing loans properly.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 20, 2006.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or *mailto:irmnkess@vba.va.gov*. Please refer to ''OMB Control No. 2900–0386'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden 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 through the use of automated collection techniques or the use of other forms of information technology.

Title: Interest Rate Reduction Refinancing Loan Worksheet, VA Form 26–8923.

OMB Control Number: 2900–0386.

Type of Review: Extension of a currently approved collection.

Abstract: Title 38 U.S.C., section 3729(a) requires VA to collect a funding fee in connection with guaranteed or direct loans. The fee is payable for both home and manufactured home loans. To be eligible for the guaranty, lenders must submit VA Form 26–8923, and VA Form 26–1820, Report and Certification of Loan Disbursement when requesting a guaranty on an interest rate reduction refinancing loan and provide a receipt as proof that the funding fee was paid or evidence that the claimant is exempt from such fee. VA uses the data collected to ensure lenders correctly compute the funding fee and the maximum permissible loan amount for interest rate reduction refinancing loans.

Affected Public: Business or other for profit.

Estimated Annual Burden: 6,667 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 40,000.

Dated: January 10, 2006.

By direction of the Secretary.

Denise McLamb,

Records Management Service.

[FR Doc. E6–504 Filed 1–18–06; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
January 19, 2006

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for *Penstemon grahamii* (Graham's beardtongue) With Critical Habitat; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU49

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for *Penstemon grahamii* (Graham's beardtongue) With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to determine threatened status for *Penstemon grahamii* (Graham's beardtongue), a plant species from Colorado and Utah, under the authority of the Endangered Species Act of 1973, as amended (Act). *P. grahamii* exists in a series of small populations that extend in a narrow band from Raven Ridge west of the town of Rangely in Rio Blanco County, Colorado, westward to the vicinity of Sand Wash near the point where Carbon, Duchesne, and Uintah Counties meet in Utah's Uinta Basin. Threats to the species include degradation of the species' habitat by oil and gas exploration, drilling and field development, and tar sand and oil shale mining. Off-road vehicle (ORV) use, overutilization by domestic and wild grazers, and overutilization for horticultural use may also affect some populations. These threats, in combination with small population sizes and limited distribution, result in species vulnerability to natural and human-caused stochastic events. This proposal, if made final, would implement Federal protection provided by the Act. In addition, we propose to designate 3,503.68 acres (2,102 hectares) as critical habitat for *P. grahamii* in five units in Rio Blanco County, Colorado, and Duchesne and Uintah Counties, Utah.

DATES: Comments from all interested parties must be received by March 20, 2006. Public hearing requests must be received by March 6, 2006.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

1. You may submit written comments and information to Henry Maddux, Field Supervisor, U.S. Fish and Wildlife Service, Utah Field Office, 2369 West Orton Circle, West Valley, Utah 84119.

2. You may hand-deliver written comments to our Office, at the above address.

3. You may send comments by e-mail to *fw6_penstemongrahamii@fws.gov.* Please see the Public Comments Solicited section below for file format and other information about electronic filing.

4. You may fax your comments to the Utah Field Office at 801–975–3331.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Utah Field Office, 2369 West Orton Circle, West Valley, Utah 84119 (801–975–3330).

FOR FURTHER INFORMATION CONTACT: John L. England at the above address (telephone 801–975–3330, extension 138; facsimile 801–975–3331).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

The Service expects any final rule resulting from this proposal to be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

Listing Rule

We seek specific information on any available preliminary results from the recent lease nominations for research, development, and demonstration of oil shale recovery technologies on Bureau of Land Management (BLM) lands; success of ongoing oil shale or tar sands development projects, particularly in the Green River formation; available economic and technological analyses; and specific information detailing definitive effects of these operations to environmental resources, as primarily related to losses of plant individuals, loss or fragmentation of plant habitat, and loss or declines in plant pollinators. Despite recent policy direction (*e.g.*, Energy Policy Act 2005), the long-term technological and economic feasibility of oil shale and tar sands development are uncertain (Bartis 2005). Our final rule will more closely evaluate the technologies and economic certainty of oil shale and tar sand development within the Green River formation, and its potential to threaten *P. grahamii.* Similarly, although the Energy Policy Act of 2005 seems to set the stage for increased oil and gas drilling activities within *P. grahamii* habitat, we do not have information specific to ongoing or proposed actions in these areas, and we request any available information.

Critical Habitat

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) Additional information concerning the range, distribution, and population size of this species, including the locations of any additional populations of this species;

(3) Current or planned activities in the subject area and their possible impacts on this species;

(4) Reasons why any habitat should or should not be determined to be critical habitat for this species pursuant to section 4 of the Act; and

(5) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours (see **ADDRESSES** section).

Listing

Background

Section 12 of the Act directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) accepting that Smithsonian report as a petition to list those taxa named therein under section 4(c)(2) (now 4(b)(3)) of the Act, and announced our intention to review the status of those plants. *Penstemon grahamii* was included in that report.

On June 16, 1976, we published a proposed rule in the **Federal Register** (41 FR 24523) to designate approximately 1,700 vascular plant species, including *Penstemon grahamii*, as endangered pursuant to section 4 of

the Act. The 1978 amendments to the Act required that all proposals over 2 years old be withdrawn. On December 10, 1979, we published a notice of withdrawal (44 FR 70796) of that portion of the June 16, 1976 proposal that had not been made final, which included *P. grahamii.*

On December 15, 1980, we published a revised notice of review for native plants in the **Federal Register** (45 FR 82480) designating *Penstemon grahamii* a category 2 candidate species. Category 2 candidates were at that time defined as taxa for which information in the possession of the Service indicated the probable appropriateness of listing as either endangered or threatened, but for which sufficient information is not presently available to biologically support a proposed rule. During the late 1970s and early 1980s strong interest in oil shale development with its potential for extensive disruption of much of the species' known habitat accentuated our concern for the conservation of *P. grahamii.* However, the recent discovery of a Colorado population and the lack of surveys over the species' entire range caused us to delay action until that new information was developed.

On November 28, 1983, we published a revised notice of review in the **Federal Register** (48 FR 53640) amending our 1980 notice of review. The 1983 amendment changed the candidate species status of *P. grahamii* to category 1. Category 1 candidates are defined as those taxa for which the Service has on file information on the biological vulnerability and threats to support the preparation of listing proposals. Recently completed status surveys demonstrating very small populations (Neese and Smith 1982; Shultz and Mutz 1979) coupled with ongoing concern for the conservation of the species' habitat from potential energy development resulted in this change in *P. grahamii* candidate status. We maintained *P. grahamii* as a category 1 candidate species in subsequent updated notices of review.

In the February 28, 1996, notice of review (61 FR 7596), we discontinued the designation of category 1, 2, and 3 species. Most category 2 species were removed from the notice of review and most category 1 species were maintained as uncategorized candidate species. *Penstemon grahamii* was included as a candidate species. The Service made subsequent determinations of candidate species status for *P. grahamii* in **Federal Register** notices of review.

Penstemon grahamii was petitioned three times for listing as endangered or threatened under the provisions of the Act. The first petition was the initial Smithsonian list of 1975 (see above). The second Petition was the Fund for Animal's petition of 1990. This petition included 401 species the Service had previously assigned Category 1 status in its previous notices of review. On October 8, 2002, we received a petition specifically for *P. grahamii* from five separate parties, namely—the Center for Native Ecosystems, the Southern Utah Wilderness Alliance, the Utah Native Plant Society, the Colorado Native Plant Society, and the American Lands Alliance. This ''second'' petition reiterated biological information and information on increased levels of threat, for the most part already in our files.

We are under a court settlement to submit to the Office of the Federal Register, by January 9, 2006, a proposed rule to list *Penstemon grahamii.*

Species Information

Edward Graham collected a distinctive *Penstemon* from a site west of the Green River and south of Sand Wash, in southern Uintah County, Utah, on May 27, 1933, and from a site north of Sand Wash on the following day (Graham, 1937). David Keck described the species, *Penstemon grahamii,* from Graham's collections in 1937 (Keck in Graham, 1937). The genus *Penstemon* consists of dicotyledonous plants traditionally placed in the Figwort family (Scrophulariaceae). The genus *Penstemon* includes about 250 species and is almost exclusively North American in its distribution. The center of distribution of the genus is in the interior west of the United States, with Utah having over 70 species and Colorado over 60 (Welsh et al. 2003; Weber and Wittmann 2000; Cronquist et al. 1984). Thirty species occur in the Uinta Basin of northeastern Utah and adjacent Colorado, the local geological and floristic province of *P. grahamii* (Goodrich and Neese 1986).

Penstemon grahamii is an herbaceous perennial plant within the sub-genus *Cristati* (N. Holmgren in Cronquist et al. 1984). The following description of *P. grahamii* is adapted from D. Keck (in Graham 1937), N. Holmgren (in Cronquist et al. 1984), and E. Neese (in Welsh et al. 2003). Each plant has one to three stems arising from a taproot. These stems are 7–18 centimeters (cm) (2.8–7.0 inches (in)) tall. Leaves are borne in pairs opposite each other on the stem and are of two different forms (basal leaves and cauline leaves).

Penstemon grahamii has an inflorescence (cluster of flowers) usually of 3 to 20 flowers, although occasionally just one or two flowers are present. The species' corolla (inner whorl of flower parts, the petals collectively) is bilaterally symmetrical with its petals fused into a floral tube. The corolla tube is 30–38 mm (1.2–1.5 in.) long and abruptly ventricose (enlarged on one side) towards the distal part of the tube. The corolla is strongly bilabitate (two lipped), the upper lip has two lobes and the lower lip has three lobes. The color of the corolla varies from light to dark lavender, or pinkish, with dark violet lines in the throat of the corolla tube. The species has four fertile stamens and one prominent infertile staminode (the infertile staminode is the classic floral characteristic of the *Penstemon* genus). The fertile stamens lie along the roof of the corolla. The linear staminode is densely bearded with short stiff golden orange pubescence on all surfaces along its entire length. The seed capsule is an inverted cordate (heart) shaped structure about 8–10 mm (0.03–0.04 in.) long. The species has 5–50 seeds per capsule.

We have delineated all known locations with extant populations of *P. grahamii* into 109 occurrences. We grouped these occurrences into five units separated by unoccupied gaps in the species range. Available population data information is summarized for the broader units rather than each of the smaller occurrences (Shultz and Mutz 1979, Neese and Smith, 1982, Borland 1987, Franklin 1993, 1995, Colorado Natural Heritage Program 2005, Utah Natural Heritage Program 2005). In addition the consolidating occurrences at this scale provides for effective identification and naming of these sites to land owners and managers.

The westernmost *P. grahamii* population habitat unit, named the Sand Wash Unit (Unit A) occurs in the vicinity of Sand Wash in southwestern Uintah and adjacent Duchesne Counties, Utah. This unit consists of 10 separate occurrences with a population estimated at 135 individuals (Shultz and Mutz 1979, Franklin 1993, Utah Natural Heritage Program 2005). This population unit has relatively small numbers (approximately 2 percent of the species total) compared to those population units in the center of the species range. This unit is the most isolated of the species population units. This portion of the species population has minor morphological differences from the remainder of its population (Shultz and Mutz 1979) and may, due to geographic isolation, be genetically divergent from the remainder of the species population.

A second *P. grahamii* population habitat unit, named the Seep Ridge Unit (Unit B), occurs approximately 17 miles

(mi) (27 kilometers (km)) east of the Sand Wash population unit in the Willow and Bitter Creek drainages in the vicinity of Sunday School Canyon near the Seep Ridge road in south central Uintah County, Utah. This population habitat unit consists of 53 separate occurrences with an estimated population of 3,200 individuals (Shultz and Mutz 1979, Utah Natural Heritage Program 2005). This population habitat unit is the species largest with approximately 52 percent of the species total population.

A third *P. grahamii* population habitat unit, named the Evacuation Creek Unit (Unit C), occurs approximately 10 mi (16 km) east of the Seep Ridge unit in the Asphalt Wash and Evacuation Creek drainages near the abandoned Gilsonite mining towns of Dragon and Rainbow. This population habitat unit is in southeastern Uintah County, Utah, and adjacent Rio Blanco County, Colorado, and consists of 31 separate occurrences with an estimated population of 2,550 individuals (Neese and Smith, 1982, Franklin 1995, Utah Natural Heritage Program 2005). This population unit is the species second largest with approximately 41 percent of the species total population.

A fourth *P. grahamii* population habitat unit, named the White River Unit (Unit D), occurs approximately 5 mi (8 km) north of the Evacuation Creek unit in Hells Hole and Weaver Canyons immediately south of the White River. This population habitat unit is in eastern Uintah County, Utah, and consists of 9 separate occurrences with an estimated population of 115 individuals (Neese and Smith, 1982, Franklin 1995, Utah Natural Heritage Program 2005). This population habitat unit is the species smallest with approximately 2 percent of the species total. This population unit is important as a link between the species to largest population units to the south and southwest and the species Colorado population to the northeast.

A fifth population habitat unit, named the Raven Ridge Unit (Unit E), occurs approximately 7 mi (11 km) northwest of the White River unit along the west flank of Raven Ridge and north of the White River between Raven Ridge and the Utah border in extreme western Rio Blanco County, Colorado. This population habitat unit consists of 6 separate occurrences with an estimated population of 200 individuals (Borland 1987, Colorado Natural Heritage Program 2005). This population habitat unit harbors approximately 3 percent of the species total population. This unit includes virtually the species entire population in Colorado (a portion of a small population occurs at the eastern margin of the Evacuation Creek population unit at the Colorado-Utah border). As in the case of the Sand Wash unit, the Raven Ridge unit is at the extreme end of the species range. As such this population is important for its representation of a portion of the full spectrum of the species genetic diversity.

The 109 occurrences and five units of *Penstemon grahamii* collectively form the species' known range, which is distributed in a curved band about 10 km (6 mi) wide and about 128 km (80 mi) long. These units extend from the Sand Wash and adjacent Nine Mile Creek drainages near the point where Carbon, Duchesne, and Uintah Counties, Utah, meet; then easterly across southern Uintah County to near the Colorado border; then northerly to a point near the White River where the population band moves into Colorado to Raven Ridge, the eastern terminus of the species range (Shultz and Mutz 1979, Neese and Smith 1982, Borland 1987, Franklin 1993, 1995, Colorado Natural Heritage Program 2005, Utah Natural Heritage Program 2005). The total documented population of *Penstemon grahamii* is estimated at approximately 6,200 individuals (Shultz and Mutz 1979, Neese and Smith, 1982, Borland 1987, Franklin 1993 and 1995, Colorado Natural Heritage Program 2005, Utah Natural Heritage Program 2005). Approximately 60 percent of the species population is on BLM managed land with the remainder on non-Federal lands with state and private ownership.

The species' habitat is a discontinuous series of exposed raw shale knolls and slopes derived from the Parachute Creek and Evacuation Creek members of the geologic Green River Formation. Most populations are associated with the surface exposure of the petroleum bearing oil shale Mahogany ledge (Cashion 1967, Shultz and Mutz 1979, Neese and Smith, 1982, Franklin 1993, 1995). The trace of the Mahogany bed correlates very closely with the trace of *Penstemon grahamii* sites from the vicinity of Sand Wash near the Green River to Raven Ridge near the White River (Cashion 1967 (see map page 31), Shultz and Mutz 1979, Neese and Smith 1982 (see map overlay Vol. 5)).

Penstemon grahamii is associated with a suite of species similarly adapted to xeric growing conditions on highly basic calcareous shale soils. The vascular plant species most commonly associated with *P. grahamii* include—*Amelanchier utahensis* (Utah serviceberry), *Artemisia pygmaea* (pygmy sage), *Cercocarpus montanus,* (mountain mahogany), *Chamaechaenactis scoposa* (Eastwood's chaenactis), *Elymus salinus* (Salina wild-rye), *Ephedra torreyana* (Mormon tea), *Eriogonum corymbosum* (Fremont's wild-buckwheat), *Glossopetalon spinescens* (Utah greasewood), *Parthenium ligulatum* (low feverfew), *Tetradymia nuttallii* (Nuttall's horse-bush), and *Yucca harrimaniae* (Harriman's yucca). *P. grahamii* sites at higher elevation are occasionally within sparse piñon-juniper woodland dominated by *Juniperus osteosperma* (Utah juniper) and *Pinus edulis* (Colorado piñon). *P. grahamii* sites at lower elevations are occasionally within a sparse desert shrubland dominated by *Atriplex conferitfolia* (shadscale). However, in both cases *P. grahamii* habitat is characterized by the sparsely vegetated raw shale surface indicative of the species habitat throughout its range. The following species are in part co-occurring with *P. grahamii* and are similarly endemic and totally restricted to the Green River Formation: *Astragalus lutosus* (Dragon milk-vetch), *Aquilejia barnebyi* (Barneby's columbine), *Cirsium barnebyi* (Barneby's thistle), *Cryptantha barnebyi* (Barneby's catseye), *C. grahamii* (Graham's catseye), *C. rollinsii* (Rollins's Catseye), *Eriogonum Ephedroides* (ephedra wild-buckwheat), and *Penstemon sacariosus var. albifluvis* (White River penstemon). *Penstemon scariosus var. albifluvis* is currently a Federal candidate species and most of the remainder of those in the above list were category 2 candidate species prior to 1996 (see discussion in following ''Previous Federal Action''). The plant community associated with *P. grahamii* forms a distinctive assemblage of plant species dominated by dwarf shrubs and mound-forming perennial herbaceous plants with relatively low plant cover. This plant community forms small enclosures within the broader plant communities that characterize the southeastern Uinta Basin (Shultz and Mutz 1979; Neese and Smith 1982; BLM 1987).

Pollinators of *Penstemon grahamii* include the bees *Anthophora lesquerellae, Osmia sanrafaelae,* the sweat bees *Lasioglossum sisymbrii* and *Dialictus sp.,* and the masarid wasp *Pseudomasaris vespoides* (Lewinsohn et al. 2005). In addition, a bumblebee of the genus *Bombus* (*Bombus huntii*) (V. Tepedino, pers. comm. 2005) visits the species (L. England, U.S. Fish and Wildlife Service, pers obs. 2003). The most consistent pollinator of these species is likely to be *Pseudomasaris vespoides.* This unusual wasp (it is a

member of the only ''vegetarian'' wasp family known to science) is an extreme specialist of *Penstemon* flowers. It collects and feeds its offspring only *Penstemon* pollen, though it may visit other plant genera for nectar (Lewinsohn et al. 2005).

The Natural Heritage Programs for the States of Colorado and Utah have assigned *P. grahamii* a global imperilment ranking of G2 and state imperilment rankings of S2. G2 and S2 rankings mean the species is imperiled at Global and State levels respectively. The International Union for the Conservation of Nature (IUCN) has given the species a ranking of ''Vulnerable''.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Penstemon grahamii* Keck (Graham's beardtongue) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Energy Resources

P. grahamii has been listed as a candidate species since 1980, in part due to the potential threat of increased energy development (U.S. Fish and Wildlife Service 2004). The habitat of *P. grahamii* is a series of knolls and slopes of raw oil shale derived from Green River geologic formation. Oil shale resources associated with the Green River formation underlie approximately 16,000 square miles (41,000 sq. km) and represent the largest known concentration of oil shale in the world (Dyni 2003; T. Lonnie, Senate Energy and Natural Resources Committee Oversight Hearing on Oil Shale Development Efforts, April 12, 2005). *P. grahamii* only grows directly on surface exposures of the richest oil shale bearing strata in the Mahogany ledge and closely associated strata, making the species highly vulnerable to extirpation consequent to exploitation of oil shale strata (Cashion 1967 [see map page 31]; Bureau of Mines 1988; U.S. Fish and Wildlife Service 2005; Shultz and Mutz 1979; Neese and Smith 1982 [see map overlay Vol. 5]).

Impacts to the species from energy development have been largely avoided to date because energy development within the species habitat has been minimal. For example, under existing development scenarios only 5 of 109 known occurrences (4.6 percent) have oil and gas wells located within them (U.S. Fish and Wildlife Service 2005). Where development has occurred, BLM has provided conservation measures and moved well or pipeline locations to minimize effects, largely due to attention provided the species because of its candidate status and BLM sensitive species status (R. Specht, BLM, 2005, per. comm.). Similarly, oil shale and tar sands development, as projected decades earlier, have not yet reached their potential due largely to limitations of past technology and unfavorable economics. The first interest in oil shale extraction occurred in the latter years of and immediately following World War I, however limited accessibility and low economic viability resulted in declining interest. More recently in the 1970–1980s, BLM made oil shale resources on public lands available through the Oil Shale Prototype Program, which was designed to allow companies to develop and refine the technology for extracting oil from oil shale. Since then, during the mid-1980s and 1990s, interest in oil shale development continued to lag because of declining petroleum prices (World Energy Council 2005; U.S. Fish and Wildlife Service 2005; T. Lonnie, Senate Energy and Natural Resources Committee Oversight Hearing on Oil Shale Development Efforts, April 12, 2005). However, recent Federal policy direction, technological advances, world oil demand, and economics have increased the desirability to invest in oil shale and other energy development in Utah and Colorado:

Federal Policy Direction

The Energy Policy Act of 2005 establishes that oil shale, tar sands, and other strategic unconventional fuels should be developed to reduce the nation's dependence on imported oil. Section 309(m)(1)(B) identifies the Green River Region, including the entire range of *P. grahamii* (U.S. Fish and Wildlife Service 2005), as a priority for oil shale and tar sand development.

Provisions of the Energy Policy Act of 2005 may provide economic incentives for oil shale development. For example, previous Mineral Leasing Act of 1920 restrictions limited oil shale lease sizes to 5,120 acres (ac) (2,072 hectares (ha)), and restricted leasing opportunities to just one lease tract per individual or corporation. Lease size restrictions effectively limited development because of a lack of available acreage to accommodate necessary infrastructure and facilities. The Energy Policy Act of 2005 now allows an individual or corporation to acquire multiple lease tracts up to 50,000 acres in any one state, removing the restrictions of the Mineral Leasing Act of 1920 (Bartis 2005).

Energy Policy Act of 2005 provisions require the Interior Department to complete a programmatic Environmental Impact Statement by February 2007 for a commercial leasing program for oil shale and tar sands resources on public lands. On December 13, 2005, the BLM published a notice of intent to prepare the document (70 FR 73791).

The Energy Bill of 2005 enables leasing of oil and gas and tar sands separately, even when the two are found in the same area. Previously, the law required a combined tar sands/oil and gas lease, effectively delaying leasing and extraction of oil and gas in tar sand areas.

BLM has established an Oil Shale Task Force to address access to unconventional resources such as oil shale on public lands; impediments to oil shale development on public lands; industry interest in research and development and commercial development opportunities on the public lands; and Secretarial options to capitalize on the opportunities.

On June 9, 2005, BLM announced in the **Federal Register** its intent to initiate a program to facilitate research, development, and demonstration (RD&D) of oil shale recovery technologies on Federal lands (70 FR 33753). BLM recognizes this effort as a first step toward successful development of oil shale reserves. The Bureau of Land Management received 19 nominations for oil shale research and development projects; eight nominations were received for projects in the Uinta Basin of Utah (BLM 2005, U.S. Fish and Wildlife Service 2005). Response to the RD&D request demonstrates significant interest in oil shale development (Bureau Land Management 2005).

Technological Advances

Oil shale: ''Oil shale'' is hard calcareous shale, called marl, impregnated with an organic compound called kerogen, a precursor to synthetic petroleum. Organic kerogen within the oil shale rock can be heated and vaporized at high temperatures to form synthetic petroleum. Extraction occurs in a process called retorting which requires heating of the rock to about 900 degrees Fahrenheit (480 degrees Celsius) through in-situ or surface retorting methods. Surface retorting involves mining ore on the surface or

underground, crushing it, and placing it in a retort; shale oil is removed and upgraded by the addition of hydrogen. There are currently no active commercial surface retorts in the United States. Oil-Tech currently operates a small, cost-effective commercial retort within the range of *Penstemon scariosus* var. *albifluvis* in Utah and plans to expand its operation to produce 20,000 barrels of oil per day in the next two years at a cost no greater than $30 per barrel (J. Savage, House Subcommittee on Energy and Mineral Resources, June 23, 2005). In-situ retorting involves injection of a heat source into the rock strata to produce oil from the kerogen. Shale oil then flows to a well and is pumped to the surface. Shell Oil has successfully completed at least five field tests using a modified in-situ conversion process (Johnson et al. 2004a; S. Mut, Senate Energy and Natural Resources Committee Oversight Hearing on Oil Shale Development Efforts, April 12, 2005). Successful oil shale development has also recently occurred in Australia and the Republic of Estonia (T. Lonnie, Senate Energy and Natural Resources Committee Oversight Hearing on Oil Shale Development Efforts, April 12, 2005).

Tar Sands: The tar sand resource rock layer is impregnated with a heavy oil substance called bitumen, exhibiting chemical characteristics similar to petroleum. (Blackett 1996). Current technologies for tar sands extraction involves either strip mining, as in the province of Alberta Canada (U.S. Department of Energy 1997), or 2.5-acre well spacing of surface extraction and injection facilities in addition to necessary access roadways and pipelines. (BIA 2002)

World Oil Demand and Economics

The Office of Naval Petroleum and Oil Shale Reserves anticipates increased world demand for oil reserves with declining resource availability, driven largely by developing Asian economies (Bunger et al. 2004, Johnson et al. 2004b). Feasibility of oil shale and tar sands development relies largely on economic profitability which is directly tied to the price volatility of conventional petroleum and market demand. Renewed oil shale and tar sand interest is partly due to crude oil price spikes in 2004 and 2005 (Johnson et al. 2004b).

Alberta's successful commercialization of tar sands serves as a model for a profitable oil shale industry in the United States (Johnson et al. 2004b).

A recent report and model by Rand Corporation (Bartis et al. 2005) estimated that oil shale extraction costs would be approximately $75–90 per barrel initially, and $30–$40 per barrel after a billion barrels of cumulative production. However, the report also concluded that recent advances in thermally conductive in-situ conversion may enable oil shale to compete with crude oil at prices under $40 per barrel. Shell Oil estimates in-situ retorting costs are estimated at $30 per barrel (Bartis et al. 2005). Ongoing oil shale and tar sands extraction operations in Alberta cost less than $20 per barrel (Johnson et al. 2004b). Based on technical and economic considerations, the Rand report (Bartis et al. 2005) projects initial commercial operations to occur in 6–10 years and production growth to commence in 12 years. Oil shale deposits of the Green River formation of Colorado, Utah, and Wyoming contain potentially recoverable kerogen (synthetic petroleum) in excess of 1 trillion barrels (Cashion 1967).

As discussed, Federal government policies, technological advances, and economics are now in place to advance oil shale, tar sands, and oil and gas development in areas also occupied by *P. grahamii*. The level of threats to *P. grahamii* populations has consequently increased. Increase in threat is directly related to the overlap of energy resources and known *P. grahamii* occurrences.

One hundred five of 109 (96 percent) *P. grahamii* occurrences are in the Parachute Creek member of the Green River formation, the remaining 4 sites are in oil shale strata of the Evacuation Creek member of the Green River formation (U.S. Fish and Wildlife Service 2005; Shultz and Mutz 1979; Neese and Smith 1982). Oil-shale beds are most numerous and important in the Parachute Member of the Green River formation, but the underlying Evacuation Creek member also contains a few beds of oil-shale (Pruitt 1961). The 105 occurrences in the Parachute Creek member harbor an estimated 6,100 individuals or 98 percent of the species' estimated population of 6,200 (U.S. Fish and Wildlife Service 2005; Shultz and Mutz 1979; Neese and Smith 1982). The BLM designated the East Tavaputs Plateau and the Southeast Uinta Basin as Oil Shale Lease Areas in the 1970s. These lease areas cover 60 of 109 *P. grahamii* occurrences (U.S. Fish and Wildlife Service 2005). In addition, BLM designated the ''PR'' Springs Tar Sand Area to identify shallow bituminous sand deposits within *P. grahamii* habitat. The PR Springs tar sand area covers 54 of 109 *P. grahamii* occurrences (49 percent) (U.S. Fish and Wildlife Service 2005). In total, 96 of 109 (90 percent) *P. grahamii* occurrences are located in high-value oil shale or bituminous (tar sand) areas, comprising approximately 5,700 of the species 6,200 individuals (92 percent of the total known population) (U.S. Fish and Wildlife Service 2005).

The entire range of *P. grahamii* is also underlain with deposits of traditional hydrocarbon resources, primarily natural gas. However, as previously described, active wells are only located at five *P. grahamii* occurrence locations. Thirty-nine active wells are within 1 mile (1.6 km) of *P. grahamii* occupied habitat. Future oil and gas development within *P. grahamii* habitat is likely. Oil and gas development, especially within the PR Springs tar sand area, will likely increase particularly due to the new Energy Policy Act of 2005 stipulations that will allow oil and gas development separate from tar sands extraction. The combined oil and gas and tar sand leasing provisions in place before the Energy Policy Act of 2005 had effectively removed traditional oil and gas leasing from significant portions of Federal lands in *P. grahamii's* largest population in the Seep Ridge population unit and in the southern portion of the species Evacuation Creek population unit. Those restrictions are now removed. Of the 109 occurrences of *P. grahamii,* 69 (63 percent) are currently leased for oil and gas drilling, or are within established oil and gas fields and have active oil and gas drilling and resource extraction programs. Ninety-six of the species 109 known occurrences (88 percent) are within active seismic exploration areas (BLM 2003).

Two natural gas field development projects within the Vernal BLM Field Office, Resource Development Group (RDG) and Gasco, are being planned in areas with known occurrences of *Penstemon grahamii.* RDG, for which NEPA is scheduled to be completed in January of 2006, entirely encompasses one *P. grahamii* occurrence, overlaps portions of six occurrences, and is immediately adjacent to another six occurrences. The Gasco project, for which the draft EIS is scheduled to be available in spring 2006, entirely encompasses five known *P. grahamii* occurrences. Two additional natural gas field development projects are being proposed in suitable habitat for which field surveys for *P. grahamii* have not been completed to determine presence of the species. These projects are the Dominion Exploration and Production Inc. and Mak J Energy project at Big Pack Mountain and the Enduring

Resources company project at Saddletree Draw.

The biological assessment (BA) for the RDG project states that the project could include destruction of *P. grahamii* occupied habitat, individual plants, and potentially suitable habitat. It further states that project activities have the potential to directly eliminate populations if project construction sites occur on occupied habitat. However, in part because of the plant's candidate status, and the current proposed listing action, BLM has committed to conduct plant surveys and avoid populations and suitable habitat (BLM 2005). Indirect effects such as incidental spread of noxious and exotic weeds or soil erosion may be more difficult to control. The BA concludes that construction activities could make individual *P. grahamii* populations more susceptible to weed infestation, subsequently decreasing plant biodiversity and insect (pollinator) biodiversity. Disturbed areas tend to foster invasion by exotic plant species; existing roads and well pads in the area have a higher density of annuals than undisturbed areas (BLM 2005). Placement of facilities and infrastructure such as roads, pipelines, and well pads can change water flow and the effects of erosion and sedimentation. Shale soils that provide habitat and microclimates for *P. grahamii* can be lost or altered by deposition of sediments, eventually causing the localized loss of populations (BLM 2005).

The species current status as a candidate species has provided the species interim protection on BLM Federal lands from the low level of oil and gas activities that have occurred to date (BLM 1995, 2002, 2003, 2005). The BLM reports that conservation stipulations for the species associated with well locations has prevented adverse modification of the species habitat and possible loss of *P. grahamii* individuals (R. Specht, BLM, 2005, per. com.). Conservation measures include moving well pad and pipeline locations to avoid direct impacts to the species. These measures are likely effective protection mechanisms, particularly at current low development rates. Increased energy development in *P. grahamii* habitat could increase the likelihood of direct loss of individual plants and increased habitat loss and fragmentation.

Oil shale and tar sands technologies include surface strip mining, underground mining, or in-situ retorting. All of these technologies involve surface disturbing activities that could cause habitat loss (Bartis 2005), and subsequent direct loss of plants and fragmentation of occupied habitats. Open pit mining will result in extensive and permanent changes to surface topography, erosion patterns, subsurface water quality, and flora and fauna (Johnson et al. 2004b, Bartis 2005), and hence to habitat components associated with *P. grahamii* similar to those previously described for oil and gas drilling. In-situ oil shale retorting appears to be much less disruptive to the landscape than surface mining, but facilities associated with surface-based drilling will cause at least decade-long displacement of wildlife, plants, and habitats (Bartis 2005). Oil shale mining, including underground mining, will also require new roads; power distribution systems; water storage and supply facilities; construction staging areas; hazardous materials handling facilities; and residential, commercial, and industrial buildings (Bartis 2005). In-situ tar sand extraction can involve 2.5 ac (1 ha) or less well spacing (BIA 2002, Schamel 2004), which in addition to necessary access roads and pipelines, leaves little to no available habitat for wildlife and plant habitat.

From a biological perspective, habitat loss and fragmentation can result in decreased population size and reduced colonization capacity of plant species. The probability of habitat restoration and natural re-colonization by plants is also low following fragmentation of habitats (Soon 2003). *P. grahamii* are naturally distributed with large distances between known occurrences. Additional fragmentation within known occurrences could negatively affect long-term survival of these populations. Many of the *P. grahamii* occurrences are very small, less than 100 individuals, and often as small as ten or less individuals per location.

Reducing the size of occupied habitat patches through habitat loss or fragmentation can result in higher extinction probabilities due to environmental, demographic, or genetic random events and effects associated with smaller sizes of remnant habitat, greater isolation from neighboring populations, and increased amounts of 'edge' habitat (Jules 1998, Soon 2003). A study of the effects of fragmentation on a common trillium (Jules, 1998) demonstrated that the extinction of local populations of the common plant *Trillium ovatum* was more likely as a result of declining populations near edges.

Reduced connectivity of habitat patches reduces seed and pollen dispersal between habitats. Smaller and isolated populations produce fewer seeds and pollen; and the populations attract fewer and lower diversity of seed and pollen dispersers (Paschke et al. 2002, Lienert 2003, Soon 2003). Regional survival of plant species is threatened by fragmentation because it reduces connectivity and gene flow (Soon 2003).

We have no way to determine the exact locations of oil shale and tar sand facilities, or the technologies that will be selected; however, it is apparent that increased development will result in direct and indirect effects to plants and their habitats. The correspondence of *P. grahamii* habitat with energy reserves, lease areas, and planned actions will likely mean that at least some portion of *P. grahamii* habitat and populations will be threatened by increased development. The Rand Report also concluded that despite mitigation, reclamation, and compensation efforts, long-term residual damage and disruption is likely, particularly if surface mining and retorting are among the selected technologies (Bartis 2005).

Other Activities

Grazing may have localized effects to *P. grahamii.* One site of *P. grahamii* is believed to have been eradicated by livestock trampling. The Dragon Sheep bed site first recorded in a 1982 survey (Neese and Smith 1982) has not been relocated in recent years. This is an area of heavy sheep grazing, and trampling of its habitat is thought to have caused the possible extirpation of this population (J.L. England, pers, comm. U.S. Fish and Wildlife Service, 2003). However, no research has been conducted to document effects of grazing to *P. grahamii,* and we have no substantial information indicating it to be a population level threat.

To date little ORV use has been observed in the species range. Federal and industry personnel are increasingly utilizing ORV in oil and gas field survey and site location development prior to the establishment of oil field road networks (Robert Specht, BLM, Vernal, Utah 2005, pers. comm.). However, we do not have any information indicating that ORV use is a threat to *P. grahamii* or its habitat.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Penstemon grahamii is a species of horticultural interest. The species is advertised on the internet and plants and seed are available. The Service, however, has no information concerning the impact of collection on wild populations in the species native habitat. In 2004, a *Penstemon* collector approached Red Butte Garden (the Utah

State botanical garden located at the University of Utah) inquiring on how to obtain seeds of *P. grahamii* (J. Lewinsohn, pers. comm. 2004). Several internet sites identify *P. grahamii* as a desirable specimen plant. Given the rarity and beauty of this species, over-collection could be a problem for the species.

C. Disease or Predation

Penstemon grahamii is grazed by wildlife, including rodents, rabbits, antelope, deer, elk, and insects (Shultz and Mutz 1979; Neese and Smith 1982; R. Specht, BLM, pers. comm., 2005; Lewinsohn, pers. comm., 2005). The species also is grazed by livestock, primarily sheep. Recent attempts to establish pollination studies and population monitoring plots for the species were complicated by the general lack of concentrations of individual plants large enough to conduct those studies (Lewinsohn, pers. comm. 2005). Lewinsohn also reported that all sites visited in southern Uintah County, Utah, were either too small or too heavily grazed to conduct suitable pollination studies. There are, however, no studies on the effects of grazing on this species.

D. The Inadequacy of Existing Regulatory Mechanisms

No Federal or State laws or regulations specifically protect *Penstemon grahamii*. The species is not protected by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The BLM administratively recognizes this species for special management consideration, but does not have the legal authority to require Federal mineral lease holders to modify mineral recovery plans and on-the-ground actions solely to protect this species. Some populations occur on private lands, which were given mineral entry patents during the 1920s specifically because of oil shale values. There is no regulatory protection for the species on private lands.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

We note the presence of exotic weeds within occupied *Penstemon grahamii* sites. These exotic species include *Bromus tectorum* (cheatgrass) and *Halogeton glomeratus* (halogeton) (L. England, U.S. Fish and Wildlife Service, pers. obs. 2003). These invasive exotic species are most abundant along roads and well site locations (R. Specht, BLM, pers. comm. 2004). These species compete with *P. grahamii*, thereby further degrading habitat quality.

Little is known concerning the species' pollination biology. The BLM is currently funding pollination biology studies (R. Bolander, BLM, pers. comm. 2005; J. Lewinsohn, pers. comm. 2005). Collections and observations of pollinators to the flowers of *Penstemon grahamii* have been limited over the past two flowering seasons because of the paucity of flowering plants. The most consistent pollinator of these species is likely to be the wasp *Pseudomasaris vespoides* (V. Tepedino Utah State University, pers. comm. 2005). Because flowers of *P. grahamii* appear to be very scarce, this plant species will usually be unable to support a viable population of *Pseudomasaris vespoides*. In all likelihood, successful reproduction by *P. grahamii* must depend on the occurrence of other concurrently blooming *Penstemon* species which support and keep abundant populations of *Pseudomasaris vespoides* in the area.

Low population numbers and habitat fragmentation pose a threat to rare plant species' genetic potential to adapt to changing environmental conditions (Matthies et al. 2004). Three of the species 5 population habitat units have 200 or fewer individuals in addition 8 smaller occurrences with populations of 20 or fewer individuals are isolated and 10 km (6.2 mi) or more from the core area of the five *P. grahamii* population units. These smaller population sites of *Penstemon grahamii* may not be at levels that would ensure the species long-term demographic stability and genetic viability. The effects of habitat degradation and fragmentation caused by human activities in concert with the effects of deleterious natural phenomena, such as drought, may lead to the extirpations of local occurrences or possible extinction. At present there are no studies or information on these threats relative directly to *P. grahamii*.

Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to *Penstemon grahamii*. Habitat destruction and degradation as a consequence of energy development throughout the species' range pose a serious threat to long-term viability. Habitat loss and fragmentation also will exacerbate threats arising from very low natural population numbers and restricted distribution; natural phenomena such as drought and wildlife grazing; livestock grazing; and horticultural collection. On the basis of the best available information, we are proposing to list *Penstemon grahamii* as a threatened species, and we herein propose this listing. Threatened status reflects the vulnerability of this species to factors that negatively affect the species and its limited and restricted habitat. While not in immediate danger of extinction, *P. grahamii* may have the strong potential to become an endangered species in the foreseeable future if present threats increase and projected energy development scenarios, especially oil shale and tar sand, occur.

We are soliciting comments on this proposed rule and threats to the species. Despite recent policy direction (e.g., Energy Policy Act 2005), the long-term technological and economic feasibility of oil shale and tar sands development are uncertain (Bartis 2005). We seek specific information on any available preliminary results from the recent lease nominations for research, development, and demonstration of oil shale recovery technologies on Bureau of Land Management (BLM) lands; success of ongoing oil shale or tar sands development projects, particularly in the Green River formation; available economic and technological analyses; and specific information detailing definitive effects of these operations to environmental resources, as primarily related to losses of plant individuals, loss or fragmentation of plant habitat, and loss or declines in plant pollinators. Similarly, we request any available information on ongoing or proposed oil and gas drilling activities within *P. grahamii* habitat.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed in ''Effect of Critical Habitat Designation'' for critical habitat and are further discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision

of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal agency actions that may require conference and/or consultation as described in the preceding paragraph include BLM leasing and permitting of oil and gas resources, oil shale, tar sands, Gilsonite, and other leasable minerals on lands under their jurisdiction. Additionally BLM must consult on livestock grazing leases and management, and roads and ORV travel regulations and management. Department of Energy actions involving oil and gas and oil shale development also may require conference and or consultation. Department of Transportation activities involving roads or highways within the species habitat also may require conference and/or consultation.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71 apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. This protection may apply to this species in the future if regulations are promulgated. Seeds from cultivated specimens of threatened plants are exempt from this prohibition provided that their containers are marked ''Of Cultivated Origin.'' Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation and survival of the species. For threatened plants, permits also are available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes of the Act. *Penstemon grahamii* is an extremely attractive plant and is known to be in cultivation. It is reasonable to expect a demand for the species for horticultural purposes. However the species is very rare in its natural environment. Trade permits may be sought, but should be granted for only activities contributing to the species overall conservation. Requests for copies of the regulations regarding listed species and inquires about prohibitions and permits may be addressed to U.S. Fish and Wildlife Service, 134 Union Blvd., Lakewood, Colorado 80228.

Critical Habitat

Role of Critical Habitat in Actual Practice of Administering and Implementing the Act

Attention to and protection of habitat is paramount to successful conservation actions. The role that designation of critical habitat plays in protecting habitat of listed species, however, is often misunderstood. As discussed in more detail below in the discussion of exclusions under ESA section 4(b)(2), there are significant limitations on the regulatory effect of designation under ESA section 7(a)(2). In brief, (1) designation provides additional protection to habitat only where there is a federal nexus; (2) the protection is relevant only when, in the absence of designation, destruction or adverse modification of the critical habitat would in fact take place (in other words, other statutory or regulatory protections, policies, or other factors relevant to agency decision-making would not prevent the destruction or adverse modification); and (3) designation of critical habitat triggers the prohibition of destruction or adverse modification of that habitat, but it does not require specific actions to restore or improve habitat.

Currently, only 470 species, or 37 percent of the 1,264 listed species in the U.S. under the jurisdiction of the Service, have designated critical habitat. We address the habitat needs of all 1,264 listed species through conservation mechanisms such as listing, section 7 consultations, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, the section 10 incidental take permit process, and cooperative, nonregulatory efforts with private landowners. The Service believes that it is these measures that may make the difference between extinction and survival for many species.

In considering exclusions of areas proposed for designation, we evaluated the benefits of designation in light of *Gifford Pinchot Task Force* v. *United States Fish and Wildlife Service*. In that case, the Ninth Circuit invalidated the Service's regulation defining ''destruction or adverse modification of critical habitat.'' In response, on December 9, 2004, the Director issued guidance to be considered in making section 7 adverse modification determinations. This proposed critical habitat designation does not use the invalidated regulation in our consideration of the benefits of including areas in this final designation. The Service will carefully manage future consultations that analyze impacts to designated critical habitat, particularly those that appear to be resulting in an adverse modification determination. Such consultations will be reviewed by the Regional Office prior to finalizing to ensure that an adequate analysis has been conducted that is informed by the Director's guidance.

On the other hand, to the extent that designation of critical habitat provides protection, that protection can come at significant social and economic cost. In addition, the mere administrative process of designation of critical habitat is expensive, time-consuming, and controversial. The current statutory framework of critical habitat, combined with past judicial interpretations of the statute, make critical habitat the subject of excessive litigation. As a result, critical habitat designations are driven by litigation and courts rather than biology, and made at a time and under a time frame that limits our ability to obtain and evaluate the scientific and other information required to make the designation most meaningful.

In light of these circumstances, the Service believes that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

Procedural and Resource Difficulties in Designating Critical Habitat

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected the Service to an ever-increasing series of court orders and court-approved settlement agreements, compliance with which now consumes nearly the entire listing program budget. This leaves the Service with little ability to prioritize its activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

The consequence of the critical habitat litigation activity is that limited listing funds are used to defend active lawsuits, to respond to Notices of Intent (NOIs) to sue relative to critical habitat, and to comply with the growing number of adverse court orders. As a result, listing petition responses, the Service's own proposals to list critically imperiled species, and final listing determinations on existing proposals are all significantly delayed.

The accelerated schedules of court-ordered designations have left the Service with limited ability to provide for public participation or to ensure a defect-free rulemaking process before making decisions on listing and critical habitat proposals, due to the risks associated with noncompliance with judicially imposed deadlines. This in turn fosters a second round of litigation in which those who fear adverse impacts from critical habitat designations challenge those designations. The cycle of litigation appears endless, and is very expensive, thus diverting resources from conservation actions that may provide relatively more benefit to imperiled species.

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the economic effects and the cost of requesting and responding to public comment, and in some cases the costs of compliance with the National Environmental Policy Act (NEPA). These costs, which are not required for many other conservation actions, directly reduce the funds available for direct and tangible conservation actions.

Critical Habitat Background

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Conservation, as defined under section 3 of the Act means to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 requires consultation on Federal actions that are likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands. Section 7 is a purely protective measure and does not require implementation of restoration, recovery, or enhancement measures.

To be included in a critical habitat designation, the habitat within the area occupied by the species must first have features that are essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Habitat occupied at the time of listing may be included in critical habitat only if the essential features thereon may require special management or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. (As discussed below, such areas may also be excluded from critical habitat pursuant to section 4(b)(2).) Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species so require, we will not designate critical habitat in areas outside the geographical area occupied by the species at the time of listing. An area currently occupied by the species but that was not known to be occupied at the time of listing will likely, but not always, be essential to the conservation of the species and, therefore, typically included in the critical habitat designation.

The Service's Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service, provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific data available. They require Service biologists to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information is generally the listing package for the species. Additional information sources include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge. All information is used in accordance with the provisions of section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available information at the time of the action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by section 4(b)(2) of the Act, we use the best scientific data available in determining areas that contain the features that are essential to the conservation of *Penstemon grahamii* (Shultz and Mutz 1979, Neese and Smith 1982, Borland 1987, Franklin 1992, 1995, Colorado Natural Heritage Program 2005, Utah Natural Heritage Program 2005). We do not propose any areas outside the geographical area presently occupied by the species.

We have also reviewed available information that pertains to the habitat requirements of this species (Shultz and Mutz 1979, Neese and Smith 1982, Lewinsohn et al. 2005).

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

In the last few years, a series of court decisions have overturned our determinations that designation of critical habitat would not be prudent for a variety of species (e.g., *Natural Resources Defense Council* v. *U.S. Department of the Interior*, 113 F.3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt,* 2 F. Supp. 2d 1280 (D. Hawaii 1998)). Based on the standards applied in those judicial opinions, we have examined the question of whether critical habitat for *P. grahamii* would be prudent.

There is documentation of commercial and private collection to this species and that activity is identified as a potential threat to the species (see factor ''B. Overutilization for Commercial Recreational, Scientific, or Educational Purposes'' in the ''Summary of Factors Affecting the Species'' above). However, we believe the significance of this collection to the viability of the species population is not known. Therefore this threat, if any, to *P. grahamii* is outweighed by the conservation benefits derived from the designation of critical habitat for this species. Additionally, much of the habitat where *P. grahamii* occurs is under Federal land management where the threat of collection should be reduced by enforcement of section 9 of the Act. Consistent with recent case law, we must weigh the benefits in proposing to designate critical habitat for *P. grahamii* against the harm which could be caused by disclosure of their location. We find that these benefits outweigh the risk of increased collection because the locations are already known and available to the public.

Although we make a detailed determination of the habitat needs of a listed species during the recovery planning process, the Act has no provision to delay designation of critical habitat until such time as a recovery plan is prepared. We reviewed the available information pertaining to habitat characteristics where this species is located. This and other information represent the best scientific and commercial data available, and led us to conclude that the designation of critical habitat is both prudent and determinable for *Penstemon grahamii.*

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas to designate as critical habitat, we must consider those physical and biological features (primary constituent elements) essential to the conservation of the species. These primary constituent elements include, but are not limited to, space for individual and population growth and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species. The areas we are proposing to designate as critical habitat for *Penstemon grahamii* provide the primary constituent elements noted below.

We determined the specific primary constituent element for *Penstemon grahamii* based on data and studies on its general habitat and life history requirements as described in Shultz and Mutz 1979; Neese and Smith 1982; Borland 1987; and Franklin 1993, 1995, Colorado Natural Heritage Program 2005, Utah Natural Heritage Program 2005, and current research in progress by Lewinsohn and Tepedino (pers. comm. 2005).

Penstemon grahamii is narrowly endemic to highly basic soils derived from the Green River formation. These soils provide the root microhabitat essential for the species growth and reproduction. These soils are very shallow with virtually no soil horizon development. The little soil above the consolidated calcareous shale rock of its parent material is usually very light clay derived from thinly bedded shale. The soil surface is covered with broken shale chips usually less than 5 cm (2 in) across underlain with larger shale chips to a depth of 5 to 10 cm (2 to 4 in). The shale chips usually weather to a light tan color. Freshly broken chips exhibit a very dark brown interior due to the high organic content of the kerogen in the oil shale. The majority of the species occurrences and those with the largest population numbers are from the oil shale rich Parachute Creek member of the Green River formation. The remaining occurrences are derived from oil shale of the Evacuation Creek member of the Green River formation (Shultz and Mutz 1979).

The species composition of *P. grahamii's* plant community further describes the primary constituent element of *P. grahamii* critical habitat. Although not being proposed as a PCE, the plant community is nonetheless useful in delineating the species' PCE in the field environment. Dwarf shrubs and pulvinate (mound or cushion like) plant life forms exhibit a distinctive plant community type occurring on these calcareous shale sites. This vegetative community, with the specific soil described above, provides the sole known habitat for the species and is thus considered essential for the species growth and reproduction. The vascular plant species most commonly associated with *Penstemon grahamii* include *Artemisia pygmaea* (pygmy sage), *Cercocarpus montanus,* (mountain mahogany), *Chamaechaenactis scoposa*

(Eastwood's chaenactis), *Cryptantha grahamii* (Grahams' catseye) *Elymus salinus* (Salina wild-rye), *Ephedra torreyana* (Mormon tea), *Eriogonum corymbosum* (Fremont's wild-buckwheat), *Eriogonum ephedroides* (Ephedra wild-buckwheat), *Glossopetalon spinescens* (Utah greasewood), *Parthenium ligulatum* (low feverfew), *Tetradymia nuttallii* (Nuttall's horse-bush) and *Yucca harrimaniae* (Harriman's yucca) (Shultz and Mutz 1979, Neese and Smith 1982). In addition the rare oil shale endemic species *Penstemon scariosus* var. *albifluvis* (White River penstemon) and *Cryptantha barnebyi* (Barneby's catseye) are in part sympatric with *P. grahamii.* Sites at higher elevation are occasionally within sparse piñon-juniper woodland dominated by *Juniperus osteosperma* (Utah juniper) and *Pinus edulis* (Colorado piñon). *Penstemon grahamii* sites at lower elevations occasionally occur within a sparse desert shrubland dominated by *Atriplex conferitfolia* (shadscale). In both cases, however, *P. grahamii* habitat is characterized by the sparsely vegetated raw shale surface indicative of the species' habitat throughout its range. Sagebrush-grass parks, mixed mountain shrubland, and greasewood bottoms are not primary constituent elements. Piñon-juniper woodlands and mixed desert shrubland, in large part, are not part of the PCE unless they have extant populations of *P. grahamii* and the associated vegetation described above.

Pollinators are important to *P. grahamii.* We believe the proposed critical habitat sites include necessary pollinator habitat. However areas adjacent to the marl shale knolls and slopes occupied by *P. grahamii* are important to the species pollinators. The primary pollinator of *P. grahamii* is the wasp *Pseudomasaris vespoides.* This masarid wasp nests in the ground within and adjacent to the shale knoll and slope habitat of *P. grahamii.* Due to the paucity of *P. grahamii* individuals, the maintenance of *Pseudomasaris vespoides* populations will require populations of *Penstemon* species other than *P. grahamii.* Populations of other *Penstemon* species in areas adjacent to *P. grahamii* occupied habitat are essential to support the pollinating wasp's population during periods of poor *P. grahamii* floral availability (Lewinsohn et al. 2005). These *Penstemon* species include *Penstemon pachyphyllus, Penstemon fremontii, Penstemon strictus,* and *Penstemon scariosus.* We are unable to adequately delineate specific pollinator habitat and consequently are not identifying a specific Primary Constituent Element for pollinator habitat.

The primary constituent element (PCE) of *Penstemon grahamii* critical habitat is: Calcareous shale knolls and slopes occupied by extant occurrences of *Penstemon grahamii* and dominated by dwarf shrubs and pulvinate plant life forms characteristic of the species plant community type.

Criteria Used To Identify Critical Habitat

We have delineated all known locations with extant populations of *P. grahamii* into 109 occurrences. We grouped these occurrences into five units separated by unoccupied gaps in the species range. Available population data information is summarized for the broader units rather than each of the smaller occurrences (Shultz and Mutz 1979, Neese and Smith, 1982, Borland 1987, Franklin 1993, 1995, Colorado Natural Heritage Program 2005, Utah Natural Heritage Program 2005). In addition the consolidating occurrences at this scale provides for effective identification and naming of these sites to land owners and managers.

The boundaries of *Penstemon grahamii* critical habitat occurrences were drawn to incorporate the PCE at each of the species' known locations. We have mapped these occurrences implementing GIS technology on a base map using digital orthophoto quadrangles and National Agricultural Imagery Program of the species habitat and *P. grahamii* survey data. These occurrences were delineated by heads-up digitizing with Universal Transverse Mercator (UTM) coordinates around each known *P. grahamii* occurrence. These occurrences include the PCE and provide the specific location, shape, and size of each critical habitat area. Each occurrence is further located and identified by the cadastral land survey Township, Range and Section. The imprecision of field mapping prevents finer habitat delineation. Any land areas within these parcels without the PCE are not critical habitat.

We are proposing to designate critical habitat on lands that we have determined are occupied at the time of the proposed listing and contain sufficient primary constituent elements to support life history functions essential for the conservation of the species.

Special Management Considerations and Protection

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing and contain the primary constituent elements may require special management considerations or protections.

The species' current status as a candidate species has provided the species interim protection on BLM Federal lands from the low level of oil and gas activities that have occurred to date (BLM 1995, 2002, 2003, 2005). The BLM reports that conservation stipulations for the species associated with well locations has prevented adverse modification of the species habitat and possible loss of *P. grahamii* individuals (R. Specht, BLM, 2005, per. com.). Conservation measures include moving well pad and pipeline locations to avoid direct impacts to the species. These measures are likely effective protection mechanisms, particularly at current low development rates. Increased energy development in *P. grahamii* habitat will increase the likelihood of direct loss of individual plants and increased habitat loss and fragmentation. The continuance of these conservation measures is needed to maintain current populations of the species. Additional conservation measures, including the designation of areas dedicated to the conservation of *P. grahamii* and its habitat, may be necessary for the species long-term conservation in the event of large-scale energy development within its occupied habitat.

The majority of occurrences (5 of 6) in the Raven Ride (Unit E) population habitat unit are currently being managed by BLM Meeker Field Office as the Raven Ridge Area of Critical Environmental Concern (ACEC). The Raven Ridge ACEC was established in 1987 and involved an agreement between BLM and Colorado Natural Areas Program. The explicit purpose of the Raven Ridge ACEC is to provide for the conservation of 10 rare endemic plant species with unique habitat on Raven Ridge and for *Penstemon grahamii* and *P. albifluvis* (virtually their entire population within the State of Colorado). The Raven Ridge ACEC sets out goals for a management plan for the area, but to date BLM has not completed formal management plans for these areas. If a plan is finalized prior to our final determination, we will consider whether it provides special management and we may exclude these areas if we determine that no additional special management is required.

Proposed Critical Habitat Designation

In proposing critical habitat for this species, we solicited information from knowledgeable botanists and biologists and recommendations contained in BLM sponsored status reports (Shultz

and Mutz 1979; Neese and Smith 1982; Borland 1987; Franklin 1993, 1995; BLM 1987, Colorado Natural Heritage Program 2005, Utah Natural Heritage Program 2005). We also reviewed the available literature pertaining to habitat requirements, historic localities, and current localities for these species. The proposed critical habitat described below constitutes our best assessment of areas needed for the conservation of *P. grahamii* and is based on the best available scientific and commercial information available. The proposed areas have features that are essential to the conservation of the species because they are within the geographical area occupied by *P. grahamii,* and because they currently have the primary constituent element (see description of primary constituent elements, above).

Although this species occurs on only a few sites, important considerations in selection of areas proposed in this rule include factors specific to each geographic area or complex of areas, such as size, connectivity, and habitat diversity, as well as range-wide recovery considerations, such as genetic diversity and representation of all major portions of the species' historical ranges. The proposed critical habitat designation includes the core areas of each of *P. grahamii's* 5 population units. Nine small outlier occurrences—3 from the Sand Wash unit (Unit A), 5 from the Seep Ridge unit (Unit B), and 1 from the Evacuation Creek unit (Unit C)—are not included in this proposed rule. Uncertainty of occurrence at other sites may result in small areas of occupied habitat not being included in the designation.

We propose the following areas as critical habitat (see the ''Regulation Promulgation'' section of this proposed rule for exact boundary descriptions):

Unit A—Sand Wash Unit

The westernmost critical habitat unit, named the Sand Wash Unit (Unit A), occurs in the vicinity of Sand Wash in southwestern Uintah and adjacent Duchesne Counties, Utah. This population consists of 10 separate occurrences with a population estimated at 135 individuals (Shultz and Mutz 1979, Franklin 1993, Utah Natural Heritage Program 2005). We are proposing to designate critical habitat for seven of these occurrences, with an estimated population of 100 individuals (subunits 01–07). An area of 118.07 ac (47.15 ha) is being proposed for designation in these seven subunits.

The proposed critical habitat areas constitute the core of the *P. grahamii* population in this unit, including the largest occurrence in the western portion of the species range. This population unit has relatively small numbers (approximately 2 percent) compared to those population units in the center of the species range. This unit is the most isolated of the species population units. This portion of the species population has minor morphological differences from the remainder of its population (Shultz and Mutz 1979) and may, due to geographic isolation, be genetically divergent from the remainder of the species population. Three small outlier population occurrences are not included in this critical habitat unit.

Unit B—Seep Ridge Unit

A second critical habitat unit, named the Seep Ridge Unit (Unit B), occurs approximately 17 miles east of the Sand Wash population unit in the vicinity of Buck, Sunday School, and Klondike Canyons near the Seep Ridge road in south central Uintah County, Utah. This population consists of 53 separate occurrences with an estimated population of 3200 individuals (Shultz and Mutz 1979, Utah Natural Heritage Program 2005), but we are proposing to designate as critical habitat 48 of these occurrences with an estimated population of 3100 individuals (subunits 01–48). An area of 1,428.44 ac (579.1 ha) is being proposed for designation in 48 subunits.

This critical habitat unit encompasses the largest portion of the species' population, with approximately 50 percent of the total individuals within proposed critical habitat boundaries. Maintenance of this population unit is essential for the species long-term survival. The majority of the species population and habitat area in this unit is on Federal lands under BLM management. Significant portions are on State of Utah lands. Five small outlier population occurrences are not included in this Unit.

Unit C—Evacuation Creek Unit

A third critical habitat unit, named the Evacuation Creek unit (Unit C), occurs approximately 10 miles east of the Seep Ridge unit in the Asphalt Wash and Evacuation Creek drainages near the abandoned Gilsonite mining towns of Dragon and Rainbow. This population is in southeastern Uintah County, Utah, and adjacent Rio Blanco County, Colorado. This population consists of 30 separate occurrences with an estimated population of 2550 individuals (Neese and Smith 1982, Franklin 1995, Utah Natural Heritage Program 2005). We are proposing to designate as critical habitat 29 of these occurrences with an estimated population of 2,540 individuals (subunits 01–29). An area of 1,577.9 ac (638.6 ha) is being proposed for designation in the 29 subunits.

This critical habitat unit is the species second largest with approximately 41 percent of the species total population. This unit, along with the Seep Ridge unit described above, is essential for the species long-term survival. The majority of this species population in this unit is on private land. Significant portions, however, are on Federal land. One small occurrence on the margin of this unit was not included. Recent attempts to relocate the species at this occurrence have failed leading to the presumption of extirpation for this site.

Unit D—White River Unit

A fourth critical habitat unit, named the White River Unit (Unit D), occurs approximately 5 miles north of the Evacuation Creek unit in Hells Hole and Weaver Canyons immediately south of the White River. This population is in eastern Uintah County, Utah, and consists of 9 separate occurrences with an estimated population of 115 individuals (Neese and Smith 1982, Franklin 1995, Utah Natural Heritage Program 2005). We are proposing to designate as critical habitat all 9 of these occurrences (subunits 01–09). An area of 197.1 ac (79.8 ha) is being proposed for designation in the 9 subunits.

This critical habitat unit is the species smallest, containing approximately 2 percent of the species total. This population unit is important as a link between the species to the largest population units to the south and southwest and the species Colorado population to the northeast.

Unit E—Raven Ridge Unit

A fifth critical habitat unit, named the Raven Ridge unit (Unit E), occurs approximately 7 miles northwest of the White River unit along the west flank of Raven Ridge and north of the White River between Raven Ridge and the Utah border in extreme western Rio Blanco County, Colorado. This population consists of 6 separate occurrences with an estimated population of 200 individuals (Borland 1987, Colorado Natural Heritage Program 2005). We are proposing to designate as critical habitat all 6 of these occurrences (subunits 01–06). An area of 175.42 ac (71 ha) is being proposed for designation in the 6 subunits.

This Unit harbors approximately 3 percent of the species total population. This Unit includes virtually the species entire population in Colorado (a portion of a small population occurs at the eastern margin of the Evacuation Creek population unit at the Colorado-Utah

border). As in the case of the Sand Wash Unit, the Raven Ridge Unit is at the extreme end of the species range. As such this population is important for its representation of a portion of the full spectrum of the species genetic diversity.

Land Ownership

Most of the land included in the designation is Bureau of Land Management administered Federal land. Significant portions are State of Utah lands. The remaining lands are private lands; these lands are all mineral entry fee lands patented for their oil shale values during the 1920s. *P. grahamii,* 85 occurrences are on public land managed by BLM, 17 occurrences are on State of Utah lands, and 13 occurrences are on private lands (15 occurrences have split Federal, State, and private ownership).

The following table summarizes proposed *P. grahamii* critical habitat land ownership and acreages:

Critical habitat population unit	Federal (BLM) land ownership	State of Utah land ownership	Private land ownership	Total acres
Unit A	111.45	0	13.35	124.80
Unit B	1279.64	143.80	4.97	1428.39
Unit C	939.71	265.62	372.62	1577.95
Unit D	111.91	13.16	72.05	197.12
Unit E	174.10	0	1.32	175.42
Total	2616.81	422.56	464.31	3503.68

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as ''a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.'' However, recent decisions by the 5th and 9th Circuit Court of Appeals have invalidated this definition. Pursuant to current national policy and the statutory provisions of the Act, destruction or adverse modification is determined on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. This is a procedural requirement only. However, once a proposed species becomes listed, or proposed critical habitat is designated as final, the full prohibitions of section 7(a)(2) apply to any Federal action. The primary utility of the conference procedures is to maximize the opportunity for a Federal agency to adequately consider proposed species and critical habitat and avoid potential delays in implementing their proposed action as a result of the section 7(a)(2) compliance process, should those species be listed or the critical habitat designated.

Under conference procedures, the Service may provide advisory conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The Service may conduct either informal or formal conferences. Informal conferences are typically used if the proposed action is not likely to have any adverse effects to the proposed species or proposed critical habitat. Formal conferences are typically used when the Federal agency or the Service believes the proposed action is likely to cause adverse effects to proposed species or critical habitat, inclusive of those that may cause jeopardy or adverse modification.

The results of an informal conference are typically transmitted in a conference report; while the results of a formal conference are typically transmitted in a conference opinion. Conference opinions on proposed critical habitat are typically prepared according to 50 CFR 402.14, as if the proposed critical habitat were designated. We may adopt the conference opinion as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). As noted above, any conservation recommendations in a conference report or opinion are strictly advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, compliance with the requirements of section 7(a)(2) will be documented through the Service's issuance of: (1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or (2) a biological opinion for Federal actions that may affect, but are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. ''Reasonable and prudent alternatives'' are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes

would avoid jeopardy to the listed species or destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where a new species is listed or critical habitat is subsequently designated that may be affected and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect subsequently listed species or designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect *P. grahamii* or its designated critical habitat will require section 7 consultation under the Act. Activities on State, tribal, local or private lands requiring a Federal permit (such as a permit from the Corps under section 404 of the Clean Water Act or a permit under section 10(a)(1)(B) of the Act from the Service) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local or private lands that are not federally-funded, authorized, or permitted, do not require section 7 consultations.

Application of the Jeopardy and Adverse Modification Standards for Actions Involving Effects to Penstemon grahamii and Its Critical Habitat

Jeopardy Standard

Prior to and following designation of critical habitat, the Service has applied an analytical framework for *Penstemon grahamii* jeopardy analyses that relies heavily on the importance of core area populations to the survival and recovery of the *P. grahamii.* The section 7(a)(2) analysis is focused not only on these populations but also on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of *Penstemon grahamii* in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of the affected core area population(s), inclusive of associated habitat conditions, a jeopardy finding is considered to be warranted, because of the relationship of each core area population to the survival and recovery of the species as a whole.

Adverse Modification Standard

The analytical framework described in the Director's December 9, 2004, memorandum is used to complete section 7(a)(2) analyses for Federal actions affecting *Penstemon grahamii* critical habitat. The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species. Generally, the conservation role of *Penstemon grahamii* critical habitat units is to support viable core area populations.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of the species.

Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that the conservation value of critical habitat for the *P. grahamii* is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore result in consultation for the *Penstemon grahamii* include, but are not limited to:

(1) Activities that have the potential to appreciably degrade or destroy *Penstemon grahamii* habitat and its PCE, including current oil and gas development, future oil shale and tar sand development, road building, ORV use, herbicide use, and intensive livestock grazing;

(2) Alteration of existing hydrology by lowering the groundwater table or redirection of sheet flow from areas adjacent to deflation hollows;

(3) Compaction of soil through the establishment of new trails or roads;

(4) Activities that foster the introduction of non-native vegetation, particularly noxious weeds, or create conditions that encourage the growth of non-natives. These activities could include, but are not limited to: Irrigation, supplemental feeding of livestock, and ground disturbance associated with pipelines, roads, and other soil-disturbing activities; and

(5) Indirect effects that appreciably decrease habitat value or quality (e.g., construction of fencing along the perimeter of the critical habitat leading to cattle congregation at the fence and resultant focused disturbance, erosion, and changes to drainage patterns, soil stability, and vegetative community composition).

We consider all of the units proposed as critical habitat to contain features essential to the conservation of *Penstemon grahamii.* All units are within the geographic range of the species and all were occupied by the species at the time of listing.

Application of Section 3(5)(A) and Exclusions Under Section 4(b)(2) of the Act

Section 3(5)(A) of the Act defines critical habitat as the specific areas within the geographic area occupied by the species on which are found those physical and biological features (i) essential to the conservation of the species, and (ii) which may require special management considerations or protection. Therefore, areas within the geographic area occupied by the species that do not contain the features essential to the conservation of the species are not, by definition, critical habitat. Similarly, areas within the geographic area occupied by the species that require no special management or protection also are not, by definition, critical habitat.

There are multiple ways to provide management for species habitat. Statutory and regulatory frameworks that exist at a local level can provide such protection and management, as can lack of pressure for change, such as areas too remote for anthropogenic disturbance. Finally, State, local, or private management plans as well as management under Federal agencies jurisdictions can provide protection and management to avoid the need for designation of critical habitat. When we consider a plan to determine its adequacy in protecting habitat, we consider whether the plan as a whole will provide the same level of protection that designation of critical habitat would provide. The plan need not lead to exactly the same result as a designation in every individual

application, as long as the protection it provides is equivalent, overall. In making this determination, we examine whether the plan provides management, protection, or enhancement of the PCEs that is at least equivalent to that provided by a critical habitat designation, and whether there is a reasonable expectation that the management, protection, or enhancement actions will continue into the foreseeable future. Each review is particular to the species and the plan, and some plans may be adequate for some species and inadequate for others.

The Raven Ridge ACEC sets out goals for a management plan for the area, but to date BLM has not completed formal management plans for these areas. If a plan is finalized prior to our final determination, we will consider whether it provides special management and we may exclude these areas if we determine that no additional special management is required.

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if [s]he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless [s]he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the Secretary is afforded broad discretion and the Congressional record is clear that in making a determination under the section the Secretary has discretion as to which factors and how much weight will be given to any factor.

Under section 4(b)(2), in considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and determine whether the benefits of exclusion outweigh the benefits of inclusion. If an exclusion is contemplated, then we must determine whether excluding the area would result in the extinction of the species. We are not proposing or considering any exclusions under section 4(b)(2).

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. No. 108–136) amended the ESA to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the ESA (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' We consult with the military on the development and implementation of INRMPs for installations with listed species. No military lands are included within the areas proposed for designation as critical habitat, therefore no lands will be subject to non-inclusion under the authority of 4(a)(3) of the Act.

Economic Analysis

An analysis of the economic impacts of proposing critical habitat for the *Penstemon grahamii* is being prepared. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be by contacting the Utah Field Office directly (see **ADDRESSES** section).

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register.** We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register.** Such requests must be made in writing and be addressed to the Field Supervisor at the address in the **ADDRESSES** section above.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You also may e-mail the comments to this address: *Exsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal and policy issues, but it is not anticipated to have an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific area as critical habitat. This economic analysis also will be used to determine compliance with Executive Order 12866, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, and Executive Order 12630.

Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are listed above in the section on Section 7 Consultation. The availability of the draft economic analysis will be announced in the **Federal Register** and in local

newspapers so that it is available for public review and comments. The draft economic analysis can be obtained by contacting the Utah Field Office directly (see **ADDRESSES** section).

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, the Service lacks the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, the RFA finding is deferred until completion of the draft economic analysis prepared pursuant to section 4(b)(2) of the ESA and E.O. 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, the Service will publish a notice of availability of the draft economic analysis of the proposed designation and reopen the public comment period for the proposed designation for an additional 60 days. The Service will include with the notice of availability, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. The Service has concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that the Service makes a sufficiently informed determination based on adequate economic information and provides the necessary opportunity for public comment.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this proposed designation of critical habitat is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Prohibitions to carry out energy development or exploration are not anticipated as a result of this action within the proposed designation. Based on our experience with section 7 consultations for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. As we have no consultation history for *Penstemon grahamii,* we can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats it faces. The kinds of actions that may be included in future reasonable and prudent alternatives for energy development include stipulations on permits to drill for natural gas or oil and mineral leases may be necessary, in some circumstances, to protect occupied habitat from contamination or degradation. However, these measures and stipulations are not expected to significantly affect energy supplies, distribution or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

We do not believe that this rule will significantly or uniquely affect small governments because the majority of lands proposed for critical habitat designation are Federal lands under

jurisdiction of the BLM or State of Utah lands. As such, Small Government Agency Plan is not required. We will, however, further evaluate this issue as we conduct our economic analysis and revise this assessment if appropriate.

Takings

In accordance with Executive Order 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of the proposed listing and designation of critical habitat for *Penstemon grahamii.* The takings implications assessment concludes that this proposed rule does not pose significant takings implications. A copy of this assessment is available by contacting the Utah Field Office (see **ADDRESSES** section).

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with DOI and Department of Commerce policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in Utah and Colorado. The designation of critical habitat in areas currently occupied by the *Penstemon grahamii* imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the conservation of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Endangered Species Act. This proposed rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Penstemon grahamii.*

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996). However, when the range of the species includes States within the Tenth Circuit, such as that of the *Penstemon grahamii* pursuant to the Tenth Circuit ruling in *Catron County Board of Commissioners* v. *U.S. Fish and Wildlife Service,* 75 F.3d 1429 (10th Cir. 1996), we will undertake a NEPA analysis for critical habitat designation and notify the public of the availability of the draft environmental assessment for this proposal when it is finished.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations With Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of the Interior's requirement at 512 DM 2, we understand that recognized Federal Tribes must be related to on a Government-to-Government basis. We are not aware of any Tribal lands essential for the conservation of *Penstemon grahamii.* Therefore, we are not proposing to designate critical habitat for these species on Tribal lands. Additionally, the proposed designation does not contain any lands that we have identified as impacting Tribal trust resources.

References Cited

A complete list of references cited in this rule is available upon request from the Field Supervisor, U.S. Fish and Wildlife Service, West Valley, Utah (see **ADDRESSES**).

Author

The primary author of this document is John L. England, Utah Field Office, U.S. Fish and Wildlife Service, West Valley, Utah (see **ADDRESSES**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of Chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Flowering Plants to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
Penstemon grahamii	Graham's beardtongue.	U.S.A. (CO, UT)	Scrophulariaceae	T	TBD	17.96(a)	NA
*	*	*	*	*	*		*

3. Amend § 17.96(a) by adding critical habitat for *Penstemon grahamii* (Graham's beardtongue) under the family Scrophulariaceae in the same alphabetical order as the species occurs in § 17.12(h) to read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Scrophulariaceae: *Penstemon grahamii* (Graham's beardtongue).

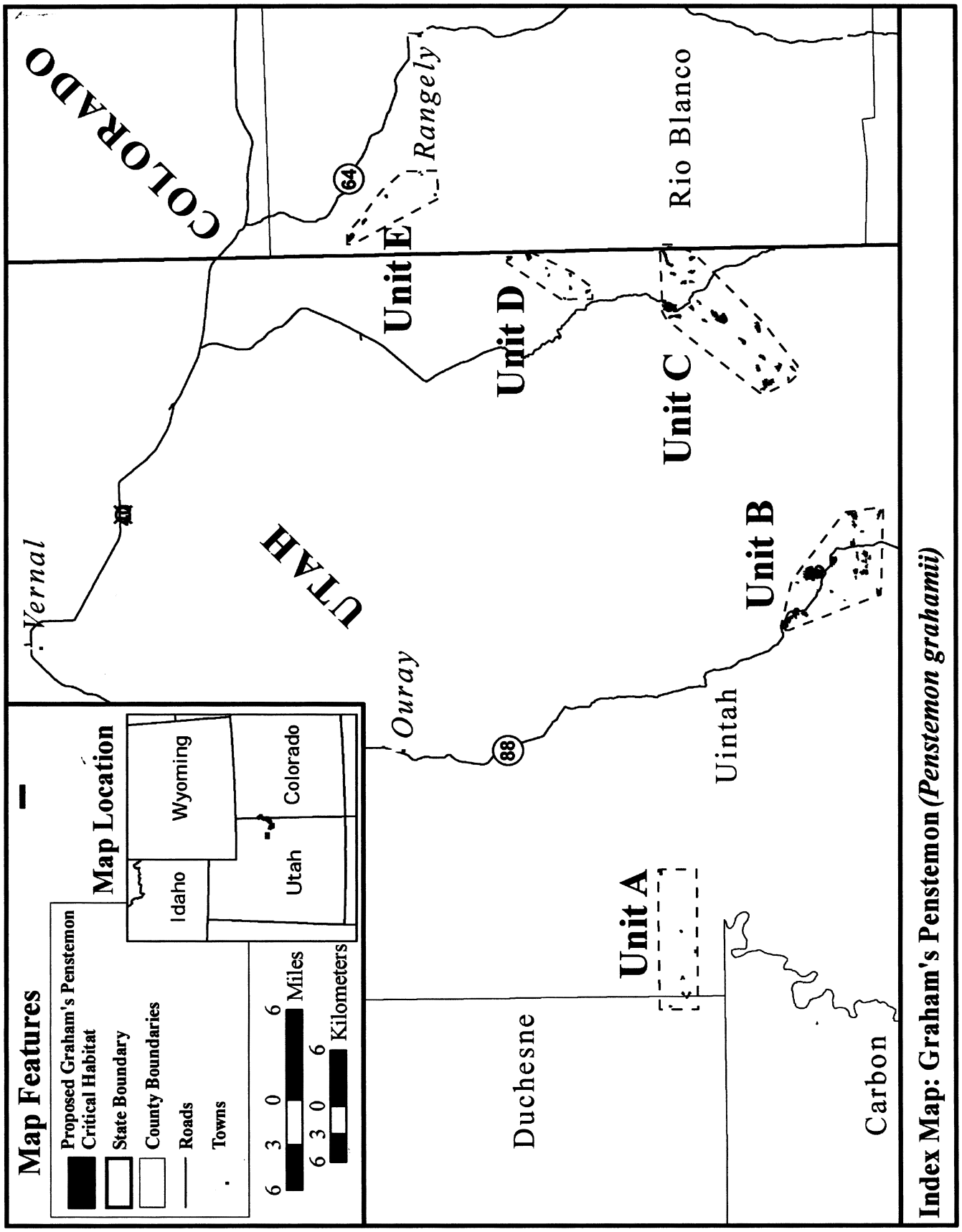
(1) Critical habitat units are depicted for Rio Blanco County, Colorado, and Duchesne and Uintah Counties, Utah, on the maps and as described below.

(2) Within these areas, the primary constituent element of critical habitat for *Penstemon grahamii* is: Calcareous shale knolls and slopes occupied by extant occurrences of *Penstemon grahamii* and dominated by dwarf shrubs and pulvinate plant life forms characteristic of the species plant community type.

(3) Critical habitat does not include manmade structures existing on the effective date of this rule and not containing the primary constituent element, such as buildings, airports, roads, and the land on which such structures are located.

(4) Data layers defining map units were created with GIS technology on a base map using digital orthophoto quadrangles and National Agricultural Imagery Program imagery of the species habitat. USGS quad maps used included: Seep Ridge 1:100,000 quad with portions of Vernal and Rangely quads to cover Raven Ridge in Colorado.

(5) **Note:** Index map of approximate locations of critical habitat units for *Penstemon grahamii* (Index Map) follows:



Index Map: Graham's Penstemon *(Penstemon grahamii)*

(6) Unit A—Sand Wash Unit, Duchesne and Uintah Counties, Utah. From U.S. Geological Survey (USGS) Duches Hole (1985), and Nutters Hole (1985) 7.5′ quadrangle maps, Salt Lake Base and Meridian (SLBM):

(i) Sub-Unit A02: Duchesne County, Utah; within T11S R17E Sec 14 SW¼NW¼, Sec 15 SE¼NE¼, NE¼SE¼ (SLBM). Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 586370, 4412564; 586533, 4412573; 586533, 4412573; 586501, 4412590; 586498, 4412592; 586396, 4412592; 586363, 4412516; 586343, 4412518; 586328, 4412505; 586354, 4412458; 586362, 4412411; 586383, 4412372; 586503, 4412414; 586416, 4412597; 586396, 4412348; 586545, 4412440; 586522, 4412414; 586532, 4412510; 586487, 4412414; 586493, 4412373; 586494, 4412368; 586484, 4412349; 586490, 4412327; 586480, 4412298; 586451, 4412300.

(ii) Sub-Unit A03: Duchesne and Uintah Counties, Utah; within T11S R17E Sec 23 SW¼NE¼, SE¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 587316, 4410650; 587521, 4410541; 587344, 4410650; 587378, 4410611; 587423, 4410609; 587437, 4410583; 587327, 4410650; 587542, 4410531; 587602, 4410473; 587750, 4410437; 587821, 4410296; 587884, 4410372; 587282, 4410690; 587659, 4410587; 587856, 4410309; 587293, 4410770; 587294, 4410782; 587325, 4410812; 587350, 4410836; 587494, 4410849; 587517, 4410823; 587517, 4410822; 587517, 4410822; 587458, 4410810; 587473, 4410772; 587473, 4410772; 587886, 4410377; 587614, 4410670; 587783, 4410371; 587518, 4410740; 587659, 4410587; 587932, 4410419; 587967, 4410464; 587960, 4410483; 587798, 4410573; 587731, 4410442; 587729, 4410568; 587940, 4410391; 587706, 4410567.

(iii) Sub-Unit A04: Uintah County, Utah; within T11S R17E Sec 23 NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 587655, 4411035; 587772, 4411038; 587876, 4411129; 587918, 4411133; 587946, 4411168; 587945, 4411181; 587942, 4411220; 587634, 4411061; 587876, 4411220; 587723, 4411037; 587919, 4411244; 587728, 4411231; 587864, 4411267; 587855, 4411090; 587640, 4411089; 587864, 4411267; 587768, 4411235; 587721, 4411229; 587656, 4411208; 587648, 4411178; 587641, 4411150; 587656, 4411124; 587832, 4411272.

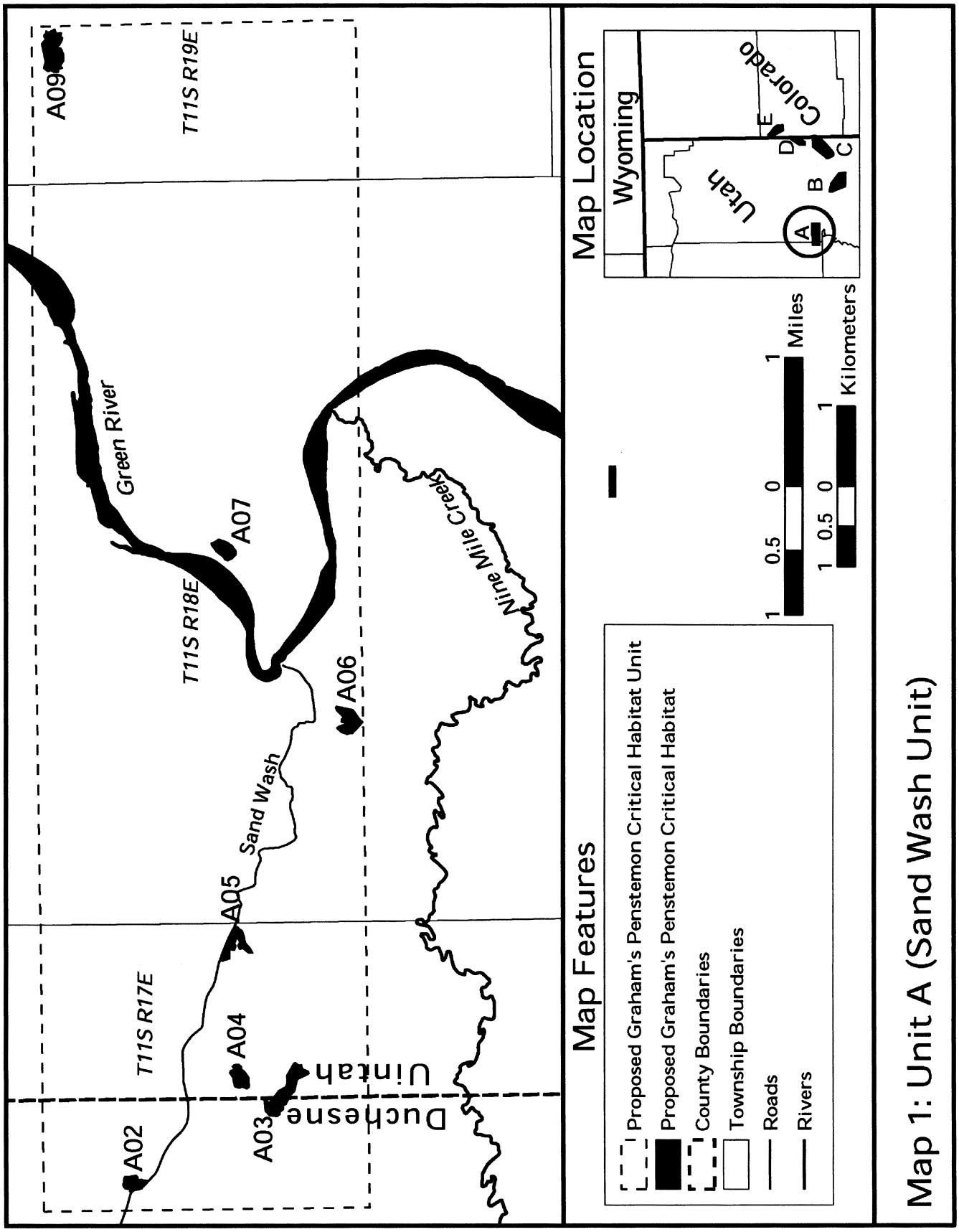
(iv) Sub-Unit A05: Uintah County, Utah; within T11S R17E Sec 24 N½NE¼, SE¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 589510, 4411305; 589333, 4411274; 589466, 4411216; 589432, 4411202; 589518, 4411197; 589379, 4411216; 589385, 4411273; 589274, 4411276; 589243, 4411369; 589258, 4411404; 589633, 4411244; 589548, 4411186; 589665, 4411198; 589332, 4411375; 589674, 4411187; 589647, 4411158; 589633, 4411244; 589479, 4411149; 589627, 4411122; 589537, 4411092; 589475, 4411082; 589402, 4411018; 589343, 4410988; 589343, 4411040; 589406, 4411116; 589392, 4411153; 589438, 4411174.

(v) Sub-Unit A06: Uintah County, Utah; within T11S R18E Sec 29 NW¼NE¼, NE¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 592234, 4409897; 592427, 4409958; 592403, 4409966; 592379, 4409958; 592273, 4409896; 592227, 4409852; 592203, 4409859; 592178, 4409931; 592163, 4409950; 592273, 4409672; 592386, 4409753; 592232, 4409627; 592157, 4409950; 592160, 4409693; 592278, 4409860; 592086, 4409761; 592080, 4409833; 592105, 4409897; 592148, 4409950; 592427, 4409958.

(vi) Sub-Unit A07: Uintah County, Utah; within T11S R18E Sec 21 SE¼NE¼, NE¼SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 594293, 4411360; 594246, 4411298; 594451, 4411272; 594477, 4411304; 594516, 4411410; 594477, 4411467; 594468, 4411503; 594355, 4411437; 594261, 4411337; 594277, 4411240; 594436, 4411500; 594260, 4411272; 594326, 4411193; 594260, 4411271; 594451, 4411271; 594430, 4411247; 594364, 4411197; 594451, 4411272; 594364, 4411197.

(vii) Sub-Unit A09: Uintah County, Utah; within T11S R19E Sec 17 NW¼NW¼, Sec 18 NE¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 600553, 4413319; 600528, 4413559; 600361, 4413387; 600498, 4413324; 600657, 4413356; 600440, 4413362; 600408, 4413337; 600391, 4413391; 600355, 4413440; 600380, 4413484; 600363, 4413519; 600485, 4413550; 600713, 4413596; 600670, 4413410; 600586, 4413320; 600407, 4413570; 600780, 4413539; 600533, 4413321; 600700, 4413368; 600713, 4413596; 600787, 4413562; 600821, 4413566; 600847, 4413540; 600869, 4413545; 600876, 4413531; 600858, 4413513; 600857, 4413414; 600829, 4413430; 600855, 4413365; 600848, 4413347; 600809, 4413358; 600743, 4413346; 600899, 4413428; 600789, 4413333.

(viii) **Note:** Map of Unit A of critical habitat for *Penstemon grahamii* (Map 1) follows:



(7) Unit B—Seep Ridge Unit, Uintah County, Utah, from USGS Agency Draw NE (1966) and Bates Knolls (1966) 7.5′ quadrangle maps, SLBM:

(i) Sub-Unit B03: Uintah County, Utah; within T12S R21E Sec 25 SE¼,

N½SW¼, SE¼SW¼, SW¼NW¼, NE¼NE¼, Sec 31 NW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 627432, 4399852; 627164, 4399979; 627214, 4399971; 627285, 4399932; 627379, 4399865; 627178, 4400038; 627448, 4399832; 627365, 4399941; 627123, 4399985; 627213, 4400070; 627163, 4400036; 627186, 4400062; 627206, 4400068; 627533, 4399869; 627155, 4400132; 627642, 4399695; 627161, 4400125; 627117, 4400028; 627668, 4399676; 626553, 4400592; 627146, 4400232; 627789, 4399621; 627764, 4399655; 627819, 4399625; 627720, 4399674; 627583, 4399711; 627683, 4399676; 627564, 4399813; 627644, 4399717; 627572, 4399746; 627566, 4399762; 627571, 4399767; 627586, 4399782; 627584, 4399805; 627570, 4399810; 627798, 4399570; 626488, 4400408; 626511, 4400563; 626636, 4400297; 626632, 4400327; 626593, 4400322; 626574, 4400350; 626482, 4400340; 626695, 4400293; 626467, 4400394; 626706, 4400264; 626480, 4400454; 626469, 4400525; 626539, 4400521; 626587, 4400611; 626636, 4400592; 627810, 4399541; 627562, 4400235; 626466, 4400353; 626881, 4400208; 627072, 4400227; 627053, 4400223; 627028, 4400184; 626972, 4400183; 626957, 4400150; 626925, 4400166; 626665, 4400273; 626849, 4400176; 627099, 4400201; 626885, 4400292; 626856, 4400217; 626804, 4400173; 626759, 4400183; 626757, 4400186; 626735, 4400214; 626694, 4400228; 626855, 4400162; 627310, 4400070; 626636, 4400592; 627290, 4400374; 627329, 4400271; 627295, 4400185; 627323, 4400159; 627328, 4400131; 627212, 4400440; 627311, 4400088; 627187, 4400441; 627310, 4400063; 627320, 4400070; 627404, 4400133; 627453, 4400230; 627495, 4400222; 627544, 4400246; 627606, 4400208; 627285, 4400083; 626928, 4400410; 627666, 4400207; 627779, 4399485; 626670, 4400481; 626725, 4400462; 626725, 4400460; 626752, 4400394; 627231, 4400386; 626895, 4400438; 627301, 4400231; 626966, 4400405; 626975, 4400372; 627006, 4400359; 627006, 4400335; 627044, 4400338; 627117, 4400370; 627155, 4400409; 626764, 4400367; 627862, 4399294; 628045, 4399637; 628111, 4399626; 628124, 4399610; 628116, 4399565; 628081, 4399517; 628035, 4399483; 627993, 4399394; 627977, 4399629; 627902, 4399309; 627635, 4399271; 627701, 4399302; 627667, 4399272; 627704, 4400152; 627581, 4399283; 627330, 4400320; 627655, 4399376; 627682, 4399439; 627981, 4399383; 627778, 4400013; 627580, 4399318; 627712, 4400093; 627966, 4399628; 627724, 4400079; 627833, 4399884; 627896, 4399826; 627879, 4399774; 627895, 4399730; 627913, 4399707; 627965, 4399703; 627954, 4399681; 627951, 4399674; 627976, 4399662; 627940, 4399726; 627977, 4399641; 627989, 4399655.

(ii) Sub-Unit B04: Uintah County, Utah; within T12S R22E Sec 30 SW¼SW¼, Sec 31 N½NW¼, SW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 628038, 4399200; 628037, 4399339; 627990, 4399289; 627987, 4399278; 628341, 4399769; 627983, 4399263; 628059, 4399070; 627983, 4399246; 628019, 4399095; 628039, 4399235; 628010, 4399177; 628024, 4399159; 628108, 4399368; 628060, 4399091; 628146, 4399573; 627998, 4399231; 628137, 4399619; 627996, 4399067; 628273, 4399206; 628329, 4399788; 628301, 4399782; 628167, 4399690; 628168, 4399685; 628146, 4399518; 628144, 4399649; 628119, 4399406; 628131, 4399528; 628126, 4399514; 628124, 4399476; 628082, 4399474; 628057, 4399419; 628065, 4399389; 628173, 4399663; 628338, 4399520; 628210, 4399293; 628233, 4399345; 628288, 4399323; 628322, 4399342; 628309, 4399449; 628195, 4399282; 628325, 4399488; 628332, 4399395; 628343, 4399666; 628343, 4399688; 628342, 4399688; 628341, 4399769; 627987, 4399055; 628276, 4399152; 628249, 4399460; 628065, 4398986; 627987, 4399039; 627994, 4399017; 628291, 4399460; 628040, 4398984; 628159, 4399255; 628162, 4399035; 628193, 4399067; 628220, 4399123; 628222, 4399107; 628295, 4399076; 628254, 4399185; 628262, 4399234; 628225, 4399233; 628269, 4399075; 628168, 4399225; 628196, 4399256.

(iii) Sub-Unit B05: Uintah County, Utah; within T12S R22E Sec 31 NE¼NW¼, S½NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 628482, 4399266; 628587, 4399529; 628569, 4399484; 628578, 4399465; 628517, 4399377; 628527, 4399335; 628495, 4399314; 628426, 4399152; 628500, 4399281; 628451, 4399183; 628425, 4399169; 628350, 4399269; 628576, 4399543; 628499, 4399287; 628395, 4399107; 628365, 4399285; 628483, 4399458; 628426, 4399152; 628357, 4399121; 628352, 4399139; 628337, 4399192; 628428, 4399382; 628366, 4399283; 628356, 4399314; 628371, 4399359; 628350, 4399266; 628431, 4399438.

(iv) Sub-Unit B06: Uintah County, Utah; within T12S R 22E Sec 31 E½NW¼, NE¼SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 628568, 4399288; 628569, 4399260; 628550, 4399276; 628516, 4399233; 628525, 4399050; 628514, 4399151; 628496, 4399098; 628567, 4399292; 628678, 4399299; 628501, 4399185; 628603, 4399315; 628590, 4399350; 628619, 4399389; 628626, 4399423; 628690, 4399448; 628678, 4399361; 628690, 4399290; 628690, 4399290; 628502, 4399030; 628500, 4398956; 628709, 4399424; 628740, 4399258; 628471, 4399029; 628719, 4399268; 628732, 4399224; 628749, 4399198; 628751, 4399156; 628659, 4399076; 628649, 4399044; 628590, 4399049; 628525, 4398998; 628386, 4398896; 628470, 4398951; 628690, 4399290; 628464, 4398883; 628464, 4398882; 628446, 4398852; 628404, 4398854; 628392, 4398882; 628691, 4399263; 628426, 4398992; 628458, 4398923.

(v) Sub-Unit B07: Uintah County, Utah; within T12S R21E Sec 36 E½SE¼, T12S R22E Sec 31 N½SW¼, SW¼SW¼, T13S R21E Sec 1 NE¼NE¼, T13S R22E Sec 6 NW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 628182, 4398757; 628140, 4398750; 628092, 4398722; 628069, 4398679; 628315, 4398690; 627994, 4398620; 628275, 4398258; 627994, 4398620; 628363, 4398537; 628364, 4398532; 628363, 4398508; 628362, 4398479; 628280, 4398320; 628240, 4398196; 627987, 4398477; 627794, 4398230; 628357, 4398392; 628119, 4398165; 628240, 4398196; 627858, 4398324; 628136, 4398174; 627978, 4398471; 628032, 4398074; 628025, 4398069; 628004, 4398054; 627963, 4398026; 627928, 4398074; 627884, 4398087; 627807, 4398267; 627881, 4398398; 627928, 4398443; 627933, 4398067; 628175, 4398165.

(vi) Sub-Unit B08: Uintah County, Utah; within T12S R22E Sec 33 W½NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 631510, 4399210; 631417, 4399334; 631424, 4399360; 631442, 4399361; 631468, 4399335; 631472, 4399331; 631494, 4399326; 631524, 4399284; 631539, 4399220; 631376, 4399281; 631366, 4399182; 631518, 4399268; 631446, 4399079; 631298, 4399189; 631522, 4399182; 631505, 4399159; 631515, 4399132; 631484, 4399081; 631412, 4399014; 631384, 4398995; 631355, 4399002; 631297, 4399084; 631414, 4399319; 631288, 4399145; 631510, 4399210; 631497, 4399093.

(vii) Sub-Unit B09: Uintah County, Utah; within T13S R22E Sec 5 NW¼SE¼. Land bounded by the

following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 630600, 4397109; 630611, 4397116; 630649, 4397011; 630648, 4397047; 630659, 4397056; 630594, 4397089; 630604, 4397006; 630643, 4397002; 630649, 4397011; 630653, 4397093.

(viii) Sub-Unit B10: Uintah County, Utah; within T13S R22E Sec 5 NW¼SE¼, NW¼SE¼, SE¼NW¼, SW¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 630484, 4395690; 630322, 4395682; 630606, 4395688; 630323, 4395687; 630327, 4395711; 630386, 4395713; 630421, 4395701; 630474, 4395682; 630313, 4395520; 630550, 4395740; 630574, 4395739; 630606, 4395713; 630606, 4395692; 630340, 4395657; 630454, 4395689; 630486, 4395449; 630308, 4395580; 630395, 4395634; 630606, 4395688; 630563, 4395575; 630459, 4395430; 630436, 4395432; 630361, 4395594; 630564, 4395628; 630387, 4395612; 630430, 4395466; 630298, 4395538; 630370, 4395511; 630385, 4395457; 630426, 4395465.

(ix) Sub-Unit B11: Uintah County, Utah; within T13S R22E Sec 4 SE¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 631618, 4397500; 631695, 4397361; 631642, 4397416; 631643, 4397437; 631652, 4397448; 631632, 4397450; 631621, 4397466; 631678, 4397364; 631629, 4397516; 631603, 4397570; 631658, 4397666; 631679, 4397674; 631695, 4397666; 631705, 4397651; 631798, 4397551; 631705, 4397599; 631769, 4397517; 631705, 4397599; 631821, 4397475; 631695, 4397570; 631770, 4397551; 631706, 4397383; 631749, 4397494; 631787, 4397521; 631787, 4397541; 631755, 4397383; 631818, 4397542; 631782, 4397444; 631790, 4397432; 631780, 4397398; 631732, 4397391; 631723, 4397583.

(x) Sub-Unit B12: Uintah County, Utah; within T12S R22E Sec 33 S½SE¼, SE¼SW¼, Sec 34 SW¼SW¼, T13S R22E Sec 3 SW¼, W½NW¼, Sec 4 NE¼, E½NW¼, SE¼, E½SW¼, Sec 9 N½NE¼, NW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 632043, 4397001; 632103, 4397014; 632138, 4396977; 632079, 4396993; 632049, 4396944; 632000, 4396957; 632013, 4396995; 632010, 4396988; 632010, 4397028; 632010, 4396998; 632011, 4396954; 631927, 4397096; 631838, 4397265; 631844, 4397322; 632335, 4398421; 631848, 4397357; 631925, 4397073; 631886, 4397422; 631864, 4396706; 631889, 4397548; 631906, 4397561; 631765, 4397618; 631768, 4397723; 631904, 4397401; 632047, 4396473; 632617, 4396178; 632598, 4396272; 632614, 4396327; 632421, 4396412; 632400, 4396421; 632372, 4396501; 632343, 4396456; 632296, 4396464; 632233, 4396525; 632233, 4396526; 632213, 4396565; 631918, 4396857; 632152, 4396499; 631907, 4397118; 632017, 4396501; 632017, 4396522; 631995, 4396521; 631915, 4396594; 631927, 4396637; 631664, 4398167; 631890, 4396793; 631770, 4397766; 631881, 4396890; 631874, 4396921; 631832, 4397112; 631868, 4397135; 632175, 4396525; 632241, 4398307; 631700, 4398124; 632117, 4398215; 632142, 4398136; 632190, 4397985; 632189, 4397914; 632232, 4397872; 632223, 4398045; 632248, 4398089; 632283, 4398085; 632227, 4398138; 632194, 4398169; 632083, 4398381; 632155, 4398324; 632058, 4398427; 632256, 4398380; 632244, 4398408; 632210, 4398383; 632203, 4398444; 632250, 4398498; 632378, 4398543; 632390, 4398524; 632401, 4398506; 632390, 4398492; 632870, 4397292; 632702, 4396177; 632155, 4398229; 631882, 4398073; 631756, 4397879; 631795, 4397912; 631831, 4397905; 631825, 4397927; 631748, 4398028; 631695, 4398129; 631684, 4398282; 631720, 4398284; 631727, 4398231; 631767, 4398276; 631805, 4398273; 632076, 4398275; 631903, 4398133; 631739, 4397804; 631920, 4397970; 631984, 4397996; 631977, 4398109; 631964, 4398134; 631936, 4398191; 631865, 4398258; 631925, 4398313; 631896, 4398460; 631988, 4398512; 632018, 4398530; 632046, 4398473; 631921, 4398183; 632982, 4397886; 632759, 4397194; 632635, 4398292; 632682, 4398313; 632715, 4398307; 632747, 4398293; 632797, 4398237; 632839, 4398189; 632821, 4398170; 632839, 4398148; 632893, 4398080; 632647, 4398448; 632926, 4397885; 632615, 4398513; 632989, 4397745; 632991, 4397706; 632959, 4397654; 632971, 4397540; 632958, 4397492; 632895, 4397429; 632948, 4397398; 632887, 4397342; 632828, 4397287; 632811, 4397268; 632769, 4397221; 632952, 4397958; 632410, 4398141; 632335, 4398421; 632313, 4398328; 632371, 4398393; 632392, 4398370; 632403, 4398359; 632393, 4398320; 632378, 4398258; 632337, 4398166; 632366, 4398140; 632382, 4398126; 632652, 4398364; 632405, 4398124; 632546, 4398356; 632460, 4398309; 632487, 4398293; 632486, 4398170; 632477, 4398142; 632461, 4398090; 632816, 4396988; 632505, 4398142; 632702, 4396253; 632518, 4398414; 632521, 4398473; 632530, 4398524; 632397, 4398125; 633187, 4396727; 633005, 4396803; 633015, 4396941; 633021, 4397023; 633006, 4397095; 633098, 4397056; 633143, 4396955; 633217, 4397028; 633222, 4397032; 633260, 4397033; 633249, 4396945; 632955, 4396833; 633221, 4396787; 633037, 4397102; 633127, 4396583; 633067, 4396550; 633025, 4396575; 632998, 4396539; 632965, 4396495; 632997, 4396462; 632934, 4396403; 632827, 4396387; 632825, 4396385; 632702, 4397183; 632504, 4398141; 633231, 4396804; 632929, 4397273; 632719, 4397124; 632694, 4397066; 632647, 4397027; 632660, 4396955; 632725, 4397008; 632771, 4397168; 633117, 4396978; 632819, 4397244; 632887, 4396619; 632809, 4396973; 632761, 4396937; 632725, 4396911; 632706, 4396814; 632867, 4396593; 632888, 4396522; 632812, 4397233; 632662, 4396751; 632859, 4396537; 632888, 4396537; 632857, 4396538; 632841, 4396598; 632821, 4396585; 632794, 4396565; 632787, 4396673; 632766, 4396736; 632735, 4396791.

(xi) Sub-Unit B13: Uintah County, Utah; within T12S R22E Sec 34 SW¼SW¼, T13S R22E Sec 3 NW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 632985, 4398111; 632876, 4398170; 632865, 4398234; 632895, 4398245; 632876, 4398261; 632854, 4398195; 632882, 4398282; 632936, 4398302; 632952, 4398297; 632974, 4398150; 633032, 4398077; 632918, 4398166; 632953, 4398218; 633008, 4398110; 632903, 4398149; 632947, 4398077; 632994, 4398097; 633038, 4398103; 632975, 4398046; 632912, 4398077; 632909, 4398089; 632930, 4398099; 632932, 4398115; 632896, 4398142; 632985, 4398111.

(xii) Sub-Unit B14: Uintah County, Utah; within T13S R22E Sec 3 W½NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 633139, 4397687; 633056, 4397986; 633055, 4397939; 632988, 4397960; 632987, 4397978; 633003, 4397991; 633079, 4397957; 633120, 4397938; 633106, 4397795; 633138, 4397747; 633133, 4397719; 633028, 4397844; 633142, 4397741; 633050, 4397651; 633029, 4397931; 633003, 4397897; 633101, 4397606; 633075, 4397631; 633139, 4397687; 633072, 4397663; 633020, 4397675; 633057, 4397705; 633028, 4397733; 633034, 4397746; 633041, 4397759; 633017, 4397788; 633063, 4397615.

(xiii) Sub-Unit B15: Uintah County, Utah; within T13S R22E Sec 3 NW¼SW¼, SW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N):

633028, 4397327; 632977, 4397265; 632983, 4397286; 633016, 4397284; 633034, 4397269; 633040, 4397344; 633042, 4397347; 633063, 4397349; 633064, 4397344; 633082, 4397276; 633052, 4397123; 632990, 4397221; 633176, 4397191; 632976, 4397179; 633127, 4397219; 633152, 4397218; 633171, 4397155; 633193, 4397126; 633177, 4397053; 633129, 4397040; 633099, 4397056; 633082, 4397276; 632999, 4397147; 633117, 4397186.

(xiv) Sub-Unit B16: Uintah County, Utah; within T13S R22E Sec 10 N½SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 633223, 4395616; 633241, 4395584; 633211, 4395520; 633222, 4395542; 633241, 4395553; 633242, 4395557; 633169, 4395616; 633128, 4395577; 633119, 4395549; 633134, 4395511; 633170, 4395500; 633211, 4395520; 633247, 4395575.

(xv) Sub-Unit B17: Uintah County, Utah; within T13S R22E Sec 10 E½SW¼, W½SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 633708, 4395156; 633427, 4395312; 633455, 4395340; 633473, 4395358; 633473, 4395340; 633472, 4395296; 633501, 4395217; 633568, 4395225; 633625, 4395115; 633662, 4395118; 633552, 4395643; 633703, 4395185; 633391, 4395297; 633652, 4395117; 633368, 4395330; 633323, 4395331; 633312, 4395338; 633284, 4395355; 633272, 4395394; 633323, 4395455; 633326, 4395500; 633346, 4395518; 633374, 4395514; 633379, 4395590; 633422, 4395630; 633650, 4395227; 633512, 4395640; 633571, 4395170; 633496, 4395618; 633700, 4395619; 633560, 4395541; 633591, 4395495; 633596, 4395445; 633646, 4395437; 633647, 4395437; 633532, 4395501; 633670, 4395513; 633687, 4395481; 633650, 4395641; 633643, 4395639; 633591, 4395623; 633552, 4395643; 633622, 4395249; 633547, 4395194; 633681, 4395461; 633637, 4395381; 633623, 4395293; 633715, 4395584; 633544, 4395468; 633648, 4395344; 633651, 4395351; 633648, 4395359; 633647, 4395343; 633607, 4395391; 633581, 4395377; 633597, 4395415; 633566, 4395437; 633522, 4395391; 633499, 4395430.

(xvi) Sub-Unit B18: Uintah County, Utah; within T13S R22E Sec 10 SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 633782, 4395345; 633770, 4395303; 633796, 4395399; 633751, 4395061; 633747, 4395252; 633731, 4395192; 633746, 4395174; 633735, 4395092; 633782, 4395284; 633783, 4395052; 633885, 4395166; 633915, 4395253; 633942, 4395248; 633967, 4395211; 633850, 4395084; 633879, 4395371; 633902, 4395120; 633909, 4395731; 633948, 4395235; 633831, 4395439; 633832, 4395407; 633847, 4395032; 634018, 4395719; 633983, 4395742; 633941, 4395697; 633949, 4395589; 633883, 4395528; 633903, 4395675; 633781, 4395450; 633862, 4395400; 633853, 4395472; 633907, 4395505; 633917, 4395493; 633965, 4395497; 633984, 4395452; 633963, 4395460; 633934, 4395441; 633896, 4395453; 633811, 4395531; 634087, 4395656; 634162, 4395549; 634112, 4395497; 634069, 4395499; 634037, 4395517; 634047, 4395532; 634058, 4395547; 634098, 4395539; 633894, 4395391; 634110, 4395647; 634095, 4395515; 634103, 4395702; 634086, 4395732; 634060, 4395735; 634046, 4395718; 634051, 4395694; 634044, 4395692; 634013, 4395683; 633871, 4395017; 634131, 4395612; 634150, 4395107; 633909, 4395028; 633953, 4395067; 633997, 4395075; 634020, 4395056; 634047, 4395056; 634047, 4395511; 634085, 4395095; 634178, 4395544; 634193, 4395152; 634202, 4395198; 634154, 4395404; 634055, 4395065; 634149, 4395479; 634146, 4395259; 634103, 4395359; 634104, 4395349; 634107, 4395298; 634089, 4395289; 634083, 4395259; 634018, 4395719.

(xvii) Sub-Unit B19: Uintah County, Utah; within T13S R22E Sec 17 SW¼NW¼, Sec 18 SE¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 629480, 4394165; 629500, 4394237; 629656, 4394290; 629641, 4394303; 629629, 4394314; 629605, 4394289; 629554, 4394302; 629502, 4394262; 629475, 4394217; 629661, 4394256; 629510, 4394134; 629525, 4394289; 629642, 4394215; 629638, 4394206; 629612, 4394193; 629573, 4394203; 629656, 4394290; 629561, 4394163; 629532, 4394134.

(xviii) Sub-Unit B20: Uintah County, Utah; within T13S R22E Sec 29 NE¼SW¼, NW¼SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 630434, 4390761; 630542, 4390833; 630469, 4390861; 630538, 4390718; 630511, 4390641; 630509, 4390650; 630494, 4390738; 630503, 4390812; 630490, 4390855; 630520, 4390793; 630437, 4390861; 630421, 4390851; 630574, 4390832; 630762, 4390864; 630183, 4390697; 630399, 4390770; 630341, 4390849; 630316, 4390859; 630260, 4390858; 630250, 4390837; 630173, 4390826; 630136, 4390807; 630438, 4390789; 630750, 4390788; 630134, 4390784; 630467, 4390489; 630512, 4390501; 630551, 4390512; 630611, 4390646; 630773, 4390842; 630661, 4390704; 630703, 4390726; 630756, 4390866; 630687, 4390781; 630582, 4390854; 630436, 4390496; 630413, 4390531; 630365, 4390541; 630280, 4390617; 630289, 4390634; 630256, 4390640; 630206, 4390676; 630179, 4390730; 630608, 4390864; 630773, 4390842; 630706, 4390762.

(xix) Sub-Unit B21: Uintah County, Utah; within T13S R22E Sec 21 NW¼NE¼, NE¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 631869, 4392991; 631980, 4393142; 632079, 4392993; 631980, 4392972; 631834, 4392962; 631802, 4393008; 631775, 4393012; 631763, 4393030; 631805, 4392979; 631791, 4393065; 632079, 4392993; 632072, 4393115; 632077, 4393110; 632098, 4393091; 632138, 4393089; 632157, 4393058; 632149, 4393033; 632113, 4393001; 631765, 4393046.

(xx) Sub-Unit B22: Uintah County, Utah; within T13S R22E Sec21 NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 632482, 4392984; 632484, 4392886; 632517, 4393008; 632380, 4392940; 632402, 4392935; 632433, 4392992; 632447, 4392957; 632479, 4392930; 632346, 4393026; 632476, 4392888; 632372, 4393123; 632523, 4392875; 632538, 4392884; 632543, 4392909; 632547, 4392936; 632536, 4392996; 632488, 4392977; 632467, 4392999; 632477, 4392908; 632479, 4393190; 632482, 4393003; 632503, 4393010; 632512, 4393101; 632495, 4393121; 632480, 4393123; 632469, 4393124; 632361, 4392966; 632491, 4393161; 632467, 4392999; 632470, 4393208; 632477, 4393258; 632477, 4393258; 632477, 4393258; 632463, 4393274; 632441, 4393272; 632362, 4393192; 632479, 4393141.

(xxi) Sub-Unit B23: Uintah County, Utah; within T13S R22E Sec21 E½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 632542, 4393087; 632539, 4393052; 632675, 4392917; 632672, 4392988; 632672, 4393210; 632533, 4393131; 632572, 4393301; 632519, 4393274; 632669, 4392912; 632560, 4393106; 632696, 4393079; 632558, 4393014; 632560, 4392925; 632573, 4392910; 632588, 4392893; 632645, 4392890; 632669, 4392912; 632506, 4393233; 632599, 4393288.

(xxii) Sub-Unit B24: Uintah County, Utah; within T13S R22E Sec 16 SE¼SE¼, Sec 21 E½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 632688, 4393346; 632796, 4392881; 632776, 4392856; 632816, 4392865;

632870, 4393149; 632723, 4392887; 632716, 4392913; 632695, 4392985; 632735, 4393144; 632654, 4393297; 632848, 4392888; 632666, 4393314; 632755, 4393323; 632848, 4392888; 632879, 4393072; 632846, 4393011; 632847, 4392915; 632834, 4392868; 632760, 4393316.

(xxiii) Sub-Unit B25: Uintah County, Utah; within T13S R22E Sec 21 N½SE¼, S½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 632405, 4392548; 632400, 4392504; 632400, 4392500; 632430, 4392474; 632387, 4392458; 632355, 4392450; 632325, 4392462; 632266, 4392458; 632400, 4392407; 632224, 4392412; 632241, 4392391; 632488, 4392627; 632265, 4392388; 632491, 4392453; 632587, 4392501; 632437, 4392610; 632427, 4392573; 632491, 4392453; 632644, 4392503; 632647, 4392509; 632656, 4392526; 632396, 4392474; 632605, 4392546; 632599, 4392572; 632470, 4392636.

(xxiv) Sub-Unit B26: Uintah County, Utah; within T13S R22E Sec21 N½SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 632586, 4392431; 632343, 4392199; 632673, 4392324; 632631, 4392295; 632658, 4392367; 632495, 4392237; 632465, 4392225; 632409, 4392165; 632354, 4392171; 632681, 4392347; 632307, 4392209; 632354, 4392309; 632375, 4392313; 632398, 4392351; 632492, 4392399; 632618, 4392411; 632618, 4392411; 632600, 4392360; 632458, 4392387.

(xxv) Sub-Unit B27: Uintah County, Utah; within T13S R22E Sec 21 SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 632409, 4392101; 632772, 4392128; 632383, 4391929; 632411, 4391952; 632460, 4391960; 632499, 4391984; 632629, 4392066; 632496, 4392132; 632746, 4392108; 632274, 4391905; 632828, 4392200; 632816, 4392215; 632819, 4392239; 632805, 4392249; 632737, 4392216; 632769, 4392293; 632717, 4392085; 632426, 4392116; 632749, 4392320; 632732, 4392321; 632699, 4392280; 632684, 4392283; 632665, 4392262; 632665, 4392226; 632337, 4391924; 632643, 4392165; 632303, 4391904; 632302, 4392012; 632294, 4391992; 632261, 4391978; 632237, 4391945; 632769, 4392293; 632636, 4392218.

(xxvi) Sub-Unit B28: Uintah County, Utah; within T13S R22E Sec 21 S½SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 632781, 4391887; 632320, 4391780; 632805, 4391904; 632738, 4391888; 632712, 4391850; 632667, 4391804; 632580, 4391783; 632554, 4391794; 632531, 4391781; 632502, 4391782; 632468, 4391784; 632713, 4391875; 632379, 4391781; 632805, 4391904; 632295, 4391811; 632349, 4391858; 632370, 4391854; 632411, 4391870; 632499, 4391945; 632627, 4392053; 632704, 4392067; 632747, 4392036; 632753, 4392016; 632792, 4392007; 632412, 4391767.

(xxvii) Sub-Unit B29: Uintah County, Utah; within T13S R22E Sec 22 SW¼SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 633005, 4392005; 633051, 4391885; 633147, 4392075; 633166, 4392055; 633123, 4392076; 632965, 4391932; 632990, 4391881; 633116, 4391945; 633210, 4391994; 633243, 4392038; 633224, 4392047; 633164, 4392037; 633166, 4392055; 632972, 4391898.

(xxviii) Sub-Unit B30: Uintah County, Utah; within T13S R22E Sec 22 SW¼SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 633273, 4391978; 633168, 4391948; 633142, 4391923; 633119, 4391926; 633099, 4391898; 633114, 4391879; 633151, 4391878; 633179, 4391880; 633189, 4391898; 633258, 4391897; 633258, 4391939; 633186, 4391941; 633273, 4391978; 633241, 4391991; 633275, 4391913.

(xxix) Sub-Unit B31: Uintah County, Utah; within T13S R22E Sec 22 S½SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 633340, 4391858; 633306, 4391865; 633299, 4391867; 633287, 4391840; 633297, 4391810; 633307, 4391800; 633339, 4391795; 633319, 4391788; 633360, 4391816; 633339, 4391795.

(xxx) Sub-Unit B32: Uintah County, Utah; within T13S R22E Sec 22 NW¼SE¼, NE¼SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 633801, 4392320; 633625, 4392294; 633645, 4392183; 633801, 4392320; 633742, 4392261; 633827, 4392297; 633837, 4392261; 633828, 4392222; 633812, 4392206; 633781, 4392208; 633770, 4392186; 633743, 4392200; 633712, 4392197; 633636, 4392378; 633688, 4392179; 633772, 4392381; 633618, 4392210; 633625, 4392250; 633653, 4392271; 633702, 4392277; 633703, 4392277; 633702, 4392277; 633663, 4392295; 633613, 4392313; 633699, 4392449; 633708, 4392459; 633739, 4392480; 633762, 4392476; 633703, 4392190.

(xxxi) Sub-Unit B33: Uintah County, Utah; within T13S R22E Sec 22 E½SW¼, W½SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 633666, 4392056; 633647, 4391987; 633617, 4391976; 633631, 4391957; 633705, 4392099; 633728, 4392125; 633752, 4392151; 633750, 4392175; 633728, 4392184; 633704, 4392176; 633691, 4392172; 633580, 4391906; 633628, 4392123; 633582, 4392110; 633585, 4392071; 633534, 4392021; 633513, 4391969; 633520, 4391919; 633608, 4391918; 633608, 4391918; 633636, 4392126.

(xxxii) Sub-Unit B34: Uintah County, Utah; within T13S R22E Sec 22 SE¼SW¼, SW¼SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 633825, 4391937; 633802, 4391945; 633713, 4391929; 633686, 4391953; 633843, 4391951; 633761, 4392012; 633984, 4392029; 633707, 4391970; 633875, 4391916; 633928, 4391921; 633957, 4391905; 634000, 4392000; 633928, 4392023; 633891, 4392062; 633891, 4392062; 633708, 4391933; 633995, 4391953; 633788, 4391933.

(xxxiii) Sub-Unit B35: Uintah County, Utah; within T13S R22E Sec 22 S½SE¼, Sec 27 NW¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 634113, 4391805; 633919, 4391594; 634042, 4391687; 634052, 4391728; 634085, 4391765; 634113, 4391775; 634074, 4391670; 634115, 4391805; 634067, 4391685; 633981, 4391800; 633949, 4391776; 633924, 4391735; 633926, 4391726; 633935, 4391681; 633907, 4391618; 634116, 4391776; 633973, 4391516; 634011, 4391650; 634019, 4391660; 634048, 4391639; 634045, 4391720; 634008, 4391587; 633943, 4391512; 633907, 4391558; 634074, 4391670.

(xxxiv) Sub-Unit B36: Uintah County, Utah; within T13S R22E Sec 27 N½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 634276, 4391530; 634126, 4391519; 634247, 4391664; 634304, 4391520; 634323, 4391557; 634305, 4391630; 634118, 4391523; 634283, 4391654; 634247, 4391664; 634115, 4391661; 634112, 4391661; 634087, 4391639; 634066, 4391588; 634091, 4391536; 634258, 4391648.

(xxxv) Sub-Unit B37: Uintah County, Utah; within T13S R22E Sec 22 E½SE¼, Sec 23 W½SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 634505, 4392409; 634490, 4392107; 634482, 4392138; 634504, 4392180; 634410, 4392173; 634365, 4392172; 634345, 4392200; 634358, 4392227; 634470, 4392312; 634466, 4392336; 634554, 4392307; 634495, 4392416;

634527, 4392394; 634511, 4392097; 634479, 4392151; 634439, 4392365; 634259, 4391880; 634665, 4391896; 634669, 4391868; 634655, 4391856; 634573, 4391847; 634555, 4391880; 634521, 4391860; 634515, 4391862; 634494, 4391869; 634480, 4391890; 634462, 4391855; 634420, 4391844; 634359, 4391860; 634347, 4391900; 634186, 4391873; 634154, 4392106; 634183, 4391902; 634209, 4391936; 634156, 4391921; 634145, 4391937; 634150, 4391982; 634297, 4391846; 634141, 4392092; 634274, 4391851; 634203, 4392108; 634434, 4392152; 634200, 4391866; 634636, 4392031; 634245, 4391867; 634720, 4392010; 634125, 4392008; 634497, 4392036; 634684, 4391953; 634286, 4392170; 634387, 4392157; 634432, 4392137; 634434, 4392136; 634236, 4392134; 634491, 4392078; 634270, 4392081; 634511, 4392057; 634585, 4392272; 634515, 4392062; 634554, 4392307; 634548, 4392065; 634573, 4392046; 634451, 4392106; 634806, 4392233; 634232, 4392087; 634759, 4392140; 634761, 4392143; 634771, 4392157; 634864, 4392186; 634234, 4392136; 634841, 4392227; 634719, 4391968; 634752, 4392277; 634728, 4392256; 634729, 4392223; 634708, 4392238; 634680, 4392236; 634633, 4392273; 634872, 4392202.

(xxxvi) Sub-Unit B38: Uintah County, Utah; within T13S R22E Sec 22 NE¼, Sec 23 W½NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 634546, 4392866; 634608, 4393016; 633890, 4392743; 634690, 4393002; 634095, 4392827; 634220, 4392817; 634394, 4392866; 633814, 4392758; 634507, 4392853; 633875, 4392758; 634586, 4392856; 634587, 4392822; 634649, 4392804; 634689, 4392926; 634689, 4392946; 634690, 4393002; 634497, 4392854; 634108, 4392980; 634495, 4392954; 634493, 4392953; 634440, 4392952; 634302, 4392988; 634093, 4392827; 634140, 4392997; 633818, 4392772; 634108, 4392948; 634093, 4392946; 634049, 4392939; 634044, 4392935; 633898, 4392834; 633880, 4392828; 633857, 4392851; 633801, 4392839; 633775, 4392809; 634218, 4392980.

(xxxvii) Sub-Unit B39: Uintah County, Utah; within T13S R22E Sec 14 S½SE¼, SE¼SW¼, Sec 23 N½NE¼, NE¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 635255, 4393625; 635211, 4393411; 635324, 4393518; 635289, 4393560; 635279, 4393571; 635604, 4393479; 636080, 4393296; 635900, 4393329; 635828, 4393369; 635808, 4393380; 635770, 4393432; 635796, 4393620; 635763, 4393648; 635734, 4393631; 635716, 4393643; 635692, 4393633; 636098, 4393258; 635658, 4393410; 635453, 4393627; 635633, 4393582; 635632, 4393618; 635608, 4393649; 635557, 4393593; 635493, 4393430; 635530, 4393589; 635489, 4393625; 635380, 4393508; 635269, 4393661; 635215, 4393475; 635690, 4393619; 635253, 4393342; 636098, 4393255; 635324, 4393518; 635206, 4393661; 635237, 4393691; 635189, 4393594; 635209, 4393518; 635247, 4393479; 635207, 4393444; 635251, 4393358; 635282, 4393327; 635293, 4393299; 635682, 4393232; 636073, 4393236; 635884, 4393250; 635246, 4393385; 635697, 4393232; 635299, 4393285; 635693, 4393202; 635619, 4393138; 635259, 4393691; 635524, 4393145; 635446, 4393226; 635373, 4393217; 635799, 4393229.

(xxxviii) Sub-Unit B40: Uintah County, Utah; within T13S R22E Sec 24 NE¼SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 636852, 4392582; 636900, 4392500; 636858, 4392230; 636894, 4392236; 636916, 4392446; 636864, 4392548; 636864, 4392570; 636753, 4392546; 636766, 4392502; 636775, 4392293; 636818, 4392215; 636851, 4392204; 636858, 4392230; 636777, 4392581; 636917, 4392264.

(xxix) Sub-Unit B41: Uintah County, Utah; within T13S R22E Sec 24 N½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 637394, 4393237; 637260, 4393188; 637288, 4393200; 637260, 4393206; 637212, 4393206; 637318, 4393256; 637304, 4393210; 637306, 4393252; 637394, 4393237; 637229, 4393134; 637303, 4393137; 637308, 4393136; 637379, 4393123; 637398, 4393133; 637425, 4393181; 637251, 4393236; 637186, 4393182.

(xl) Sub-Unit B42: Uintah County, Utah; within T13S R22E Sec 24 E½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 637592, 4392998; 637612, 4393054; 637602, 4393089; 637468, 4393130; 637528, 4393110; 637389, 4392995; 637574, 4393113; 637588, 4392989; 637524, 4392953; 637393, 4392976; 637377, 4393051; 637400, 4393088; 637468, 4393130; 637482, 4392975.

(xli) Sub-Unit B43: Uintah County, Utah; within T13S R22E Sec SE¼SE¼, NE¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 637471, 4393401; 637537, 4393221; 637485, 4393394; 637537, 4393221; 637513, 4393217; 637462, 4393238; 637415, 4393331; 637434, 4393391; 637463, 4393399; 637475, 4393399; 637532, 4393288.

(xlii) Sub-Unit B44: Uintah County, Utah; within T13S R22E Sec 13 SE¼SE¼, Sec 24 NE¼NE¼, T13S R23E Sec 19 NW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 637718, 4393281; 637668, 4393259; 637697, 4393297; 637708, 4393289; 637618, 4393401; 637711, 4393149; 637722, 4393229; 637618, 4393401; 637739, 4393149; 637617, 4393405; 637690, 4393149; 637612, 4393192; 637573, 4393246; 637508, 4393348; 637490, 4393386; 637490, 4393399; 637583, 4393451; 637490, 4393419; 637505, 4393437; 637527, 4393344; 637747, 4393176.

(xliii) Sub-Unit B45: Uintah County, Utah; T13S R23E Sec 18 SW¼SW¼, Sec 19 NW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 637919, 4393440; 637804, 4393234; 637816, 4393306; 637801, 4393367; 637817, 4393405; 637824, 4393421; 637893, 4393450; 637921, 4393407; 637874, 4393214; 637847, 4393437; 637930, 4393407; 637826, 4393204; 637814, 4393209; 637922, 4393390; 637938, 4393422; 637958, 4393420; 637965, 4393408; 637979, 4393383; 637981, 4393337; 637899, 4393228; 637921, 4393407.

(xliv) Sub-Unit B46: Uintah County, Utah; T13S R23E Sec 18 W½SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 638789, 4393993; 638550, 4393822; 638628, 4393721; 638657, 4393746; 638571, 4393748; 638544, 4393801; 638559, 4393854; 638592, 4393890; 638727, 4393974; 638617, 4393692; 638793, 4393965; 638768, 4393739; 638811, 4394017; 638850, 4394011; 638703, 4393960; 638632, 4393661; 638674, 4393651; 638717, 4393721; 638730, 4393771; 638758, 4393727; 638778, 4393792; 638800, 4393824; 638799, 4393827; 638794, 4393845; 638769, 4393854; 638802, 4393877; 638827, 4393916; 638850, 4393975; 638850, 4393975; 638741, 4393734; 638699, 4393929.

(xlv) Sub-Unit B47: Uintah County, Utah; within T13S R23E Sec 18 SE¼SW¼, SW¼SE¼, Sec 19 E½NW¼, W½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 638476, 4393485; 638466, 4393293; 638466, 4393302; 638479, 4393308; 638523, 4393327; 638540, 4393378; 638509, 4393387; 638541, 4393417; 638542, 4393419; 638576, 4393481; 638571, 4393542; 638145, 4393352;

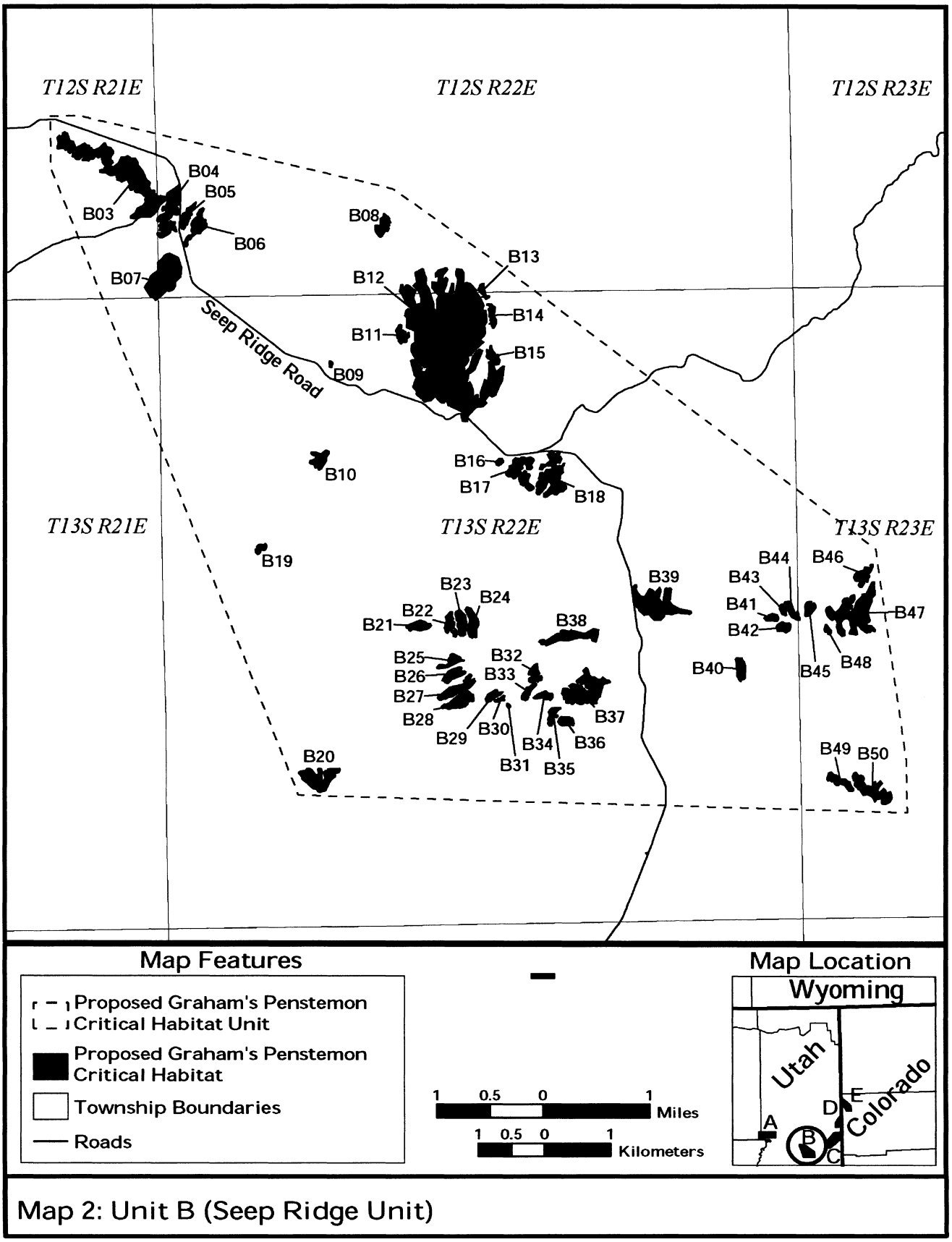
638505, 4393525; 638499, 4393259; 638468, 4393474; 638465, 4393496; 638448, 4393505; 638797, 4393128; 638370, 4393447; 638381, 4393411; 638329, 4393323; 638281, 4393280; 638257, 4393286; 638190, 4393371; 638543, 4393543; 638857, 4393751; 638785, 4393320; 638783, 4393229; 638808, 4393147; 638785, 4393320; 638827, 4393424; 638837, 4393449; 638831, 4393496; 638877, 4393539; 638874, 4393676; 638860, 4393683; 638480, 4393294; 638873, 4393740; 638490, 4393296; 638837, 4393747; 638815, 4393723; 638734, 4393560; 638677, 4393554; 638669, 4393520; 638589, 4393444; 638582, 4393419; 638555, 4393333; 638520, 4393303; 638379, 4393416; 638874, 4393713; 638803, 4392963; 638486, 4392976; 638478, 4392960; 638487, 4392942; 638490, 4392937; 638587, 4392923; 638118, 4393303; 638601, 4393017; 638400, 4393483; 638619, 4393068; 638656, 4393018; 638507, 4393015; 638742, 4392957; 638617, 4392940; 638819, 4392979; 638814, 4392994; 638839, 4392979; 638879, 4392976; 638884, 4393002; 638874, 4393022; 638868, 4393036; 638844, 4393046; 638838, 4393071; 638752, 4393083; 638741, 4393097; 638660, 4393013; 638258, 4393171; 638134, 4393235; 638173, 4393183; 638227, 4393142; 638590, 4393071; 638246, 4393149; 638514, 4393031; 638291, 4393136; 638301, 4393106; 638288, 4393044; 638296, 4393011; 638310, 4392956; 638372, 4392895; 638467, 4393165; 638495, 4393079; 638408, 4392901; 638483, 4393146; 638418, 4393165; 638390, 4393151; 638362, 4393108; 638384, 4393037; 638405, 4393014; 638419, 4392999; 638425, 4392921; 638495, 4393131.

(xlvi) Sub-Unit B48: Uintah County, Utah; within T13S R23E Sec 19 E½NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 638206, 4393010; 638118, 4392965; 638194, 4392930; 638174, 4392924; 638151, 4392941; 638148, 4392970; 638132, 4392962; 638096, 4393004; 638097, 4393008; 638116, 4393059; 638115, 4393076; 638218, 4392995; 638140, 4393091; 638218, 4392995; 638126, 4393089; 638220, 4392963.

(xlvii) Sub-Unit B49: Uintah County, Utah; within T13S R23E Sec 30 E½SW¼, SW¼SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 638158, 4390680; 638535, 4390524; 638478, 4390525; 638423, 4390598; 638412, 4390613; 638338, 4390637; 638322, 4390617; 638295, 4390616; 638537, 4390524; 638219, 4390667; 638242, 4390678; 638135, 4390712; 638167, 4390812; 638216, 4390831; 638253, 4390791; 638290, 4390783; 638346, 4390724; 638432, 4390721; 638263, 4390634; 638466, 4390686; 638565, 4390543; 638190, 4390687; 638432, 4390721; 638507, 4390676; 638506, 4390647; 638529, 4390600; 638532, 4390595; 638533, 4390594; 638563, 4390570.

(xlviii) Sub-Unit B50: Uintah County, Utah; within T13S R23E Sec 30 SE¼, NE¼SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 638593, 4390823; 639047, 4390336; 638939, 4390407; 638967, 4390411; 638970, 4390345; 638988, 4390332; 638907, 4390403; 639110, 4390362; 639143, 4390425; 638871, 4390362; 639114, 4390534; 638549, 4390812; 639055, 4390513; 639040, 4390553; 639007, 4390580; 639133, 4390495; 638544, 4390685; 638610, 4390573; 638957, 4390607; 638573, 4390601; 638964, 4390533; 638556, 4390614; 638640, 4390547; 638625, 4390696; 638831, 4390442; 638531, 4390735; 638524, 4390760; 638530, 4390772; 638613, 4390554; 638693, 4390468; 638762, 4390478; 638562, 4390668; 638699, 4390766; 638936, 4390577; 638593, 4390823; 638670, 4390781; 638937, 4390526; 638720, 4390727; 638707, 4390673; 638736, 4390633; 638721, 4390605; 638767, 4390620; 638938, 4390587; 638874, 4390690; 638889, 4390683; 638893, 4390634; 638934, 4390674; 638960, 4390699; 638995, 4390650; 638925, 4390523; 638629, 4390775; 638824, 4390610.

(xlix) **Note:** Map of Unit B of critical habitat for Penstemon grahamii (Map 2) follows:



Map 2: Unit B (Seep Ridge Unit)

(8) Unit C—Evacuation Creek Unit, Uintah County, Utah, and Rio Blanco County, Colorado, from USGS Burnt Timber Canyon (1987), Rainbow (1987), and Dragon (1987) 7.5′ quadrangle

maps, SLBM and Sixth Principal Meridian (6PM):

(i) Sub-Unit C01: Uintah County, Utah; within T12S R24E Sec 35 N½SW¼, S½NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 654125, 4399517; 654126, 4399518; 654068, 4399514; 654259, 4399664; 653806, 4399331; 654242, 4399619; 654062, 4399486; 653998, 4399413; 653962, 4399371; 653896, 4399321; 653809, 4399361; 653887, 4399390; 654313, 4399656; 653925, 4399362; 653864, 4399416; 653993, 4399685; 654078, 4399752; 654152, 4399736; 654308, 4399902; 654339, 4399910; 654017, 4399715; 654377, 4399887; 654377, 4399689; 653874, 4399534; 653881, 4399512; 653888, 4399487; 654362, 4399840; 654394, 4399734; 654394, 4399724; 654362, 4399840.

(ii) Sub-Unit C02: Uintah County, Utah; within T12S R24E Sec 26 NE¼SW¼, MW¼SE¼, SW¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 654372, 4400841; 654645, 4401032; 654670, 4401104; 654626, 4400971; 654609, 4401083; 654197, 4400906; 654680, 4401137; 654682, 4401142; 654637, 4401173; 654596, 4401135; 654593, 4401132; 654550, 4401134; 654467, 4401138; 654441, 4401131; 654392, 4401119; 654401, 4400877; 654151, 4400945; 654451, 4400780; 654237, 4400886; 654268, 4400858; 654337, 4400838; 654609, 4400818; 654384, 4400842; 654680, 4401137; 654448, 4400887; 654472, 4400926; 654489, 4400911; 654416, 4400847; 654367, 4401100; 654420, 4400805.

(iii) Sub-Unit C03: Uintah County, Utah; within T12S R24E Sec 26 NE¼NW¼, S½NW¼, E½SW¼, NW¼SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 654366, 4401119; 653878, 4401074; 653962, 4401239; 653877, 4401051; 653969, 4400995; 654114, 4401083; 654080, 4400998; 654138, 4400958; 654179, 4400968; 654213, 4400995; 654247, 4401065; 654359, 4401460; 654323, 4401108; 653967, 4400997; 654391, 4401125; 654395, 4401130; 654410, 4401155; 654427, 4401239; 654400, 4401265; 654410, 4401279; 654398, 4401366; 654382, 4401377; 654366, 4401364; 654282, 4401060; 654162, 4401398; 653984, 4401255; 654017, 4401254; 654002, 4401281; 654011, 4401300; 654041, 4401300; 654040, 4401334; 654046, 4401021; 654131, 4401361; 653839, 4401117; 654195, 4401403; 654214, 4401401; 654231, 4401408; 654252, 4401398; 653822, 4401156; 654090, 4401376; 653828, 4401128; 654262, 4401497; 653835, 4401196; 653934, 4401219; 654359, 4401460; 654353, 4401531; 654352, 4401546; 654328, 4401562; 654298, 4401558; 654280, 4401529.

(iv) Sub-Unit C04: Uintah County, Utah; within T12S R24E Sec 34 N½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 652900, 4400180; 652986, 4399979; 652968, 4399983; 652944, 4400026; 652951, 4400081; 652924, 4400105; 652873, 4400115; 652994, 4400176; 652869, 4400196; 653024, 4399985; 653176, 4400079; 652836, 4400175; 653181, 4400158; 652994, 4400176; 653119, 4400179; 653196, 4400152; 653230, 4400172; 653258, 4400141; 653241, 4400101; 653183, 4400081; 653090, 4400031; 653157, 4400053; 653046, 4400130.

(v) Sub-Unit C05: Uintah County, Utah; within T12S R24E Sec 22 SW¼SE¼, Sec 27 NE¼NW¼, NW¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 653005, 4401708; 652747, 4401687; 652606, 4401678; 652601, 4401640; 652665, 4401602; 652686, 4401600; 652701, 4401613; 652748, 4401690; 652798, 4401693; 652821, 4401709; 652586, 4401756; 652968, 4401690; 652567, 4401783; 652968, 4401749; 652991, 4401776; 652969, 4401900; 652868, 4401684; 652849, 4401952; 652581, 4401694; 652945, 4401928; 652580, 4401806; 652817, 4401949; 652793, 4401922; 652743, 4401919; 652753, 4401895; 652759, 4401881; 652969, 4401900; 652668, 4401869; 652654, 4401848; 652659, 4401822; 652712, 4401809; 652648, 4401796; 652609, 4401815; 652968, 4401900; 652742, 4401878.

(vi) Sub-Unit C06: Uintah County, Utah; within T12S R24E Sec 22 NE¼SW¼, S½SW¼, SW¼SE¼, Sec 27 NE¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 652611, 4402301; 652626, 4402294; 652627, 4402294; 652528, 4402327; 652645, 4402149; 652416, 4402328; 652674, 4402197; 652452, 4402311; 652416, 4402328; 652350, 4402288; 652377, 4402303; 652393, 4401942; 652594, 4402156; 652355, 4402306; 652370, 4402133; 652443, 4401828; 652400, 4401838; 652561, 4402237; 652424, 4401951; 652399, 4401887; 652339, 4401997; 652337, 4402020; 652335, 4402058; 652337, 4402059; 652359, 4402083; 652462, 4401835; 652384, 4402119; 652389, 4401863; 652335, 4402131; 652288, 4402127; 652279, 4402150; 652292, 4402183; 652326, 4402187; 652333, 4402217; 652338, 4402235; 652388, 4402239; 652345, 4402274; 652391, 4402250; 652363, 4402098; 652909, 4402141; 652537, 4402244; 652568, 4402182; 652554, 4402114; 652612, 4402083; 652661, 4402119; 652721, 4402106; 652738, 4402092; 652855, 4402156; 652466, 4401861; 652812, 4401986; 652740, 4401972; 652705, 4401965; 652578, 4401883; 652757, 4402075; 652554, 4401855; 652698, 4401940; 652577, 4401891; 652574, 4401914; 652605, 4401923; 652601, 4401949; 652624, 4401953; 652618, 4401909; 652641, 4401898; 652534, 4401867.

(vii) Sub-Unit C07: Uintah County, Utah; within T12S R24E Sec 21 NE¼SE¼, SE¼NE¼, Sec 22 N½SW¼, NW¼SE¼, S½NW¼, SW¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 652245, 4402444; 651891, 4402949; 651976, 4402952; 651934, 4402988; 651918, 4403028; 651914, 4403029; 651858, 4403043; 651834, 4403031; 651831, 4402989; 651863, 4402945; 652741, 4402774; 652577, 4402688; 652728, 4402540; 652774, 4402569; 652801, 4402634; 652800, 4402700; 652697, 4402500; 652764, 4402800; 652656, 4402477; 652722, 4402782; 652716, 4402784; 652680, 4402767; 652657, 4402792; 652628, 4402780; 652451, 4402371; 652797, 4402790; 652504, 4402499; 652192, 4402388; 652474, 4402404; 652499, 4402434; 652478, 4402464; 652478, 4402555; 652699, 4402522; 652486, 4402504; 652560, 4402694; 652515, 4402524; 652524, 4402515; 652515, 4402448; 652533, 4402416; 652617, 4402484; 652636, 4402488; 652493, 4402558; 652054, 4402683; 652581, 4402695; 652177, 4402673; 652089, 4402552; 652052, 4402541; 652065, 4402586; 652211, 4402644; 652058, 4402676; 652188, 4402615; 652046, 4402699; 652070, 4402738; 652097, 4402749; 652109, 4402806; 652025, 4402853; 651976, 4402952; 652046, 4402637; 652326, 4402689; 652548, 4402700; 652484, 4402693; 652483, 4402693; 652483, 4402693; 652481, 4402720; 652203, 4402677; 652340, 4402706; 652411, 4402385; 652323, 4402685; 652288, 4402643; 652232, 4402533; 652198, 4402529; 652189, 4402567; 652202, 4402609; 652461, 4402736; 652478, 4402387; 652043, 4402443; 651970, 4402511; 651936, 4402516; 651925, 4402526; 651895, 4402552; 651879, 4402597; 651837, 4402593; 651829, 4402617; 652082, 4402451; 651879, 4402654; 651849, 4402646; 651898, 4402682; 651846, 4402715; 651850, 4402738; 651885, 4402755; 651860, 4402771; 651859, 4402795; 651898, 4402820; 651879, 4402826;

651877, 4402863; 651902, 4402877; 652411, 4402418; 651897, 4402680; 652157, 4402346; 652078, 4402428; 652185, 4402327; 652242, 4402347; 652278, 4402328; 652322, 4402348; 652330, 4402348; 652383, 4402417; 652162, 4402361; 652273, 4402494; 652099, 4402403; 652150, 4402411; 652157, 4402393; 652364, 4402345; 652274, 4402448; 652239, 4402393; 652287, 4402503; 652286, 4402463; 652304, 4402435; 652271, 4402431; 652235, 4402408.

(viii) Sub-Unit C08: Uintah County, Utah; within T12S R24E Sec 22 NE¼SW¼, NW¼SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 652916, 4402452; 652705, 4402459; 652980, 4402586; 652978, 4402510; 652956, 4402446; 652710, 4402507; 652980, 4402586; 652963, 4402598; 652843, 4402560; 652800, 4402569; 652730, 4402408; 652728, 4402516; 652916, 4402475; 652692, 4402473; 652709, 4402419; 652753, 4402397; 652778, 4402412; 652803, 4402485; 652881, 4402488; 652788, 4402545.

(ix) Sub-Unit C09: Uintah County, Utah; within T12S R24E Sec 22 E½SW¼, W½SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 652492, 4402342; 652855, 4402299; 652486, 4402357; 653001, 4402366; 652579, 4402326; 652658, 4402295; 652733, 4402295; 652755, 4402297; 652780, 4402300; 653001, 4402366; 652815, 4402287; 652618, 4402309; 652878, 4402307; 652907, 4402301; 652914, 4402299; 652914, 4402301; 652929, 4402353; 652975, 4402344; 652510, 4402389; 652786, 4402298; 652808, 4402461; 652997, 4402393; 652974, 4402422; 652930, 4402427; 652678, 4402288; 652829, 4402477; 652538, 4402380; 652818, 4402442; 652786, 4402422; 652779, 4402370; 652745, 4402365; 652569, 4402396; 652728, 4402402; 652688, 4402411; 652685, 4402440; 652637, 4402438; 652626, 4402423; 652574, 4402430; 652731, 4402396; 652868, 4402472.

(x) Sub-Unit C10: Uintah County, Utah; within T12S R24E Sec 23 NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 653923, 4403405; 653984, 4403405; 654000, 4403346; 653973, 4403240; 653963, 4403152; 653982, 4403128; 653987, 4403121; 653967, 4403087; 653985, 4403064; 653834, 4403272; 653914, 4403387; 653987, 4403082; 653845, 4403125; 653858, 4403317; 653902, 4403365; 653911, 4403046; 653952, 4403043; 653841, 4403130; 653825, 4403206; 653880, 4403284; 653985, 4403064; 653868, 4403352; 653921, 4403045.

(xi) Sub-Unit C11: Uintah County, Utah; within T12S R24E Sec 23 E½NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 653994, 4403223; 654013, 4403376; 654041, 4403276; 654017, 4403287; 654006, 4403319; 654051, 4403380; 654094, 4403424; 654122, 4403484; 654223, 4403407; 654083, 4403079; 654270, 4403368; 654204, 4403461; 654251, 4403176; 654019, 4403129; 654270, 4403368; 653990, 4403187; 654215, 4403168; 654207, 4403182; 654182, 4403165; 654172, 4403133; 654168, 4403133; 654115, 4403121; 654103, 4403086; 654034, 4403098.

(xii) Sub-Unit C12: Uintah County, Utah; within T12S R24E Sec 23 NE¼NW¼, NW¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 654298, 4403269; 654423, 4403522; 654399, 4403516; 654362, 4403432; 654315, 4403444; 654279, 4403428; 654306, 4403341; 654292, 4403476; 654528, 4403420; 654329, 4403424; 654320, 4403227; 654469, 4403473; 654532, 4403309; 654423, 4403522; 654413, 4403224; 654361, 4403201; 654330, 4403206; 654433, 4403456.

(xiii) Sub-Unit C13: Uintah County, Utah; within T12S R24E Sec 23 NE¼SE¼, Sec 24 NW¼NW¼, NW¼SW¼, S½NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 655449, 4402892; 655078, 4402751; 655247, 4402874; 655283, 4403012; 655266, 4402988; 655297, 4402881; 655229, 4402837; 655191, 4402848; 655134, 4402799; 655079, 4402752; 655333, 4403091; 655079, 4402689; 655134, 4402753; 655376, 4403112; 655529, 4403171; 655461, 4403211; 655429, 4403169; 655413, 4403180; 655383, 4403168; 655418, 4403063; 655366, 4403144; 655302, 4403011; 655345, 4403107; 655389, 4402911; 655354, 4403072; 655065, 4402649; 655416, 4403048; 655264, 4403082; 655378, 4403161; 655497, 4403088; 655372, 4402940; 655077, 4402603; 655529, 4403171; 655529, 4403165; 655535, 4403165; 655536, 4403144; 655489, 4403102; 655527, 4403068; 655531, 4403070; 655582, 4403086; 655620, 4403053; 655614, 4403007; 655553, 4402944; 655564, 4402912; 655252, 4402557; 655033, 4402603; 655529, 4403138; 655537, 4402885; 655016, 4402495; 655140, 4402514; 654990, 4402515; 655291, 4402545; 655346, 4402639; 655399, 4402668; 655499, 4402763; 655503, 4402766; 655537, 4402766; 655541, 4402766; 655086, 4402493.

(xiv) Sub-Unit C14: Uintah County, Utah; within T12S R24E Sec 13 SE¼NE¼, T12S R25E Sec 7 SE¼SW¼, Sec 18 NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 657023, 4405068; 656971, 4405031; 656957, 4404881; 656964, 4405015; 656978, 4405006; 657056, 4405015; 657039, 4404976; 657002, 4404966; 656881, 4404928; 656761, 4404913; 656817, 4404934; 657379, 4405241; 656734, 4404846; 656732, 4404825; 657057, 4405064; 657381, 4405314; 656767, 4404868; 657208, 4405165; 656701, 4404822; 657396, 4405268; 657309, 4405345; 657227, 4405255; 657210, 4405221; 657244, 4405223; 657229, 4405297; 657217, 4405199; 657059, 4405083; 657192, 4405168; 657167, 4405150; 657201, 4405120; 657134, 4405037; 657119, 4405038; 657098, 4405078; 657095, 4405079; 657222, 4405203; 657271, 4404991; 657134, 4404769; 657173, 4404795; 657177, 4404801; 657197, 4404839; 657222, 4404838; 657243, 4404903; 657102, 4404780; 657274, 4404939; 657300, 4404995; 657322, 4405024; 657355, 4405202; 657381, 4405203; 657380, 4405205; 657379, 4405241; 656701, 4404796; 656839, 4404920; 657229, 4404924; 656706, 4404585; 656697, 4404795; 657345, 4405079; 657094, 4404782; 656697, 4404796; 656647, 4404786; 656637, 4404736; 656662, 4404630; 656756, 4404535; 656822, 4404580; 657081, 4404656; 657102, 4404766; 657119, 4404733; 657103, 4404701; 656852, 4404545; 657047, 4404676; 657052, 4404627; 657027, 4404580; 656929, 4404541.

(xv) Sub-Unit C15: Uintah County, Utah; within T12S R25E Sec 19 E½NE¼. Sec 20 NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 658130, 4403253; 658135, 4403423; 658384, 4403479; 658284, 4403413; 658350, 4403507; 658241, 4403334; 658210, 4403336; 658215, 4403301; 658179, 4403308; 658329, 4403467; 658163, 4403315; 658185, 4403325; 658181, 4403341; 658218, 4403361; 658215, 4403391; 658249, 4403403; 658240, 4403453; 658179, 4403400; 658081, 4403326; 658023, 4403315; 658345, 4403546; 658941, 4403487; 658201, 4403443; 658765, 4403434; 659025, 4403481; 658976, 4403618; 658936, 4403617; 658870, 4403539; 658892, 4403510; 658239, 4403380; 658946, 4403466; 657984, 4403339; 658855, 4403468; 658846, 4403450; 658927, 4403460; 658755, 4403378; 658345, 4403573; 658739, 4403442; 658736, 4403489; 658731, 4403494; 658616, 4403592; 658617, 4403609; 658535, 4403607; 658497, 4403578; 658462, 4403571; 658426, 4403604;

658366, 4403603; 658820, 4403452; 658835, 4403169; 658570, 4403090; 658594, 4403083; 658663, 4403136; 658662, 4403176; 658692, 4403186; 658702, 4403213; 658712, 4403239; 658712, 4403213; 658712, 4403205; 658718, 4403165; 658568, 4403124; 658762, 4403181; 658956, 4403226; 658863, 4403198; 658889, 4403181; 658946, 4403219; 658960, 4403247; 659043, 4403384; 659083, 4403410; 659078, 4403434; 659025, 4403481; 657933, 4403319; 658249, 4403450; 658737, 4403172; 658094, 4403122; 657935, 4403202; 657938, 4403070; 659045, 4403341; 658513, 4403113; 657959, 4403056; 658097, 4403168; 658051, 4403073; 658059, 4403034; 658093, 4403020; 658256, 4403031; 658261, 4403118; 658487, 4403144; 658520, 4403211; 657998, 4403059; 658279, 4403055; 658527, 4403174; 658520, 4403209; 658498, 4403134; 658459, 4403129; 658446, 4403158; 658435, 4403107; 658360, 4403035; 658338, 4403040; 658519, 4403209.

(xvi) Sub-Unit C16: Uintah County, Utah; within T12S R25E Sec 4 NW¼, W½SW¼, Sec 5 SE¼, E½SW¼, S½NE¼, Sec 8 N½NE¼, NE¼NW¼, Sec 9 NW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 659132, 4406626; 659067, 4406612; 658881, 4406974; 659068, 4406563; 658991, 4406595; 658931, 4406614; 658920, 4406637; 658944, 4406706; 658843, 4406816; 658848, 4406835; 658876, 4406888; 658931, 4407006; 658919, 4407051; 659041, 4406537; 659955, 4406938; 658991, 4407145; 658996, 4407239; 658854, 4406859; 659978, 4406831; 659857, 4408063; 658997, 4407254; 660263, 4408155; 659863, 4406856; 659763, 4406776; 659869, 4406880; 659926, 4406995; 659978, 4406859; 659978, 4406920; 659069, 4406522; 659872, 4406763; 659758, 4406689; 659686, 4406607; 659560, 4406577; 659473, 4406513; 659457, 4406501; 659153, 4406479; 659964, 4406981; 660025, 4408162; 659847, 4408042; 659687, 4407993; 659699, 4408029; 659750, 4408056; 659850, 4408042; 659879, 4408128; 659933, 4408090; 659728, 4407879; 659978, 4408112; 659644, 4407823; 660064, 4408154; 660066, 4408153; 660070, 4408153; 660060, 4408181; 660105, 4408215; 660248, 4408161; 659855, 4406820; 659966, 4408099; 659439, 4407638; 659057, 4407299; 659094, 4407403; 659128, 4407431; 659123, 4407542; 659207, 4407646; 659288, 4407745; 659371, 4407750; 659725, 4407958; 659366, 4407649; 659054, 4407297; 659452, 4407651; 659452, 4407651; 659461, 4407660; 659539, 4407681; 659612, 4407753; 659548, 4407828; 659610, 4407867; 659366, 4407649; 659923, 4407543; 659592, 4407360; 660006, 4407709; 660091, 4407723; 660154, 4407678; 660147, 4407667; 660105, 4407609; 660029, 4407612; 660111, 4407777; 659990, 4407534; 660135, 4407806; 659879, 4407603; 659855, 4407610; 659856, 4407564; 659857, 4407517; 659821, 4407440; 659523, 4407413; 659595, 4407393; 660023, 4407556; 660133, 4407970; 659868, 4406878; 659791, 4406855; 660263, 4408155; 660303, 4408079; 660302, 4408074; 660273, 4407964; 660251, 4407984; 660005, 4407731; 660154, 4408011; 659864, 4407532; 660132, 4407969; 659957, 4407940; 659971, 4407903; 659947, 4407874; 659980, 4407854; 659934, 4407809; 660096, 4407835; 660252, 4407970; 659640, 4406982; 659465, 4406904; 659470, 4406906; 659535, 4407030; 659633, 4407334; 659678, 4407066; 659843, 4407614; 659562, 4406915; 659424, 4406893; 659595, 4406915; 659601, 4407071; 659687, 4406999; 659683, 4406852; 659683, 4406840; 659689, 4406853; 659754, 4406983; 659812, 4407073; 659843, 4407081; 659846, 4407009; 659572, 4406896; 659750, 4407214; 659624, 4407301; 659707, 4407310; 659685, 4407036; 659761, 4407243; 659442, 4406963; 659712, 4407185; 659596, 4407194; 659494, 4407149; 659224, 4406925; 659750, 4407256; 659460, 4407152; 659409, 4406965; 659200, 4406857; 659349, 4407000; 659405, 4407061; 659439, 4407126; 659418, 4407156; 659351, 4406881.

(xvii) Sub-Unit C17: Uintah County, Utah; within T11S R25E Sec 32 W½SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 659067, 4408818; 659376, 4408857; 659194, 4409090; 659081, 4408730; 659077, 4408850; 659117, 4408976; 659137, 4408983; 659238, 4409118; 659375, 4409080; 659347, 4408991; 659372, 4408908; 659174, 4408671; 659039, 4408690; 659323, 4408978; 659377, 4408836; 659376, 4408857; 659032, 4408645; 659331, 4408850; 659287, 4408809; 659255, 4408796; 659263, 4408768; 659194, 4408678; 659043, 4408593; 659149, 4408621; 659094, 4408588; 659070, 4408580; 659208, 4408718.

(xviii) Sub-Unit C18: Uintah County, Utah; within T11S R25E Sec 33 N½SE¼, S½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 661166, 4409366; 660872, 4409279; 660863, 4409224; 660882, 4409211; 660980, 4409254; 661031, 4409259; 661047, 4409260; 661317, 4409536; 661116, 4409301; 661207, 4409464; 661290, 4409639; 661098, 4409494; 661343, 4409630; 661103, 4409284; 660926, 4409309; 660864, 4409295; 661343, 4409630; 660860, 4409306; 660908, 4409410; 661146, 4409635; 660951, 4409360; 661193, 4409552; 661029, 4409367; 661057, 4409383; 661060, 4409421; 661315, 4409648; 661090, 4409531; 661185, 4409630; 660932, 4409404.

(xix) Sub-Unit C19: Uintah County, Utah; within T11S R25E Sec 28 SE¼SW¼, SW¼SE¼, Sec 33 NE¼NW¼, NW¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 660273, 4410118; 660635, 4410355; 660709, 4410297; 660691, 4410306; 660677, 4410346; 660691, 4410085; 660485, 4410373; 660539, 4409989; 660568, 4409999; 660611, 4410039; 660642, 4410068; 660642, 4410095; 660443, 4409945; 660665, 4410096; 660396, 4409941; 660707, 4410097; 660783, 4410148; 660805, 4410184; 660800, 4410242; 660768, 4410260; 660714, 4410255; 660642, 4410105; 660241, 4410044; 660637, 4410488; 660601, 4410491; 660582, 4410492; 660562, 4410478; 660352, 4410164; 660493, 4410006; 660238, 4410086; 660648, 4410438; 660223, 4410038; 660209, 4410001; 660709, 4410297; 660209, 4409998; 660230, 4409972; 660281, 4409953; 660324, 4409982; 660237, 4410101.

(xx) Sub-Unit C20: Uintah County, Utah; within T11S R25E Sec 20 E½SE¼, SE¼NE¼, Sec 21 W½SW¼, Sec 28 NW¼NW¼, Sec 29 NE¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 659607, 4412084; 659508, 4411788; 659423, 4412599; 659431, 4412484; 659431, 4412482; 659438, 4412421; 659434, 4412396; 659778, 4411356; 659506, 4412282; 659617, 4412130; 659621, 4412097; 659590, 4412068; 659464, 4412645; 659514, 4411839; 659454, 4412335; 659533, 4411701; 659513, 4411681; 659490, 4411657; 659493, 4411619; 659457, 4411580; 659417, 4411392; 659455, 4411355; 659542, 4411353; 659633, 4411312; 659778, 4411356; 659613, 4411957; 659754, 4411827; 659802, 4411363; 659852, 4411455; 659854, 4411573; 659827, 4411689; 659812, 4411752; 659555, 4412175; 659767, 4411788; 659557, 4412626; 659724, 4411831; 659731, 4411858; 659768, 4411865; 659770, 4411865; 659791, 4411900; 659762, 4412245; 659770, 4411785; 659778, 4411929; 659656, 4412546; 659702, 4412488; 659596, 4412567; 659782, 4412165; 659775, 4412088; 659766, 4411994; 659761,

4411936; 659767, 4411933; 659701, 4412493.

(xxi) Sub-Unit C21: Uintah County, Utah; within T11S R25E Sec 21 NE¼, NE¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, NW¼NE¼, S½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 661070, 4413221; 660959, 4413092; 660958, 4413115; 660958, 4413092; 660991, 4413115; 661013, 4413147; 661049, 4413164; 661127, 4413308; 661204, 4413305; 661122, 4413106; 661061, 4413065; 661025, 4413035; 660931, 4413083; 660979, 4412884; 661050, 4413038; 660131, 4412468; 660476, 4412303; 660423, 4412263; 660391, 4412146; 660367, 4412104; 660366, 4412104; 660365, 4412104; 660284, 4412124; 660157, 4412731; 660162, 4412382; 660607, 4412359; 660149, 4412494; 660156, 4412499; 660160, 4412502; 660243, 4412559; 660160, 4412524; 660122, 4412508; 660104, 4412578; 660929, 4412788; 660245, 4412156; 660802, 4412697; 661025, 4413035; 660999, 4412926; 660976, 4412921; 660976, 4412919; 660961, 4412849; 660844, 4412738; 660805, 4412809; 660796, 4412788; 660514, 4412352; 660821, 4412720; 660565, 4412356; 660757, 4412690; 660802, 4412604; 660688, 4412512; 660677, 4412504; 660686, 4412467; 660618, 4412432; 660625, 4412392; 660170, 4412764; 660822, 4412754; 660725, 4412913; 660107, 4412611; 660900, 4413255; 660840, 4413195; 660731, 4413150; 660784, 4413112; 660788, 4413061; 660719, 4412972; 660784, 4413246; 660724, 4412915; 660762, 4413254; 660735, 4412873; 660775, 4412911; 660776, 4412914; 660791, 4412961; 660825, 4412973; 660852, 4412944; 660873, 4412949; 660880, 4413009; 660736, 4412936; 660449, 4413079; 660244, 4412850; 660256, 4412902; 660272, 4412972; 660295, 4413003; 660289, 4413057; 660314, 4413078; 660315, 4413137; 660873, 4413297; 660448, 4413116; 660937, 4413042; 660399, 4413066; 660457, 4413008; 660554, 4413102; 660584, 4413130; 660583, 4413177; 660619, 4413230; 660670, 4413246; 660684, 4413283; 660733, 4413295; 660389, 4413149.

(xxii) Sub-Unit C22: Uintah County, Utah; within T11S R25E Sec 21 N½SE¼, SW¼SE¼, E½SW¼, S½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 660812, 4411796; 660835, 4411808; 660711, 4412502; 661094, 4412523; 661019, 4412347; 660968, 4412289; 660907, 4412217; 660904, 4412146; 660877, 4412118; 660870, 4412110; 660830, 4411976; 660268, 4411941; 660836, 4411900; 661107, 4412836; 660651, 4411821; 660573, 4411818; 660573, 4411818; 660606, 4411845; 660488, 4411809; 660481, 4411834; 660448, 4411798; 661144, 4412639; 660308, 4411830; 660854, 4411923; 660861, 4412611; 661153, 4412697; 661073, 4412704; 661037, 4412669; 661025, 4412677; 661018, 4412723; 661050, 4412718; 661077, 4412732; 660719, 4412513; 660725, 4412522; 661084, 4412785; 660855, 4412551; 661070, 4412814; 660909, 4412676; 660923, 4412750; 660960, 4412793; 660962, 4412799; 661077, 4412732; 660974, 4412833; 661001, 4412845; 661022, 4412903; 661060, 4412904; 660281, 4411890; 660807, 4412526; 660716, 4412438; 660369, 4411789; 660312, 4412041; 660718, 4412459; 660681, 4412444; 660641, 4412424; 660651, 4412364; 660595, 4412333; 660565, 4412338; 660523, 4412345; 660390, 4412105; 660491, 4412310; 660496, 4412291; 660436, 4412267; 660437, 4412232; 660412, 4412198; 660389, 4412105; 660739, 4412468.

(xxiii) Sub-Unit C23: Uintah County, Utah; within T11S R25E Sec 21 E½NE¼, Sec 22 NW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 661054, 4412905; 661043, 4412921; 661024, 4412946; 661215, 4412861; 661073, 4413011; 661205, 4412942; 661055, 4413022; 661038, 4412997; 661111, 4412899; 661184, 4412924; 661200, 4412875; 661196, 4412926; 661196, 4412924; 661061, 4413042; 661306, 4412927; 661163, 4412905; 661166, 4413184; 661362, 4413075; 661256, 4412864; 661362, 4413075; 661398, 4413173; 661400, 4413225; 661371, 4413254; 661291, 4413249; 661297, 4412902; 661083, 4413057; 661145, 4413152; 661172, 4413116; 661145, 4413108; 661141, 4413081; 661115, 4413058; 661095, 4413049; 661359, 4413253.

(xxiv) Sub-Unit C24: Uintah County, Utah; within T11S R25E Sec 26 NW¼SW¼, SW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 663327, 4411013; 663256, 4410731; 663291, 4410750; 663351, 4410731; 663405, 4410756; 663410, 4410762; 663406, 4410961; 663405, 4411028; 663230, 4411192; 663341, 4411030; 663080, 4410749; 663332, 4410992; 663294, 4411030; 663335, 4411063; 663347, 4411088; 663332, 4411208; 663267, 4411222; 663243, 4411190; 663230, 4411192; 663401, 4411034; 663157, 4410991; 663208, 4411290; 663096, 4411347; 663074, 4411342; 663062, 4411317; 663066, 4411214; 663080, 4411180; 663121, 4411140; 663135, 4410752; 663154, 4411013; 663113, 4410743; 663103, 4411006; 663052, 4411005; 663038, 4410991; 663045, 4410953; 663053, 4410908; 663044, 4410878; 663079, 4410784; 663199, 4411270; 663124, 4411044.

(xxv) Sub-Unit C25: Uintah County, Utah; within T11S R25E Sec 26 SW¼SW¼, Sec 35 NW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 663260, 4409916; 663243, 4409901; 663340, 4410442; 663418, 4410347; 663420, 4410247; 663396, 4410218; 663376, 4410156; 663353, 4410086; 663326, 4410069; 663194, 4409901; 663291, 4409960; 663340, 4410442; 663164, 4409941; 663210, 4410127; 663212, 4410153; 663218, 4410221; 663214, 4410300; 663173, 4410380; 663234, 4410429; 663306, 4410418.

(xxvi) Sub-Unit C26: Uintah County, Utah; within T11S R25E Sec 26 S½SE¼, Sec 35 N½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 664196, 4410269; 664253, 4409972; 664222, 4410356; 664470, 4410340; 664362, 4410427; 664332, 4410523; 664276, 4410521; 664241, 4410481; 664209, 4410265; 664128, 4410243; 664122, 4410188; 664125, 4410173; 664138, 4410103; 664229, 4410015; 664293, 4409973; 664480, 4409972; 664470, 4410340; 664469, 4410234; 664504, 4410183; 664504, 4410182; 664194, 4410079; 664421, 4410135; 664329, 4410001; 664474, 4409872; 664447, 4409828; 664413, 4409821; 664364, 4409856; 664335, 4409916; 664491, 4410158.

(xxvii) Sub-Unit C27: Uintah County, Utah; within T11S R25E Sec 25 S½SE¼, Sec 36 N½NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 665993, 4410239; 665856, 4410224; 665881, 4410222; 665991, 4410218; 665828, 4410470; 665542, 4410207; 665539, 4410279; 665555, 4410371; 665661, 4410394; 665620, 4410421; 665961, 4410278; 665820, 4410476; 665637, 4410088; 665848, 4410456; 665873, 4410411; 665857, 4410390; 665873, 4410330; 665864, 4410303; 665928, 4410277; 665623, 4410435; 665838, 4409882; 665983, 4410127; 666006, 4410066; 665934, 4409961; 665937, 4409923; 665902, 4409903; 665925, 4409821; 665543, 4410196; 665840, 4409880; 665613, 4410149; 665788, 4409870; 665760, 4409889; 665751, 4409970; 665718, 4410027; 665856, 4410224; 665883, 4409819.

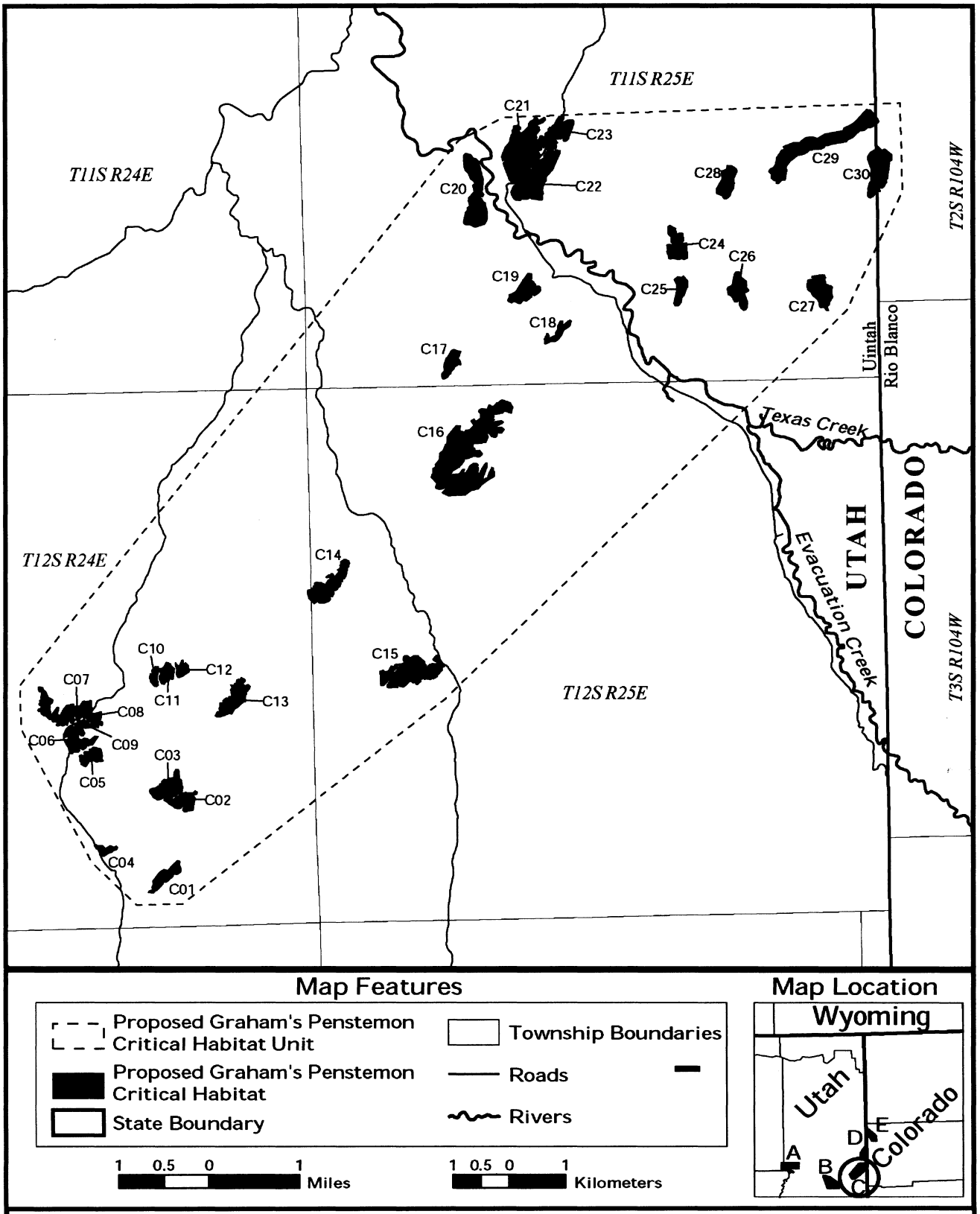
(xxviii) Sub-Unit C28: Uintah County, Utah; within T11S R25E Sec 23 SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 664299, 4412318; 664009, 4412333; 664185, 4411930; 664243,

4412180; 664193, 4411942; 664237, 4412016; 664252, 4412101; 664241, 4412194; 664289, 4412360; 664206, 4412420; 664174, 4411882; 664109, 4412364; 664117, 4412431; 664036, 4412196; 664138, 4411844; 664024, 4412176; 663922, 4412001; 663933, 4411921; 664032, 4411875; 664060, 4411824; 664111, 4411824; 664184, 4412423; 664050, 4412336; 664138, 4411844.

(xxix) Sub-Unit C29: Uintah County, Utah and Rio Blanco County, Colorado; within T11S R25E Sec 24 Lots 1, 2, 3, 5, 6, 7, SW¼, SE¼NW¼, T2S R104W Sec 22 Lot 4, T2S R104W Sec 27 Lot 1. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 665092, 4412149; 665441, 4412878; 664905, 4412268; 664904, 4412195; 664907, 4412193; 664960, 4412148; 664990, 4412156; 664995, 4412105; 665791, 4412723; 665033, 4412093; 664985, 4412451; 665156, 4412156; 665163, 4412198; 665184, 4412323; 665180, 4412406; 665245, 4412500; 665378, 4412605; 665381, 4412608; 665389, 4412609; 664942, 4412389; 664996, 4412100; 665385, 4412843; 666356, 4412936; 666267, 4412888; 666244, 4412853; 665530, 4412939; 666193, 4412844; 665985, 4412811; 665899, 4412782; 665868, 4412789; 665847, 4412746; 664861, 4412321; 665588, 4412703; 664892, 4412369; 665526, 4412643; 665288, 4412841; 665125, 4412774; 665116, 4412757; 665139, 4412717; 665092, 4412710; 665017, 4412598; 664995, 4412565; 664989, 4412494; 665412, 4412844; 666819, 4413251; 666356, 4412936; 666463, 4413033; 666478, 4413047; 666556, 4413060; 666592, 4413085; 666625, 4413107; 666701, 4413114; 666769, 4413170; 665442, 4412615; 666824, 4413215; 666766, 4413317; 666672, 4413435; 665856, 4413001; 665784, 4412720; 665637, 4412948; 666802, 4413197; 665787, 4412955; 666596, 4413438; 665969, 4413022; 666189, 4413063; 666193, 4413064; 666194, 4413109; 666300, 4413150; 666401, 4413220; 666585, 4413426; 665737, 4412922.

(xxx) Sub-Unit C30: Uintah County, Utah and Rio Blanco County, Colorado; within T11S R25E Sec 24 Lots 8, 9, 16, T2S E104W Sec 27 Lots 1, 2, 3. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 666959, 4412173; 666823, 4412767; 666879, 4412712; 666927, 4412731; 667057, 4412624; 667054, 4412517; 667023, 4412507; 666645, 4412633; 666661, 4412128; 666683, 4412141; 666675, 4412229; 666671, 4412264; 666693, 4412345; 667000, 4412347; 666621, 4412601; 666638, 4411845; 666672, 4412667; 666770, 4412721; 666777, 4412729; 666807, 4412767; 666815, 4412776; 666823, 4412767; 666619, 4412554; 666795, 4411954; 666962, 4412124; 666938, 4412088; 666929, 4412061; 666885, 4412025; 666834, 4412023; 666631, 4412041; 666795, 4411954; 666616, 4411883; 666793, 4411954; 666791, 4411955; 666790, 4411956; 666715, 4411860; 666670, 4411844; 666979, 4412197; 666847, 4411955.

(xxxi) **Note:** Map of Unit C of critical habitat for *Penstemon grahamii* (Map 3) follows:



Map 3: Unit C (Evacuation Creek Unit)

(9) Unit D—White River Unit, Uintah County, Utah, from USGS Weaver Ridge (1987) 7.5′ quadrangle maps, 6PM and SLBM:

(i) Sub-Unit D01: Uintah County, Utah; within T10S R25E Sec 28 NE¼.

Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 662328, 4420877; 662351, 4420878; 662131, 4421306; 662235, 4421257; 662241, 4421259; 662300, 4421273; 662317, 4421261; 662403, 4421123; 662389, 4421039; 662394, 4421000; 662403, 4420934; 662435, 4420850; 662341, 4420781; 662391, 4420796; 662131, 4421306; 662348, 4420814; 662250, 4420841; 662228, 4420855; 662175, 4420958; 662166, 4420995; 662158, 4421029; 662065, 4421102; 662053, 4421235; 662073, 4421287; 662425, 4420800.

(ii) Sub-Unit D02: Uintah County, Utah; within T10S R25E Sec 21 NE¼NE¼, Sec 22 NW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 662427, 4422957; 662614, 4422749; 662614, 4422749; 662510, 4422697; 662418, 4422811; 662413, 4422860; 662445, 4422994; 662540, 4423006; 662580, 4422991; 662610, 4422986; 662848, 4422945; 662759, 4422832; 662695, 4422809; 662678, 4422781; 662470, 4423005.

(iii) Sub-Unit D03: Uintah County, Utah; within T10S R25E Sec 22 NE¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 664152, 4422914; 663817, 4422814; 664104, 4423031; 664072, 4423031; 663997, 4422933; 663932, 4422981; 663894, 4422951; 664131, 4423014; 663816, 4422883; 664131, 4423014; 663849, 4422780; 663895, 4422767; 664033, 4422772; 664083, 4422820; 664120, 4422815; 664134, 4422827; 663866, 4422947.

(iv) Sub-Unit D04: Uintah County, Utah; within T10S R25E Sec 16 NE¼SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 661616, 4423571; 661524, 4423616; 661604, 4423468; 661505, 4423382; 661575, 4423403; 661619, 4423617; 661493, 4423571; 661499, 4423552; 661471, 4423491; 661488, 4423382; 661586, 4423498; 661505, 4423382; 661400, 4423485; 661431, 4423387; 661411, 4423434; 661398, 4423444; 661397, 4423479.

(v) Sub-Unit D05: Uintah County, Utah; within T10S R25E Sec 10 NE¼SE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 663865, 4425206; 663990, 4425084; 664098, 4425142; 664012, 4425182; 663954, 4425186; 663945, 4425243; 663912, 4425261; 663875, 4425250; 664108, 4425093; 663824, 4425196; 663813, 4425175; 663815, 4425144; 663880, 4425071; 663955, 4425060; 664077, 4425083; 664108, 4425093; 663936, 4425059.

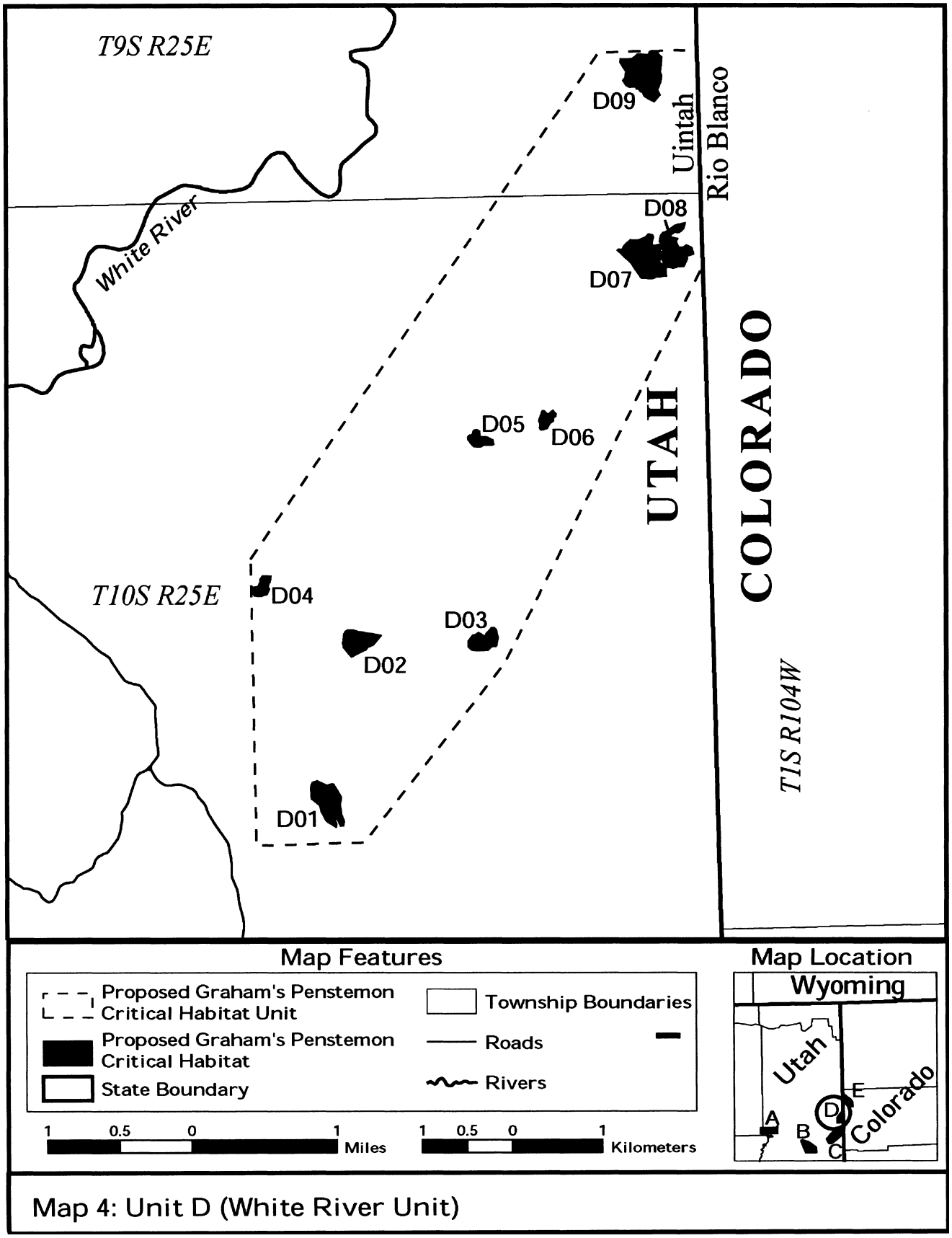
(vi) Sub-Unit D06: Uintah County, Utah; within T10S R25E Sec 11 NE¼SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 664699, 4425273; 664640, 4425254; 664799, 4425432; 664798, 4425406; 664771, 4425390; 664772, 4425355; 664664, 4425473; 664731, 4425329; 664799, 4425432; 664707, 4425428; 664650, 4425475; 664644, 4425475; 664605, 4425360; 664618, 4425329; 664610, 4425280; 664619, 4425264; 664759, 4425476.

(vii) Sub-Unit D07: Uintah County, Utah; within T10S R25E Sec 1 NW¼SW¼, SW¼NW¼, Sec 2 NE¼SE¼, SE¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 665534, 4427283; 665875, 4427453; 665679, 4427066; 665634, 4427132; 665483, 4427278; 665888, 4427424; 665829, 4427462; 665799, 4427428; 665732, 4427401; 665716, 4427395; 665739, 4426976; 665561, 4427334; 666021, 4427082; 665628, 4427396; 665747, 4426963; 665872, 4426955; 665920, 4426975; 666024, 4427079; 665497, 4427290; 665951, 4427145; 665978, 4427228; 665955, 4427280; 665976, 4427298; 665956, 4427345; 665876, 4427331; 665869, 4427359; 665888, 4427424; 666033, 4426983.

(viii) Sub-Unit D08: Uintah County, Utah; within T10S R25E Sec 1, Lots 1, 2, 3, NW¼SW¼, SW¼NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 666139, 4427079; 666167, 4427314; 666222, 4427094; 666261, 4427184; 666254, 4427208; 666332, 4427235; 666313, 4427311; 666183, 4427484; 666215, 4427313; 666023, 4427087; 666138, 4427377; 666158, 4427410; 666134, 4427414; 666075, 4427426; 666130, 4427484; 666154, 4427473; 666252, 4427342; 665992, 4427479; 666183, 4427484; 666196, 4427497; 666223, 4427524; 666240, 4427592; 666131, 4427564; 666130, 4427564; 666139, 4427089; 666019, 4427484; 666107, 4427074; 665958, 4427437; 666048, 4427084; 665953, 4427374; 665985, 4427328; 665984, 4427168; 666133, 4427482; 666031, 4427492; 666080, 4427451.

(ix) Sub-Unit D09: Uintah County, Utah; within T9S R25E Sec 25 NE¼NE¼, Sec 36 W½NW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 665683, 4429459; 665907, 4429518; 665952, 4429118; 665987, 4429447; 665967, 4429284; 665982, 4429243; 665975, 4429173; 665907, 4429518; 665852, 4429516; 665717, 4429488; 665653, 4429434; 665523, 4429429; 665518, 4429390; 665696, 4429091; 665766, 4429054; 665745, 4429057; 665897, 4428947; 665834, 4429476; 665965, 4429028; 665584, 4429289; 665790, 4429006; 665935, 4429079; 665718, 4429091; 665696, 4429113; 665623, 4429111; 665581, 4429134; 665548, 4429191; 665575, 4429218.

(x) **Note:** Map of Unit D of critical habitat for *Penstemon grahamii* (Map 4) follows:



Map 4: Unit D (White River Unit)

(10) Unit E—Raven Ridge Unit, Rio Blanco County, Colorado, from USGS Dinosaur (1968), Walsh Knolls (1968), and Banty Point (1962) 7.5′ quadrangle maps, 6PM and SLBM.

(i) Sub-Unit E01: Rio Blanco County, Colorado; within T2NR104W Sec 13 W½NW¼, Sec 14 N½NE¼, SE¼NE¼ (6PM). Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 667795, 4445744; 667905, 4445655; 667735, 4445819; 667705, 4445828; 667623, 4445904; 667506, 4446012; 668118, 4445539; 667934, 4445627; 668439, 4445709; 667681, 4445850; 667987, 4445583; 668043, 4445550; 668074, 4445532; 668101, 4445518; 668146, 4445539; 668183, 4445486; 668212, 4445486; 668334, 4445575; 667623, 4446183; 668274, 4445592; 668389, 4445835; 667564, 4446124; 667608, 4446168; 668388, 4445791; 668337, 4445870; 668239, 4445934; 668153, 4446022; 668034, 4446097; 667867, 4446203; 667815, 4446272; 667801, 4446272; 667631, 4446232; 668439, 4445709.

(ii) Sub-Unit E02: Rio Blanco County, Colorado; within T2N R103W Sec 19 W½NW¼, Sec 24 E½NE¼ (6PM). Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 669680, 4444281; 669968, 4444291; 669929, 4444356; 669898, 4444406; 669773, 4444557; 669671, 4444642; 669600, 4444702; 669906, 4444241; 669393, 4444697; 669366, 4444648; 669321, 4444636; 669301, 4444616; 669585, 4444377; 669834, 4444212; 669301, 4444568; 669693, 4444268; 669744, 4444205; 669834, 4444212; 669302, 4444560; 669616, 4444346.

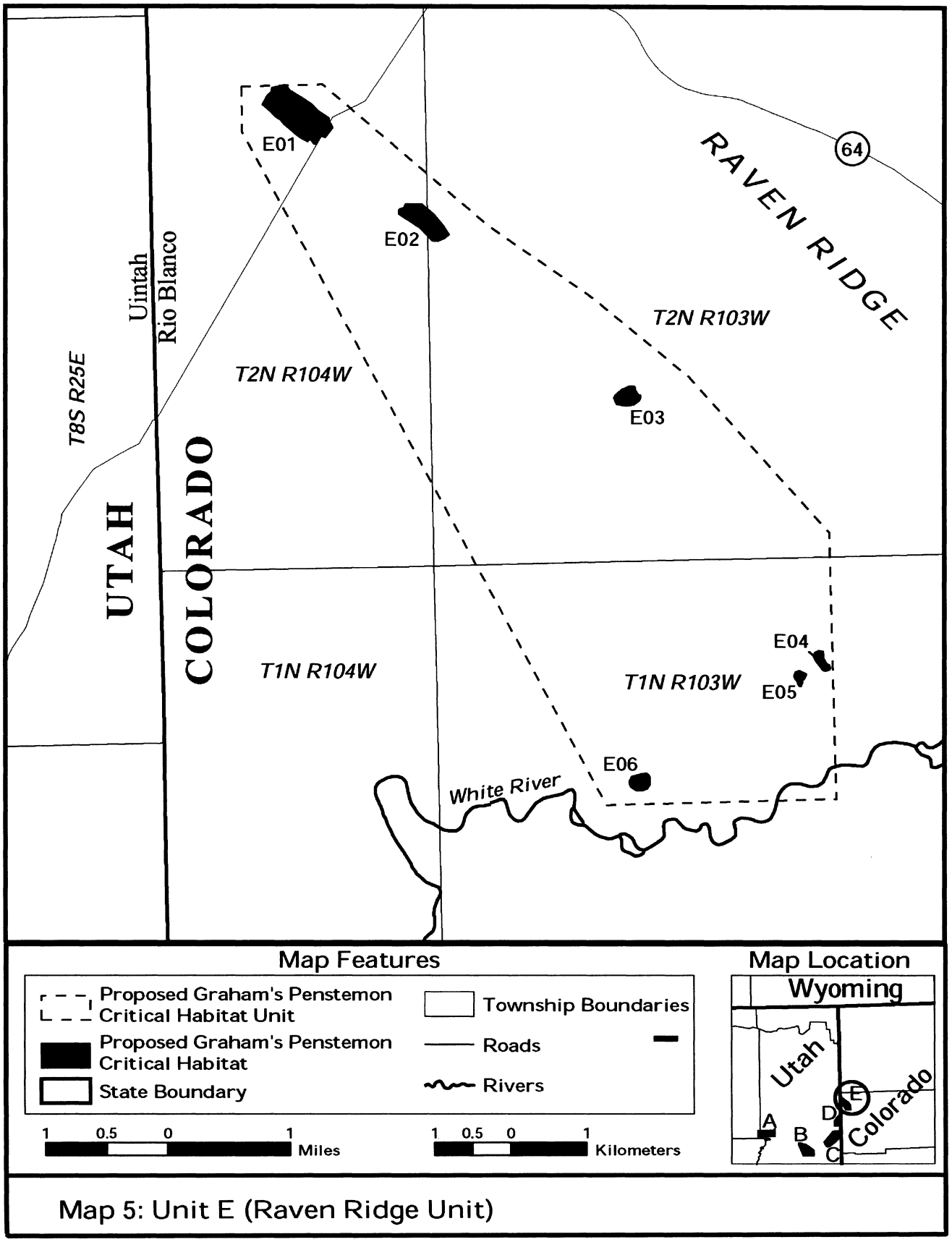
(iii) Sub-Unit E03: Rio Blanco County, Colorado; within T2N R103W Sec 29 NW¼SE¼ (6PM). Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 672492, 4442163; 672399, 4442031; 672295, 4442017; 672167, 4442034; 672133, 4442125; 672153, 4442164; 672236, 4442240; 672343, 4442291; 672385, 4442291; 672411, 4442278; 672458, 4442173; 672488, 4442132; 672470, 4442088; 672399, 4442031; 672415, 4442234.

(iv) Sub-Unit E04: Rio Blanco County, Colorado; within T1N R103W Sec 3 SW¼SW¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 674889, 4438766; 674752, 4438700; 674968, 4438519; 674906, 4438496; 674936, 4438601; 674782, 4438635; 674773, 4438749; 674828, 4438770; 674892, 4438667; 674969, 4438580; 674980, 4438538; 674968, 4438519; 674876, 4438514.

(v) Sub-Unit E05: Rio Blanco County, Colorado; within T1N R103W Sec 3 SW¼SW¼, Sec 4 SE¼SE¼, Sec 9 NE¼NE¼. Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 674619, 4438387; 674619, 4438353; 674592, 4438296; 674573, 4438299; 674556, 4438321; 674537, 4438379; 674528, 4438385; 674519, 4438391; 674500, 4438436; 674517, 4438493; 674571, 4438509; 674618, 4438487; 674636, 4438387; 674619, 4438353; 674672, 4438462.

(vi) Sub-Unit E06: Rio Blanco County, Colorado; within T1N R103W Sec 8 SW¼SE¼ (6PM). Land bounded by the following UTM Zone 12 NAD 83 coordinates (meters E, meters N): 672510, 4436908; 672573, 4436937; 672610, 4436987; 672615, 4437077; 672599, 4437115; 672510, 4436908; 672562, 4437147; 672494, 4437140; 672367, 4437102; 672332, 4437028; 672351, 4436960; 672426, 4436907.

(vii) **Note:** Map of Unit E of critical habitat for *Penstemon grahamii* (Map 5) follows:



Map 5: Unit E (Raven Ridge Unit)

* * * * *

Dated: January 9, 2006.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06–363 Filed 1–18–06; 8:45 am]

BILLING CODE 4310–55–P

Federal Register

Thursday,
January 19, 2006

Part III

The President

Proclamation 7973—Martin Luther King, Jr., Federal Holiday, 2006

Proclamation 7974—Religious Freedom Day, 2006

Executive Order 13395—Designating the Global Fund To Fight AIDS, Tuberculosis and Malaria as a Public International Organization Entitled To Enjoy Certain Privileges, Exemptions, and Immunities

Federal Register
Vol. 71, No. 12
Thursday, January 19, 2006

Presidential Documents

Title 3—

The President

Proclamation 7973 of January 13, 2006

Martin Luther King, Jr., Federal Holiday, 2006

By the President of the United States of America

A Proclamation

As we observe the 20th anniversary of the Martin Luther King, Jr., Federal Holiday, we reflect on the history of civil rights in America and honor Dr. King for the power of his intellect, the truth of his words, and the example of his courage. Dr. King created a powerful and enduring legacy for all Americans by calling upon our Nation to ensure equal justice under law and uphold our founding ideals of life, liberty, and the pursuit of happiness for all people.

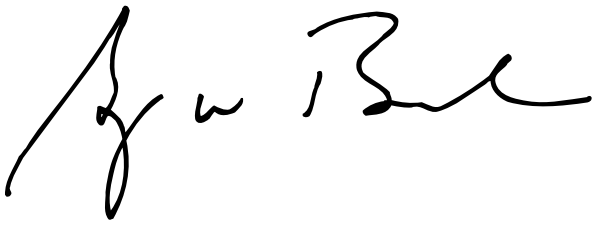
Dr. King became an active leader in the civil rights movement in the 1950s, strengthened in his resolve by the quiet courage of Rosa Parks' refusal to give up her seat on a Montgomery, Alabama, bus. He advocated nonviolent action as a means to overcome the evil of racism in America, and he led the effort that resulted in the Civil Rights Act of 1964. Dr. King later said that the legislation was the work of every citizen who took to the streets and marched for justice and equality. The Voting Rights Act, which became law the next year, guaranteed all citizens the right to vote, regardless of race, and helped our country realize the promise of the 15th Amendment to our Constitution.

Dr. King believed that all people are made in God's image and created equal. He dedicated his life to empowering people, no matter their circumstances, and challenged them to lift up their neighbors and communities. He broke down barriers within our society by encouraging Americans to look past their differences and refused to rest until our Nation fulfilled its pledge of liberty and justice for all.

As we observe and honor Dr. King's birthday, we are reminded that great causes often involve great sacrifices. In the five decades since Dr. King and Mrs. Parks stood together in Montgomery, Alabama, our country has made great progress toward equality for every citizen. Yet more work remains. In the words of Dr. King, ''We will not be satisfied until 'justice rolls down like waters and righteousness like a mighty stream.' ''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Monday, January 16, 2006, as the Martin Luther King, Jr., Federal Holiday. I encourage all Americans to observe this day with appropriate civic, community, and service programs and activities in honor of the memory and legacy of Dr. King.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of January, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.



[FR Doc. 06–552
Filed 1–18–06; 9:23 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7974 of January 13, 2006

Religious Freedom Day, 2006

By the President of the United States of America

A Proclamation

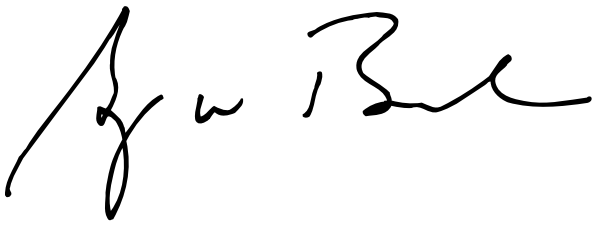
The right to religious freedom is a foundation of America. On Religious Freedom Day, our Nation celebrates the passage of the 1786 Virginia Statute for Religious Freedom and the protection of religious freedom in the First Amendment to the United States Constitution.

Our Founding Fathers knew the importance of freedom of religion to a stable democracy, and our Constitution protects individuals' rights to worship as they choose. We reject religious discrimination in every form, and we continue our efforts to oppose prejudice and to counter any infringements on religious freedom.

Today, we are also working to advance freedom of religion abroad. The Department of State's Office of International Religious Freedom plays an important role in these efforts, advocating for religious freedom and actively working against religious persecution around the world. In recent years, we have seen important progress, including in Vietnam, Laos, India, Georgia, and the United Arab Emirates, and with the release of many individuals in countries throughout the world who had been imprisoned because of their faith. By helping to secure the religious freedom of people in other countries, we promote the spread of liberty and human dignity.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 16, 2006, as Religious Freedom Day. I call on all Americans to reflect on the great blessing of religious liberty, endeavor to preserve this freedom for future generations, and commemorate this day with appropriate events and activities in their schools, places of worship, neighborhoods, and homes.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of January, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.



[FR Doc. 06–553

Filed 1–18–06; 9:23 am]

Billing code 3195–01–P

Presidential Documents

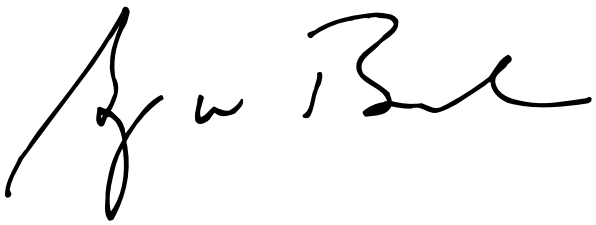
Executive Order 13395 of January 13, 2006

Designating the Global Fund To Fight AIDS, Tuberculosis and Malaria as a Public International Organization Entitled To Enjoy Certain Privileges, Exemptions, and Immunities

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 1 and 16 of the International Organizations Immunities Act (22 U.S.C. 288 and 288f–6), it is hereby ordered as follows:

Section 1. *Designation.* The Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund) is hereby designated as a public international organization entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act.

Sec. 2. *Non-Abridgement.* The designation in section 1 is not intended to abridge in any respect privileges, exemptions, or immunities that the Global Fund otherwise may have acquired or may acquire by law.



THE WHITE HOUSE,
January 13, 2006.

[FR Doc. 06–554
Filed 1–18–06; 9:23 am]
Billing code 3195–01–P

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Federal Register

Vol. 71, No. 12

Thursday, January 19, 2006

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Laws	**741–6000**
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The United States Government Manual	**741–6000**
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FEDERAL REGISTER PAGES AND DATE, JANUARY

1–230 3
231–536 4
537–872 5
873–1388 6
1389–1472 9
1473–1682 10
1683–1914 11
1915–2134 12
2135–2452 13
2453–2856 17
2857–2990 18
2991–3204 19

CFR PARTS AFFECTED DURING JANUARY

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:
6867 (See: Notice of January 10, 2006) 2133
7757 (See: Notice of January 10, 2006) 2133
7973 3199
7974 3201

Executive Orders:
13395 3203

Administrative Orders:
Memorandums:
Memorandum of December 15, 2005 1467
Presidential Determinations:
No. 2006–6 of December 22, 2005 1469
No. 2006–7 of December 30, 2005 871
No. 2006–8 of December 30, 2005 1471
Notices:
Notice of January 6, 2006 1681
Notice of January 10, 2006 2133

5 CFR

1650 1389

Proposed Rules:
1651 1984

7 CFR

226 1
400 2135
930 1915
946 1919
982 1921

Proposed Rules:
56 2168
70 2168
319 1700
1000 545
1001 545
1005 545
1006 545
1007 545
1030 545
1032 545
1033 545
1124 545
1126 545
1131 545

9 CFR

78 2991
317 1683
381 1683
391 2135
590 2135
592 2135

Proposed Rules:
77 1985
318 2483
381 2483
392 1988
439 2483

10 CFR

35 1926

Proposed Rules:
20 29
30 ..... 29, 275
31 ..... 29, 275
32 ..... 29, 275
33 29
35 29
150 275

12 CFR

205 ..... 1473, 1638

Proposed Rules:
Ch. I 287
Ch. II 287
Ch. III 287
Ch. V 287
611 1704

14 CFR

11 1483
21 534
23 ..... 537, 1926, 2143
25 1485
36 530
39 ..... 231, 873, 1390, 1930, 1935, 1937, 1939, 1941, 1947, 1949, 1951, 2453, 2455, 2857, 2859, 2993, 2995
71 ..... 537, 2145, 2997, 2998
73 2146
95 2998
97 ..... 1393, 1686
121 ..... 534, 1666, 1688
135 534

Proposed Rules:
39 ..... 291, 293, 295, 297, 299, 1718, 2491, 3021, 3023
71 ..... 552, 889, 1397, 1398

15 CFR

930 788

17 CFR

36 1953
37 1953
38 1953
39 1953
40 1953

242 232
Proposed Rules:
4 1463

18 CFR

11 2863
2 1348
33 1348
Proposed Rules:
35 303
370 303

19 CFR

12 3000
101 2457

20 CFR

404 ....2312, 2871
416 2871

21 CFR

210 2458
510 ....875, 2147
520 875
522 1689
558 ....5, 1689
803 1488
Proposed Rules:
56 2493
210 2494
310 2309
866 1399

23 CFR

Proposed Rules:
1313 29

24 CFR

401 2112
402 2112
Proposed Rules:
401 2126
402 2126
1000 2176

25 CFR

243 2426

26 CFR

1 ....6, 11, 1971, 2462
20 2147
31 11
602 6
Proposed Rules:
1 2496
31 46
301 ....2497, 2498

27 CFR

Proposed Rules:
9 1500

28 CFR

16 16
105 1690

29 CFR

1926 2879
1952 2885
2520 1904
4022 2147
4044 ....2147, 2148
Proposed Rules:
2700 553
2704 553
2705 553

30 CFR

946 1488

31 CFR

103 496
215 2149
501 1971
Proposed Rules:
103 516
501 1994

32 CFR

199 1695

33 CFR

110 3001
117 ....1494, 2151
165 ....538, 2152, 2886, 3003, 3005, 3007
Proposed Rules:
110 3025
117 2176
165 3027

36 CFR

223 ....522, 523
1011 2109
Proposed Rules:
219 307

37 CFR

Proposed Rules:
1 ....48, 61
2 2498

38 CFR

17 2464
21 1496

39 CFR

111 1976
3001 2464

40 CFR

9 ....388, 654
16 232
35 17
52 ....19, 21, 24, 241, 244, 541, 1463, 1696, 3009
60 2472
61 2472
63 1378
81 ....24, 541
86 2810
141 ....388, 654
142 ....388, 654
180 2889
Proposed Rules:
50 2620
51 69
52 ....85, 569, 577, 890, 892, 1994, 1996, 2177, 3029
53 2710
58 2710
60 2509
61 2509
63 ....1386, 1403
86 2843
122 894
180 901
745 1588
1604 309

41 CFR

301–10 876

42 CFR

419 2617

43 CFR

Proposed Rules:
2930 2899

46 CFR

10 2154

47 CFR

1 2167
64 ....2895, 3014
73 ....245, 246, 247, 877
Proposed Rules:
20 3029
54 1721
73 ....312, 313

48 CFR

Ch. 1 ....198, 228, 864, 866
1 200
2 ....208, 211
4 208
5 ....219, 220
6 219
7 ....208, 211
8 221
9 ....219, 227
11 ....211, 227
12 ....211, 219, 220
14 219
16 211
17 219
19 ....220, 221
22 ....219, 864
25 ....219, 221, 223, 224, 227, 864
27 227
34 227
37 211
38 227
39 ....211, 227
42 ....200, 221
43 227
44 225
46 ....200, 227
47 200
48 227
50 227
52 ....200, 208, 219, 221, 224, 225, 226, 227, 864
53 200
1631 3015
1644 3015
1652 3015
2401 2432
2402 2432
2406 2432
2408 2432
2409 2432
2411 2432
2413 2432
2415 2432
2416 2432
2419 2432
2422 2432
2426 2432
2432 2432
2437 2432
2442 2432
2446 2432
2448 2432
2452 2432
Proposed Rules:
Ch. 8 2342
2404 2444
2408 2444
2415 2444
2437 2444
2439 2444
2452 2444
9903 313

49 CFR

219 1498
383 2897
384 2897
571 877
Proposed Rules:
192 1504
1105 3030

50 CFR

223 834
224 834
229 1980
299 247
600 27
622 3018
635 ....273, 1395
648 ....1982, 3016
679 1698
Proposed Rules:
17 ....315, 3158
223 3033
660 ....1998, 2510
679 386

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 JANUARY 19, 2006

FEDERAL ELECTION COMMISSION

Bipartisan Campaign Reform Act; implementation:
- Certain salaries and wages; State, district and local party committee payment; published 12-20-05

HOMELAND SECURITY DEPARTMENT

Customs and Border Protection Bureau

Merchandise, special classes:
- Archaeological and ethnological material from—
  - Italy; pre-Classical, Classical, and Imperial Roman periods; published 1-19-06

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness standards:
- Class E airspace; published 12-5-05

TREASURY DEPARTMENT

Merchandise, special classes:
- Archaeological and ethnological material from—
  - Italy; pre-Classical, Classical, and Imperial Roman periods; published 1-19-06

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:
- Bovine Spongiform encephalopathy; minimal-risk regions and importation of commodities; comments due by 1-27-06; published 11-28-05 [FR 05-23334]

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:
- Poultry product exportation to United States; eligible countries; addition—
  - China; comments due by 1-23-06; published 11-23-05 [FR 05-23123]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Caribbean, Gulf, and South Atlantic fisheries—
  - Gulf of Mexico shrimp; comments due by 1-23-06; published 11-23-05 [FR 05-23203]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Miscellaneous organic chemical manufacturing; comments due by 1-24-06; published 12-8-05 [FR 05-23666]

Air quality implementation plans; approval and promulgation; various States:
- Alabama; comments due by 1-27-06; published 12-28-05 [FR 05-24473]
- Tennessee; comments due by 1-26-06; published 12-27-05 [FR 05-24414]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Tralkoxydim; comments due by 1-23-06; published 11-23-05 [FR 05-23106]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Commercial mobile radio services—
  - Roaming obligations; reexamination; comments due by 1-26-06; published 1-19-06 [FR 06-00456]

Emergency Alert System; digital communications technology coverage; comments due by 1-24-06; published 11-25-05 [FR 05-23270]

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 1-27-06; published 12-28-05 [FR 05-24512]

HEALTH AND HUMAN SERVICES DEPARTMENT

Administrative requirements:
- Health Insurance Portability and Accountability Act; implementation—
  - Electronic health care claims attachments; comments due by 1-23-06; published 11-22-05 [FR 05-23077]

Medicare and medicaid:
- Health Insurance Portability and Accountability Act; implementation—
  - Electronic health care claims attachments; standards; comments due by 1-23-06; published 9-23-05 [FR 05-18927]

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Resources and Services Administration

Health resources development:
- Organ Procurement and Transplantation Network—
  - Intestines; comments due by 1-23-06; published 11-23-05 [FR 05-23149]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:
- New Jersey; comments due by 1-23-06; published 11-22-05 [FR 05-23028]

INTERIOR DEPARTMENT

Land Management Bureau

Land resource management:
- Public land recreation permits; comments due by 1-23-06; published 11-22-05 [FR 05-23113]

LABOR DEPARTMENT

Labor-Management Standards Office

Standards of conduct:
- Labor organization officer and employee reports; comments due by 1-26-06; published 10-24-05 [FR 05-21274]

NUCLEAR REGULATORY COMMISSION

Plants and materials; physical protection:
- Design basis threat; comments due by 1-23-06; published 11-7-05 [FR 05-22200]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Boeing; comments due by 1-23-06; published 11-23-05 [FR 05-23156]
- Gulfstream; comments due by 1-23-06; published 12-9-05 [FR 05-23832]
- Lycoming Engines; comments due by 1-26-06; published 12-27-05 [FR E5-07815]
- Raytheon; comments due by 1-23-06; published 11-22-05 [FR 05-23055]

Airworthiness standards:
- Transport category airplanes—
  - Seat belt attachment fittings on passenger seats; unreliable design; policy statement; comments due by 1-27-06; published 12-28-05 [FR 05-24501]

Class D airspace; comments due by 1-25-06; published 10-31-05 [FR 05-21585]

Class E airspace; comments due by 1-27-06; published 1-5-06 [FR 06-00080]

Colored Federal airways; comments due by 1-23-06; published 12-8-05 [FR 05-23759]

Offshore airspace areas; comments due by 1-23-06; published 12-8-05 [FR 05-23757]

TRANSPORTATION DEPARTMENT

Federal Transit Administration

Buy America requirements; definitions and waiver procedures amendments; comments due by 1-27-06; published 11-28-05 [FR 05-23323]

TRANSPORTATION DEPARTMENT

Pipeline and Hazardous Materials Safety Administration

Pipeline safety:
- Gas gathering line definition; safety standards for onshore lines; public meeting; comments due by 1-26-06; published 1-10-06 [FR 06-00224]

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
- Partner's distributive share; comments due by 1-25-06; published 11-18-05 [FR 05-22281]

VETERANS AFFAIRS DEPARTMENT

Servicemembers' and veterans' group life insurance:
- Traumatic injury protection; comments due by 1-23-06; published 12-22-05 [FR 05-24390]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current

session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 4340/P.L. 109–169

United States-Bahrain Free Trade Agreement Implementation Act (Jan. 11, 2006; 119 Stat. 3581)

Last List January 12, 2006

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