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Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AK96

Prevailing Rate Systems; Change in the Survey Cycle for the Harrison, MS, Nonappropriated Fund Federal Wage System Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to change the timing of local wage surveys in the Harrison, Mississippi, nonappropriated fund Federal Wage System wage area. The purpose of this change is to avoid conducting future surveys in this area during the hurricane season.

DATES: This rule is effective on March 1, 2006.

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

SUPPLEMENTARY INFORMATION: On October 31, 2005, the Office of Personnel Management (OPM) issued an interim rule (70 FR 62229) to change the full-scale survey cycle for the Harrison, Mississippi, nonappropriated fund (NAF) Federal Wage System (FWS) wage area from October of each even-numbered fiscal year to March of each even-numbered fiscal year. The interim rule had a 30-day public comment period, during which OPM received no comments.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 532

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

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, under the authority of 5 U.S.C. 5343, the interim rule published on October 31, 2005, amending 5 CFR part 532 (70 FR 62229) is adopted as final with no changes.

[FR Doc. 06–828 Filed 1–27–06; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV05–989–610 REVIEW]

California Raisin Marketing Order; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Confirmation of regulations.

SUMMARY: This action summarizes the results under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA), of an Agricultural Marketing Service (AMS) review of Marketing Order No. 989, regulating the handling of raisins produced from grapes grown in California.

ADDRESSES: Interested persons may obtain a copy of the review. Requests for copies should be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or E-mail: *moab.docketclerk@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Kurt Kimmel or Maureen Pello, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Fresno, California; Telephone: (559) 487–5901; Fax: (559) 487–5906; E-mail: *Kurt.Kimmel@usda.gov* or *Maureen.Pello@usda.gov;* or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491; Fax: (202) 720–8938; E-mail: *George.Kelhart@usda.gov.*

SUPPLEMENTARY INFORMATION: Marketing Order No. 989, as amended (7 CFR part 989), regulates the handling of raisins produced from grapes grown in California (order). The marketing order is effective under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674).

AMS published in the **Federal Register** (64 FR 8014; February 18, 1999), its plan to review certain regulations, including Marketing Order No. 989, under criteria contained in section 610 of the RFA (5 U.S.C. 601–612). An updated plan was published in the **Federal Register** on January 4, 2002 (67 FR 525) and on August 14, 2003 (68 FR 48574). Accordingly, AMS published a notice of review and request for written comments on the California raisin marketing order in the May 25, 2004, issue of the **Federal Register** (69 FR 29672). The deadline for comments ended July 23, 2004.

The review was undertaken to determine whether the California raisin marketing order should be continued without change, amended, or rescinded to minimize the impacts on small entities. In conducting this review, AMS considered the following factors: (1) The continued need for the marketing order; (2) the nature of complaints or comments received from the public concerning the marketing order; (3) the complexity of the marketing order; (4) the extent to which the marketing order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the marketing order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the marketing order.

The order was initially promulgated in 1949. It has been amended twelve times to meet the changing needs of the industry. The most recent amendments occurred in 1989.

The order establishes the Raisin Administrative Committee (Committee or RAC) as the administrative body charged with overseeing program operations. Staff is hired to conduct the daily administration of the program. The Committee consists of 47 members

and 47 alternate members. Thirty-five members represent producers, ten represent handlers, one represents the cooperative bargaining association, and one represents the public. Membership is further allocated among producers representing the cooperative marketing association, the cooperative bargaining association, and those not affiliated with either cooperative (independents). The cooperative marketing association and the cooperative bargaining association nominate their representatives, while independent member representatives are nominated at meetings and elected through a mail balloting process.

The Committee recommends the implementation of regulatory actions and activities under the marketing order and changes to the marketing order when needed to further marketing order and industry objectives. AMS approves these recommendations undertaken by the Committee before they can be implemented.

These activities include volume control to help stabilize raisin supplies and prices, and strengthen market conditions; various export programs to help packers remain price competitive with foreign producers and to maintain and expand these markets; quality control with mandatory incoming and outgoing inspection to assure the condition and quality of raisins delivered by producers to packers and sold by packers into commercial channels; imported raisin quality also is assured under a section 8e of the Act import regulation; research and promotion activities to maintain and expand exports financed with reserve pool proceeds; and reporting requirements used by the RAC to obtain production, shipment, and other marketing information used by the industry in making sound marketing decisions and in furthering marketing order goals. Funds to administer the marketing order are obtained from handler assessments and proceeds obtained from the sale of reserve pool raisins.

Currently, there are approximately 4,500 producers and 20 handlers of California raisins. The majority of these producers and seven handlers may be classified as small entities. The regulations implemented under the order are applied uniformly to small and large entities, and are designed to benefit all industry entities regardless of size.

Notice of 610 Review for California Raisins

A notice of review and request for comments regarding the California raisin marketing order was published in the **Federal Register** on May 25, 2004. During the comment period that ended on July 23, 2004, five written comments were received. One comment was submitted by the then Committee President, and four were submitted by raisin growers and handlers. Two comments address the five factors under consideration by AMS. No comments from non-industry representatives were received. All comments were evaluated during the conduct of this review and are discussed, where appropriate, later in this document.

The Continued Need for the Marketing Order

The marketing order has been used over the years in the areas of volume control, quality control, research and promotion activities, and the collection and dissemination of statistical information.

Volume control has helped stabilize supplies and prices, and strengthen marketing conditions. Under the marketing order's volume control provisions, packer raisin acquisitions are segregated into free tonnage and reserve tonnage. Free tonnage raisins may be shipped to any market. Reserve raisins are production in excess of free tonnage needs (domestic markets) and must be pooled by handlers in a pool for later sale by the Committee to authorized outlets. The RAC generally needs several years to dispose of reserve pool raisins. Currently, the 2002–03 and 2003–04 reserve pools are still open. The entire crop in 2004–05 was free tonnage so a reserve pool was not established for that crop year.

Basically, there are two markets for California raisins, domestic and export. The marketing order has helped the industry expand domestic markets over the years. Moreover, it has promoted a dramatic expansion of raisin exports. When the marketing order was implemented in 1949, export markets were not viable outlets. Under the marketing order, the industry has been able to develop and maintain export markets, in spite of foreign competition. Export shipments have been an important source of growth for the industry and the marketing order has provided a foundation for this expansion. The Committee believes that it needs to maintain export shipments to foster stable marketing conditions and reasonable producer prices. The Committee further believes that the marketing order will continue to be an important tool in achieving these goals.

In the mid-1990s, domestic and export shipments began to drop. Total shipments have increased in the past two years and currently are in excess of 300,000 tons. The increase in shipments is mainly due to an increase in domestic shipments. In 2004–05, domestic shipments were in excess of 205,000 tons. This is the highest level of domestic shipments since 1993. These shipment levels are reminiscent of levels achieved during the early- and mid-1990's. Maintaining and continuing this level of domestic shipments together with exports near the 100,000 tons per crop year level will be important to the future welfare of the industry. The Committee believes that the marketing order can continue to be used to maintain and increase these shipment levels.

Since 1949, total grower returns per ton have increased five-fold, from less than $200 per ton to well over $1,000 per ton. Grower returns have fluctuated in response to supply and demand conditions, but in most seasons grower returns have been reasonable.

The field price for free tonnage reached a high of $1,425 per ton for the 1999–2000 crop year. Average producer raisin prices as reported by the National Agricultural Statistics Service during the 2000–01 through 2003–04 crop years were below cost of production levels due to record high production. A 1998 cost of production study by the University of California Cooperative Extension for a 120 acre raisin vineyard using traditional growing and harvesting systems shows total costs per ton with a yield of 2.3 tons at about $872 per ton. Lower bearing acres and yields have resulted in a lower production of raisin variety grapes and raisins, and producer prices began to improve in 2004–05.

In 2004–05, the free tonnage field price was set at $1,210 per ton. This was the first time since 1999–2000, that the field price has been above $1,000 per ton. For the 2005–06 crop year, a sliding scale for the field price has been set at a minimum price of $1,210 per ton that can rise as the quantity of raisins produced drops by 20,000 ton increments below 400,000 tons. In addition, a similar sliding price for the 2006–07 and 2007–08 crop years recently has been announced where prices will range from $960 to $1,560 per ton. This future price commitment is expected to help the financial position of producers, help packers make marketing decisions and help the industry continue the positive shipment results experienced in 2004–05 under the marketing order.

With the marketing order as a support mechanism for the industry, the situation in the raisin industry has improved since 2002. Producer prices and revenues have increased, production and inventories have

decreased, and shipments have increased. Moreover, world production and inventories have moderated. Even so, the industry has numerous challenges. The most important of which may be developing demand for younger consumers. Although domestic shipments have increased over the last five crop years, this increase has not been sufficient to offset the increase in population. The Committee believes that the marketing order could be a significant tool in facilitating consumer interest and expanding shipments in both domestic and export markets.

Quality control is as important today as it was when these standards were initially established in 1955. The establishment of minimum incoming and outgoing quality standards over the years has helped improve the quality of product moving from the vineyard to commercial market channels. Quality control has helped ensure that only satisfactory product reaches the marketplace and has helped foster customer satisfaction. This has helped the industry increase and maintain demand for California raisins over the years in domestic and export markets. Quality control also has helped the industry remain competitive with foreign production in Turkey, Greece, The Republic of South Africa, Australia, Chile, Argentina, and Mexico.

Research and promotion export activities also have helped the industry remain competitive with foreign production in export markets and have helped foster market stability in commercial marketing channels.

In addition to the above, the Committee collects statistical information from handlers on a routine basis. This information is compiled by the Committee staff to produce statistical reports that are used by the industry to make planting, harvesting, and sales decisions. It is also used in short- and long-term planning by the Committee.

Based on the foregoing, AMS has determined that the order should be continued, without change, at this time. While the industry has considered changes to the order to improve volume control implementation and overall marketing order operations to lessen the chances of below cost of production producer returns, it has had difficulty reaching a consensus on the issues. As part of AMS's administrative responsibilities, AMS will continue its dialogue with the industry on these matters in an effort to improve the marketing order.

As mentioned earlier, AMS reviews industry recommendations and programs for consistency with the regulatory authorities provided in the order, the prevailing and prospective market situation, and the impact upon small businesses. An assessment is also made as to whether regulatory recommendations or programs are practical for those who would be regulated, and whether the recommendations are consistent with USDA policy.

AMS also routinely monitors the operations of this order, as does the industry and Committee, to ensure that the regulations issued address market and industry conditions, and that the regulations and administrative procedures are appropriate for practices within the industry. As noted earlier, a dialogue with the Committee on program matters is continuing to help improve marketing order operations.

The Nature of Complaints or Comments From the Public Concerning the Marketing Order

In its written comment, the then President of the Committee provided background information about the industry and the marketing order, as well as rationale for continuing the marketing order. The comment addresses the AMS 610 review criteria, the various activities and programs administered under the order, describes the benefits of these activities, and expresses the belief that there is sound support within the industry for continuation of the marketing order. This comment also mentions that some factors in the industry believe that the marketing order could be improved to better serve producers and packers. The Committee has not yet finalized possible program improvements. The comment also summarizes the evolution of the order from its inception in 1949 to the present day. Some of the marketing order's successes have been mentioned earlier.

One producer comment expressed support for the marketing order, noting that the same fluctuations in supply exist today as when the order was promulgated in 1949. This commenter stated that the use of the order's volume control mechanism helps the industry maintain orderly marketing conditions. However, the comment also refers to compliance problems that the commenter believes have not been adequately addressed by the Committee and USDA under the marketing order. Another commenter also stated that volume control regulations were being circumvented by handlers. With regard to compliance problems, the Committee investigates and refers such matters to AMS. AMS then reviews and evaluates such matters and recommends appropriate enforcement action as soon as possible. USDA has and will continue to take appropriate action on such compliance matters.

Another comment from a producer, a third-generation grower, felt that the high production costs in recent years and low producer prices in the early 2000's were attributable to the marketing order and raisin handlers in the industry. Another producer, who is also a handler, felt that the volume control provisions were inadequate to prevent the recent (early 2000's), unprecedented low grower prices. As stated earlier, the prices to growers over the next several years are expected to be above estimated production costs. Much of the improvement in industry conditions and producer prices is due to the reduced crops and reductions in bearing raisin grape acreage. However, although difficult to quantify, some of this improvement is due to the marketing order and the activities authorized.

A producer of organic raisins commented that the marketing order has not kept pace with the technological improvements in industry practices, especially with regard to organic raisins. The commenter also maintained that U.S markets are flooded with imported raisins, and that the importers are not subject to as many marketing order obligations as the domestic handlers. Further, the comment asserted that RAC is controlled by packers (handlers) and that the marketing order does not benefit producers.

The RAC has considered the views of the organic sector of the industry, and has implemented reporting requirements with USDA approval for the purpose of obtaining statistical information on the organic segment of the industry. In addition, organic handlers also have the opportunity to utilize an exemption from promotion assessments under marketing orders pursuant to 7 CFR 900.700. While the organic sector wants to be removed from the marketing order regulation, the traditional raisin sector believes that both organic and traditionally produced raisins compete with each other in marketing channels, and both types of raisins should be subject to marketing order requirements. This matter continues to be under discussion with the industry.

Regarding the comment concerning the flood of imports on the U.S. market, statistics from the U.S. Customs and Border Protection indicate that imports make up a relatively small portion of the U.S. raisin market. During the period 1999/2000 through 2003/2004 (August

1–July 31), U.S. imports averaged about 4 percent of U.S. production.

Finally, in response to the comments regarding the marketing order benefiting handlers rather than producers, the goal of the program is to improve the marketing conditions for both producers and handlers. The marketing order is intended to allow the industry to solve marketing and other problems that producers and handlers could not handle individually. It helps the industry as a whole. The marketing order is not geared toward meeting the needs of individual producers and handlers.

The Complexity of the Marketing Order

The raisin marketing order is somewhat complex, reflecting the complexity of the industry itself. AMS has attempted to ensure that the regulations are no more complex than necessary to achieve desired objectives consistent with industry operations. Implementing rules and regulations under the order also reflect the marketing order provisions. The Committee and its various subcommittees review the regulations periodically and make recommendations for change. The recommendations reflect and address the concerns of the raisin industry and its complex nature. AMS has a continuing dialogue with the industry and reviews Committee recommendations taking into account marketing order complexity. Finally, Committee staff provides materials to handlers explaining the programs and regulations, and makes every effort to assist handlers when necessary.

The Extent to Which the Marketing Order Overlaps, Duplicates, or Conflicts With Other Federal Rules, and to the Extent Feasible, With State and Local Regulations

USDA has not identified any relevant Federal rules, or State and local regulations that duplicate, overlap, or conflict with this order's requirements. There is a companion State program that regulates the raisin industry, but it does not duplicate, overlap, or conflict with the Federal program. The State program, the California Raisin Marketing Board, engages in marketing and promotion activities not undertaken under the Federal order. Both programs work in concert to assist the California raisin industry.

The Length of Time Since the Marketing Order Has Been Evaluated or the Degree to Which Technology, Economic Conditions, or Other Factors Have Changed in the Area Affected By the Marketing Order

AMS and the California raisin industry monitor the production and marketing of raisins on a continuing basis. Changes in regulations are implemented to reflect industry operating practices, and to solve marketing problems. The goal of these evaluations is to ensure that the order and the regulations issued under it fit the needs of the industry, while remaining consistent with the Act and USDA policies.

Since its inception in 1949, the order has gone through numerous changes. These changes were made, in part, because of changing economic conditions affecting the production and handling of raisins. As noted in the Committee's comment, it meets often each year and discussions about the order and the various activities and regulations issued thereunder are frequent and sometimes extensive. The Committee or its subcommittees deliberate whether changes would improve the activities, order, and regulations to reflect current industry operating practices, and resolve current industry problems to the extent possible. In addition to reviewing its regulations, the Committee reviews and evaluates its programs on a continuing basis.

The numerous formal order amendments, the many changes to the rules and regulations over the years, and the Committee's and AMS's continuing review and adjustments to its programs, show that the order is a dynamic, not static, program.

AMS will continue to work with and maintain a dialogue with the California raisin industry in improving the program and in addressing the concerns expressed by the industry.

Dated: January 23, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–821 Filed 1–27–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. APHIS–2006–0004]

Tuberculosis in Cattle and Bison; State and Zone Designations; Minnesota

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the bovine tuberculosis regulations regarding State and zone classifications by removing Minnesota from the list of accredited-free States and adding it to the list of modified accredited advanced States. This action is necessary to help prevent the spread of tuberculosis because Minnesota no longer meets the requirements for accredited-free State status.

DATES: This interim rule was effective January 24, 2006. We will consider all comments that we receive on or before March 31, 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–2006–0004 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–2006–0004, 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–2006–0004.

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. Michael Dutcher, Senior Staff Veterinarian, National Tuberculosis Eradication Program, Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road, Unit 43, Riverdale, MD 20737–1231; (301) 734–5467.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis is a contagious and infectious granulomatous disease caused by *Mycobacterium bovis.* It affects cattle, bison, deer, elk, goats, and other warm-blooded species, including humans. Tuberculosis in infected animals and humans manifests itself in lesions of the lung, lymph nodes, bone, and other body parts, causes weight loss and general debilitation, and can be fatal. At the beginning of the past century, tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for tuberculosis in livestock. Through this program, the Animal and Plant Health Inspection Service (APHIS) works cooperatively with the national livestock industry and State animal health agencies to eradicate tuberculosis from domestic livestock in the United States and prevent its recurrence.

Federal regulations implementing this program are contained in 9 CFR part 77, ''Tuberculosis'' (referred to below as the regulations), and in the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' (UMR), which is incorporated by reference into the regulations. The regulations restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of tuberculosis. Subpart B of the regulations contains requirements for the interstate movement of cattle and bison not known to be infected with or exposed to tuberculosis. The interstate movement requirements depend upon whether the animals are moved from an accredited-free State or zone, modified accredited advanced State or zone, modified accredited State or zone, accreditation preparatory State or zone, or nonaccredited State or zone.

The status of a State or zone is based on its freedom from evidence of tuberculosis in cattle and bison, the effectiveness of the State's tuberculosis eradication program, and the degree of the State's compliance with the standards for cattle and bison contained in the UMR. Prior to this interim rule, Minnesota was designated accredited-free.

Recently, five tuberculosis-affected herds have been detected in Minnesota. Under the regulations in § 77.7(c), if two or more affected herds are detected in an accredited-free State or zone within a 48-month period, the State or zone will be removed from the list of accredited-free States or zones and will be reclassified as modified accredited advanced. Therefore, we are amending the regulations by removing Minnesota from the list of accredited-free States or zones and adding it to the list of modified accredited advanced States or zones.

The five affected herds detected in the State have been quarantined, four of the herds have been depopulated, and a complete epidemiological investigation into the potential sources of the disease is being conducted.

Under the regulations in § 77.10, cattle or bison that originate in a modified accredited advanced State or zone, and are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

- The cattle or bison are moved directly to slaughter at an approved slaughtering establishment (§ 77.10(a));
- The cattle or bison are sexually intact heifers moved to an approved feedlot, or are steers or spayed heifers; and are either officially identified or identified by premises of origin identification (§ 77.10(b));
- The cattle or bison are from an accredited herd and are accompanied by a certificate stating that the accredited herd completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement (§ 77.10(c)); or
- The cattle or bison are sexually intact animals, are not from an accredited herd, are officially identified, and are accompanied by a certificate stating that they were negative to an official tuberculin test conducted within 60 days prior to the date of movement (§ 77.10(d)).

Delay in Compliance With Certain Provisions

In a document published in the **Federal Register** on March 22, 2004 (69 FR 13218–13219, Docket No. 03–072–2), we delayed the date for compliance with certain identification requirements in § 77.10, ''Interstate movement from modified accredited advanced States and zones,'' until further notice. The specific provisions of § 77.10 that have a delayed compliance date are:

- The identification of sexually intact heifers moving to approved feedlots and steers and spayed heifers moving to any destination (§ 77.10[b]);
- The identification requirements for sexually intact heifers moving to feedlots that are not approved feedlots (§ 77.10[d]); and
- Because identification is required for certification, the certification requirements for sexually intact heifers moving to unapproved feedlots (§ 77.10[d]).

The March 2004 compliance date delay followed a series of shorter-term delays that we had issued when Texas, California, and New Mexico were classified as modified accredited advanced States in 2002 and 2003 (a complete time line of those events can be found in the March 2004 document cited above).

Although the compliance date was delayed originally for Texas, we extended its applicability to California and New Mexico when those States were downgraded to modified accredited advanced to provide equitable treatment for producers in those two States, and have allowed producers in the modified accredited advanced zone in Michigan to operate under the delay as well. While the delay is no longer applicable to California and the majority of New Mexico because of the return of those areas to accredited-free status, the delay in compliance remains in effect for Texas and the modified accredited advanced zones in New Mexico and Michigan. Therefore, in the interests of equitable treatment for producers in Minnesota, the delay in compliance with the specific provisions of § 77.10(b) and (d) cited above is hereby extended to Minnesota.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the spread of tuberculosis in the United States. 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.

Prior to this rule, the State of Minnesota was classified as an accredited-free State for cattle and bison. However, five infected herds have been discovered within a 48-month period. Under the regulations, if two or more affected herds are detected in an accredited-free State or zone within a 48-month period, the State or zone must be reclassified as modified accredited advanced. In keeping with that requirement, this interim rule removes Minnesota from the list of accredited-free States and adds it to the list of modified accredited advanced States.

As of January 2005, there were approximately 27,000 cattle and bison operations in Minnesota, totaling 2.4 million head. According to the National Agricultural Statistics Service, the total cash value of cattle in Minnesota was over $2.3 billion as of that year. Over 99 percent of Minnesota's cattle operations yield less than $750,000 annually and are, therefore, considered small entities under criteria established by the Small Business Administration.

This interim rule changes the status of Minnesota to modified accredited advanced, resulting in interstate movement restrictions where none existed previously. Specifically, as explained previously, § 77.10 requires that, for movement to certain destinations, animals must test negative to an official tuberculin test and/or be officially identified by premises of origin identification before interstate movement.

This rule will prove beneficial by preventing the spread of tuberculosis to other areas of the United States. However, the stricter requirements for interstate movement will have an economic effect on those producers involved in the interstate movement of cattle and bison from Minnesota. As such, this analysis will focus on the expenses incurred by those producers engaged in interstate movement and in determining whether those negative impacts are significant.

The cost of tuberculin testing and individual identification is between $10 and $15 per head, which includes the labor costs of the veterinarian to test and apply official identification. On January 1, 2005, the average value per animal in Minnesota was estimated to be $950. Thus, we believe that the added cost of the required tuberculin testing and identification is small relative to the average value of cattle and bison, representing between 1 and 1.6 percent of the average animal's value. Further, since this rule provides for a delay in date of compliance with the identification requirements in § 77.10(b) and (d), some herd owners' identification costs may be deferred.

The expenses stemming from the testing and identification requirements are not expected to be substantial for cattle and bison owners in Minnesota. The more a particular herd owner engages in interstate movement, the greater the resulting expense. However, Minnesota is a net importing State in the interstate movement of live cattle, and the latest data on interstate cattle movement shows that in 2003, Minnesota imported 370,640 live cattle from other States, and exported 104,729 live cattle to other States (ERS/USDA). Minnesota's net interstate imports of live cattle were 265,911 head and that year was not an exception to this trend of a net inflow.

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 rule contains no new 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 77

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

■ Accordingly, we are amending 9 CFR part 77 as follows:

PART 77—TUBERCULOSIS

■ 1. The authority citation for part 77 continues to read as follows:

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

§ 77.7 [Amended]

■ 2. In § 77.7, paragraph (a) is amended by removing the word ''Minnesota,''.

§ 77.9 [Amended]

■ 3. In § 77.9, paragraph (a) is amended by adding the words ''Minnesota and'' immediately before the word ''Texas''.

Done in Washington, DC, this 24th day of January 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06–839 Filed 1–27–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 04–083–3]

Add Argentina to the List of Regions Considered Free of Exotic Newcastle Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations by adding Argentina to the list of regions considered free of exotic Newcastle disease. We have conducted a risk evaluation and have determined that Argentina has met our requirements for being recognized as free of this disease. This action eliminates certain restrictions on the importation into the United States of poultry and poultry products from Argentina. We are also adding Argentina to the list of regions that, although declared free of exotic Newcastle disease, must provide an additional certification to confirm that any poultry or poultry products offered for importation into the United States originate in a region free of exotic Newcastle disease and that, prior to importation into the United States, such poultry or poultry products were not commingled with poultry or poultry products from regions where exotic Newcastle disease exists.

DATES: *Effective Date:* March 1, 2006.

FOR FURTHER INFORMATION CONTACT: Dr. David Nixon, Senior Staff Veterinarian, Regionalization Evaluation Services,

National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction of various animal diseases, including exotic Newcastle disease (END). END is a contagious, infectious, and communicable disease of birds and poultry. Section 94.6 of the regulations provides that END is considered to exist in all regions of the world except those listed in § 94.6(a)(2), which are considered to be free of END.

The Government of Argentina requested that APHIS evaluate Argentina's animal health status with respect to END and provided information in support of that request in accordance with 9 CFR part 92, ''Importation of Animals and Animal Products: Procedures for Requesting Recognition of Regions.''

On August 23, 2005, we published in the **Federal Register** (70 FR 49200–49207, Docket No. 04–083–1) a proposal to amend the regulations by adding Argentina to the list of regions considered free of END. We also proposed to add Argentina to the list of regions that, although declared free of END, must provide an additional certification to confirm that any poultry or poultry products offered for importation into the United States originate in a region free of END and that, prior to importation into the United States, such poultry or poultry products were not commingled with poultry or poultry products from regions where END exists. On September 8, 2005, we published a document in which we corrected an Internet address and Web site navigation instructions that had been provided in the proposed rule (see 70 FR 53313, Docket No. 04–083–2).

We solicited comments concerning our proposal for 60 days ending October 24, 2005. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

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.

Under the regulations in 9 CFR part 94, the importation into the United States of poultry and poultry products that originate in or transit any region where END exists is generally prohibited. Furthermore, even if a region is considered free of END, the importation of poultry and poultry products from that region may be restricted depending on the region's proximity to or trading relationships with countries or regions where END is present.

This rule amends the regulations by adding Argentina to the list of regions considered free of END. However, since Argentina shares borders with regions that the United States does not recognize as free of END, we are also requiring Argentina to meet additional certification requirements for live poultry and poultry products imported into the United States to ensure that the imports are free from END.

Over the past several years, Argentina's poultry industry has increased substantially as shown in table 1. Although Argentina exports eggs, which typically are destined to Denmark, the main export for Argentina is poultry meat. Argentina exports poultry meat and products to 34 countries, with Chile expected to be the largest importer. In 2003, Argentina exported $22 million of poultry meat including whole broilers (36 percent), chicken paws (30 percent), processed meat from layers (5 percent), and other products and byproducts such as wings, nuggets, burgers, offal, and breasts (29 percent). Exports for poultry meat in 2004 are projected at 70,000 tons, almost twice the amount exported in 2003. In 2005, exports are projected to reach 110,000 metric tons.

TABLE 1.—POULTRY EXPORTS, IMPORTS, AND PRODUCTION IN ARGENTINA

[In metric tons]

Year	Poultry imports	Poultry exports	Poultry production
1998	65,215	18,936	930,247
1999	55,608	17,097	982,860
2000	45,683	19,187	1,000,260
2001	26,661	21,243	993,122
2002	1,196	30,501	972,870

Source: FAOSTAT Argentina Poultry, last accessed November 2004.

In 2003, poultry production in the United States totaled 38.5 billion pounds for a total value of $23.3 billion. Broiler meat accounted for $15.2 billion (65 percent) of this value in 2003. The remaining worth was comprised of the value of eggs ($5.3 billion), turkey ($2.7 billion), and other chicken products ($48 million). The United States is also the world's largest exporter of broilers, with broiler exports totaling 4.93 billion pounds, the equivalent of $1.5 billion, in 2003. Imports of broiler products into the United States in 2003 totaled 12 million pounds, or less than 1 percent of the domestic production.

In 2002, there were approximately 32,006 broiler and other meat producing chicken farms in the United States, as shown in table 2. Under the Small Business Administration's size standards, broiler and other meat production chicken farms with less than $750,000 in annual sales, which is the equivalent of 300,000 birds, qualify as small businesses. Given this information, about 20,949, or 64.5 percent of all broiler operations, qualify as small businesses.

TABLE 2.—NUMBER OF FARMS SELLING BROILERS AND OTHER MEAT-TYPE CHICKENS, 2002

Number sold	Farms	Number	Average sales per farm (dollars)
Broilers and other meat-type chickens	32,006	8,500,313,357	$766,498
1 to 1,999	10,869	1,146,308	304
2,000 to 15,999	406	2,871,466	20,412
16,000 to 29,999	206	4,420,530	61,932
30,000 to 59,999	444	19,732,838	128,267
60,000 to 99,999	1,060	84,498,647	230,066
100,000 to 199,999	3,311	498,386,958	434,425
200,000 to 299,999	4,653	1,137,668,155	705,651
300,000 to 499,999	5,754	2,191,324,340	1,099,118
500,000 or more	5,303	4,560,264,115	2,481,853

Source: 2002 Census of Agriculture, Table 27.

Broiler production in the United States is concentrated in a group of States stretching from Delaware south along the Atlantic coast to Georgia, then westward through Alabama, Mississippi, and Arkansas. These States accounted for over 70 percent of broilers in the United States in 2003. The top five broiler producing States are Georgia, Arkansas, Alabama, Mississippi, and North Carolina, whose 2002 broiler sales are listed below in table 3.

TABLE 3.—NUMBER OF FARMS SELLING BROILERS IN SELECTED STATES, 2002

Number of broilers sold per farm	U.S. total	Alabama	Arkansas	Georgia	Mississippi	North Carolina	Total for top five producing States
1 to 1,999	10,869	89	79	46	104	13	331
2,000 to 59,999	1,056	20	103	49	86	101	359
60,000 to 99,999	1,060	57	199	84	97	158	595
100,000 to 199,999	3,311	385	634	25	210	539	1,793
200,000 to 499,999	10,407	1,328	1,927	1,335	883	1,284	6,757
500,000 or more	5,303	72	578	959	548	349	2,506

Source: 2002 Census of Agriculture State Data Table.

Poultry meat imported from Argentina could potentially affect the United States poultry industry. Consumers will benefit from any price decreases for poultry and poultry products, while producers will potentially be negatively affected by more competitive prices. However, the amount of poultry or poultry products that may be imported from Argentina is not expected to have a significant impact on poultry consumers or producers in the United States. In 2003, Argentina exported a total of $22 million worth of poultry and poultry products while the United States produced $15.2 billion worth of broilers. Given these numbers, any exports from Argentina are not likely to be in quantities sufficient to have a significant impact on U.S. poultry producers, and we do not anticipate that any U.S. entities, small or otherwise, will experience any significant economic effects as a result of this action. It should also be noted that Argentina is not currently eligible to export poultry products to the United States under the regulations of the Department's Food Safety and Inspection Service in 9 CFR 381.196 for approving foreign facilities to export poultry meat and other poultry products to the United States; there will, therefore, be no economic effects on U.S. entities until establishments in Argentina are approved to export poultry meat and other poultry products to the United States.

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 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent 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 final 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 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 94.6 [Amended]

■ 2. In § 94.6, paragraph (a)(2) is amended by adding the word

''Argentina,'' before the word ''Australia,''.

■ 3. Section 94.26 is amended as follows:

■ a. In the introductory text of the section, in the first sentence, by removing the words ''The Mexican'' and adding the words ''Argentina and the Mexican'' in their place.

■ b. In paragraph (a), by removing the words ''Government of Mexico'' and adding the words ''national Government of the exporting region'' in their place.

■ c. In paragraph (c)(1), by removing the words ''Government of Mexico'' and adding the words ''national Government of the exporting region'' in their place.

■ d. In paragraph (c)(4), by removing the words ''Government of Mexico'' and adding the words ''national Government of the exporting region'' in their place.

Done in Washington, DC, this 24th day of January 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06–840 Filed 1–27–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9247]

RIN 1545–BF23

Allocation and Apportionment of Expenses Alternative Method for Determining Tax Book Value of Assets

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations providing an alternative method of valuing assets for purposes of apportioning expenses under the tax book value method of § 1.861–9T. The alternative tax book value method, which is elective, allows taxpayers to determine, for purposes of apportioning expenses, the tax book value of all tangible property that is subject to a depreciation deduction under section 168 by using the straight line method, conventions, and recovery periods of the alternative depreciation system under section 168(g)(2). The alternative tax book value method is intended to minimize basis disparities between foreign and domestic assets of taxpayers that may arise when taxpayers use adjusted tax basis to value assets under the tax book value method of expense apportionment. These final regulations may affect taxpayers that are required to apportion expenses under section 861.

DATES: *Effective Date:* These regulations are effective January 30, 2006.

Applicability Dates: For dates of applicability, see § 1.861–9(i)(4).

FOR FURTHER INFORMATION CONTACT: David Bergkuist at (202) 622–3850 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On September 14, 1988, the IRS published temporary regulations (TD 8228 (1988–2 CB 136) (53 FR 35467)) that address the allocation and apportionment of interest expense. On March 26, 2004, the IRS published a Treasury decision, TD 9120 (2004–1 CB 881) (69 FR 15673), which contained temporary regulations that provide for an alternative method of valuing assets for purposes of apportioning expenses under the tax book value method of § 1.861–9T, and a notice of proposed rulemaking that cross-references the temporary regulations, 2004–1 CB 894 (69 FR 15753). A public hearing was held on July 19, 2004.

For purposes of allocating and apportioning expenses, a taxpayer may compute the value of its assets under either the tax book value method or the fair market value method. Sections 1.861–8T(c)(2) and 1.861–9T(g)(1)(ii). The temporary and proposed regulations issued in 2004 provided taxpayers with an alternative method of apportioning expenses under the tax book value method. This alternative tax book value method, which is elective, allows taxpayers to determine, for purposes of apportioning expenses, the tax book value of all tangible property that is subject to a depreciation deduction under section 168 by using the straight line method, conventions, and recovery periods of the alternative depreciation system under section 168(g)(2). The alternative method provided in the temporary and proposed regulations is intended to minimize basis disparities between foreign and domestic assets of taxpayers that may arise when taxpayers use adjusted tax basis to value assets under the tax book value method of expense apportionment.

Taxpayers using the tax book value method, including those that have elected the alternative tax book value method, may elect to change to the fair market value method at any time. Rev. Proc. 2003–37 (2003–1 CB 950) (May 27, 2003). Taxpayers that elect to use the fair market value method must continue to use that method unless expressly authorized by the Commissioner to change methods. See § 1.861–8T(c)(2). See also Rev. Proc. 2005–28, 2005–21 IRB 1093 (May 23, 2005), regarding automatic consent procedure applicable for taxable years beginning on or after March 26, 2004, but before March 26, 2006, for which no return has previously been filed. Revocation of an election to use the alternative tax book value method, other than in conjunction with an election to use the fair market value method, for a taxable year prior to the sixth taxable year for which the election applies requires the consent of the Commissioner.

Explanation of Provisions and Summary of Comments

These final regulations adopt the rules of the temporary and proposed regulations. The alternative tax book value method, as set forth in § 1.861–9(i), allows a taxpayer to elect to determine the tax book value of its tangible property that is subject to depreciation under section 168 of the Internal Revenue Code (Code) as though all such property had been depreciated using the alternative depreciation system under section 168(g) during the entire period in which the property has been in service. These final regulations prescribe the application of section 168(g)(2) solely for determining an asset's tax book value for purposes of apportioning expenses (including the calculation of the alternative minimum tax foreign tax credit pursuant to section 59(a)) under the asset method described in § 1.861–9T(g). Application of section 168(g)(2) pursuant to these final regulations does not otherwise affect the results under other provisions of the Code, including the amount of any deduction claimed under sections 167, 168, 169, 263(a), 617, or any other capital cost recovery provision.

As with the temporary and proposed regulations, the final regulations generally provide that, for a taxpayer that elects the alternative tax book value method, the tax book value of tangible property that is depreciated under section 168 of the Code is determined as though such property were subject to the alternative depreciation system under section 168(g) for the entire period that such property has been in service. Thus, if a taxpayer elects the alternative tax book value method effective for the 2005 taxable year, the tax book value of tangible property placed in service in 2005 is determined each year using the rules of section 168(g) that apply to property placed in service in 2005 and the tax book value of tangible property placed in service in 2006 is determined each year using the

rules of section 168(g) that apply to property placed in service in 2006. However, in the case of tangible property placed in service in a taxable year prior to the first taxable year to which the election to use the alternative tax book value method applies, the tax book value of such property is determined using the alternative depreciation system rules that apply to property placed in service in the taxable year to which the election first applies. Thus, if a taxpayer elects the alternative tax book value method effective for the 2005 taxable year, the tax book value of tangible property placed in service in 2004 and prior years is determined each year using the rules of section 168(g) that apply to property placed in service in 2005. A special rule also applies in determining tax book value in cases where a taxpayer makes an election to use the alternative tax book value method after recently (within three years) revoking a prior election to use that method.

A public hearing was held and comments were received.

One commentator viewed the rule for property placed in service prior to the election to use the alternative tax book value method as unclear and suggested alternative phrasing to that in § 1.861–9T(i)(1)(ii). As the commentator noted, any lack of clarity arises only if the rule of § 1.861–9T(i)(1)(ii) is read in isolation, without reference to Example 1 in § 1.861–9T(i)(1)(v). Because the Treasury Department and the IRS believe that the provision is clear when read in context and properly illustrated in § 1.861–9T(i)(1)(v), and because the alternative phrasing suggested by the commentator would raise greater questions of clarity, the language from the temporary regulation is retained.

Commentators also requested that disparities in addition to depreciation, such as the treatment of intangible drilling costs and certain inventory adjustments, be addressed as part of the alternative tax book value method. The Treasury Department and the IRS are actively studying these and other disparities as well as what rules might be fashioned to address them. The final regulations therefore include a subsection that reserves as to certain other adjustments, pending the outcome of this review. The Treasury Department and the IRS welcome specific suggestions as to proper treatment of such adjustments.

One commentator requested that the IRS issue guidance granting automatic consent to change from the fair market value method to the tax book value method, including an election to determine tax book value using the alternative tax book method, in the context of a merger or acquisition, allowing the parties to the transaction to conform their methods. This comment is beyond the scope of the regulations, as it is part of a broader issue as to how to address inconsistent elections when companies merge or enter into similar transactions. Accordingly, the Treasury Department and the IRS have not considered it as part of finalizing the temporary and proposed regulations.

One commentator suggested that taxpayers be able to elect the use of the alternative tax book value method for all open years. Adoption of this suggestion would raise significant fairness and administrative concerns. Accordingly, the suggestion was not adopted, and the effective date set forth in the temporary regulations is retained.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

Drafting Information

The principal author of these regulations is David Bergkuist, Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *.

■ **Par. 2.** Section 1.861–9 is amended as follows:

■ 1. Revise paragraphs (h)(6) and (j).

■ 2. Add paragraph (i).

The revision and addition read as follows:

§ 1.861–9 Allocation and apportionment of interest expense.

* * * * *

(h)(6) [Reserved]. For further guidance, see § 1.861–9T(h)(6).

(i) *Alternative tax book value method*—(1) *Alternative value for certain tangible property.* A taxpayer may elect to determine the tax book value of its tangible property that is depreciated under section 168 (section 168 property) using the rules provided in this paragraph (i)(1) (the alternative tax book value method). The alternative tax book value method applies solely for purposes of apportioning expenses (including the calculation of the alternative minimum tax foreign tax credit pursuant to section 59(a)) under the asset method described in paragraph (g) of this section.

(i) The tax book value of section 168 property placed in service during or after the first taxable year to which the election to use the alternative tax book value method applies shall be determined as though such property were subject to the alternative depreciation system set forth in section 168(g) (or a successor provision) for the entire period that such property has been in service.

(ii) In the case of section 168 property placed in service prior to the first taxable year to which the election to use the alternative tax book value method applies, the tax book value of such property shall be determined under the depreciation method, convention, and recovery period provided for under section 168(g) for the first taxable year to which the election applies.

(iii) If a taxpayer revokes an election to use the alternative tax book value method (the prior election) and later makes another election to use the alternative tax book value method (the subsequent election) that is effective for a taxable year that begins within 3 years of the end of the last taxable year to which the prior election applied, the taxpayer shall determine the tax book value of its section 168 property as though the prior election has remained in effect.

(iv) The tax book value of section 168 property shall be determined without regard to the election to expense certain depreciable assets under section 179.

(v) *Examples.* The provisions of this paragraph (i)(1) are illustrated in the following examples:

Example 1. In 2000, a taxpayer purchases and places in service section 168 property used solely in the United States. In 2005, the taxpayer elects to use the alternative tax book

value method, effective for the current taxable year. For purposes of determining the tax book value of its section 168 property, the taxpayer's depreciation deduction is determined by applying the method, convention, and recovery period rules of the alternative depreciation system under section 168(g)(2) as in effect in 2005 to the taxpayer's original cost basis in such property. In 2006, the taxpayer acquires and places in service in the United States new section 168 property. The tax book value of this section 168 property is determined under the rules of section 168(g)(2) applicable to property placed in service in 2006.

Example 2. Assume the same facts as in *Example 1*, except that the taxpayer revokes the alternative tax book value method election effective for taxable year 2010. Additionally, in 2011, the taxpayer acquires new section 168 property and places it in service in the United States. If the taxpayer elects to use the alternative tax book value method effective for taxable year 2012, the taxpayer must determine the tax book value of its section 168 property as though the prior election still applied. Thus, the tax book value of property placed in service prior to 2005 would be determined by applying the method, convention, and recovery period rules of the alternative depreciation system under section 168(g)(2) applicable to property placed in service in 2005. The tax book value of section 168 property placed in service during any taxable year after 2004 would be determined by applying the method, convention, and recovery period rules of the alternative depreciation system under section 168(g)(2) applicable to property placed in service in such taxable year.

(2) *Timing and scope of election.* (i) Except as provided in this paragraph (i)(2), a taxpayer may elect to use the alternative tax book value method with respect to any taxable year beginning on or after March 26, 2004. However, pursuant to § 1.861–8T(c)(2), a taxpayer that has elected the fair market value method must obtain the consent of the Commissioner prior to electing the alternative tax book value method. Any election made pursuant to this paragraph (i)(2) shall apply to all members of an affiliated group of corporations as defined in §§ 1.861–11(d) and 1.861–11T(d). Any election made pursuant to this paragraph (i)(2) shall apply to all subsequent taxable years of the taxpayer unless revoked by the taxpayer. Revocation of such an election, other than in conjunction with an election to use the fair market value method, for a taxable year prior to the sixth taxable year for which the election applies requires the consent of the Commissioner.

(ii) *Example.* The provisions of this paragraph (i)(2) are illustrated in the following example:

Example. Corporation X, a calendar year taxpayer, elects on its original, timely filed tax return for the taxable year ending December 31, 2007, to use the alternative tax book value method for its 2007 year. The alternative tax book value method applies to Corporation X's 2007 year and all subsequent taxable years. Corporation X may not, without the consent of the Commissioner, revoke its election and determine tax book value using a method other than the alternative tax book value method with respect to any taxable year beginning before January 1, 2012. However, Corporation X may automatically elect to change from the alternative tax book value method to the fair market value method for any open year.

(3) *Certain other adjustments.* [Reserved.]

(4) *Effective date.* This paragraph (i) applies to taxable years beginning on or after March 26, 2004.

(j) [Reserved]. For further guidance, see § 1.861–9T(j).

■ **Par. 3.** Section 1.861–9T is amended as follows:

■ 1. Revise the second sentence in paragraph (g)(1)(ii) introductory text.

■ 2. Revise paragraph (i).

The revisions read as follows:

§ 1.861–9T Allocation and apportionment of interest expense (temporary).

* * * * *

(g) * * *

(1) * * *

(ii) * * * For rules concerning the application of an alternative method of valuing assets for purposes of the tax book value method, see § 1.861–9(i). * * *

* * * * *

(i) [Reserved]. For further guidance, see § 1.861–9(i).

* * * * *

Approved: January 20, 2006.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 06–766 Filed 1–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9246]

RIN 1545–BD37

Clarification of Definitions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations defining the terms *corporation* and *domestic* in circumstances in which a business entity is created or organized in more than one jurisdiction. These regulations affect business entities that are created or organized under the laws of more than one jurisdiction.

DATES: *Effective Date:* These regulations are effective January 30, 2006.

Applicability Dates: For the dates of applicability of these regulations, see §§ 301.7701–2(e)(3) and 301.7701–5(c).

FOR FURTHER INFORMATION CONTACT: Thomas Beem, (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 12, 2004, the IRS and Treasury issued temporary regulations (TD 9153), 69 FR 49809, and a notice of proposed rulemaking (REG–124872–04), 69 FR 49840, regarding the classification of business entities that are created or organized under the laws of more than one jurisdiction (*dually chartered entities*).

Under the provisions of the temporary and proposed regulations, classification of a dually chartered entity involves two independent determinations: (1) Whether the entity is a corporation; and (2) whether the entity is domestic or foreign. The entity is a corporation under § 301.7701–2T(b)(9) if its form of organization in any one of the jurisdictions in which it is created or organized would cause it to be treated as a corporation under § 301.7701–2(b). The entity is domestic under § 301.7701–5T if it is organized as any kind of entity in the United States or under the law of the United States or of any State. The temporary regulations were effective for all entities existing on or after August 12, 2004.

The public hearing concerning the proposed regulations was canceled because no requests to speak were received. However, the IRS and Treasury received several written comments on the temporary and proposed regulations, which are discussed below.

Explanation of Provisions

A. Dates of Application

The preamble to the temporary and proposed regulations notes that the IRS and Treasury consider the regulations to be a clarification of the entity classification rules as they existed prior to the issuance of the temporary and proposed regulations (*pre-existing regulations*). This belief is based on the view that, even absent these regulations, a proper application of the pre-existing regulations produces the same result as

the rules of the temporary and proposed regulations. Some commentators suggest that this discussion in the preamble to the temporary and proposed regulations indicates that the regulations apply prior to August 12, 2004, and thus the rules are retroactive in their effect.

Also, all of the commentators note that while the temporary and proposed rules are a reasonable interpretation of the statute and the pre-existing regulations, other reasonable interpretations of the pre-existing regulations are also possible and that some taxpayers classified their dually chartered entities under those other interpretations. Therefore, the commentators question whether it is appropriate to view the temporary and proposed regulations as a clarification of the existing regulations. Further, the commentators state that where taxpayers have reasonably relied on an alternative interpretation of the existing regulations, the immediate application of the temporary regulations cause an unexpected change in the classification of those taxpayers' dually chartered entities, often with adverse tax consequences. Moreover, the commentators point out that the tax costs of converting a dually chartered entity from this unexpected classification to the taxpayer's desired classification could be significant and could, in some instances, effectively prevent the taxpayer from undertaking the conversion. For these reasons, all the commentators object to the effective date provisions of the temporary regulations and they request that the final regulations provide either a transition period before the rules take effect, or a rule that exempts dually chartered entities that were in existence on August 12, 2004, from the application of the rules.

Neither the temporary regulations nor these final regulations are retroactive. The earliest date that any entity is subject to these regulations is August 12, 2004. For periods prior to the date these final regulations apply (*i.e.*, prior to August 12, 2004), the classification of dually chartered entities is governed by the pre-existing regulations. Further, based upon the comments discussed above, but without any inference intended as to the proper interpretation of the pre-existing regulations, the IRS and Treasury conclude that, while the final regulations generally are effective as of August 12, 2004, a transition rule is appropriate. The transition rule provides that for dually chartered entities existing on August 12, 2004, the provisions of this final regulation apply as of May 1, 2006. The IRS and Treasury recognize that taxpayers eligible for the transition rule may have completed transactions after August 12, 2004, relying upon the temporary regulations and therefore these taxpayers may rely upon the final regulations as of August 12, 2004.

B. Effect on Dually Chartered Entities Not Organized Anywhere as Per Se Corporations

Several commentators state that it is unclear whether § 301.7701–2T(b)(9) applies in the case of a dually chartered entity not created or organized in any jurisdiction in a manner that would cause it to be treated as a *per se* corporation. A *per se* corporation is an entity described in § 301.7701–2(b)(1), (3), (4), (5), (6), (7), or (8), and thus is not an eligible entity as defined in § 301.7701–3(a). A *per se* corporation is, therefore, ineligible to elect its classification.

Even though a dually chartered entity is not created or organized anywhere in a manner that would cause it to be classified as a *per se* corporation, it is still necessary to classify the entity. For example, a dually chartered entity may be organized in one jurisdiction in manner that would result in a default classification as a corporation and in another jurisdiction in a manner that would result in a default classification as a partnership. Absent an election, a rule is necessary to resolve the conflicting default classifications. Therefore, the regulation and examples have been modified to clarify that the rules apply even in circumstances in which the entity is not organized anywhere in a manner that would make it a *per se* corporation.

Several commentators state that even if a dually chartered entity is not created or organized in any jurisdiction as a *per se* corporation, § 301.7701–2T(b)(9) could be interpreted as making the entity a *per se* corporation in some circumstances and thus prohibiting the entity from electing its classification. According to these commentators, this occurs because the literal language of the regulation only considers an entity's default classification at the time of its formation and ignores any entity classification election under § 301.7701–3 that would otherwise apply to the entity at the time the entity classification determination is made. The regulations are not intended to operate in that manner. Therefore, a sentence is added to § 301.7701–2(b)(9) of the final regulations to clarify that a dually chartered entity that is an eligible entity in each jurisdiction in which it is created or organized will continue to be considered an eligible entity under § 301.7701–3(a). In addition, the examples were modified to illustrate this provision.

The proposed regulations under section 7701 are adopted as modified by this Treasury decision and the preceding temporary regulations are removed.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the temporary and proposed regulations that preceded these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small business.

Drafting Information

The principal author of these regulations is Thomas Beem of the Office of Associate Chief Counsel (International). However, other personnel from IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and Recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1**. The authority citation for part 301 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2**. In § 301.7701–1, paragraph (d) is revised to read as follows:

§ 301.7701–1 Classification of organizations for Federal tax purposes.

* * * * *

(d) *Domestic and foreign business entities.* See § 301.7701–5 for the rules that determine whether a business entity is domestic or foreign.

* * * * *

§ 301.7701–1T [Removed]

■ **Par. 3.** Section 301.7701–1T is removed.

■ **Par. 4.** In § 301.7701–2, paragraphs (b)(9) and (e)(3) are revised to read as follows:

§ 301.7701–2 Business entities; definitions.

* * * * *

(b)(9) *Business entities with multiple charters.* (i) An entity created or organized under the laws of more than one jurisdiction if the rules of this section would treat it as a corporation with reference to any one of the jurisdictions in which it is created or organized. Such an entity may elect its classification under § 301.7701–3, subject to the limitations of those provisions, only if it is created or organized in each jurisdiction in a manner that meets the definition of an eligible entity in § 301.7701–3(a). The determination of a business entity's corporate or non-corporate classification is made independently from the determination of whether the entity is domestic or foreign. See § 301.7701–5 for the rules that determine whether a business entity is domestic or foreign.

(ii) *Examples.* The following examples illustrate the rule of this paragraph (b)(9):

Example 1. (i) *Facts.* X is an entity with a single owner organized under the laws of Country A as an entity that is listed in paragraph (b)(8)(i) of this section. Under the rules of this section, such an entity is a corporation for Federal tax purposes and under § 301.7701–3(a) is unable to elect its classification. Several years after its formation, X files a certificate of domestication in State B as a limited liability company (LLC). Under the laws of State B, X is considered to be created or organized in State B as an LLC upon the filing of the certificate of domestication and is therefore subject to the laws of State B. Under the rules of this section and § 301.7701–3, an LLC with a single owner organized only in State B is disregarded as an entity separate from its owner for Federal tax purposes (absent an election to be treated as an association). Neither Country A nor State B law requires X to terminate its charter in Country A as a result of the domestication, and in fact X does not terminate its Country A charter. Consequently, X is now organized in more than one jurisdiction.

(ii) *Result.* X remains organized under the laws of Country A as an entity that is listed in paragraph (b)(8)(i) of this section, and as such, it is an entity that is treated as a corporation under the rules of this section. Therefore, X is a corporation for Federal tax purposes because the rules of this section would treat X as a corporation with reference to one of the jurisdictions in which it is created or organized. Because X is organized in Country A in a manner that does not meet the definition of an eligible entity in § 301.7701–3(a), it is unable to elect its classification.

Example 2. (i) *Facts.* Y is an entity that is incorporated under the laws of State A and has two shareholders. Under the rules of this section, an entity incorporated under the laws of State A is a corporation for Federal tax purposes and under § 301.7701–3(a) is unable to elect its classification. Several years after its formation, Y files a certificate of continuance in Country B as an unlimited company. Under the laws of Country B, upon filing a certificate of continuance, Y is treated as organized in Country B. Under the rules of this section and § 301.7701–3, an unlimited company organized only in Country B that has more than one owner is treated as a partnership for Federal tax purposes (absent an election to be treated as an association). Neither State A nor Country B law requires Y to terminate its charter in State A as a result of the continuance, and in fact Y does not terminate its State A charter. Consequently, Y is now organized in more than one jurisdiction.

(ii) *Result.* Y remains organized in State A as a corporation, an entity that is treated as a corporation under the rules of this section. Therefore, Y is a corporation for Federal tax purposes because the rules of this section would treat Y as a corporation with reference to one of the jurisdictions in which it is created or organized. Because Y is organized in State A in a manner that does not meet the definition of an eligible entity in § 301.7701–3(a), it is unable to elect its classification.

Example 3. (i) *Facts.* Z is an entity that has more than one owner and that is recognized under the laws of Country A as an unlimited company organized in Country A. Z is organized in Country A in a manner that meets the definition of an eligible entity in § 301.7701–3(a). Under the rules of this section and § 301.7701–3, an unlimited company organized only in Country A with more than one owner is treated as a partnership for Federal tax purposes (absent an election to be treated as an association). At the time Z was formed, it was also organized as a private limited company under the laws of Country B. Z is organized in Country B in a manner that meets the definition of an eligible entity in § 301.7701–3(a). Under the rules of this section and § 301.7701–3, a private limited company organized only in Country B is treated as a corporation for Federal tax purposes (absent an election to be treated as a partnership). Thus, Z is organized in more than one jurisdiction. Z has not made any entity classification elections under § 301.7701–3.

(ii) *Result.* Z is organized in Country B as a private limited company, an entity that is treated (absent an election to the contrary) as a corporation under the rules of this section. However, because Z is organized in each jurisdiction in a manner that meets the definition of an eligible entity in § 301.7701–3(a), it may elect its classification under § 301.7701–3, subject to the limitations of those provisions.

Example 4. (i) *Facts.* P is an entity with more than one owner organized in Country A as a general partnership. Under the rules of this section and § 301.7701–3, an eligible entity with more than one owner in Country A is treated as a partnership for federal tax purposes (absent an election to be treated as an association). P files a certificate of continuance in Country B as an unlimited company. Under the rules of this section and § 301.7701–3, an unlimited company in Country B with more than one owner is treated as a partnership for federal tax purposes (absent an election to be treated as an association). P is not required under either the laws of Country A or Country B to terminate the general partnership in Country A, and in fact P does not terminate its Country A partnership. P is now organized in more than one jurisdiction. P has not made any entity classification elections under § 301.7701–3.

(ii) *Result.* P's organization in both Country A and Country B would result in P being classified as a partnership. Therefore, since the rules of this section would not treat P as a corporation with reference to any jurisdiction in which it is created or organized, it is not a corporation for federal tax purposes.

* * * * *

(e) * * *

(3)(i) *General rule.* Except as provided in paragraph (e)(3)(ii) of this section, the rules of paragraph (b)(9) of this section apply as of August 12, 2004, to all business entities existing on or after that date.

(ii) *Transition rule.* For business entities created or organized under the laws of more than one jurisdiction as of August 12, 2004, the rules of paragraph (b)(9) of this section apply as of May 1, 2006. These entities, however, may rely on the rules of paragraph (b)(9) of this section as of August 12, 2004.

* * * * *

§ 301.7701–2T [Removed]

■ **Par. 5.** Section 301.7701–2T is removed.

■ **Par. 6.** Section 301.7701–5 is revised to read as follows:

§ 301.7701–5 Domestic and foreign business entities.

(a) *Domestic and foreign business entities.* A business entity (including an entity that is disregarded as separate from its owner under § 301.7701–2(c)) is domestic if it is created or organized as any type of entity (including, but not limited to, a corporation, unincorporated association, general partnership, limited partnership, and limited liability company) in the United States, or under the law of the United States or of any State. Accordingly, a business entity that is created or organized both in the United States and in a foreign jurisdiction is a domestic entity. A business entity (including an entity that is disregarded as separate from its owner under § 301.7701–2(c)) is foreign if it is not domestic. The

determination of whether an entity is domestic or foreign is made independently from the determination of its corporate or non-corporate classification. See §§ 301.7701–2 and 301.7701–3 for the rules governing the classification of entities.

(b) *Examples.* The following examples illustrate the rules of this section:

Example 1. (i) *Facts.* Y is an entity that is created or organized under the laws of Country A as a public limited company. It is also an entity that is organized as a limited liability company (LLC) under the laws of State B. Y is classified as a corporation for Federal tax purposes under the rules of §§ 301.7701–2, and 301.7701–3.

(ii) *Result.* Y is a domestic corporation because it is an entity that is classified as a corporation and it is organized as an entity under the laws of State B.

Example 2. (i) *Facts.* P is an entity with more than one owner organized under the laws of Country A as an unlimited company. It is also an entity that is organized as a general partnership under the laws of State B. P is classified as a partnership for Federal tax purposes under the rules of §§ 301.7701–2, and 301.7701–3.

(ii) *Result.* P is a domestic partnership because it is an entity that is classified as a partnership and it is organized as an entity under the laws of State B.

(c) *Effective date.*—(1) *General rule.* Except as provided in paragraph (c)(2) of this section, the rules of this section apply as of August 12, 2004, to all business entities existing on or after that date.

(2) *Transition rule.* For business entities created or organized under the laws of more than one jurisdiction as of August 12, 2004, the rules of this section apply as of May 1, 2006. These entities, however, may rely on the rules of this section as of August 12, 2004.

§ 301.7701–5T [Removed]

■ **Par. 7.** Section 301.7701–5T is removed.

Approved: January 17, 2006.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 06–817 Filed 1–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 392

[DoD Instruction 5134.04]

Director of Small and Disadvantaged Business Utilization

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document removes regulations from Title 32 of the Code of Federal Regulations concerning the Director of Small and Disadvantaged Business Utilization. This part has served the purpose for which it was intended in the CFR and is no longer necessary.

EFFECTIVE DATE: January 30, 2006.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum (703) 696–4970.

SUPPLEMENTARY INFORMATION: The revised DoD Instruction 5134.04 is available at *http://www.dtic.mil/whs/directives/corres/html/513404.htm.*

List of Subjects in 32 CFR Part 392

Organizations.

PART 392—[REMOVED]

■ Accordingly, by the authority of 10 U.S.C. 301, 32 CFR part 392 is removed.

Dated: January 24, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–814 Filed 1–27–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Honolulu 06–002]

RIN 1625–AA87

Security Zone; Pearl Harbor and Adjacent Waters, Honolulu, HI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: This temporary rule establishes a 500-yard moving security zone around the U.S. Forces vessel SBX–1 during transit and float-off operations in the waters adjacent to Pearl Harbor, HI. The SBX–1 will transit aboard the M/V BLUE MARLIN and will be floated-off and escorted into Pearl Harbor. This security zone is necessary to protect the SBX–1 from hazards associated with other vessels or persons approaching too close during the transit, float-off, and escort operations. Entry of persons or vessels into this temporary security zone is prohibited unless authorized by the Captain of the Port (COTP).

DATES: This rule is effective from 12 a.m. (HST) on January 13, 2006 to 11:59 p.m. (HST) on January 31, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket COTP Honolulu 06–002 and are available for inspection or copying at Coast Guard Sector Honolulu between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Quincey Adams, U.S. Coast Guard Sector Honolulu at (808) 842–2600.

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 Coast Guard was not given the final voyage plan in time to initiate full rulemaking, and the need for this temporary security zone was not determined until less than 30 days before the SBX–1 will require the zone's protection. Publishing an NPRM and delaying the effective date would be contrary to the public interest since the transit would occur before the rulemaking process was complete, thereby jeopardizing the security of the people and property associated with the operation. 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**. The COTP finds this good cause to be the immediate need for a security zone to allay the waterborne security threats surrounding the SBX–1's transit.

Background and Purpose

On January 9, 2006, U.S. Forces vessel SBX–1 entered the Honolulu Captain of the Port Zone while attached to the loading platform of M/V BLUE MARLIN. COTP Honolulu Order 06–001 established a security zone to protect its float-off and transit into Pearl Harbor, HI (165.T14–131 Security Zone; Pearl Harbor and adjacent waters, Honolulu, HI).

That temporary final rule expired on January 12, 2006 at 11:59 p.m. The Navy contacted the Coast Guard that day to

request a security zone that will protect the same operation through January 31, 2006 because unfavorable weather has thus far prevented its completion. The Coast Guard agrees that a temporary moving 500-yard security zone around the SBX–1 is necessary to protect it for the entire operation.

Discussion of Rule

This temporary security zone is effective from 12 a.m. (HST) on January 13, 2006 to 11:59 p.m. (HST) on January 31, 2006. It is located within the Honolulu Captain of the Port Zone (See 33 CFR 3.70–10) and covers all waters extending 500 yards in all directions from U.S. Forces vessel SBX–1, from the surface of the water to the ocean floor. The security zone moves with the SBX–1 while it is aboard M/V BLUE MARLIN or being floated-off, then continues to move with the SBX–1 while it is in transit. The security zone becomes fixed when the SBX–1 is anchored, position-keeping, or moored.

The general regulations governing security zones contained in 33 CFR 165.33 apply. Entry into, transit through, or anchoring within this zone is prohibited unless authorized by the Captain of the Port or a designated representative thereof. Any Coast Guard commissioned, warrant, or petty officer, and any other Captain of the Port representative permitted by law, may enforce the zone. The Captain of the Port may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the security zone is unnecessary or impractical for the purpose of maritime security. Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under § 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under § 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 rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This expectation is based on the short duration of zones, the limited geographic area affected by them, and their ability to move with the protected vessels.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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. We expect that there will be little or no impact to small entities due to the narrowly tailored scope of these security zones.

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 this rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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

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 either preempts State law or imposes 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 is 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 no factors in this case that limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, under figure 2–1, paragraph (34)(g) of the Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

List of Subjects 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record-keeping 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. Add § 165.T14–132 to read as follows:

§ 165.T14–132 Security Zone; Pearl Harbor and adjacent waters, Honolulu, HI

(a) *Location*. The following area, within the Honolulu Captain of the Port Zone (See 33 CFR 3.70–10), from the surface of the water to the ocean floor, is a security zone: All waters extending 500 yards in all directions from U.S. Forces vessel SBX–1. The security zone moves with the SBX–1 while it is aboard M/V BLUE MARLIN or being floated-off, then continues to move with the SBX–1 while it is in transit. The security zone becomes fixed when the SBX–1 is anchored, position-keeping, or moored.

(b) *Effective Dates*. This security zone is effective from 12 a.m. (HST) on January 13, 2006 to 11:59 p.m. (HST) on January 31, 2006.

(c) *Regulations*. The general regulations governing security zones contained in 33 CFR 165.33 apply. Entry into, transit through, or anchoring within this zone is prohibited unless authorized by the Captain of the Port or a designated representative thereof.

(d) *Enforcement*. Any Coast Guard commissioned, warrant, or petty officer, and any other Captain of the Port representative permitted by law, may enforce this temporary security zone.

(e) *Waiver*. The Captain of the Port may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the security zone is unnecessary or impractical for the purpose of maritime security.

(f) *Penalties*. Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: January 12, 2006.

M.K. Brown,

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

[FR Doc. 06–810 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–001]

RIN 1625–AA87

Security Zone; Superbowl XL, Detroit River, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the Detroit River, Detroit, Michigan. This zone is intended to restrict vessels from a portion of the Detroit River in order to ensure the safety of up to 450,000 people expected to attend Super Bowl XL at Ford Field as well as related events at Cobo Hall, Hart Plaza and the Renaissance Center in downtown Detroit.

DATES: This rule is effective from 8 a.m. (local) on January 31, 2006 through 8 a.m. (local) on February 6, 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 [CGD09–06–001] and are available for inspection or copying at U.S. Coast Guard Sector Detroit, 110 Mt. Elliott Ave. Detroit, MI 48207 between 8 a.m. (local) and 4 p.m. (local), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Cynthia Channell, Waterways Management, Sector Detroit, 110 Mt. Elliott Ave., Detroit, MI 48207; (313) 568–9580.

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 permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the security of the spectators and participants during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

This temporary security zone is necessary to ensure the safety of up to 450,000 people expected to attend Super Bowl XL at Ford Field as well as related events at Cobo Hall, Hart Plaza and the Renaissance Center in downtown Detroit.

All persons and vessels, other than those approved by the Captain of the Port Detroit, or his authorized representative, are prohibited from entering or moving within this security zone. The Captain of the Port Detroit, or his authorized on-scene representative, may be contacted via VHF Channel 16 for further instructions before transiting through the restricted area. The public will be made aware of the existence of this security zone and the restrictions involved via Broadcast Notice to Mariners.

Discussion of Rule

A temporary security zone is necessary to ensure the safety of up to 450,000 people that are expected to be attending Super Bowl XL at Ford Field and related events at Cobo Hall, Hart Plaza and the Renaissance Center in downtown Detroit. The zone will be in effect from 8 a.m. (local) on January 31, 2006 through 8 a.m. (local) on February 6, 2006.

The security zone will encompass an area of the Detroit River beginning at a point of land adjacent to Joe Louis Arena, at 42°19′26.6″ N, 083°03′06.6″ W; then extending offshore to the 3rd St. junction buoy at 42°19′24.2″ N, 83°03′4.7″ W; then northeast through the Griswold St. junction buoy at 42°19′31″ N, 83°02′34.1″ W; then northeast at to 42°19′40″ N, 083°02′00″ W; then north to a point on land at 42°19′46.3″ N, 083°02′00″ W (near Atwater Customs station); then southeast following the shoreline back to the point of origin. Vessels in close proximity to the security zone will be subject to increased monitoring and boarding to ensure the safety of the security zone. All geographic coordinates are North American Datum of 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transit, or anchoring within the security zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

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 rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone and that the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zones'' activation.

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 affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of the Detroit River, Detroit, Michigan, from 8 a.m. (local) on January 31, 2006 through 8 a.m. (local) on February 6, 2006.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will not obstruct the regular flow of commercial traffic and will allow vessel traffic to pass around the security zone. In the event that this temporary security zone affects shipping, commercial vessels may request permission from the Captain of the Port Detroit to transit through the security zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

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

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 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 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 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 concern 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 procedure; and related management system 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 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 record keeping 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 temporary section 165.T09–001 is added as follows:

§ 165.T09–001 Security Zone; Superbowl XL, Detroit River, Detroit, MI

(a) *Location:* The following area is a temporary security zone: An area of the Detroit River beginning at a point of land adjacent to Joe Louis Arena, at 42°19′26.6″ N, 083°03′06.6″ W; then extending offshore to the 3rd St. junction buoy at 42°19′24.2″ N, 83°03′4.7″ W; then northeast through the Griswold St. junction buoy at 42°19′31″ N, 83°02′34.1″ W; then northeast at 42°19′40″ N, 083°02′00″ W; then north to a point on land at 42°19′46.3″ N, 083°02′00″ W (near Atwater Customs station); then southeast following the shoreline back to the point of origin. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective period.* This regulation is effective from 8 a.m. (local) on January 31, 2006 until 8 a.m. (local) on February 6, 2006.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.33 of this part, entry into, transiting, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) This security zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the security zone shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the security zone shall comply with all directions given to them by the Captain of the Port Detroit or his on-scene representative.

Dated: January 11, 2006.

P.W. Brennan,

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

[FR Doc. 06–811 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2006–0017; FRL–8026–1]

Disapproval of Air Quality Implementation Plans; Montana; Maintenance of Air Pollution Control Equipment for Existing Aluminum Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is disapproving a State Implementation Plan revision submitted by the State of Montana on January 16, 2003. If approved, this revision would exempt existing aluminum plants from meeting emission requirements during scheduled maintenance. This action is being taken under section 110 of the Clean Air Act.

DATES: Effective Date: This final rule is effective March 1, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2006–0017. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. EPA requests that if at all possible, you contact the individual listed in the **FOR**

FURTHER INFORMATION CONTACT section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. What Comments Were Received on EPA's Proposal and EPA's Reponse
III. Final Action
IV. Statutory and Executive Order Reviews

Definitions

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

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

(ii) The words or initials *CFAC* mean or refer to the Columbia Falls Aluminum Company.

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

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

(v) The words *state* or *Montana* mean the State of Montana, unless the context indicates otherwise.

I. Background

On January 16, 2003, the State of Montana submitted a new rule for incorporation into the SIP. The rule is titled Administrative Rules of Montana (ARM) 17.8.335, Maintenance of Air Pollution Control Equipment for Existing Aluminum Plants.

The state adopted the rule for the purpose of modifying the approved SIP. The rule covers maintenance of air pollution control equipment for existing aluminum plants. There is currently one source that is subject to this rule, the Columbia Falls Aluminum Company (CFAC) in Columbia Falls, Montana. CFAC operates a primary aluminum reduction plant. The plant is equipped with air pollution control equipment, including ducts conveying exhaust to dry scrubbers. The state and CFAC have indicated they believe that air pollution control equipment requires periodic maintenance to keep it in good operating order. The state and CFAC have also indicated that the failure to maintain the air pollution control equipment eventually results in the failure of the equipment. Finally, the state and CFAC have indicated that the failure of the equipment would result in air pollution emissions from the plant that exceed those allowed and may create an unacceptable risk to public health.

Further, the state and CFAC indicated that the maintenance of the air pollution control equipment requires the plant to shut down the dry scrubbers and to bypass some of the dry scrubbers during the maintenance event. If the plant continues to operate during the shutdown of the dry scrubbers, the air pollution emissions from the plant may exceed those allowed by rules governing emission of air pollutants.

In the past the plant has applied to the state for, and in several cases been granted, a variance from rules governing emission of air pollutants so that the plant could conduct maintenance on the air pollution control equipment while continuing to operate the plant. CFAC expressed that the process for obtaining a variance is time consuming. The state has adopted a rule that allows the plant to conduct maintenance on air pollution control equipment while the plant is operating, without requiring the plant to obtain a variance.

Our review of ARM 17.8.335, Maintenance of Air Pollution Control Equipment for Existing Aluminum Plants, indicated that it is not approvable and we proposed to disapprove Montana's SIP revision on October 29, 2003 (68 FR 61650). Our October 29, 2003 notice describes in detail the rationale for our proposed disapproval.

II. What Comments Were Received on EPA's Proposal and EPA's Response

We received three comments on our October 29, 2003 proposed action. One commenter generally supported our proposed action and the other two commenters opposed our proposed action.

(1) *Comment:* The commenter that supported our proposed action indicated they "* * * generally concur with EPA's stated reasons for proposing to disapprove the Montana SIP rule change regarding maintenance of air pollution control equipment at existing primary aluminum reduction plants * * *" The commenter also expressed an interest in ultimately allowing the maintenance emissions under limited circumstances when the result would be less impact to the airshed.

Response: Although we generally agree with the commenter, we think provisions excusing the source from complying with the existing requirements during maintenance should only be allowed if the state can demonstrate that the national ambient air quality standards (NAAQS) and prevention of significant deterioration (PSD) increments will be protected, and other CAA requirements met, during periods of maintenance at the facility. The primary purpose of the SIP is to ensure attainment and section 110(l) of the CAA provides that EPA may not approve a SIP revision that would interfere with attainment, reasonable progress or any other applicable requirement of the Act.

(2) *Comment:* One commenter indicated that "EPA proposes to disapprove Montana's rule based, in part, on guidance. EPA contends excess emissions should be treated as compliance violations based upon provisions in EPA memoranda cited in footnotes to the proposed rulemaking. However, guidance is not law and does not replace the requirements of a rule or statute passed by a legally enabled body with the opportunity for public scrutiny and comment." The commenter also indicated that "while guidance may be helpful in certain circumstances, reliance on guidance as a method of 'codifying' internally-developed policy often creates confusion among the regulated-community and the public because of the imperious and arbitrary nature of guidance development. Furthermore, failure to engage in rulemaking implies that notice-and-comment procedures are impracticable, unnecessary, or contrary to the public interest."

Response: EPA's reference to and reliance on the guidance documents mentioned, which are publicly available and a part of the record for this action, is not prohibited by the Clean Air Act or the Administrative Procedure Act. EPA agrees that the guidance documents do not establish enforceable and binding requirements; the guidance documents do not purport to be anything but guidance. This is why EPA has performed this rulemaking—a notice-and-comment rulemaking—to take comment on its statutory interpretations and factual determinations in order to make a binding and enforceable determination regarding the SIP submittal (*i.e.*, ARM 17.8.335, Maintenance of Air Pollution Control Equipment for Existing Aluminum Plant). Our October 29, 2003 proposed rule refers to EPA guidance not as binding the Agency to adopt the interpretation of the CAA therein, but rather as a useful description of the rationale underlying those interpretations. EPA has explained the legal and factual basis for its rulemaking in the October 29, 2003 proposed rule and afforded the public a full

opportunity to comment on EPA's proposed interpretation and determination. This action is consistent with the applicable procedural requirements of the Administrative Procedure Act. In the final rule, EPA is fully responding to any concerns with EPA's interpretations as set forth in the guidance documents and relied on in the proposed rule. Thus EPA has not treated the guidance as a binding rule.

(3) *Comment:* The commenter that indicated it was not appropriate to rely on guidance for disapproving the rule further indicated that ''the Department of Environmental Quality (Department) does not believe that ARM 17.8.335 is inconsistent with the direction provided in the 1999 Herman/Perciasepe and 1988 Bennett memos. ARM 17.8.335 differs in several respects from the generalized exemptions cited in the policy.''

First, the commenter indicated that ''EPA claims all instances of excess emissions must be considered violations. ARM 17.8.335 does not exempt the excess emissions from being considered a violation, it merely prohibits the Department from initiating an enforcement action for the violation.''

Second, the commenter indicated that ''the memos cited are not entirely relevant since they address generalized exemptions for all excess emissions, regardless of impact. ARM 17.8.335 is very specific. It applies to a single source at a single facility. This means that the impacts of the exemption were identified and modeled. The modeling demonstrated the exemption would not violate the ambient standards.''

Third, the commenter indicated that ''EPA contends that ARM 17.8.335 is not acceptable, because it must contain emission standards or limitations to protect ambient standards. Since ARM 17.8.335(1)(a) contains an emission limitation as well as work practice standards, Montana believes that ARM 17.8.335 is consistent with the policy in this respect.''

Fourth, the commenter indicated that ''EPA also states they disagree with Montana's contention that ARM 17.8.335 will not allow violation of ambient standards or Prevention of Significant Deterioration Increments. Since ARM 17.8.335(11) contains clear language prohibiting violation of ambient standards, Montana stands by its contention.''

Response: First, EPA's interpretation of the CAA, as reflected in our guidance, is that excess emissions must be considered violations because SIPs must provide for the attainment and maintenance of the NAAQS and the achievement of the PSD increments. The commenter indicated that the rule meets the guidance because the rule ''does not exempt excess emissions from being considered a violation, it merely prohibits the Department from initiating an enforcement action for the violation.'' Without the threat of an enforcement action, the label of ''violation'' loses all meaning.

The state's proposed approach (*i.e.*, prohibiting itself from enforcing a violation) is inconsistent with section 110 of the CAA. Section 110 requires the SIP to include enforceable emission limitations, a program to provide for the enforcement of these emission limitations, and assurances that the state has adequate authority under state law to carry out the SIP (and is not prohibited by any provision of state law from doing so). ARM 17.8.335 prohibits the state from enforcing applicable emission limitations during source maintenance; absent an adequate demonstration under section 110(l) of the CAA that the higher emissions allowed in ARM 17.8.335 will not interfere with the CAA requirements, the state must continue to allow for enforcement action, but may exercise its enforcement discretion in determining whether to pursue any particular violation of the SIP.

Second, the commenter indicated that the modeling demonstrated the exemption would not violate ambient standards. As discussed in the proposal we had concerns with the modeling and indicated that the approach used would not assure protection of the NAAQS. We stand by that statement in our proposal and therefore, do not agree with the commenter that the modeling demonstrated that the exemption would not violate ambient standards. Below, in comment/response #4, is further discussion regarding the modeling. Additionally, the state did not evaluate the impact of the excess emissions on the PSD increments.

Third, the commenter indicated that ARM 17.8.335 contains an emission limitation as well as work practice standards that protect the ambient standards. As indicated above, we do not agree that it has been demonstrated that the ambient standards would be protected. Also, EPA questions the enforceability of the ''emission limitation'' the commenter refers to. Presumably the commenter is referring to ARM 17.8.335(1)(a)(ii), which indicates that the department may not initiate an enforcement action for a violation of various rules, or any emission standard, resulting from necessary scheduled maintenance of air pollution control equipment at an existing primary aluminum reduction plant, if, among other things, the maintenance event meets the following conditions: ''the maintenance event will not cause uncontrolled PM–10 emissions to exceed normal operating emissions from the reduction cells by more than 700 lbs. per 24-hour period as estimated using emissions factors.'' The rule does not establish or define ''normal operating emissions from the reduction cells.'' Without establishing or defining ''normal operating emissions from the reduction cells'' we question how the department could ever enforce the requirements in ARM 17.8.335(1)(a)(ii). Also, we question if the necessary scheduled maintenance could occur at other emission points that would not affect the level of emissions from the reduction cells but would cause an increase in emissions elsewhere.

Fourth, the commenter indicated that ''since ARM 17.8.335(11) contains clear language prohibiting violation of ambient standards, Montana stands by its contention'' that the rule will assure protection of the NAAQS or PSD increments. As we indicated in our proposal, we believe ambient standards and the PSD increments are protected by establishing limits that assure the standards and increments will be met. ARM 17.8.335(11) indicates that nothing in the rule shall be construed to allow an owner or operator to cause or contribute to violations of any federal or state ambient air quality standards.[1] We do not believe such a generic provision ensures protection of the NAAQS. At best, it simply means that if the ambient standards are violated—jeopardizing the health of the community, the Department could then bring an enforcement action. ARM 17.8.335(11) provides no clear cut standard the source must meet to protect public health.

In lieu of relying on monitors to assure the NAAQS are protected, particularly when the monitoring network is sparse, EPA believes enforceable emission limits should be established that, through modeling, demonstrate that the NAAQS would be protected. As we indicated earlier and below, we do not believe the modeling completed for this SIP revision was adequate to demonstrate that the NAAQS would be protected or that enforceable emission limits were adequately established.

[1] We note that while ARM 18.8.335(11) discusses ''ambient standards'' it does not specifically mention PSD increments. A document in the state's submittal indicates that the reference to ''ambient standards'' includes both the NAAQS and PSD increments.

(4) *Comment:* Several comments were raised regarding EPA's concerns about the rule's impact on the NAAQS. The comments pertained to whether or not: (a) The impact of the rule in the nearby Columbia Falls PM–10 nonattainment area had been addressed adequately, (b) there was an adequate demonstration that the NAAQS would be protected, and (c) appropriate modeling techniques were used.

Comment A. Regarding EPA's concerns about the impact of the rule on the Columbia Falls PM–10 nonattainment area, the commenter indicated that ''EPA approved the Columbia Falls PM–10 control plan on April 14, 1994, at 59 FR 17700. This action included approval of the technical support documents that demonstrate Columbia Falls Aluminum (CFAC) is an insignificant source of emissions contributing to the nonattainment area. Specifically, on January 27, 1994, at 59 FR 3804, EPA stated the control plan demonstration would provide for attainment within the prescribed time periods and would further maintain NAAQS compliance in future years. Further analysis demonstrating this rule's impact on the nonattainment area is unnecessary as a result of EPA's control plan approval. Therefore, the burden lies with EPA to demonstrate that a rule affecting a source, recognized in an approved control plan as an insignificant contributor to the nonattainment area, would otherwise interfere with an applicable requirement concerning attainment 42 U.S.C. 7410(l).''

Response A. The commenter is correct that EPA approved the Columbia Falls PM–10 nonattainment area plan on April 14, 1994 (59 FR 17700). The attainment demonstration for the plan was based on receptor modeling (chemical mass balance (CMB)) and rollback modeling. However, as noted on page 17702, in the middle column,

> ''[t]he State has made a separate commitment to testing and further dispersion modeling of emissions from the Columbia Falls Aluminum Company (CFAC) facility. This facility is located outside the nonattainment area and emissions from CFAC were not identified on the Chemical Mass Balance analysis of filters collected from the monitor in the Columbia Falls nonattainment area. Emissions from CFAC are a potential concern, however, since this source accounts for 20 percent of the emission inventory (at permitted allowable emissions). EPA will continue to monitor the testing and assist the State with any action required by the results.''

The state's commitment was made in a May 6, 1992 letter from Governor Stan Stephens.

The state developed a new PM–10 emissions inventory for CFAC but did not complete the dispersion modeling. EPA completed the dispersion modeling analyses using the new PM–10 emissions inventory for CFAC to determine CFAC's impact in the nonattainment area. On September 19, 1996 the Montana Department of Environmental Quality (MDEQ) sent us the actual and allowable PM–10 emissions for CFAC. EPA input this emission information into the ISC3/Complex1 models to determine the effect on the Columbia Falls PM–10 nonattainment area. The modeled 24-hour impact at the Columbia Falls monitor was 24 $\mu g/m^3$ using allowable emissions and 8 $\mu g/m^3$ using actual emissions. We also noted that the highest modeled 24-hour concentrations of actual emissions at the CFAC ambient PM–10 monitor (different from the Columbia Falls monitor) was about 30 $\mu g/m^3$. This seemed to compare favorably with measurements at that site when background concentrations were also considered.

On July 1, 1997, the State submitted a maintenance plan and redesignation request for the Columbia Falls PM–10 nonattainment area. The July 1, 1997 submittal was later withdrawn on October 27, 1998. However, the July 1, 1997 maintenance plan projected the ambient PM–10 24-hour concentrations in the Columbia Falls PM–10 nonattainment area for the 2009 maintenance year to be 146.2 $\mu g/m^3$. The 24-hour PM–10 NAAQS is 150 $\mu g/m^3$. The 2009 maintenance year projection, however, did not consider any emissions impact from CFAC. If we add the dispersion modeled impact from CFAC using either allowable emissions (24 $\mu g/m^3$ impact) or actual emissions (8 $\mu g/m^3$ impact) to the maintenance year projections then the Columbia Falls PM–10 nonattainment area would be projected to exceed 150 $\mu g/m^3$ and not attain the PM–10 NAAQS (*i.e.*, 24 + 146.2 = 170.2 $\mu g/m^3$ and 8 + 146.2 = 154.2 $\mu g/m^3$). In addition, we note that the impact of the ''maintenance'' emissions (*i.e.*, the additional 700 lbs of PM per 24-hour period expected during maintenance) on the Columbia Falls PM–10 nonattainment area were not analyzed here.

The state believes CFAC is in a different airshed from the nonattainment area and that emissions from CFAC do not have a significant impact on the Columbia Falls PM–10 nonattainment area. CFAC is only about one mile from the City of Columbia Falls. Existing information (indicated above) supports a conclusion that emissions from CFAC do affect the nonattainment area and thus further analyses would need to be completed before it could be determined that maintenance emissions from CFAC would not impair the ability of the Columbia Falls PM–10 nonattainment area to attain and maintain the NAAQS.

We stand by our proposal that further analysis is needed to show that CFAC does not interfere with the ability of the Columbia Falls nonattainment area to attain and maintain the NAAQS.

Additionally, we note that we disagree with the commenter's statement that it is EPA's burden to demonstrate that a SIP revision would interfere with an applicable requirement concerning attainment. In general, we believe the primary burden in supporting a SIP revision rests with the state. Here we note that the available information (EPA's modeling in conjunction with the state's withdrawn maintenance plan) supports a conclusion that the SIP revision would interfere with attainment and maintenance of the NAAQS and the state has failed to submit any information to counter that conclusion.

Comment B. Regarding whether or not there was an adequate demonstration that the NAAQS would be protected, the commenter indicated that ''as stated in EPA's Notice of Proposed Disapproval, a State Implementation Plan contains requirements necessary to protect ambient air quality standards. The record of adoption of ARM 17.8.335 clearly demonstrates that ARM 17.8.335 continues to protect those standards. Since EPA has not demonstrated that ARM 17.8.335 violates any requirement of the Clean Air Act, EPA must approve this SIP change.''

Response B. We do not believe the state's record of adoption supports the conclusion that the rule will protect the ambient air quality standards. The SIP must provide for attainment and maintenance of the NAAQS and the protection of PSD increments. The state must demonstrate that this SIP revision will not interfere with the state's ability to attain and maintain the NAAQS (sections 110(a)(1) and 110(l) of the Act). SIP provisions that allow for an automatic exemption for excess emissions from start-up, shut-down, malfunction and maintenance activities result in levels of emissions that are difficult to predict and thus it is difficult to demonstrate the effect of these activities on attainment or maintenance or the protection of the PSD increments. Therefore, EPA generally prohibits such rules in SIPs. However, we recognize that in limited circumstances a state may be able to

demonstrate periods of excess emissions will not interfere with these requirements by showing that the CAA requirements are met during the periods of excess emissions. CFAC conducted modeling to demonstrate that excess emissions during the maintenance procedures would not cause or contribute to violations of the Montana Ambient Air Quality Standards (MAAQS) or NAAQS. We outlined our concerns with the modeling in our proposed notice.[2] The commenter did not present any new technical information that has changed our mind regarding the adequacy of the state's modeling to demonstrate that the CAA requirements are met during periods of excess emissions.

Comment C. Regarding whether or not appropriate modeling techniques were used, the commenter indicated, ''EPA has applied the modeling guidance for permit demonstrations to review the analysis conducted for this rule adoption. The guidance, as quoted in this instance, is not appropriate for use in this very special case. The Department used professional judgment and local knowledge to determine the analytical procedures and approval criteria for this rule analysis. The analytical method used was within the discretion allowed to the State as a 'SIP Approved' state and EPA does not have the authority to require any other, or additional, demonstrations. EPA has not provided any additional comments on the modeling and the Department had already addressed the previous comments through the notice of adoption of this rule (MAR 17–160 pg. 2189–2194).''

Response C. The modeling guidance we referenced in our proposal is contained in the Code of Federal Regulations (CFR) at 40 CFR part 51, Appendix W and is titled ''Guideline on Air Quality Models'' (hereinafter called ''Guideline''). In our proposal we were pointing out that the state had incorporated by reference our modeling guidance in its permitting rules. However, just because the state has only incorporated our modeling guidance in its permitting rules does not mean the modeling guidance should not be used for other purposes. Section 1(a) of Appendix W indicates ''[t]he Guideline recommends air quality modeling techniques that should be applied to State Implementation Plan (SIP) revisions for existing sources and to new source reviews (NSR), including prevention of significant deterioration (PSD). * * * Applicable only to criteria air pollutants, it is intended for use by EPA Regional Offices in judging the adequacy of modeling analyses performed by EPA, State and local agencies and by industry. The guidance is appropriate for use by other Federal agencies and by State agencies with air quality and land management responsibilities. The Guideline serves to identify, for all interested parties, those techniques and data bases EPA considers acceptable. The Guideline is not intended to be a compendium of modeling techniques. Rather, it should serve as a common measure of acceptable technical analysis when supported by sound scientific judgment.''

The commenter indicated that the modeling guidance quoted in our proposal is not appropriate for use in this very special case. We do not agree. Since ARM 17.8.335 is allowing an increase in PM–10 emissions, and since there is a PM–10 NAAQS and a PM–10 nonattainment area near the source, we think the modeling used to show that the NAAQS will be protected should be the same level of modeling used to support an attainment demonstration.

The commenter indicated that the Department used its professional judgment and local knowledge to determine the analytical procedures and approval criteria for this rule analysis and that the analytical method used was within the discretion allowed to the state as a ''SIP Approved'' state and EPA does not have the authority to require any other, or additional, demonstration. We do not agree with this comment. We do not know what the commenter is referring to when it indicates that they have discretion because they are a ''SIP Approved'' state. While we have approved various portions of the SIP for Montana, such approval does not give Montana the discretion to ignore the Guidelines in 40 CFR part 51, Appendix W in determining the type of modeling that would support approval of SIP revisions. The CFR at 40 CFR 51.112(a) indicates:

> (a) Each plan must demonstrate that the measures, rules, and regulations contained in it are adequate to provide for the timely attainment and maintenance of the national standard that it implements.
>
> (1) The adequacy of a control strategy shall be demonstrated by means of applicable air quality models, data bases, and other requirements specified in appendix W of this part (Guideline on Air Quality Models).
>
> (2) Where an air quality model specified in appendix W of this part (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific State program. Written approval of the Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in § 51.102.

Further, EPA has the authority to require other, or additional, demonstrations. Section 110(a)(2)(K) of the Act indicates that:

> [e]ach implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each such plan shall.* * * (K) provide for—(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard * * *

Finally, the commenter indicated that EPA had not provided any additional comments that the Department has not already responded to in its rulemaking. On May 16, 2002 we submitted comments to the Board of Environmental Review during the state's rulemaking process to adopt ARM 17.8.335. In our May 16, 2002 letter we expressed our concerns with the modeling and the May 16, 2002 comments are similar to the concerns expressed in our proposed rulemaking. The state responded to our comments in its notice of adoption. We reviewed the notice of adoption before we proposed our action on ARM 17.8.335. We do not believe the state's response, in its notice of adoption, adequately addressed our concerns and that is why the same concerns with the modeling were detailed in the proposal notice. We continue to believe our concerns with the modeling are valid.

Because of our concerns with the modeling and the potential impact in the Columbia Falls nonattainment area, we believe the state has not demonstrated that ARM 17.8.335, Maintenance of Air Pollution Control Equipment for Existing Aluminum Plants will not interfere with any applicable requirement concerning attainment and reasonable progress or any other applicable requirement of the Act (sections 110(a)(1) and 110(l) of the Act).

[2] We indicated the state's modeling approach was inconsistent with EPA's Guideline on Air Quality Models, 40 CFR part 51, Appendix W for several reasons. As discussed in greater detail in the proposed notice, allowable emissions, rather than normal operating emissions, should be used in the modeling; nearby point sources that cause a significant concentration gradient should also be included in the modeling; and five years of National Weather Service meteorology data is generally recommended to ensure that worst case meteorological conditions are considered. Finally we were not convinced that the 17 $\mu g/m^3$ value is an appropriate value to be used for background concentrations.

5. *Comment:* The commenter indicated that ''EPA also states they do not find the aluminum smelting process sufficiently unique to warrant unique maintenance procedures. Montana's SIP submittal contained testimony that aluminum smelters do not undergo regular plant-wide maintenance shutdowns like other industries and that the emissions from startup and shutdown would be significantly greater than that emitted under the maintenance procedure allowed in ARM 17.8.335.''

Response: We agree that the SIP submittal did contain such statements. The point in our proposal was that we spoke to the EPA Region 10 office and found that the emission control system for most primary aluminum plants in that Region have been designed in a modular manner so that one or more components can be taken off-line for maintenance without shutting down the whole system. Two vertical Soderberg plants (similar in design to CFAC) in Region 10 have not requested the type of exemption for maintenance provided for CFAC in the SIP submission. Thus we are not convinced that the CFAC aluminum process is so unique, or that control technology could not be modified or added, to address scheduled maintenance.

6. *Comment:* Another commenter indicated that ''the rule was developed to allow maintenance activities on the facility's air pollution control system to occur in a manner that is most protective of the environment * * * This rule is necessary and needed by CFAC in order to perform maintenance activities that minimize malfunctions and the resulting uncontrolled release of pollutants into the atmosphere. This rule allows CFAC to reduce emissions through the performance of maintenance activities that prevent unplanned air pollution control system downtime that result in excess emissions.''

Response: Although EPA supports pollution control maintenance, for the reasons discussed earlier, we cannot approve a rule that allows increased emissions during maintenance activities unless it can be adequately demonstrated that the rule will not interfere with the state's ability to attain and maintain the NAAQS (section 110(a)(1) of the Act) or any applicable requirement concerning attainment and reasonable progress or any other applicable requirement of the Act (section 110(l) of the Act). Rather than trying to balance which excess emissions would be worse, malfunction or maintenance, perhaps the facility could be redesigned so that maintenance could be completed on portions of the control equipment without having to shut down the control equipment. As we indicate in our response to comment (5) above, we spoke to another EPA Regional office and found that the emission control system for most primary aluminum plants in that Region have been designed in a modular manner so that one or more components can be taken off-line for maintenance without shutting down the whole system.

III. Final Action

We have carefully considered the comments received and still believe we should disapprove the SIP revision. EPA is disapproving the SIP revision submitted by the State of Montana on January 16, 2003, which requested that ARM 17.8.335, Maintenance of Air Pollution Control Equipment For Existing Aluminum Plants, be added to the SIP.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *'' 44 U.S.C. 3502(3)(A). Because this final rule does not impose an information collection burden, the Paperwork Reduction Act does not apply.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because EPA's final disapproval action only affects one industrial source of air pollution; Columbia Falls Aluminum Company. Only one source is impacted by this action. Furthermore, as explained in this action, the submission does not meet the requirements of the Clean Air Act and EPA cannot approve the submission. The final disapproval will not affect any existing State requirements applicable to the entity. Federal disapproval of a State submittal does not affect its State enforceability. Therefore, because the Federal SIP disapproval does not create any new requirements nor impact a substantial number of small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action determines that pre-existing requirements under State or local law should not be approved as part of the federally-approved SIP. It imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental

Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely disapproves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. This action does not involve or impose any requirements that affect Indian Tribes. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

K. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 31, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: January 19, 2006.

Robert E. Roberts,

Regional Administrator, Region 8.

■ 40 CFR part 52 is amended to read 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 BB—Montana

■ 2. In Section 52.1384, add paragraph (f) to read as follows:

§ 52.1384 Emission control regulations.

* * * * *

(f) Administrative Rules of Montana 17.8.335 of the State's rule entitled ''Maintenance of Air Pollution Control Equipment for Existing Aluminum Plants,'' submitted by the Governor on January 16, 2003, is disapproved. We cannot approve this rule into the SIP

because it is inconsistent with the Act (*e.g.*, sections 110(a) and 110(l)), prior rulemakings and our guidance.

[FR Doc. 06–789 Filed 1–27–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7909

Suspension of Community Eligibility

AGENCY: Mitigation Division, Federal Emergency Management Agency (FEMA), Department of Homeland Security.

ACTION: Final rule.

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

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

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

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

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

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

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

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

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

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

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

PART 64—[AMENDED]

■ 1. The authority citation for part 64 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/ cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available to SFHAs
Region VII				
Missouri:				
Browning, City of, Linn County	290619	July 25, 1975, Emerg; September 18, 1985, Reg; January 19, 2006, Susp.	January 19, 2007	January 19, 2007.

* -do-=Ditto.
Code for reading third column: Emerg.-Emergency; Reg.-Regular; Susp.-Suspension.

David I. Maurstad,

Acting Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 06–805 Filed 1–27–06; 8:45 am]

BILLING CODE 9110–12–P

Proposed Rules

Federal Register
Vol. 71, No. 19
Monday, January 30, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

[Docket No. FV05–373]

Regulations Under the Perishable Agricultural Commodities Act (PACA)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Agricultural Marketing Service (AMS) is issuing this advance notice of proposed rulemaking in response to concerns raised by the industry that sellers may lose their status as trust creditors when using electronic data interchange (EDI) for invoicing. Comments are being sought from the public, but in particular, buyers and sellers of fruit and vegetables and vendors/software developers of EDI systems, as to whether to issue new or amended regulations and if so, the substance of such regulations.

DATES: Submit written or electronic comments on or before March 16, 2006.

ADDRESSES: You may submit written comments to:

(1) EDI Comments, AMS, F&V, PACA BRANCH, 1400 Independence Avenue SW., Room 2095–S, Washington, DC 20250–0242.

(2) Fax: 202–720–8868.

(3) E-mail comments to *Dexter.Thomas@usda.gov*.

(4) Internet: *http://www.regulations.gov*.

Instructions: All comments will become a matter of public record and should be identified as EDI Comments. Comments will be available for public inspection from the Agricultural Marketing Service at the above address or over the Agency's Web site at: *http://www.ams.usda.gov/fv/paca.htm*. Web site questions can be addressed to the PACA Webmaster, *Dexter.Thomas@usda.gov*.

FOR FURTHER INFORMATION CONTACT: Karla Whalen, Section Head, Trade Practice Section, or Phyllis Hall, Senior Marketing Specialist, Trade Practice Section, 202–720–6873.

SUPPLEMENTARY INFORMATION:

Background

The Perishable Agricultural Commodities Act (PACA) establishes a code of fair trading practices in the marketing of fresh and frozen fruits and vegetables in interstate and foreign commerce. The PACA protects growers, shippers, distributors, and retailers dealing in those commodities by prohibiting unfair and fraudulent trade practices. The PACA also provides a forum to adjudicate private disputes, with awards against a licensee who fails to meet contractual obligations in violation of the PACA. Additionally, the law imposes a statutory trust on perishable agricultural commodities received and accepted but not yet paid for, products derived from those commodities, and any receivables or proceeds due from the sale of those commodities or products for the benefit of unpaid suppliers or sellers.

In the case of a business failure or bankruptcy of an entity subject to PACA, the debtor's inventory and receivables (PACA trust assets) are not property of the estate and are not available for general distribution to creditors other than PACA creditors who have preserved their trust rights until all valid PACA trust claims have been satisfied. Because of the statutory trust provision, PACA trust creditors who have preserved their trust rights, including sellers outside of the United States, have a far greater chance of recovering the money owed them when an entity subject to PACA goes out of business. The PACA trust provisions protect producers and all other firms trading in fruits and vegetables as each buyer of perishable agricultural commodities in the marketing chain becomes a seller in its own turn.

In 1995, the PACA was amended to provide that licensed sellers of fresh and frozen fruits and vegetables may provide notice to buyers of their intention to preserve trust benefits by including specific language on invoice and billing documentation. The required language reads: ''The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.'' (7 U.S.C. 499e(c)(4)).

The PACA regulations were amended in 1997 to state that electronic transmissions are considered ''ordinary and usual billing and invoicing statements'' within the meaning of section 5(c)(4) of the PACA. (7 CFR 46.46(5)). Under current regulations, PACA licensed unpaid sellers or suppliers of fresh and frozen fruits and vegetables may provide notice to buyers of their intention to preserve their trust rights by including the specified language contained in section 5(c)(4) of the PACA on their billing or invoicing statements, whether paper documentation or electronic transmissions (including electronic data interchange or EDI). Alternatively, as provided in the PACA and regulations, sellers (licensed or non-licensed) may satisfy the notice requirement by sending the buyer a separate detailed notice by mail of their intent to preserve trust benefits within thirty (30) days of payment default. Whichever method of notice is used, in order to preserve trust benefits, payment terms may not exceed 30 days.

Since the amendment to the regulations, a number of produce sellers have voiced concern that their PACA trust rights may not be preserved if: (1) The buyer/buyer's agent either willfully or through oversight does not receive the entire electronic transmission (*i.e.*, EDI invoice); (2) the buyer/buyer's agent does not download the trust information; (3) the buyer/buyer's agent does not opt to receive the information; (4) the buyer/buyer's agent does not buy the data field that allows the inclusion of the trust language; or (5) the EDI service provider does not translate the field that contains the trust language. Additional concerns have been expressed that the alternate method of trust notice (*i.e.*, separate trust notice letter) is not being accepted by some buyers who require EDI invoicing. These are of grave concern since a seller may not know if the required trust

notice has been transmitted or received through EDI. Others in the industry have expressed concern about being charged a fee by the buyer to accept the notice to preserve their trust benefits through EDI or, about being charged a fee if they send a paper invoice or separate trust notice.

Agency Request for Information

AMS is soliciting comments on PACA trust rights in connection with EDI invoicing so that the Agency will be able to provide greater direction to the industry of how PACA trust rights can be preserved when invoicing electronically. In particular, AMS invites comments and information regarding how the Agency may best provide regulatory clarification or direction. Comments are specifically invited on: (1) The types of problems that may need to be addressed by new regulatory language; (2) any technological barriers and solutions; (3) any additional costs likely to be associated with appropriate regulations, and opinions regarding who should bear such costs; (4) whether the Agency should by regulation define EDI methods that must be made available by licensed buyers, (*i.e.*, creating a separate field for trust notice in EDI); (5) should buyers be required to accept separate notices (*i.e.*, electronic or paper PACA trust) without restriction or charge; and (6) other related issues and suggestions.

This notice provides a 45-day comment period for interested parties to comment on the need for amending the regulations. Should AMS conclude, based on the comments received, that the purposes of the PACA would be advanced through new or revised regulations, the Agency will develop a notice of proposed rulemaking that will be published in the **Federal Register** with a request for comments in accordance with 5 U.S.C. 553.

Executive Orders 12866 and 12988

This advance notice of proposed rulemaking has been determined to be not significant for the purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget. This advance notice of proposed rulemaking has been reviewed under Executive Order 12988, Civil Justice Reform, and is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this advance notice of proposed rulemaking.

Effects on Small Business

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact on this proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Small agricultural service firms have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those whose annual receipts are less than $5,000,000. There are approximately 15,000 firms licensed under the PACA, many of which could be classified as small entities.

The proposed regulations, if found to be necessary, would clarify how to preserve the trust benefit when using EDI. The use of EDI would provide companies an electronic alternative to paper documentation to give notice of intent to preserve trust rights, thereby reducing the time and expense associated with preserving trust rights under the PACA.

Authority: 7 U.S.C. 499o.

Dated: January 24, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–1090 Filed 1–27–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–62–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Rolls-Royce plc (RR) models RB211–535E4–37, RB211–535E4–B–37, RB211–535C–37, RB211–535E4–B–75, RB211–535E4–C, and RB211–22B–02 turbofan engines. That AD currently requires inspecting certain high pressure (HP) turbine discs, manufactured between 1989 and 1999, for cracks in the rim cooling air holes, and, if necessary, replacing the discs with serviceable parts. This proposed AD would require the same inspections, and would reduce the compliance times for eddy current inspection (ECI) for the RR RB211–22B–02 engines. This proposed AD results from the manufacturer reducing their recommended compliance times for inspections on RB211–22B–02 engines. We are proposing this AD to prevent possible disc failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: We must receive any comments on this proposed AD by March 31, 2006.

ADDRESSES: Use one of the following addresses to comment on this proposed AD:

- By mail: Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–62–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov*.

You can get the service information identified in this proposed AD from Rolls-Royce plc, PO Box 31, Derby, England; telephone: 011 44 1332–249428, fax: 011 44 1332–249223.

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

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7178, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. 2000–NE–62–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us verbally, and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the

proposed AD in light of those comments.

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.

Discussion

On December 15, 2004, the FAA issued AD 2004–26–03, Amendment 39–13915 (69 FR 77881, December 29, 2004) for RR models RB211–535E4–37, RB211–535E4–B–37, RB211–535C–37, RB211–535E4–B–75, and RB211–22B–02 turbofan engines. That AD requires inspecting certain HP turbine discs, manufactured between 1989 and 1999, for cracks in the rim cooling air holes, and, if necessary, replacing the discs with serviceable parts.

Actions Since AD 2004–26–03 Was Issued

Since we issued AD 2004–26–03, the Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified us that an unsafe condition might exist on RR model RB211–22B–02 turbofan engines manufactured between 1989 and 1999. The CAA advises that cracks were found in a Trent 800 HP turbine disc attributable to machining anomalies during new manufacture. The RB211–22B–02 HP turbine is similar in design to the Trent 800, manufactured at the same facility and with the same tooling. This proposed AD would require inspection of certain HP turbine discs, manufactured between 1989 and 1999, for cracks in the rim cooling air holes, and, if necessary, replacement with serviceable parts. We are reducing the inspection schedules required by AD 2004–26–03, for the high risk discs installed on model RB211–22B–02 engines. This AD retains the same inspection schedules, currently required for RR models RB211–535E4–37, RB211–535E4–B–37, RB211–535C–37, RB211–535E4–B–75 turbofan engines that were in AD 2004–26–03. The actions specified in this proposed AD are intended to prevent possible disc failure, which could result in an uncontained engine failure and damage to the airplane.

Bilateral Airworthiness Agreement

This engine model is manufactured in the United Kingdom and is 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. Under this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. We have examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Relevant Service Information

We have reviewed and approved the technical contents of RR ASB RB.211–72–AE717, dated January 21, 2005, that describes procedures for inspecting the RB211–22B disk for cracks. The CAA classified this service bulletin as mandatory and issued AD G–2005–0003, dated January 24, 2005, in order to ensure the airworthiness of these RR RB211–22 turbofan engines in the U.K.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing this AD, which would require the same inspections specified in AD 2004–26–03, but would reduce the compliance times for the model RB211–22B engine to:

- Within 500 cycles-in-service (CIS) after January 1, 2005 or before accumulating 11,000 cycles-since-new (CSN), whichever occurs first, on engines with more than 9,000 CSN on January 1, 2005, and
- Before accumulating 9,500 CSN or at the next shop visit after the effective date of this proposed AD, whichever occurs first, on engines with more than 1,500 CSN but fewer than 9,001 CSN on January 1, 2005.

The proposed AD would require that you do these actions using the service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect six RR RB211–22B engines installed on airplanes of U.S. registry. We also estimate that it would take about 4.0 work hours per engine to perform the proposed actions, and that the average labor rate is $65 per work hour. There are no required parts. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $1,560.

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 ExecutiveOrder 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. Would 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 proposal 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–62–AD'' in your request.

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 Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–13915 (69 FR 77881, December 29, 2004) and by adding a new airworthiness directive, to read as follows:

Rolls-Royce plc: Docket No. 2000–NE–62–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by March 31, 2006.

Affected ADs

(b) This AD supersedes AD 2004–26–03, Amendment 39–13915.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) models RB211–535E4–37, RB211–535E4–B–37, RB211–535C–37, RB211–535E4–B–75, RB211–535E4–C, and RB211–22B–02 turbofan engines with turbine discs having part numbers and serial numbers listed in the following Tables 1, 3, and 5 of this AD. These turbofan engines are installed on, but not limited to, Boeing 757, Tupolev Tu204, and Lockheed L–1011 series airplanes.

Unsafe Condition

(d) This AD results from the manufacturer reducing the inspection compliance times for the RB211–22B–02 turbofan engines. We are issuing this AD to prevent possible disc failure, which could result in an uncontained engine failure and damage to the airplane.

Compliance

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

Eddy Current Inspection for All Except Model RB211–22B–02 Engines

(f) For all except model RB211–22B–02 engines, do the following:

(1) Perform an eddy current inspection of the high pressure (HP) turbine discs listed in Table 1 of this AD, for cracks in the rim cooling air holes. Use paragraph 3. of the Accomplishment Instructions of RR Alert Service Bulletin (ASB) No. RB.211–72–AE651, dated November 22, 2004, to perform the eddy current inspection.

TABLE 1.—AFFECTED HP TURBINE DISCS USING COMPLIANCE SCHEDULE IN TABLE 2

Part No.	Serial No.	Part No.	Serial No.
LK80623	CQDY6397	UL27681	LDRCZ12893
LK80623	CQDY6504	UL27681	LDRCZ12985
UL27680	CQDY6451	UL27681	LDRCZ13044
UL27680	CQDY6452	UL27681	LDRCZ13047
UL27680	CQDY6466	UL27681	LQDY6803
UL27680	CQDY6468	UL27681	LQDY6814
UL27680	CQDY6471	UL27681	LQDY6847
UL27680	CQDY6496	UL27681	LQDY6868
UL27680	CQDY6505	UL27681	LQDY6875
UL27680	CQDY6653	UL27681	LQDY6892
UL27680	CQDY6656	UL27681	LQDY6898
UL27680	CQDY6657	UL27681	LQDY6904
UL27680	CQDY6684	UL27681	LQDY6909
UL27680	CQDY6883	UL27681	LQDY6910
UL27681	CQDY6465	UL27681	LQDY9133
UL27681	LAQDY6002	UL27681	LQDY9574
UL27681	LAQDY6083	UL27681	LQDY9579
UL27681	LAQDY6087	UL27681	LQDY9672
UL27681	LDRCZ10247	UL27681	LQDY9770
UL27681	LDRCZ10277	UL27681	LQDY9783
UL27681	LDRCZ10318	UL27681	LQDY9786
UL27681	LDRCZ10335	UL27681	LQDY9900
UL27681	LDRCZ10430	UL27681	LQDY9902
UL27681	LDRCZ10531	UL27681	LQDY9929
UL27681	LDRCZ10750	UL27681	LQDY9957
UL27681	LDRCZ10899	UL27681	LQDY9982
UL27681	LDRCZ11616	UL27681	LQDY9992
UL27681	LDRCZ11720	UL27681	WGQDY90005
UL27681	LDRCZ11893.		

(2) Use the compliance schedule in Table 2 of this AD.

TABLE 2.—COMPLIANCE SCHEDULE FOR HP TURBINE DISCS LISTED IN TABLE 1

If Disc Cycles-Since-New (CSN) on October 8, 2004 are:	Then Eddy Current Inspect:
(1) 12,750 CSN or more	Within 250 cycles-in-service (CIS) from October 8, 2004 or within 14,500 CSN, whichever occurs first.
(2) Fewer than 12,750 CSN but 10,500 CSN or more	Within 500 CIS from October 8, 2004.
(3) Fewer than 10,500 CSN	Before 11,000 CSN or at next shop visit after the effective date of this AD, whichever occurs first.

(3) On discs that pass inspection, use paragraph 3. of the Accomplishment Instructions of RR ASB No. RB.211–72–AE651, dated November 22, 2004, to permanently etch NMSB 72–AE651 onto the disc, adjacent to the part number.

(4) Perform an eddy current inspection of the HP turbine discs listed in Table 3 of this AD, for cracks in the rim cooling air holes. Use paragraph 3. of the Accomplishment Instructions of RR ASB No. RB.211–72–AE651, dated November 22, 2004, to perform the eddy current inspection.

TABLE 3.—AFFECTED HP TURBINE DISCS USING COMPLIANCE SCHEDULE IN TABLE 4

Part No.	Serial No.
UL10323	CQDY6070 and higher.
UL27680	All.
UL27681	All.

TABLE 3.—AFFECTED HP TURBINE DISCS USING COMPLIANCE SCHEDULE IN TABLE 4—Continued

Part No.	Serial No.
LK80622	LQDY6316 and higher.
LK80623	CQDY5945 and higher.
UL28267	All.

(5) Use the compliance schedule in Table 4 of this AD.

TABLE 4.—COMPLIANCE SCHEDULE FOR HP TURBINE DISCS LISTED IN TABLE 3

If Disc CSN on January 29, 2001 are:	Then Eddy Current Inspect:
(1) Fewer than 13,700 CSN	Before reaching 14,500 CSN, or at the next shop visit after the effective date of this AD, whichever occurs first.
(2) 13,700 CSN or more	Before reaching one of the following, whichever occurs first after the effective date of this AD: (i) 15,300 CSN. (ii) Within 800 CIS since January 29, 2001. (iii) At next shop visit.

(6) For discs that pass inspection, use paragraph 3. of the Accomplishment Instructions of RR ASB No. RB.211–72–AE651, dated November 22, 2004, to permanently etch NMSB 72–AE651 onto the disc, adjacent to the part number.

Eddy Current Inspection for Model RB211–22B–02 Engines

(g) For model RB211–22B–02 engines, do the following:

(1) Perform an eddy current inspection of the HP turbine discs listed in Table 5 of this AD, for cracks in the rim cooling air holes. Use paragraph 3. of the Accomplishment Instructions of RR ASB No. RB.211–72–AE717, dated January 21, 2005, to perform the eddy current inspection.

TABLE 5.—AFFECTED HP TURBINE DISCS IN RR MODEL RB211–02 TURBOFAN ENGINES

Part No.	Serial No.
LK80622	LQDY6316 and higher.
LK80623	CQDY5945 and higher.
UL28267	All.

(2) Use the compliance schedule in Table 6 of this AD.

TABLE 6.—COMPLIANCE SCHEDULE FOR HP TURBINE DISCS LISTED IN TABLE 5

If Disc CSN on January 1, 2005 are:	Then Eddy Current Inspect:
(1) More than 9,000 CSN	Within 500 CIS after January 1, 2005, but before 11,000 CSN, whichever is sooner.
(2) More than 1,500, but fewer than 9,001 CSN	Before exceeding 9,500 CSN, or at the next shop visit after the effective date of this AD, whichever occurs first.

(3) For discs that pass inspection, use paragraph 3. of the Accomplishment Instructions of RR ASB No. RB.211–72–AE717, dated January 21, 2005, to permanently etch NMSB 72–AE717 onto the disc, adjacent to the part number.

Other Conditions for All Engines

(h) Do not perform the actions of this AD to a disc until that disc has reached at least 1,500 CSN.

(i) Engines with an affected HP turbine disc at shop visit on the effective date of this AD and without the HP turbine rotor installed in the combustor outer case, must have the disc eddy current inspected before assembling the engine.

(j) Engines with an affected HP turbine disc at shop visit on the effective date of this AD with the HPT rotor installed in the combustor case need not have the disc eddy current inspected at this time.

(k) HP turbine discs previously eddy current inspected at fewer than 1,500 CSN must be inspected again using this AD.

(l) Replace cracked HP turbine discs with a serviceable disc.

Definition

(m) For the purpose of this AD, next shop visit is defined as the first shop visit opportunity when the HPT rotor is removed from the combustion case.

(n) For the purpose of this AD, a serviceable part is one with cyclic life remaining and either not listed in any of the preceding tables or one listed in a preceding table, but previously eddy current inspected and permanently etch marked with the Service Bulletin (SB) number NMSB 72–AE651 or NMSB 72–C877 on the disc.

Previous Credit

(o) Previous credit is allowed for the actions in this AD for HP turbine discs with 1,500 CSN or more that were eddy current inspected using applicable RR SB No. RB.211–72-C817, Revision 2, dated March 7, 2001, RR TSD 594–J, Overhaul Processes Manual, Task 70–00–00–200–223, or RR SB No. RB.211–72–C877, Revision 1, dated March 7, 2001.

Reporting Requirements

(p) For all except model RB211–22B–02 engines, report findings of the inspection using paragraph 3.E. of the Accomplishment Instructions of RR ASB RB.211–72–AE651, dated November 22, 2004. The Office of Management and Budget (OMB) has approved the reporting requirements specified in paragraph 3.E. of the Accomplishment Instructions of RR ASB RB.211–72–AE651, dated November 22, 2004, and assigned OMB control number 2120–0056.

(q) For model RB211–22B–02 engines, report findings of the inspection using paragraph 3.E. of the Accomplishment Instructions of RR ASB RB.211–72–AE717, dated January 21, 2005. The OMB has approved the reporting requirements specified in paragraph 3.E. of the Accomplishment Instructions of RR ASB RB.211–72–AE717, dated January 21, 2005, and assigned OMB control number 2120–0056.

Alternative Methods of Compliance

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

Related Information

(s) CAA Airworthiness Directive G–2004–0027, dated November 19, 2004, and CAA Airworthiness Directive G–2005–0003, dated January 24, 2005, also address the subject of this AD.

Issued in Burlington, Massachusetts, on January 19, 2006.

Peter A. White,

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

[FR Doc. E6–1092 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2006–23531; Airspace Docket No. 04–ASO–14]

RIN 2120–AA66

Proposed Modification of Restricted Areas R–3002A, B, C, D, E, and F; and Establishment of Restricted Area R–3002G; Fort Benning, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to modify the boundaries of the Restricted Area R–3002 range complex at Fort Benning, GA. The U.S. Army proposed these modifications as a result of a land exchange agreement between Fort Benning and the City of Columbus, GA. Specifically, the proposal would eliminate restricted airspace over a parcel of land that has been transferred from the Army to the City of Columbus. The proposal would also add new restricted airspace over a parcel of land to the south of the current restricted area complex, that was ceded by the City to the Army. In addition, a portion of the southwest section of R–3002, within the existing restricted airspace, would be redesignated as a separate restricted area, R–3002G, to better accommodate instrument approach procedures at Lawson Army Air Field (AAF). The internal boundaries between restricted area subdivisions would also be realigned slightly to permit more efficient scheduling and utilization of the range complex. Finally, the names of the controlling agency and using agency for the restricted areas would be changed to reflect their current titles.

DATES: Comments must be received on or before March 16, 2006.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify FAA Docket Number FAA–2006–23531 and Airspace Docket No. 04–ASO–14, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov*. Comments on environmental and land use aspects should be directed to: Chief of Environmental Branch, Ft. Benning, GA; (Mr. Patrick Chauvey, telephone: 706–545–4211).

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2006–23531 and Airspace Docket No. 04–ASO–14) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2006–23531 and Airspace Docket No. 04–ASO–14.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov*, or the **Federal Register**'s Web page at *http://www.gpoaccess.gov/fr/index.html*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

In the year 2000, a State and Federal Land Exchange action was completed whereby a portion of Fort Benning Military Reservation land, in the northwest section of the Restricted Area R–3002 range complex, was transferred by the Army to the City of Columbus, GA. In addition, a parcel of City-owned land located adjacent to, and south of, the existing restricted areas was ceded to Fort Benning for military use. As a result of the land swap, the boundaries of the R–3002 complex must be adjusted to eliminate restricted airspace that overlies the land ceded to the City of Columbus, and add restricted airspace over the land transferred by the City to Fort Benning. With the transfer of land to the City, there is no longer a requirement for restricted airspace over that section. Elimination of that section of restricted airspace would enhance safety for instrument flight rules (IFR) and visual flight rules (VFR) aircraft operations at the Columbus Metropolitan Airport, Columbus, GA, by moving the boundary of the restricted area farther away from the airport. The new restricted area over the land transferred to Fort Benning would

enable the use of that land for military activities currently conducted in the R–3002 range complex and would offset the elimination of restricted airspace in the northwest section of the range.

In conjunction with the above, the Army requested that the FAA establish a separate subarea, R–3002G, within the southwest section of the existing restricted area complex. By designating this existing section of restricted airspace as a separate subarea (R–3002G), the Army would be able to release R–3002G when needed to better accommodate aircraft flying instrument approaches into Lawson AAF. This would enhance the safety and efficiency of operations at the airport. The Army also requested a minor realignment of the internal dividing line between existing restricted subareas to permit better scheduling and use of range facilities. In addition, the names of the controlling agency and the using agency for the R–3002 complex would be updated to reflect the current titles of those agencies.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR part 73) to amend the boundaries of Restricted Areas R–3002A, B, C, D, E, and F; redesignate the southwest corner of existing restricted airspace as a separate subarea titled R–3002G; and change the name of the controlling agency and using agency for the Fort Benning restricted areas. The boundary amendments include the revocation of restricted airspace over land ceded to the City of Columbus, GA, in the northwest corner of the range; and the establishment of new restricted airspace over land ceded by the City to Fort Benning to the south of existing Restricted Areas R–3002A, B, and C. In addition, the internal dividing lines between restricted areas would be realigned slightly to permit better scheduling and utilization of the complex. The FAA is also proposing to change the name of the controlling agency from ''FAA, ATC Tower, Columbus, GA,'' to ''FAA, Atlanta TRACON,'' and the name of the using agency from ''Commanding Officer, Fort Benning, GA,'' to ''U.S. Army, Commanding General, Infantry Center and Fort Benning, GA.'' These changes are necessary to reflect the current titles of the responsible agencies.

The coordinates for this airspace action are based on North American Datum of 1983.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subjected to the appropriate environmental analysis in accordance with FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.30 [Amended]

2. § 73.30 is amended as follows:

* * * * *

R–3002A Fort Benning, GA [Amended]

By removing the current Boundaries, Controlling agency, and Using agency and substituting the following:

Boundaries. Beginning at lat. 32°31′12″ N., long. 84°50′11″ W.; to lat. 32°19′03″ N., long. 84°41′42″ W.; thence along the Central of Georgia Railroad to lat. 32°19′09″ N., long. 84°42′27″ W.; to lat. 32°19′14″ N., long. 84°42′52″ W.; to lat. 32°19′23″ N., long. 84°43′18″ W.; to lat. 32°19′35″ N., long. 84°43′49″ W.; to lat. 32°19′43″ N., long. 84°44′29″ W.; to lat. 32°19′55″ N., long. 84°45′06″ W.; to lat. 32°20′13″ N., long. 84°45′54″ W.; to lat. 32°20′30″ N., long. 84°46′32″ W.; to lat. 32°20′53″ N., long. 84°46′55″ W.; to lat. 32°20′55″ N., long. 84°47′38″ W.; to lat. 32°15′25″ N., long. 84°47′32″ W.; to lat. 32°15′26″ N., long. 84°48′37″ W.; to lat. 32°15′17″ N., long. 84°48′37″ W.; thence along River Bend Road to lat. 32°15′17″ N., long. 84°48′48″ W.; to lat. 32°15′06″ N., long. 84°49′08″ W.; to lat. 32°14′48″ N., long. 84°49′26″ W.; to lat. 32°14′38″ N., long. 84°49′53″ W.; to lat. 32°14′32″ N., long. 84°50′15″ W.; to lat. 32°14′22″ N., long. 84°50′30″ W.; to lat. 32°14′12″ N., long. 84°50′36″ W.; to lat. 32°14′22″ N., long. 84°52′22″ W.; to lat. 32°15′07″ N., long. 84°52′21″ W.; to lat. 32°15′06″ N., long. 84°52′38″ W.; to lat, 32°15′33″ N., long. 84°52′37″ W.; to lat. 32°15′34″ N., long. 84°53′11″ W.; to lat. 32°20′15″ N., long. 84°58′36″ W.; thence along Dixie Rd/First Division Rd to lat. 32°20′36″ N., long. 84°58′15″ W.; to lat. 32°20′53″ N., long. 84°57′55″ W.; to lat. 32°21′03″ N., long. 84°57′40″ W.; to lat. 32°21′11″ N., long. 84°57′24″ W.; to lat. 32°21′08″ N., long. 84°56′55″ W.; to lat. 32°21′13″ N., long. 84°56′04″ W.; to lat. 32°21′33″ N., long. 84°55′35″ W.; to lat. 32°21′50″ N., long. 84°55′16″ W.; to lat. 32°21′53″ N., long. 84°55′00″ W.; to lat. 32°22′06″ N., long. 84°54′41″ W.; to lat. 32°23′01″ N., long. 84°55′44″ W.; to lat. 32°24′48″ N., long. 84°52′52″ W.; to lat. 32°25′36″ N., long. 84°52′52″ W.; to lat. 32°25′44″ N., long. 84°53′30″ W.; to lat. 32°26′19″ N., long. 84°53′31″ W.; to lat. 32°26′20″ N., long. 84°53′54″ W.; to lat. 32°27′19″ N., long. 84°53′53″ W.; to lat. 32°27′17″ N., long. 84°52′10″ W.; to lat. 32°28′46″ N., long. 84°52′08″ W.; to lat. 32°28′44″ N., long. 84°50′47″ W.; to lat. 32°29′43″ N., long. 84°50′59″ W.; to lat. 32°30′35″ N., long. 84°50′50″ W.; to lat. 32°30′39″ N., long. 84°50′23″ W.; thence to the point of beginning.

Controlling agency. FAA, Atlanta TRACON.

Using agency. U.S. Army, Commanding General, Infantry Center and Fort Benning, GA.

R–3002B Fort Benning, GA [Amended]

By removing the current Boundaries, Controlling agency, and Using agency and substituting the following:

Boundaries. Beginning at lat. 32°31′12″ N., long. 84°50′11″ W.; to lat. 32°19′03″ N., long. 84°41′42″ W.; thence along the Central of Georgia Railroad to lat. 32°19′09″ N., long. 84°42′27″ W.; to lat. 32°19′14″ N., long. 84°42′52″ W.; to lat. 32°19′23″ N., long. 84°43′18″ W.; to lat. 32°19′35″ N., long. 84°43′49″ W.; to lat. 32°19′43″ N., long. 84°44′29″ W.; to lat. 32°19′55″ N., long. 84°45′06″ W.; to lat. 32°20′13″ N., long. 84°45′54″ W.; to lat. 32°20′30″ N., long. 84°46′32″ W.; to lat. 32°20′53″ N., long. 84°46′55″ W.; to lat. 32°20′55″ N., long. 84°47′38″ W.; to lat. 32°15′25″ N., long. 84°47′32″ W.; to lat. 32°15′26″ N., long. 84°48′37″ W.; to lat. 32°15′17″ N., long. 84°48′37″ W.; thence along River Bend Road to lat. 32°15′17″ N., long. 84°48′48″ W.; to lat. 32°15′06″ N., long. 84°49′08″ W.; to lat. 32°14′48″ N., long. 84°49′26″ W.; to lat. 32°14′38″ N., long. 84°49′53″ W.; to lat. 32°14′32″ N., long. 84°50′15″ W.; to lat. 32°14′22″ N., long. 84°50′30″ W.; to lat. 32°14′12″ N., long. 84°50′36″ W.; to lat. 32°14′22″ N., long. 84°52′22″ W.; to lat. 32°15′07″ N., long. 84°52′21″ W.; to lat. 32°15′06″ N., long. 84°52′38″ W.; to lat, 32°15′33″ N., long. 84°52′37″ W.; to lat. 32°15′34″ N., long. 84°53′11″ W.; to lat. 32°20′15″ N., long. 84°58′36″ W.; thence

along Dixie Rd/First Division Rd to lat. 32°20′36″ N., long. 84°58′15″ W.; to lat. 32°20′53″ N., long. 84°57′55″ W.; to lat. 32°21′03″ N., long. 84°57′40″ W.; to lat. 32°21′11″ N., long. 84°57′24″ W.; to lat. 32°21′08″ N., long. 84°56′55″ W.; to lat. 32°21′13″ N., long. 84°56′04″ W.; to lat. 32°21′33″ N., long. 84°55′35″ W.; to lat. 32°21′50″ N., long. 84°55′16″ W.; to lat. 32°21′53″ N., long. 84°55′00″ W.; to lat. 32°22′06″ N., long. 84°54′41″ W.; to lat. 32°23′01″ N., long. 84°55′44″ W.; to lat. 32°24′48″ N., long. 84°52′52″ W.; to lat. 32°25′36″ N., long. 84°52′52″ W.; to lat. 32°25′44″ N., long. 84°53′30″ W.; to lat. 32°26′19″ N., long. 84°53′31″ W.; to lat. 32°26′20″ N., long. 84°53′54″ W.; to lat. 32°27′19″ N., long. 84°53′53″ W.; to lat. 32°27′17″ N., long. 84°52′10″ W.; to lat. 32°28′46″ N., long. 84°52′08″ W.; to lat. 32°28′44″ N., long. 84°50′47″ W.; to lat. 32°29′43″ N., long. 84°50′59″ W.; to lat. 32°30′35″ N., long. 84°50′50″ W.; to lat. 32°30′39″ N., long. 84°50′23″ W.; thence to the point of beginning.

Controlling agency. FAA, Atlanta TRACON.

Using agency. U.S. Army, Commanding General, Infantry Center and Fort Benning, GA.

R–3002C Fort Benning, GA [Amended]

By removing the current Boundaries, Controlling agency, and Using agency and substituting the following:

Boundaries. Beginning at lat. 32°31′12″ N., long. 84°50′11″ W.; to lat. 32°19′03″ N., long. 84°41′42″ W.; thence along the Central of Georgia Railroad to lat. 32°19′09″ N., long. 84°42′27″ W.; to lat. 32°19′14″ N., long. 84°42′52″ W.; to lat. 32°19′23″ N., long. 84°43′18″ W.; to lat. 32°19′35″ N., long. 84°43′49″ W.; to lat. 32°19′43″ N., long. 84°44′29″ W.; to lat. 32°19′55″ N., long. 84°45′06″ W.; to lat. 32°20′13″ N., long. 84°45′54″ W.; to lat. 32°20′30″ N., long. 84°46′32″ W.; to lat. 32°20′53″ N., long. 84°46′55″ W.; to lat. 32°20′55″ N., long. 84°47′38″ W.; to lat. 32°15′25″ N., long. 84°47′32″ W.; to lat. 32°15′26″ N., long. 84°48′37″ W.; to lat. 32°15′17″ N., long. 84°48′37″ W.; thence along River Bend Road to lat. 32°15′17″ N., long. 84°48′48″ W.; to lat. 32°15′06″ N., long. 84°49′08″ W.; to lat. 32°14′48″ N., long. 84°49′26″ W.; to lat. 32°14′38″ N., long. 84°49′53″ W.; to lat. 32°14′32″ N., long. 84°50′15″ W.; to lat. 32°14′22″ N., long. 84°50′30″ W.; to lat. 32°14′12″ N., long. 84°50′36″ W.; to lat. 32°14′22″ N., long. 84°52′22″ W.; to lat. 32°15′07″ N., long. 84°52′21″ W.; to lat. 32°15′06″ N., long. 84°52′38″ W.; to lat, 32°15′33″ N., long. 84°52′37″ W.; to lat. 32°15′34″ N., long. 84°53′11″ W.; to lat. 32°20′15″ N., long. 84°58′36″ W.; thence along Dixie Rd/First Division Rd to lat. 32°20′36″ N., long. 84°58′15″ W.; to lat. 32°20′53″ N., long. 84°57′55″ W.; to lat. 32°21′03″ N., long. 84°57′40″ W.; to lat. 32°21′11″ N., long. 84°57′24″ W.; to lat. 32°21′08″ N., long. 84°56′55″ W.; to lat. 32°21′13″ N., long. 84°56′04″ W.; to lat. 32°21′33″ N., long. 84°55′35″ W.; to lat. 32°21′50″ N., long. 84°55′16″ W.; to lat. 32°21′53″ N., long. 84°55′00″ W.; to lat. 32°22′06″ N., long. 84°54′41″ W.; to lat. 32°23′01″ N., long. 84°55′44″ W.; to lat. 32°24′48″ N., long. 84°52′52″ W.; to lat. 32°25′36″ N., long. 84°52′52″ W.; to lat. 32°25′44″ N., long. 84°53′30″ W.; to lat. 32°26′19″ N., long. 84°53′31″ W.; to lat. 32°26′20″ N., long. 84°53′54″ W.; to lat. 32°27′19″ N., long. 84°53′53″ W.; to lat. 32°27′17″ N., long. 84°52′10″ W.; to lat. 32°28′46″ N., long. 84°52′08″ W.; to lat. 32°28′44″ N., long. 84°50′47″ W.; to lat. 32°29′43″ N., long. 84°50′59″ W.; to lat. 32°30′35″ N., long. 84°50′50″ W.; to lat. 32°30′39″ N., long. 84°50′23″ W.; thence to the point of beginning.

Controlling agency. FAA, Atlanta TRACON.

Using agency. U.S. Army, Commanding General, Infantry Center and Fort Benning, GA.

R–3002D Fort Benning, GA [Amended]

By removing the current Boundaries, Controlling agency, and Using agency and substituting the following:

Boundaries. Beginning at lat. 32°31′12″ N., long. 84°50′11″ W.; to lat. 32°31′52″ N., long. 84°50′25″ W.; to lat. 32°33′05″ N., long. 84°45′27″ W.; thence along the Central of Georgia Railroad to lat. 32°32′52″ N., long. 84°45′00″ W.; to lat. 32°32′43″ N., long. 84°44′08″ W.; to lat. 32°32′34″ N., long. 84°43′40″ W.; to lat. 32°32′22″ N., long. 84°43′13″ W.; to lat. 32°32′18″ N., long. 84°42′53″ W.; to lat. 32°32′08″ N., long. 84°42′38″ W.; to lat. 32°32′05″ N., long. 84°42′26″ W.; to lat. 32°32′11″ N., long. 84°42′12″ W.; to lat. 32°32′13″ N., long. 84°41′54″ W.; to lat. 32°32′10″ N., long. 84°41′38″ W.; to lat. 32°32′06″ N., long. 84°41′25″ W.; to lat. 32°32′08″ N., long. 84°41′17″ W.; to lat. 32°32′15″ N., long. 84°41′01″ W.; to lat. 32°32′20″ N., long. 84°40′56″ W.; to lat. 32°32′07″ N., long. 84°40′44″ W.; to lat. 32°31′06″ N., long. 84°41′43″ W.; to lat. 32°31′04″ N., long. 84°40′54″ W.; to lat. 32°32′04″ N., long. 84°38′16″ W.; to lat. 32°29′16″ N., long. 84°38′17″ W.; to lat. 32°29′10″ N., long. 84°39′25″ W.; to lat. 32°18′35″ N., long. 84°39′30″ W.; to lat. 32°18′23″ N., long. 84°41′09″ W.; to lat. 32°19′03″ N., long. 84°41′42″ W.; thence to the point of beginning.

Controlling agency. FAA, Atlanta TRACON.

Using agency. U.S. Army, Commanding General, Infantry Center and Fort Benning, GA.

R–3002E Fort Benning, GA [Amended]

By removing the current Boundaries, Controlling agency, and Using agency and substituting the following:

Boundaries. Beginning at lat. 32°31′12″ N., long. 84°50′11″ W.; to lat. 32°31′52″ N., long. 84°50′25″ W.; to lat. 32°33′05″ N., long. 84°45′27″ W.; thence along the Central of Georgia Railroad to lat. 32°32′52″ N., long. 84°45′00″ W.; to lat. 32°32′43″ N., long. 84°44′08″ W.; to lat. 32°32′34″ N., long. 84°43′40″ W.; to lat. 32°32′22″ N., long. 84°43′13″ W.; to lat. 32°32′18″ N., long. 84°42′53″ W.; to lat. 32°32′08″ N., long. 84°42′38″ W.; to lat. 32°32′05″ N., long. 84°42′26″ W.; to lat. 32°32′11″ N., long. 84°42′12″ W.; to lat. 32°32′13″ N., long. 84°41′54″ W.; to lat. 32°32′10″ N., long. 84°41′38″ W.; to lat. 32°32′06″ N., long. 84°41′25″ W.; to lat. 32°32′08″ N., long. 84°41′17″ W.; to lat. 32°32′15″ N., long. 84°41′01″ W.; to lat. 32°32′20″ N., long. 84°40′56″ W.; to lat. 32°32′07″ N., long. 84°40′44″ W.; to lat. 32°31′06″ N., long. 84°41′43″ W.; to lat. 32°31′04″ N., long. 84°40′54″ W.; to lat. 32°32′04″ N., long. 84°38′16″ W.; to lat. 32°29′16″ N., long. 84°38′17″ W.; to lat. 32°29′10″ N., long. 84°39′25″ W.; to lat. 32°18′35″ N., long. 84°39′30″ W.; to lat. 32°18′23″ N., long. 84°41′09″ W.; to lat. 32°19′03″ N., long. 84°41′42″ W.; thence to the point of beginning.

Controlling agency. FAA, Atlanta TRACON.

Using agency. U.S. Army, Commanding General, Infantry Center and Fort Benning, GA.

R–3002F Fort Benning, GA [Amended]

By removing the current Boundaries, Controlling agency, and Using agency and substituting the following:

Boundaries. Beginning at lat. 32°27′17″ N., long. 84°52′10″ W.; to lat. 32°28′46″ N., long. 84°52′08″ W.; to lat. 32°28′44″ N., long. 84°50′47″ W.; to lat. 32°29′43″ N., long. 84°50′59″ W.; to lat. 32°30′35″ N., long. 84°50′50″ W.; to lat. 32°30′39″ N., long. 84°50′23″ W.; to lat. 32°31′12″ N., long. 84°50′11″ W.; to lat. 32°31′52″ N., long. 84°50′25″ W.; to lat. 32°33′05″ N., long. 84°45′27″ W; thence along the Central of Georgia Railroad to lat. 32°32′52″ N., long. 84°45′00″ W.; to lat. 32°32′43″ N., long. 84°44′08″ W.; to lat. 32°32′34″ N., long. 84°43′40″ W.; to lat. 32°32′22″ N., long. 84°43′13″ W.; to lat. 32°32′18″ N., long. 84°42′53″ W.; to lat. 32°32′08″ N., long. 84°42′38″ W.; to lat. 32°32′05″ N., long. 84°42′26″ W.; to lat. 32°32′11″ N., long. 84°42′12″ W.; to lat. 32°32′13″ N., long. 84°41′54″ W.; to lat. 32°32′10″ N., long. 84°41′38″ W.; to lat. 32°32′06″ N., long. 84°41′25″ W.; to lat. 32°32′08″ N., long. 84°41′17″ W.; to lat. 32°32′15″ N., long. 84°41′01″ W.; to lat. 32°32′20″ N., long. 84°40′56″ W.; to lat. 32°32′07″ N., long. 84°40′44″ W.; to lat. 32°31′06″ N., long. 84°41′43″ W.; to lat. 32°31′04″ N., long. 84°40′54″ W.; to lat. 32°32′04″ N., long. 84°38′16″ W.; to lat. 32°29′16″ N., long. 84°38′17″ W.; to lat. 32°29′10″ N., long. 84°39′25″ W.; to lat. 32°18′35″ N., long. 84°39′30″ W.; to lat. 32°18′23″ N., long. 84°41′09″ W.; to lat. 32°19′03″ N., long. 84°41′42″ W.; thence along the Central of Georgia Railroad to lat. 32°19′09″ N., long. 84°42′27″ W.; to lat. 32°19′14″ N., long. 84°42′52″ W.; to lat. 32°19′23″ N., long. 84°43′18″ W.; to lat. 32°19′35″ N., long. 84°43′49″ W.; to lat. 32°19′43″ N., long. 84°44′29″ W.; to lat. 32°19′55″ N., long. 84°45′06″ W.; to lat. 32°20′13″ N., long. 84°45′54″ W.; to lat. 32°20′30″ N., long. 84°46′32″ W.; to lat. 32°20′53″ N., long. 84°46′55″ W.; to lat. 32°20′55″ N., long. 84°47′38″ W.; thence to the point of beginning.

Controlling agency. FAA, Atlanta TRACON.

Using agency. U.S. Army, Commanding General, Infantry Center and Fort Benning, GA.

R–3002G Fort Benning, GA [New]

Boundaries. Beginning at lat. 32°20′15″ N., long. 84°58′36″ W.; to lat. 32°15′34″ N., long. 84°53′11″ W.; to lat. 32°15′32″ N., long. 84°54′02″ W.; to lat. 32°15′04″ N., long. 84°55′24″ W.; to lat. 32°14′27″ N., long. 84°54′50″ W.; to lat. 32°14′25″ N., long. 84°56′53″ W.; to lat. 32°14′36″ N., long. 84°56′53″ W.; to lat. 32°14′38″ N., long. 84°57′56″ W.; to lat. 32°16′36″ N., long. 84°57′58″ W.; to lat. 32°16′36″ N., long. 84°58′35″ W.; to lat. 32°17′39″ N., long. 84°58′35″ W.; to lat. 32°17′40″ N., long. 84°58′54″ W.; thence to the point of beginning.

Designated altitudes. Surface to 14,000 feet MSL.

Time of designation. Intermittent, 0600–0200 local time daily; other times by NOTAM 6 hours in advance.

Controlling agency. FAA, Atlanta TRACON.

Using agency. U.S. Army, Commanding General, Infantry Center and Fort Benning, GA.

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Issued in Washington, DC on January 24, 2006.

Edith V. Parish,

Manager, Airspace and Rules.

[FR Doc. E6–1074 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 73 and 101

[Docket No. 1998P–0724, formerly 98P–0724]

RIN 0910–AF12

Listing of Color Additives Exempt From Certification; Food, Drug, and Cosmetic Labeling: Cochineal Extract and Carmine Declaration

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA, we) is proposing to revise its requirements for cochineal extract and carmine by requiring their declaration on the label of all food and cosmetic products that contain these color additives. The proposed rule responds to reports of severe allergic reactions, including anaphylaxis, to cochineal extract and carmine-containing food and cosmetics and would allow consumers who are allergic to these color additives to identify and thus avoid products that contain these color additives. This proposed action also responds, in part, to a citizen petition submitted by the Center for Science in the Public Interest (CSPI).

With regard to drug products, FDA plans to initiate rulemaking to implement the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L.105–115) provisions that require declaration of inactive ingredients for drugs. The FDAMA provisions have already been implemented for over-the-counter (OTC) drugs.

DATES: Submit written or electronic comments by May 1, 2006. Please see section VIII for the effective date of any final rule that may publish based on this proposal.

ADDRESSES: You may submit comments, identified by Docket No.1998P–0724 and RIN number 0910–AF12, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described in the *Electronic Submissions* portion of this paragraph.

Instructions: All submissions received must include the agency name and Docket No(s). and Regulatory Information Number (RIN) (if a RIN has been assigned) for this rulemaking. All comments received may be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Comments'' 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.fda.gov/ohrms/dockets/default.htm* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mical E. Honigfort, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1278.

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I. Background

Cochineal extract is a color additive that is currently permitted for use in foods and drugs in the United States. The related color additive carmine is currently permitted for use in foods, drugs, and cosmetics. FDA has listed these color additives, and conditions for their safe use, in part 73 of Title 21 of the Code of Federal Regulations (21 CFR part 73).

Allergic reactions to cochineal extract and/or carmine in a variety of foods (grapefruit juice, the alcoholic beverage

Campari, a popsicle, candy, yogurt, and artificial crabmeat) and cosmetics (face blush, eye shadow, eyeliner, and skin products) have been reported in the scientific and medical literature since 1961. Since 1994, we have received 11 adverse event reports of allergic reactions, including anaphylaxis, experienced by individuals after eating food or drinking a beverage containing cochineal extract or carmine, or using cosmetics colored with carmine. We know of no reports of allergic reaction to cochineal extract or carmine in drugs.

In 1998, we received a citizen petition (Docket No. 98P–0724) from CSPI asking us to take action to protect consumers who are allergic to cochineal extract and carmine. The CSPI petition, the reports from the scientific literature, and the voluntarily submitted adverse event reports provide the factual basis for the regulatory action we now propose.

II. Description of Cochineal Extract and Carmine

A. Source and Identity of Cochineal Extract and Carmine

Cochineal is a dye made from dried and ground female bodies of the scale insect *Dactylopius coccus costa* (*Coccus cacti L.*). Powdered cochineal is dark purplish red. The chief coloring principle in cochineal is carminic acid, a hydroxyanthraquinone linked to a glucose unit. Cochineal contains approximately 10 percent carminic acid; the remainder consists of insect body fragments.

Cochineal extract is the concentrated solution obtained after removing the alcohol from an aqueous-alcoholic extract of cochineal. The chief coloring principle in cochineal extract is carminic acid. Cochineal extract is acidic (pH 5 to 5.5) and varies in color from orange to red depending on pH.

Carmine is the aluminum or calcium-aluminum lake formed by precipitating carminic acid onto an aluminum hydroxide substrate using aluminum or calcium cation as the precipitant. The carminic acid used to make the lake is obtained by an aqueous extraction of cochineal. Carmine is a dark red to bright red powder depending on the amount of carminic acid present. The lake is only slightly soluble in water, to which it imparts a red color, and can be solubilized by strong acids and bases.

The chemical identity, purity specifications, and use restrictions for cochineal extract and/or carmine are provided in § 73.100 (foods), § 73.1100 (drugs), and § 73.2087 (cosmetics). The regulations require that cochineal extract contain not less than 1.8 percent carminic acid, not more than 2.2 percent protein, and between 5.7 and 6.3 percent total solid content, and that carmine contain not less than 50 percent carminic acid.

Cochineal extract and carmine share the same E-number designation in the European Union, E120. Neither color additive should be confused with the unapproved color additive cochineal red (E124), a synthetic azo dye that is sometimes called new coccin, Food Red 7, or Ponceau 4R. Carmine also should not be confused with indigo carmine, which is certifiable as FD&C Blue No. 2.

B. Uses of Cochineal Extract and Carmine

Cochineal, carmine, and cochineal extract have a long history of use. Cochineal originated in Mexico and was used by the ancient Aztecs. It was discovered there by 16th century Spanish explorers, who introduced it to Europe and the rest of the world. Cochineal was listed in the United States Pharmacopeia from 1831 to 1955 and in the National Formulary until 1975.

Food uses for carmine include popsicles, strawberry milk drinks, port wine cheese, artificial crab/lobster products, cherries in fruit cocktails, and lumpfish eggs/caviar. Cochineal extract is used in fruit drinks, candy, yogurt, and some processed foods.

FDA's Voluntary Cosmetics Registration Program database contains information on the types of cosmetic products that contain carmine. (Cochineal extract is not permitted for use as a color additive in cosmetics.) Carmine has been reported to be used in 814 formulations including lipsticks, blushers, makeup bases, eye shadows, eyeliners, nail polishes, hair colors, skin care lotions, bath products, baby products, and suntan preparations.

III. Regulation of Cochineal Extract and Carmine

A. The Provisional List of 1960

The Color Additive Amendments of 1960 (Public Law 86–618, 74 Stat. 397) amended the Federal Food, Drug, and Cosmetic Act (the act) to add the definition of ''color additive'' and to establish conditions under which color additives may be safely used. The Color Additive Amendments required us to publish a provisional list of color additives that were already in use or were certified as color additives prior to July 12, 1960. The provisional list was intended to permit the continued use of the listed color additives for a limited time, during which sponsors could submit data that established their safety and supported their permanent listings.

FDA published a provisional list of color additives that included cochineal extract in the **Federal Register** of October 12, 1960 (25 FR 9759). We provisionally listed cochineal for use in foods, drugs, and cosmetics on the basis of prior commercial sale of color additives which had not been subject to certification. In the **Federal Register** of August 16, 1961 (26 FR 7578) FDA amended the provisional list to add carmine for use in foods and cosmetics on the same basis.

B. Color Additive Approval of Carmine

On November 9, 1964, we received a color additive petition (CAP) that requested the permanent listing of carmine as safe and suitable for use in or on foods, drugs, and cosmetics. We designated the petition CAP 20 and we published a notice of filing of the petition in the **Federal Register** of August 17, 1965 (30 FR 10211).

Permanent listing of carmine for use in foods and drugs was supported by safety data and other relevant information submitted in CAP 20. The safety data included results of two 90–day toxicity studies, both in rats. From these data we calculated an acceptable daily intake (ADI) of 25 milligrams per kilogram (mg/kg) or 1,000 parts per million (ppm) of the daily diet for a person, considering a 100–fold safety factor. The petitioner had reported general usage in food products to be 0.0025 percent or 25 ppm, and in a few selected products as high as 75 to 100 ppm. We concluded that if a person's total diet were colored with carmine, and if the amounts ingested from drugs, cosmetics, and foods were combined, the total ingestion figures would be well within the margin of safety.

CAP 20 also included history-of-use information provided in 1965 by several companies, both domestic and foreign. These companies either supplied or used carmine and/or cochineal in food, drugs, and cosmetics. This history-of-use information stated that the companies had received no complaints during five decades of use. Also, the companies had received no notification of toxicity or allergic reactions from the use of the color additives.

From information in CAP 20, we concluded it would not be necessary to require the batch certification of carmine. Since carmine is derived from a natural source (insects), we concluded that there would be little likelihood of contamination with toxic reactants or intermediates that would be used in a synthesis. We also did not set a quantitative limitation because we determined that use of the color

additive would be economically self-limiting.

In the **Federal Register** of April 19, 1967 (32 FR 6131), FDA published a final rule that permanently listed carmine as a color additive exempt from certification for use in foods (21 CFR 8.317, now § 73.100) and drugs (21 CFR 8.6009, now § 73.1100).

On June 24, 1977 (42 FR 32228) FDA published a regulation permanently listing carmine as a color additive exempt from certification for use in cosmetics generally, including cosmetics intended for use in the area of the eye (§ 73.2087).

C. Color Additive Approval of Cochineal Extract

On February 14, 1968, we received a color additive petition requesting that we permanently list cochineal extract for general use in foods and drugs. We designated the petition CAP 60 and published a notice of filing in the **Federal Register** of March 15, 1968 (33 FR 4593).

Permanent listing of cochineal extract for use in foods and drugs was supported by data in CAP 60 which showed that cochineal extract was essentially similar, qualitatively, to carmine, including the protein fractions. The petition also included information on the long history of use of cochineal extract and argued that the use of cochineal extract as a color additive in foods and drugs was comparable to that for carmine.

We concluded that the toxicological data in CAP 20 could be extrapolated to support the safety of cochineal extract. We further concluded that certification of cochineal extract was not necessary. We also did not set a quantitative limitation because we determined that use of the color additive would be economically self-limiting.

In the **Federal Register** of December 14, 1968 (33 FR 18577), FDA published a final rule that amended the listing regulation for carmine to include the permanent listing of cochineal extract as a color additive exempt from certification for use in foods (21 CFR 8.317, now § 73.100) and drugs (21 CFR 8.6009, now § 73.1100).

IV. Allergic Reactions to Cochineal Extract and Carmine

A. Descriptions of Allergic Reactions

An allergic reaction is characterized by an abnormal or exaggerated response of the body's immune system to a reaction-provoking substance (i.e., allergen), usually a protein (Ref. 1). The majority of such responses are immediate hypersensitivity reactions mediated by an antibody, immunoglobulin E (IgE). Individuals with allergies produce an excess amount of IgE antibodies that recognize specific allergens from food or other substances in the environment. Once formed, these allergen-specific antibodies attach to receptors on specialized white blood cells (mast cells and basophils), found at key interfaces of body contact with foreign substances (e.g., skin, gastrointestinal and nasorespiratory tracts, and blood). The interaction between an allergen and bound specific IgE antibodies at these interfaces stimulates these cells to liberate histamine and other inflammatory mediators involved in the allergic response (Refs. 2 and 3).

Allergic reactions typically manifest at the site of allergen contact and vary widely in severity. Signs and symptoms include skin manifestations of flushing, urticaria (hives), eczema, and angioedema (tissue swelling); oral manifestations of lip and tongue swelling and itchiness; gastrointestinal manifestations of stomach cramps, nausea, vomiting and/or diarrhea; itchy and swollen eye manifestations; nasorespiratory manifestations of nasal congestion and runniness, itchy nose and throat, wheezing, chest tightness and/or difficulty breathing; and cardiovascular manifestations of lightheadedness, chest pain, and low blood pressure. In some cases, a massive release of inflammatory mediators can lead to a more severe allergic reaction, often termed anaphylaxis, characterized by multi-organ involvement. Anaphylaxis can rapidly progress to severe respiratory manifestations of throat swelling/airway closure or cardiovascular collapse/shock that, without prompt medical management, ultimately result in death.

The allergen type, route of exposure, frequency, dose, extent of mediator release, and presence of underlying illnesses (e.g., asthma) are factors which determine the severity of IgE-mediated allergic reactions (Ref. 4). Based on anecdotal reports of food allergic reactions and confirmatory oral challenge diagnostic studies, minimal amounts of food allergen can induce allergic reactions in sensitive individuals (Ref. 5). Although the risk of adverse reactions to minimal concentrations of allergenic ingredients in drugs and cosmetics would be expected to be similar to foods, data on the incidence of anaphylaxis resulting from ingestion and/or application of drugs and cosmetics is lacking.

There are no tests to predict or determine which allergic individuals are more likely to develop anaphylaxis. Current testing methods (e.g., skin prick test (SPT) or in vitro radioallergosorbent test (RAST)) may provide evidence of IgE-mediated antibody response to allergens. However, such testing offers little predictive value for the severity of response. (Ref. 6)

Most individuals become aware of their allergy to a specific allergen prior to experiencing a severe reaction. However, once the allergen is identified, there are no effective treatment methods to prevent IgE-mediated reactions from occurring. Although treatments are available that may limit the severity of harm from the allergic reaction, they do not necessarily eliminate the harm nor, in some cases, stop fatal reactions from occurring following exposure to an allergen (Ref. 6). Fatal reactions have occurred despite appropriate administration of treatment. Thus, avoidance of the allergen is the only method certain to prevent harm and fatal reactions. Reading of labels on food, drug, and/or cosmetic products, and/or education about potential scenarios where contact with allergen-containing sources could occur, are the cornerstone of risk prevention strategies for allergic individuals and their families.

Allergens have been identified in food, drug, and cosmetic products, and sensitization (production of IgE antibodies) to allergens may occur through exposure to any or all of these products. Moreover, once sensitized, an individual may develop an IgE-mediated allergic reaction to the allergen by various routes of exposure: Topical (in contact with skin or mucosa), inhaled, ingested, or intravenous. Although anaphylaxis can result from exposure by any route, most cases of severe reactions occur when the allergen is ingested or injected intravenously. By these routes, allergens can be easily absorbed into the systemic circulation, leading to life-threatening anaphylaxis in as little as 5 to 15 minutes.

A range of adverse reactions has been reported to occur from hypersensitivity to foods and cosmetics containing carmine or cochineal extract, as well as from carmine, carminic acid, and cochineal extract by themselves. As of February 2004, FDA is aware of 35 cases of hypersensitivity to carmine, carminic acid, or cochineal extract published in the scientific and medical literature and/or reported directly to FDA. Eleven of the cases were reported directly to FDA via consumer hotlines, letters, and/or MedWatch reports.

Hypersensitivity reactions to carmine, carminic acid, or cochineal extract include contact dermatitis (4), urticaria/

angioedema (9), occupational asthma (10), and systemic anaphylaxis (twelve). In more than half of these reports, there is evidence of an IgE-mediated diagnostic response (e.g., positive SPT or positive IgE RAST) to carmine and/or its derivatives. In a subset of individuals, more specific testing identified allergenic proteins in the carmine and/or its derivatives to which the individuals had been specifically sensitized. All adverse reactions were strongly associated with ingestion, topical application, or inhalation of products containing carmine and/or derivatives by the persons making the reports. Moreover, a subset of sensitized individuals developed adverse reactions to a variety of different products containing carmine and/or derivatives. In addition to the above cases, inhalation of carmine and/or derivatives has been reported to induce an immunologic lung disorder, allergic extrinsic alveolitis, also known as hypersensitivity pneumonitis, in certain individuals.

B. Adverse Reaction Reports in the Literature

The first report of an allergic reaction to carmine was published in 1961 (Ref. 7). The report described a contact allergic reaction to a lip salve containing carmine, with evidence of positive patch tests in three affected patients. Twenty years later an English physician reported the first case of anaphylactic shock from topical exposure to carmine. In the case of a military recruit involved in a casualty simulation exercise, a makeup stick colored red with carmine was applied directly to the skin of his body in the trunk area. Immediately following application, he went into anaphylactic shock (Ref. 8).

Beaudouin, et al., (Ref. 9) published the first report of anaphylaxis following ingestion of carmine. A 35-year-old woman was seen with generalized urticaria, angioedema, and asthma that began two hours after eating yogurt containing an estimated 1.3 mg of carmine. The woman had positive SPT for carmine powder and carmine colored yogurt.

A 1997 article (Ref. 10) describes allergic reactions (including anaphylaxis) experienced by five patients after ingesting the alcoholic beverage Campari, which contains carmine. All five patients were women; three had a history of allergic respiratory disease, one had only non-clinical sensitivity to mugwort, and one was nonatopic (had no history of allergy). The time period between ingestion and onset of allergic reaction was given for four patients and varied from 15 minutes to 30 minutes. Two of the five patients reportedly experienced ''severe'' anaphylactic reactions. Of these two, one required hospitalization; the other was treated with inhalers and intravenous antihistamines. The remaining three experienced angioedema.

The five patients demonstrated IgE sensitization to carmine by SPT and to carmine and cochineal extract (provided by the Campari company) by RAST. Serum from three patients was also tested for specific IgE response to carminic acid. Serum from one of the three (the nonatopic patient) revealed evidence of IgE antibodies directed against carminic acid. Given their previous history of adverse reactions to Campari, all five patients refused oral challenge to carmine.

Of particular note in the above study, sensitization to carmine was shown to occur in a nonatopic individual. This sensitization was attributed to previous use of an eye shadow containing carmine, from which the patient had experienced eye itching and skin burning sensation. An SPT result for this product was positive in the patient. Thus, this case highlights the probability that an individual, with no previous history of allergy, became sensitized to carmine from use of carmine-containing cosmetics and subsequently experienced a systemic allergic reaction (urticaria and angioedema) following the ingestion of a food containing carmine.

In 1997, Baldwin, et al., (Ref. 11) reported the case of a 27-year-old woman who experienced anaphylaxis within three hours of eating a popsicle labeled as colored with carmine. The woman received emergency medical care with intravenous fluids, epinephrine and diphenhydramine and was briefly hospitalized. Her past medical history included allergic rhinitis. The woman recalled that her only other known exposure to carmine was when she used a carmine-containing face blush. Use of this blush caused an immediate, pruritic, erythematous eruption when she used it directly on her facial skin but not when she applied it over a face foundation. When she was later tested, she exhibited highly positive SPT to the popsicle and carmine, but had negative responses to the other components of the popsicle. A passive transfer test (which indicates transfer of IgE sensitization) to carmine was also positive.

In 1999, DiCello, et al., (Ref. 12) described two cases of allergic reaction to carmine. A 27-year-old woman developed anaphylaxis after ingestion of yogurt which listed carmine on the ingredient list. She also experienced pruritis and swelling after application of carmine-containing eye shadow. The second case involved a 42-year-old woman who experienced multiple episodes of facial angioedema and nasal congestion after ingestion of crabmeat. She also had severe reactions requiring emergency room visits after ingesting Campari.

In 2001, Chung, et al., (Ref. 13) described three patients, one with history of anaphylaxis and two with histories of urticaria and/or angioedema following ingestion of carmine-containing foods. The patients' allergies to carmine were confirmed by controlled food challenges and SPT to commercial carmine preparations. Two of three patients also had experienced pruritis and erythema after applying blush containing carmine.

This study also evaluated the protein content of dried pulverized cochineal insects and commercial carmine, and compared and analyzed the specificity of the patients' sera (reflecting serum IgE) to these proteins. Several protein bands were separated by electrophoresis from cochineal insects; none were separated from commercial carmine. Despite the fact that no protein bands were separated from commercial carmine, sera from all three patients recognized several protein bands from both pulverized cochineal insect extract and commercial carmine. Also, using immunoblotting techniques, addition of commercial carmine inhibited patients' sera from recognizing cochineal insect proteins. Thus, these results suggest that commercial carmine retains proteinaceous material that is antigenically identical (or similar) to other cochineal insect proteins found in cochineal extract, and that could potentially induce IgE sensitization or response in sensitive individuals. Although one or more such proteins were recognized by the patients' sera, no single protein was recognized by all three patients, making determination of a single allergenic component in carmine-derived products not possible at this time.

Although potentially inconsequential to regulatory decisions regarding foods, drugs, and cosmetics, carmine has been noted in reactions associated with inhalational exposure. Carmine has been implicated in occupational asthma among workers in factories where the dye is manufactured or added to products (Refs. 14, 15, and 16) and in extrinsic allergic alveolitis (Refs. 17 and 18). With regards to occupational asthma secondary to inhalation of carmine powder, the first report was published in 1979 (Ref. 15) in the case

of a 54-year-old man who had worked as a blender of cosmetics. Five years after carmine was introduced as a coloring agent, he developed attacks of breathlessness at work, which would start within 20 minutes of exposure to the coloring agent. Bronchial provocation testing established that carmine was responsible for his wheezing attacks. He was also tested with an extract of cochineal insects prepared in Coca's solution; inhalation of this provoked his asthma. Although a lung function test suggested pre-existing emphysema, his attacks were reproducible when exposed to carmine powder. A second report of occupational asthma secondary to inhalation of carmine powder was published in 1987 (Ref. 16). A 1994 study (Ref. 14) demonstrated the formation of specific IgE antibodies against carmine and cochineal extract in a worker who had developed occupational asthma.

C. Adverse Reaction Reports in FDA Files

Since 1994, we have received 11 voluntarily submitted reports of allergic reactions, including anaphylaxis, experienced by individuals after eating food or drinking a beverage containing cochineal extract or carmine or using cosmetics colored with carmine.

1. On June 20, 1995, a 27-year-old woman experienced anaphylaxis within 3 hours of eating a popsicle labeled as colored with carmine. A report of this case was also published in the medical literature as described previously (Ref. 11).

2. On April 22, 1997, a 30-year-old woman experienced urticaria, angioedema, and respiratory distress after consuming ruby red grapefruit juice with carmine. She had experienced similar reactions after eating purple candy colored with carmine. She also reported having a skin rash after using a purple eye shadow containing carmine. SPT to ruby red grapefruit juice, purple candy, purple eye shadow, and carmine dye were all positive.

3. A 26-year-old woman experienced anaphylaxis on July 22, 1997, with generalized pruritus, urticaria, and angioedema, after eating custard-style strawberry-banana yogurt containing carmine. During the episode, she was found to have an elevated serum tryptase level of 18 (upper limit of normal is 13.5), which is indicative of massive activation/release of mast cells. Following the episode, she demonstrated positive SPT to both custard-style strawberry-banana yogurt containing carmine and to carmine itself.

4. On May 16, 1998, a 50-year-old woman reported having a severe allergic reaction within 15 minutes of drinking a 16 ounce bottle of fruit drink, which was labeled as containing extracts of cochineal. She experienced swelling in the area of her eyes and tightness in her throat. She was treated and hospitalized overnight.

5. A 49-year-old woman who had no other allergies and mild hypertension reported on August 30, 2000, that she made two visits to an emergency room for treatment of severe anaphylactic reaction after eating small amounts of food colored with carmine: Crab soup, yogurt, candy, ruby red grapefruit juice, and pasta salad with artificial crabmeat. She subsequently had a positive SPT to carmine.

6. An atopic woman around the age of 50 called to report having experienced recurrent episodes of swollen eyelids after consuming jelly or gelatin dessert containing carmine. At the time of her call, she had not had an allergic workup regarding her reactions.

7. A woman reported experiencing an allergic reaction she attributed to eating a custard-style yogurt containing carmine. Shortly after eating the yogurt, she experienced an anaphylactic reaction, with trouble swallowing, hives, itching, and swelling of the eyelids. She was treated by an allergist. She also reported past sensitivity to eye shadows and other cosmetics which she thought contained carmine.

8. A letter from a law firm informed us of the experience of one of their clients indicating that carmine might be implicated in allergic reactions. The firm did not provide any clinical details but enclosed a copy of a publication on carmine allergenicity from the journal Lancet.

9. On May 2, 2000, a woman reported anaphylactic shock from carmine in foods and cosmetics applied to her skin and stated that she carries an injectable medication for treatment when needed.

10. On September 21, 2000, a woman reported an allergic reaction by her eyes to an eyeliner containing carmine.

11. In a letter dated March 26, 1999, a physician reported treating a patient who experienced an anaphylactic reaction after eating yogurt containing carmine and had a positive SPT to diluted carmine.

D. CSPI Citizen Petition

CSPI submitted a citizen petition (Docket No. 98P–0724), dated August 24, 1998, requesting that we take action to protect consumers who are allergic to carmine and cochineal extract. The petitioner specifically requested that we do the following:

1. Immediately require that cochineal extract and/or carmine be listed by name in the ingredient lists of all foods, drugs, and cosmetics to help protect individuals who know they are sensitive to the colorings;

2. Immediately require labeling of animal (insect) origin of cochineal extract and carmine;

3. Undertake or require scientific reviews or studies to determine the specific allergenic component of cochineal extract and carmine and whether it could be eliminated from the coloring, as well as to determine the prevalence and maximum severity of allergic reactions;

4. If necessary, prohibit the use of cochineal extract and carmine entirely.

In support of its requested actions, CSPI provided six articles from the scientific and medical literature describing adverse reactions to cochineal extract and/or carmine after inhalation of the color additive, ingestion of foods and beverages containing the color additive, or topical application of products containing the color additive. These articles are discussed in section IV.B of this document.

V. FDA Response to the Allergic Reaction Reports

A. Evaluation of the Allergic Reaction Reports

The data show that a person may become sensitized and reactive to carmine and cochineal extract from ingestion, inhalation, or topical exposure to the color additives. Evidence for this is provided by published case reports of allergic reactions to foods containing carmine and cochineal extract (Refs. 10, 11, and 12), occupational asthma from exposure to carmine (Refs. 15, 16, and 17), and allergic reactions to topically applied cosmetics containing carmine (Refs. 9, 13, and 14). The data in the published reports establish that the allergic reactions result from IgE-mediated antibody response to carmine or cochineal extract. The data also establish that individuals may become sensitized and reactive to carmine from use of cosmetics containing that color additive. These same individuals have been shown to subsequently experience more severe allergic reactions, including life-threatening IgE-mediated anaphylaxis, following the ingestion of carmine or cochineal extract in foods.

Further evidence is provided in the 11 voluntarily submitted adverse reaction reports we have received that describe

allergic reactions, including anaphylaxis, experienced by individuals after eating food or drinking a beverage containing cochineal extract or carmine or using cosmetics colored with carmine. Because events were reported from a population of unknown size, estimates of overall frequency of allergy to these color additives cannot be made.

B. Options for Action

Individuals with known sensitivity to carmine or cochineal extract need to avoid products that contain these color additives in order to prevent potentially life-threatening allergic reactions. There are several possible ways to accomplish this. One way is to prohibit use of carmine and cochineal extract in all foods, drugs, and cosmetics. A second way is to identify and eliminate the allergenic component of carmine and cochineal extract. If an allergen is a contaminant of the color additive, rather than the coloring principle, then FDA can set additional limiting specifications in the regulations for the color additives and, if necessary, require certification for each batch of carmine and cochineal extract to ensure compliance with these specifications. A third way is to require declaration of the presence of these color additives on the labels of all foods, drugs, and cosmetics.

C. Tentative Conclusions

We have tentatively concluded that it is unnecessary to prohibit the use of carmine and cochineal extract in all foods, drugs, and cosmetics. Although the color additives have been shown to produce allergic responses in certain sensitized individuals, there is no evidence of a significant hazard to the general population when the color additives are used as specified by the color additive regulations in part 73.

We have also tentatively concluded that requiring additional testing to identify and remove the allergenic component in carmine and cochineal extract would do little to protect the health of individuals sensitive to those additives because: (1) Given evidence that different people appear to react to different components of the color additives, it may not be technically or economically feasible to identify and reduce the allergenic component of carmine and cochineal extract to a low enough level so that it would no longer induce an allergic response in sensitized individuals; and (2) additional testing and the rulemaking required to implement the results of the testing would delay our resolution of the issue for sensitive individuals.

Instead, FDA proposes to require declaration of carmine or cochineal extract on the labels of all foods and cosmetics that contain them. We plan to address prescription drugs in a separate rulemaking. This labeling requirement will enable sensitized individuals to recognize that a product contains carmine or cochineal extract by reading a product's labeling, and will thereby enable those individuals to avoid products that contain the color additives. This labeling requirement will also enable consumers and health care professionals to more quickly identify sensitivities to these color additives.

1. Foods

There is currently no requirement that the presence of cochineal extract or carmine be declared in food labeling. Section 403(i) of the act (21 U.S.C. 343(i)) requires that a food label declare the ingredients in the food, using the common or usual name of the ingredient. However, this section allows the food label to designate certification-exempt color additives as coloring without naming the additives. The implementing regulation, § 101.22(k)(2) (21 CFR 101.22(k)(2)), permits label declaration of a certification-exempt color additive with a general phrase such as ''Artificial Color,'' ''Color Added,'' or some other equally informative term that makes it clear that a color additive has been used in the food.

Section 403(k) of the act requires that a food that bears or contains any artificial coloring must bear labeling stating that fact, but states that the provisions of this section and of section 403(i) described previously do not apply to butter, cheese, or ice cream. Section 101.22(k)(3) states that color additives need not be declared on the labels of butter, cheese, and ice cream unless such declaration is required by a regulation in part 73 or 21 CFR part 74. We have reviewed published and submitted reports describing allergic responses to food products containing cochineal extract or carmine. These reports are sufficient to demonstrate a hazard to the health of consumers who are sensitive to the color additives. Therefore, we tentatively conclude that the labels of all foods containing cochineal extract or carmine should declare the presence of those color additives in the ingredient statements as a condition of safe use. To that end, we propose the following amendments.

FDA proposes to amend § 73.100(d) by adding new paragraph (d)(2) to require the declaration of cochineal extract and carmine on the labels of all foods. Because § 101.22(k)(2) does not refer to any labeling requirements in part 73, FDA also proposes to amend § 101.22(k)(2) to provide that certification-exempt color additives need not be declared on the labels of foods unless such declaration is required by a regulation in part 73. We do not propose to amend § 101.22(k)(3) to require the declaration of cochineal extract or carmine on the labels of butter, cheese, and ice cream because that declaration would be required by reference to proposed new § 73.100(d)(2).

2. Drugs

With respect to OTC drugs, § 201.66(c)(8) (21 CFR 201.66(c)(8)) requires the outside container or wrapper of the retail package, or the immediate container label if there is no outside container or wrapper, to contain a listing of the established name of each inactive ingredient. If the OTC drug product is also a cosmetic, then the inactive ingredients must be listed in accordance with specific provisions of §§ 701.3(a) or (f) (21 CFR 701.3(a) or (f)) and 21 CFR 720.8, as applicable. Therefore, whether the OTC drug is or is not also a cosmetic, there is a preexisting regulatory requirement for declaration of inactive ingredients, including carmine and cochineal extract under § 201.66(c)(8). Failure to comply with this regulation would render an OTC drug misbranded and subject to enforcement action under section 502(c) of the act (21 U.S.C. 352(c)).

Furthermore, section 412 of FDAMA amended the misbranding provisions in section 502(e) of the act to require declaration of inactive ingredients for drugs, including prescription drugs. We plan to initiate a separate rulemaking to implement these FDAMA provisions.[1]

3. Cosmetics

Cosmetics that are offered for retail sale are subject to the labeling requirements of § 701.3. Section 701.3(a) requires that the labels of cosmetics offered for retail sale bear a declaration of the name of each ingredient in descending order of predominance, except that the individual ingredients of fragrances and flavors are not required to be listed and may be identified together as ''fragrance'' or ''flavor.'' However, § 701.3(f) permits color additives to be declared as a group at

[1] These provisions of FDAMA have already been implemented for OTC drugs as described in the preceding paragraph. See 64 FR 13254, 13263 (March 17, 1999). Note also that current 21 CFR 200.100(b)(5) requires the label of a prescription drug that is not for oral use (such as a topical or injectable drug) to bear the names of inactive ingredients, but permits certain color components to be designated as ''coloring'' rather than being specifically named.

the end of the ingredient statement, without respect to order of predominance.

Cosmetics that are manufactured and sold for use only by professionals, called ''professional-use-only'' products, are not subject to the requirements of § 701.3 and thus need not bear ingredient labeling. Cosmetic products that are gifts or free samples also need not bear ingredient labeling.

Professional-use-only products include: (1) The makeup used in photography studios and by makeup artists for television, movie, and theater actors/actresses, (2) products intended for use only by professionals in beauty salons, skin care clinics, and massage therapy shops, and (3) camouflage makeup dispensed by physicians and aestheticians to clients with skin conditions such as scarring.

Cosmetics that are gifts or free samples need not bear ingredient labeling because they are not intended for retail sale as consumer commodities. However, in the case of a gift that is actually a ''gift-with-purchase,'' we have stated in our trade correspondence (Ref. 19) that the ''gift'' is not considered a free gift per se, because it can only be obtained by consumers who purchase the product to which the gift is attached. Therefore, such a ''gift'' must currently bear a complete ingredient declaration on the label of the package in accordance with the requirements of § 701.3.

We have reviewed published and submitted reports of allergic responses, including anaphylaxis, to cosmetic products that contain carmine. Furthermore, we have discussed the possibility that consumers sensitized to carmine from use of cosmetics containing that color additive may subsequently experience more severe allergic reactions, including anaphylaxis, from ingestion of carmine or cochineal extract in foods. We have tentatively concluded that all cosmetic products should declare the presence of carmine in their labeling. Therefore, FDA proposes to amend § 73.2087 to require declaration of carmine on the labels of cosmetics that are not subject to the requirements of § 701.3. The amended regulation will require that the cosmetics specifically declare the presence of carmine prominently and conspicuously at least once in the labeling and will provide the following statement as an example: ''Contains carmine as a color additive.''

VI. FDA Response to the CSPI Petition

FDA's response to the actions requested in the CSPI petition is as follows:

1. CSPI requested that FDA immediately require that cochineal extract and carmine be listed by name in the ingredient lists of all foods, drugs, and cosmetics.

We believe that requiring the declaration of cochineal extract and carmine would provide sensitized consumers with the information needed to avoid products that contain those color additives. For the reasons stated in section V of this document, FDA proposes to require the declaration of carmine and cochineal extract on the labels of all foods and cosmetics, and plans to address drugs in a separate rulemaking.

2. CSPI requested that FDA immediately require labeling of animal (insect) origin of cochineal extract and carmine.

We do not believe requiring the declaration of animal (insect) origin of cochineal extract and carmine in the labeling of products containing these color additives is necessary. FDA has tentatively concluded that the proposed labeling requirement will provide sensitized consumers sufficient information to avoid products containing these color additives.

Furthermore, information on the origin of these color additives is readily available to those consumers who want it. This information is provided in standard dictionaries under the definitions for the words ''cochineal'' and ''carmine.'' This information is also provided in the color additive regulation governing use of cochineal extract and carmine in foods (§ 73.100). Thus, we do not propose to require labeling of animal (insect) origin of cochineal extract and carmine.

3. CSPI requested that FDA undertake or require scientific reviews or studies to determine the specific allergenic component of cochineal extract and carmine, and whether it could be eliminated from the color additives, as well as to determine the prevalence and maximum severity of allergic reactions.

We could not identify the specific allergenic component in carmine and cochineal extract from our review of the published literature, except to state that it is likely to be of insect origin. One study we reviewed found that no universal protein was recognized by patients known to be allergic to carmine and that it remains unclear whether the allergenic component consists of proteins from the cochineal insects or a protein-carminic acid complex. We believe that additional scientific reviews or studies to determine the specific allergenic components of cochineal extract and carmine may be helpful if successful; however, they would be unnecessary to ensure the safe use of cochineal extract and carmine in foods, drugs, and cosmetics for the majority of consumers in the general public. Thus, we have not undertaken and we do not propose to require the requested scientific reviews or studies.

4. CSPI requested that, if necessary, FDA prohibit the use of cochineal extract and carmine entirely.

As noted previously, we have tentatively concluded that it is unnecessary to prohibit the use of cochineal extract and carmine in foods, drugs, and cosmetics. Although the color additives have been shown to produce allergic responses in certain sensitized individuals, there is no evidence of a significant hazard to the general population when the color additives are used as specified by the color additive regulations in part 73. Requiring declaration of carmine and cochineal extract on the labels of all foods and cosmetics will enable sensitized individuals to inform themselves of the presence of the color additives by reading a product's label and will thereby enable the individuals to avoid those products that contain carmine or cochineal extract. Thus, we do not propose to prohibit the use of cochineal extract and carmine.

VII. FDA Proposed Action

A. Legal Authority

The legal authority for the regulations prescribing the safe use of color additives in foods, drugs, and cosmetics comes from section 721(b) of the act (21 U.S.C. 379e(b)). Under section 721(b), FDA has the authority to prescribe conditions, including labeling requirements, under which a color additive may be safely used. Products containing color additives that are not used in compliance with the color additive regulations are adulterated under sections 402(c) (foods), 501(a)(4) (drugs), or 601(e) (cosmetics) of the act (21 U.S.C. 342(c), 351(a)(4), and 361(e), respectively). We have concluded that cochineal extract and carmine may cause potentially severe allergic responses in humans. Thus, we believe label information about the presence of these color additives in all foods and cosmetics is necessary to ensure their safe use. We note that, with respect to OTC drugs, declaration of inactive ingredients is already required under § 201.66(c)(8), and we plan to initiate a rulemaking to implement the FDAMA provisions that require declaration of inactive ingredients for drugs, including prescription drugs.

Additional legal authority for requiring disclosure of a coloring that is,

or that bears or contains, a food allergen comes from section 403(x) of the act. Under that section, a coloring determined by regulation to be, or to bear or contain, a food allergen must be disclosed in a manner specified by regulation.

B. Food Labeling

FDA proposes to amend the color additive regulation (§ 73.100) that permits the use of cochineal extract or carmine in foods by adding new paragraph (d)(2) to require that all food (including butter, cheese, and ice cream) that contains cochineal extract or carmine specifically declare the presence of the color additive by its respective common or usual name, ''cochineal extract'' or ''carmine,'' in the ingredient statement of the food label. Failure to adhere to this requirement would make any food that bears or contains cochineal extract or carmine adulterated under section 402(c) of the act.

FDA also proposes to amend § 101.22(k)(2) of the food labeling regulations to disallow generic declaration of color additives for which individual declaration is required by applicable regulations in part 73. Currently, that paragraph allows any certification-exempt color additive to be declared in a generic way as ''Artificial Color'' or ''Artificial Color Added,'' rather than by its specific common or usual name.

C. Cosmetics Labeling

FDA proposes to amend the color additive regulation (§ 73.2087) permitting the use of carmine in cosmetics to require that cosmetics containing carmine that are not subject to the requirements of § 701.3 specifically declare the presence of carmine prominently and conspicuously at least once in the label or labeling. The amended regulation will provide the following statement as an example: ''Contains carmine as a color additive.'' Including this requirement in the color additive regulations will make any cosmetic that contains carmine and that does not declare its presence on the label adulterated under section 601(e) of the act.

VIII. Proposed Effective Date

The proposed effective date for any final rule that may issue based on this proposal is 2 years after its date of publication in the **Federal Register**.

IX. Environmental Impact

The agency has determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

X. Analysis of Impacts

A. Preliminary Regulatory Impact Analysis

We have examined the economic implications of this proposed rule as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million, adversely affecting a sector of the economy in a material way, adversely affecting competition, or adversely affecting jobs. A regulation is also considered a significant regulatory action if it raises novel legal or policy issues. We have determined that this proposed rule is not an economically significant regulatory action as defined by Executive Order 12866.

B. Regulatory Alternatives

We considered the following regulatory alternatives in this analysis. We request comments on these and any other plausible alternatives: (1) Take no action; (2) take the proposed action; (3) take the proposed action, but make the effective date later; (4) take the proposed action, but make the effective date sooner; or (5) ban carmine and cochineal extract.

1. Option One: Take No Action

We treat the option of taking no action as generating neither costs nor benefits. We use this option as the baseline in comparison with which we determine the cost and benefits of the other options. Any favorable or unfavorable results from taking no action will be captured in the costs and benefits of the other options.

2. Option Two: Take the Proposed Action

a. Costs. This proposed rule would increase the cost of using cochineal extract and carmine in foods and some cosmetics because it would require firms using these substances to list them on product labels. In the case of foods, the proposal would require firms to list the additives as ingredients in their products. In the case of cosmetics, the proposal would require firms to declare the presence of carmine on products not subject to the requirements of § 701.3 (e.g., professional-use-only products or free gifts). Cosmetics which are consumer commodities and subject to the requirements of § 701.3 are already required to list carmine as an ingredient.

Although we discuss these costs as though they accrued to the affected firms, these costs are actually social costs that firms may pass on to consumers via higher product prices, depending on market conditions. The costs would be greatest for firms currently producing products containing these additives and for firms that begin using these additives in existing products after the final rule based on this proposal has taken effect but before their next regularly scheduled label change. Costs would be greatest for these firms because they would need to change labels before their next regularly scheduled label redesign, and they may lose some inventory of already printed labels. The costs would be much smaller for firms that begin using these color additives in new products that are introduced after the final rule based on this proposal has taken effect and for firms that begin using these additives in existing products after their next regularly scheduled label redesign after the final rule based on this proposal has taken effect. Costs would be much smaller for these firms because they could incorporate the requirements of this rule in their label design during their label design phase, and they would not lose label inventory. The costs for these firms would be the loss of otherwise free label space. These costs would be minimal because this rule requires the use of only a small portion of the total available label space.

Firms would respond in one of two ways to the increased costs of using carmine and cochineal extract. First, firms might use these additives and label products containing these additives as required by the final rule based on this proposal. Second, firms might decide not to use these additives or to delay using them until after their next regularly scheduled label change. Firms would decide which action to take based on estimated profits, which would vary with changes in consumer demand for the relabeled or reformulated products, the costs of relabeling or reformulating, and changes in consumer demand resulting from changes in product prices. We assume in this analysis that the required labeling would not significantly reduce

demand because relatively few consumers are sensitive to these color additives. (If the required labeling did significantly reduce demand, then we would need to distinguish the costs of firm activity that result from changes in the costs of using carmine and cochineal extract from the costs of firm activity that result from changes in product demand. The former would represent social costs; the latter would represent distributive effects.) In addition, we assume that all firms would relabel rather than reformulate because relabeling is generally much less costly than reformulating.

For foods and cosmetics, we estimated relabeling costs using a model developed by Research Triangle Institute (RTI) under contract to FDA. This model estimates labeling costs based on the length of the compliance period (that is, the length of time we give firms to comply with the requirements of the final rule upon publication of the final rule), the parts of the label that are affected, and the North American Industry Classification System (NAICS) codes or descriptions of the type of products. The label cost model does not cover cosmetics, so we estimated relabeling costs for cosmetics by extrapolating from the data on food.

The proposed effective date for this rule will be 24 months following the publication of the final rule. The rule will affect only the ingredient list for most affected products. We estimated the labeling costs for cosmetic products based on the costs of changing the ingredient lists for the relevant product types that appeared in the label cost model. We do not know the number of food products or cosmetics that contain carmine or cochineal extract. According to industry literature, these additives are technically suitable for use in a wide variety of food including dairy products such as ice cream and yogurt; popsicles; baked goods including doughnuts, bakery mixes, cones, and fruitcake; confections and candy including chewing gum base, hard candies, soft-toffee/caramel, and gum types/jellies; fruit fillings and puddings, jellies, and gelatin dessert; canned cherries; seasonings; snacks; canned meat products; pork sausage; surimi (artificial crabmeat); soup and soup mixes; tomato products; vinegar; beverages and fruit-based drinks; fruit-based liquors; and syrups. All of the food products featured in the adverse event reports that we discussed previously in this preamble fall into one of these categories. Carmine is also suitable for use in a variety of cosmetics, including lipsticks, blushes, and eye shadows. However, this rule affects the following categories of cosmetics which are not subject to the requirements of § 701.3: (1) Professional-use only products, including, makeup used in photography studies and television, movies, and theater; makeup used by professionals in beauty salons, skin care clinics, and massage therapy shops; and camouflage makeup given by physicians and estheticians to clients with skin conditions such as scarring; (2) free samples or gifts, if not linked to a purchase. We already require all other cosmetics to declare the presence of color additives on the label.

Based on this list of products, the most relevant product categories and NAICS codes appearing in the labeling cost program are as follows: Fluid Milk (311511), yogurt and flavored milk portion only; Ice Cream and Frozen Dessert Manufacturing (311520); Commercial Bakeries (311812) bakery snacks, pies, and cakes only; Frozen Cakes, Pies, and Other Pastries Manufacturing (311813); Cookies and Cracker Manufacturing (311821), cookies only; Flour Mixes and Dough Manufacturing from Purchased Flour (311822), baking mixes only; Chocolate and Confectionery Manufacturing from Cacao Beans (311320); Nonchocolate Confectionery Manufacturing (311340); Fruit and Vegetable Canning (311421) juices, jams/jellies/preserves, fruit, and tomato products only; Specialty Canning (311422) entrees, side dishes, and soup only; Dried and Dehydrated Foods (311423), soup only; Spice and Extract Manufacturing (311942), spices and seasonings only; Other Snack Food Manufacturing (311919) except unpopped popcorn; Seafood Canning (311711); Fresh and Frozen Seafood Manufacturing (311712); Frozen Specialty Food Manufacturing (311412); Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing (311941), vinegar only; Frozen Fruit, Juice, and Vegetable Manufacturing (311411), juice concentrate only; and Soft Drink Manufacturing (312111) carbonated beverages and non-fruit drinks only; and All Other Miscellaneous Food Manufacturing (311999) baking ingredients, drink mixes, desert toppings, gelatin puddings, syrups, and side dishes only. In addition, the following relevant NAICS codes do not appear in the labeling cost program: Retail Bakeries (311811); Confectionery Manufacturing from Purchased Chocolate (311330); Flavoring Syrup and Concentrate Manufacturing (311930); Meat Processed from Carcasses (311612); Distilleries (312140); and Toilet Preparation Manufacturing (325620). We used the average labeling costs of the other NAICS categories to estimate the costs for the NAICS categories that did not appear in the labeling cost program.

We then reduced the estimated labeling costs for some of the NAICS categories based on information from U.S. Census Bureau industry reports based on the 1997 economic census. We made these corrections only on those NAICS categories for which we were unable to limit the product categories to the most relevant products using the product categories provided in the label cost model.

For Seafood Canning (311711), we assumed that the primary type of product that might contain carmine or cochineal extract is surimi (imitation crab). This product comprised about 9 percent of the total value of shipments for this NAICS code (Ref. 20). Therefore, we estimated that the labeling costs would be 9 percent of the estimated costs for the entire NAICS code.

We made a similar correction to the cost estimates for Fresh and Frozen Seafood Manufacturing (311712). The Census report did not provide the value of shipment figures for fresh surimi products in order to avoid disclosing data on individual companies. However, the report included the data in higher level totals. Therefore, we estimated an upper bound on the size of the value of shipments for fresh surimi products by subtracting off from the total value of shipments all of the value of shipments of the categories for which the report provided data. We did not need to use this approach for frozen surimi products because the report provided data on those products. Using these figures, we estimated that surimi products comprised a maximum of 8 percent of the total value of shipments for this NAICS code (Ref. 21).

For Meat Processed from Carcasses (311612), we assumed that the primary types of products that might contain carmine or cochineal extract are canned meat and sausage. These products comprised about 34 percent of the total value of shipments for this NAICS code (Ref. 22).

For Distilleries (312140), we assumed that the primary types of product that might contain carmine or cochineal extract are bottled cordials and liqueurs. These products comprised about 13 percent of the total value of shipments for this NAICS code (Ref. 23).

For Toilet Preparation Manufacturing (325620), we assumed that the primary types of product that might contain carmine or cochineal extract is cosmetics (lip, eye, and blushers). These products comprised about 11 percent of

the total value of shipments for this NAICS code (Ref. 24).

For Retail Bakeries (311811), we assumed that the primary product types product that might contain carmine or cochineal extract are cakes, cookies, doughnuts, pies, and other sweet goods (sweet rolls, coffeecake, pastries, Danishes, muffins, etc.). These products comprised about 32 percent of the total value of shipments for this NAICS code (Ref. 25).

We do not have information on the proportion of those products that are suitable to contain carmine or cochineal extract that actually contain those color additives and that do not already list them on the ingredient list. However, the proportion of products that contain these additives is probably only a small portion of the total number of suitable products. Therefore, we assumed that between 1 percent and 10 percent of the products in the most relevant product categories actually contain carmine and cochineal extract and do not already voluntarily list these substances in the ingredient list. Under these assumptions, we estimate the one-time labeling costs to be approximately $0 million to $3 million.

b. Benefits. This rule would generate health benefits by reducing the number of adverse events involving cochineal extract and carmine via two potential pathways: (1) Consumers who know they are sensitive to these color additives would be better able to avoid products containing these color additives, and (2) consumers and health care professionals would be able to more quickly identify sensitivities to these color additives. In addition to the health benefits, this rule would allow consumers who know they are sensitive to these color additives to consume products that they may otherwise avoid because of uncertainty over whether the products contain these color additives.

We have identified three adverse events from the FDA files and the literature that involved products containing carmine or cochineal extract in which those color additives did not or probably did not appear on the ingredient list. All three cases involved crabmeat. In one case, we know that these additives did not appear on the product label. In the other two cases, we do not have information on whether the additives appeared on the labels or not. However, our experience is that crabmeat containing carmine or cochineal extract rarely indicates these additives in the ingredient list. Therefore, we assumed that these additives did not appear on the product label in these two cases. These three cases are part of a group of 14 cases involving adverse events in the United States involving carmine or cochineal extract in food or cosmetics that we identified in the literature and in our FDA files. The other 11 cases did not contain information on the labeling of the product that caused the reaction or involved products that were already labeled as containing carmine or cochineal extract.

The first of these events occurred in May 1994. The last of these events occurred in 2001. However, our literature search covered the period up to February 2004.

Passive reporting systems generally capture only a small fraction of adverse events. The actual fraction of adverse events captured by those systems is difficult to estimate because it depends on a number of factors, including public and physician awareness of a problem, the timing of press releases and other actions, the degree to which the adverse events are considered unusual or notable, and the severity of the adverse events. Estimates of reporting rates for particular type of problems under these types of systems tend to range from about 10 percent to less than 1 percent (Refs. 26, 27, and 28). The reporting rate for adverse events involving allergic responses to products containing unlabeled carmine would be probably be toward the low end of the scale because it would be difficult for consumers or physicians to relate the problem to carmine or cochineal extract if those substances were not listed on the product package. Therefore, we assume that we are aware of only about 1 percent of the adverse events involving these products. Under this assumption, we estimate that 300 adverse events involving these substances may have occurred between May 1994 and February 2004 (a reporting period of 9 years and 9 months) involving products covered by this rule, containing these additives, and not already listing these additives on the ingredient list. This corresponds to an annual rate of 31 adverse events.

We do not have sufficient information to estimate the percentage of these adverse events that this rule would eliminate. However, the reports involving products that already list these ingredients on the ingredient list suggest that this type of labeling will not eliminate all of these adverse events. Therefore, we assume that this rule would eliminate between 10 percent and 90 percent of these cases.

Although we do not have estimates of the value of avoiding severe and non-severe allergic reactions to carmine and cochineal extract, we do have estimates of avoiding severe and mild allergic responses in general. In a study done under contract to FDA, RTI estimated the value of avoiding a severe allergic response to be approximately $58,000 (Ref. 29). This estimate was based on a quality adjusted life year of approximately $200,000. We have revised our estimate of a quality adjusted life year to a range of $100,000 to $500,000 (68 FR 41489, July 11, 2003). Therefore, we have adjusted the estimate of the value of avoiding a severe allergic response to a range of between $26,000 and $132,000. This estimate accounted for the probability of death or coma due to a severe allergic response; however, it did not account for medical costs. Severe reactions involve anaphylaxis and typically require hospitalization and often emergency room care. These hospitalizations typically last 48 hours to 72 hours. One nationwide study found the mean cost of a hospital stay for a severe allergic reaction involving respiratory symptoms to be approximately $6,500 (Ref. 30). Therefore, we estimate the average total cost of a severe allergic reaction to carmine or cochineal extract to be approximately $33,000 to $139,000. We have two estimates of the value of avoiding a mild allergic response $54 and $437 (Ref. 29). The average of these two estimates is about $250.

Six of 14, or 43 percent, of the adverse events reports involving food and cosmetics involved severe adverse events that required emergency treatment or hospitalization. We assume that the same proportion of unreported adverse events would be severe. Under the assumption that about 43 percent of adverse event are severe, and based on the estimated number of adverse events eliminated by this rule and the estimated value of avoiding severe and mild allergic reactions, we estimate the potential annual health benefits of this rule to be between $0 million and $2 million. The total discounted value of this stream of health benefits at a discount rate of seven percent is between $1 million and $26 million. We are unable to quantify the non-health benefits of this rule for consumers who know they are sensitive to these substances and who would be able to consume some products that they might currently avoid because of uncertainty over whether the products contain these additives.

3. Option Three: Take the Proposed Action, but Make the Effective Date Later

Increasing the compliance period to 36 months would reduce the cost of revising labels because more firms could

time the revisions to coincide with regularly scheduled label changes. We estimated that the cost of revising labels under Option 2 would be $0 million to $3 million under a 24-month compliance period. Therefore, the cost of revising labels under a 36-month compliance period would be $0 million to some amount less than $3 million. However, delaying the effective date would also reduce benefits. For example, if we set the effective date to 36 months, then we would eliminate the $0 million to $2 million in benefits that would have taken place in months 24 to 36 under Option Two. The ranges of estimated cost and benefit reductions overlap. Thus, we have insufficient information to determine if this option would generate higher or lower net benefits than Option Two.

4. Option Four: Take the Proposed Action, but Make the Effective Date Sooner

Decreasing the compliance period would increase the cost of revising labels because fewer firms could time the revisions to coincide with regularly scheduled label changes. For example, based on the labeling cost model that we discussed under Option Two, we estimate that the costs of this rule under a compliance period of 12 months would be approximately $3 million to $55 million. The estimated costs under Option Two were $0 million to $3 million. Therefore, moving up the effective date by 12 months would increase costs by $3 million to $52 million. However, moving up the compliance date would also increase benefits relative to Option Two by providing benefits during months 12 to 24 after the publication date of the final rule. These benefits would amount to approximately $0 million to $2 million. Thus, this option would reduce net benefits by $1 million to $52 million relative to Option Two.

5. Option Five: Ban Carmine or Cochineal Extract

a. Costs. Banning carmine or cochineal extract would require firms currently using these additives in products covered by this rule to reformulate all such products. Although a number of potential substitutes exist, each of these substitutes has technical and functional characteristics that differ from those of cochineal extract and carmine. We estimated reformulation costs using a model developed by RTI under contract to FDA. For purposes of providing the necessary inputs for the reformulation cost model, we assumed that firms would probably replace carmine or cochineal extract with another substance, that one could best describe carmine or cochineal extract as a non-critical minor ingredient, that firms would find that discrimination testing was sufficient to gauge consumer acceptance of the new formulations, and that firms would not need to perform any analytical or consumer sampling tests. We estimated reformulation costs using the same approach that we used to estimate labeling costs, except that we were unable to estimate reformulation costs for Commercial Bakeries (311812) bakery snacks, pies, and cakes only using the reformulation cost model. Therefore, we based our estimate of the reformulation costs for that product category on the average reformulation cost for the product type categories that appeared in the reformulation cost model. The estimated one-time total reformulation cost was $3 million to $1,390 million.

In addition to the one-time reformulation costs, this option may also increase the costs of producing affected products or reduce the value that consumers place on those products. However, one cannot infer that these results would necessarily occur based on the current use of these additives because the one-time costs of reformulation might have led firms to continue using these additives even though substitutes existed that were equally costly and did not reduce the value that consumers placed on those products. If these results—increased production costs or reduced consumer valuation—were to occur, they would not be one-time costs but recurring costs. However, extrapolating such costs to infinity would not be reasonable because technical improvements in substitutes for carmine and cochineal extract could eventually eliminate such costs. Nevertheless, these costs could be much greater than the corresponding recurring costs under Option Two, which were generated by the permanent loss of a small amount of otherwise free label space.

This option would also generate significant distributive effects by reducing the profits of firms that produce, import, or process carmine and cochineal extract and by increasing the profits of firms that produce, import, or process substitutes. In some cases, the same firms that handle cochineal extract and carmine may handle substitutes for these additives. The distributive effects generated by this option would probably be much greater than the distributive effects generated by Option Two because under Option Two most firms using carmine or cochineal extract would probably continue to use these additives.

b. Benefits. Banning these additives would generate health benefits by eliminating the possibility that sensitive consumers would ingest these substances. These health benefits would be greater than the health benefits of Option Two because they would include all of the adverse events eliminated under Option Two as well as some additional adverse events involving people who do not yet realize they are sensitive to these additives or who realize they are sensitive to these additives but fail to read the ingredient list. In particular, this option would eliminate cases of the type captured in the 11 adverse event reports discussed previously that involved food or cosmetics containing carmine or cochineal extract in which these color additives probably appeared on the product label. The reporting rate for adverse events involving products that are labeled as containing carmine or cochineal extract should be significantly higher than reports rates for adverse events involving products that are not so labeled. Therefore, we assumed that the reporting rate for labeled products is approximately 10 percent. Based on this assumption, this option would prevent 42 annual adverse events and generate annual health benefits of approximately $1 million to $3 million. The total discounted value of this stream of health benefits at a discount rate of 7 percent is $9 million to $36 million.

In addition to health benefits, banning these additives would also generate benefits by allowing consumers who know they are sensitive to these additives to consume some products that they might otherwise avoid. We do not have sufficient information to quantify this benefit. However, this benefit would probably be greater than the comparable benefit under Option Two because, under this option, consumers would not have to read product labels to determine whether they could consume particular products.

6. Summary of Costs and Benefits.

We do not have good information on the current usage of carmine and cochineal extract or the current number of adverse events associated with those additives. However, under the assumptions we used in this analysis, we estimate that taking the proposed action would generate one-time relabeling costs of between $0 million and $3 million and some small but permanently recurring costs associated with the loss of otherwise free label space. We also estimate that taking the proposed action would generate permanently recurring annual health benefits of between $0 million and $2

million, with a total discounted value under a 7 percent discount rate of between $1 million and $26 million. In addition, taking the proposed action would generate recurring benefits for consumers who are sensitive to these substances and who would be able to consume some products that they might otherwise have avoided. Based on these estimates, taking the proposed action has the potential to produce significant net benefits but also has some potential to produce small net costs. We estimate that delaying the compliance date to 36 months after publication of the final rule rather than 24 months after publication of the final rule, as proposed, would reduce the one-time reformulation costs to between $0 million and some amount less than $3 million and reduce health benefits by between $0 million and $2 million. Thus, we cannot determine if delaying the effective date to 36 months after the publication of the final rule would increase net benefits. We also estimate that moving up the compliance date to 12 months after publication of the final rule would increase the one-time reformulation costs by $3 million to $52 million and increase benefits by approximately $0 million to $2 million. Thus, moving up the effective date to 12 months after the publication of the final rule would decrease net benefits. Banning carmine and cochineal extract would generate a one-time reformulation cost of $3 million to $1,390 million, plus possible recurring costs from increased production costs caused by the use of substitutes or from reduced consumer valuation of the reformulated products. A ban would generate benefits of approximately $1 million to $3 million per year, with a total discounted value under a 7 percent discount rate of $9 million to $36 million. Therefore, we estimate that a ban would generate potentially large net social costs.

C. Small Entity Analysis

We have examined the economic implications of this proposed rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612). If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would lessen the economic effect of the rule on small entities. We find that this proposed rule would have a significant economic impact on a substantial number of small entities.

The Small Business Administration (SBA) publishes definitions of small businesses by NAICS code. We presented a list of relevant NAICS codes in the preceding cost benefit analysis. For most of the relevant NAICS codes, SBA defines a small business as a business with 500 or fewer employees. The exceptions are NAICS codes 311821 and 312140, for which the cutoff is 750 employees, and 311422, for which the cutoff is 1,000 employees. We used the 1997 Economic Census to check the number of firms that would be classified as small businesses under the SBA definitions. We found that virtually all (98 percent) of the firms in the relevant NAICS code categories are small businesses according to the SBA definitions.

Total costs potentially incurred by small businesses will be virtually equal to the social costs estimated in the cost benefit analysis because the vast majority of the affected firms discussed in the cost benefit analysis are small businesses. These costs may or may not be borne by small businesses because firms may be able to pass on some or all of these costs to consumers in the form of higher prices, depending on market conditions. If the total costs accruing to small businesses are proportional to the number of affected food and cosmetic firms that are small businesses, and if these firms are unable to pass on any costs to consumers, then we estimate that the one-time costs accruing to small businesses from taking the proposed action would be $0 million to $3 million, plus some small but permanently recurring costs associated with the loss of otherwise free label space.

All of the regulatory alternatives discussed in the cost benefit analysis would change the potential impact of this rule on small businesses. Taking no action would eliminate all potential impacts on small businesses. Taking the proposed action but increasing the compliance period from 24 months to 36 months would reduce the potential impact on small businesses to between $0 million and some amount less than $3 million. However, as discussed in the cost benefit analysis, extending the compliance period from 24 months to 36 months would also reduce benefits by the amount that would otherwise have been generated in the first 12 months. Taking the proposed action but decreasing the compliance period from 24 months to 12 months would substantially increase the potential impact on small businesses to between $3 million and $55 million. Banning carmine and cochineal extract would significantly increase the potential costs for small food and cosmetic firms to between $3 million and $1,390 million. In addition, a ban would also generate significant distributive effects on small businesses that manufacture, import, or process these color additives and do not also handle substitutes. These distributive effects would also be considered costs from the perspective of the affected small businesses. Other firms, including small firms, would benefit from these distributive effects. However, we are unable to consider positive effects on small businesses for purposes of this analysis.

D. Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4), requiring cost-benefit and other analyses, in section 1531(a) defines a significant rule as ''a Federal mandate that may result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100,000,000 (adjusted annually for inflation) in any 1 year.'' FDA has determined that this rule does not constitute a significant rule under the Unfunded Mandates Reform Act.

XI. Paperwork Reduction Act of 1995

This proposed rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). The labeling requirements in this proposed rule cross-reference labeling requirements in other regulations; therefore, FDA is not estimating the burden of this proposed rule separately. The burden hours for 21 CFR 70.25 cross-referenced in §§ 73.100(d)(1) and 73.2087(c)(1) have been estimated and approved under OMB control number 0910–0016. The burden hours for 21 CFR 101.4 cross-referenced in § 73.100(d)(2) have been estimated and approved under OMB control number 0910–0381. The burden hours for § 73.2087(c)(2) will be submitted for OMB review and approval in a future submission for § 701.3.

XII. Federalism

We have examined this proposal following the principles of Executive Order 13132, ''Federalism.'' We have determined that a final rule based on this proposal would not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the different levels of government. We have therefore concluded that, because it does not have implications for federalism as defined in the Executive order, this proposal does not need a summary impact statement on federalism.

XIII. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

XIV. References

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List of Subjects

21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 73 and 101 are proposed to be amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

1. The authority citation for 21 CFR part 73 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

2. Section 73.100 is amended by revising paragraph (d) to read as follows:

§ 73.100 Cochineal extract; carmine.

* * * * *

(d) *Labeling requirements.* (1) The label of the color additives and any mixtures intended solely or in part for coloring purposes prepared therefrom shall conform to the requirements of § 70.25 of this chapter.

(2) The label of food products intended for human use, including butter, cheese, and ice cream, that contain cochineal extract or carmine shall specifically declare the presence of the color additive by listing its respective common or usual name, ''cochineal extract'' or ''carmine,'' in the statement of ingredients in accordance with § 101.4 of this chapter.

* * * * *

3. Section 73.2087 is amended by revising paragraph (c) to read as follows:

§ 73.2087 Carmine.

* * * * *

(c) *Labeling.* (1) The color additive and any mixture prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any information required by law, labeling in accordance with the provisions of § 70.25 of this chapter.

(2) Cosmetics containing carmine that are not subject to the requirements of § 701.3 shall specifically declare the presence of carmine prominently and conspicuously at least once in the labeling. For example: ''Contains carmine as a color additive.''

* * * * *

PART 101—FOOD LABELING

5. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

6. Section 101.22 is amended by revising paragraph (k)(2) to read as follows:

§ 101.22 Foods; labeling of spices, flavorings, colorings and chemical preservatives.

* * * * *

(k)(2) Color additives not subject to certification, and not otherwise required by applicable regulations in part 73 of this chapter to be declared by their respective common or usual names, may be declared as ''Artificial Color,'' ''Artificial Color Added,'' or ''Color Added'' (or by an equally informative term that makes clear that a color additive has been used in the food). Alternatively, such color additives may be declared as ''Colored with _____'' or ''_____color,'' the blank to be filled in with the name of the color additive listed in the applicable regulation in part 73 of this chapter.

* * * * *

Dated: October 25, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–1104 Filed 1–27–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–06–006]

RIN 1625–AA09

Drawbridge Operation Regulations; Jamaica Bay and Connecting Waterways, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the New York City Highway Bridge (Belt Parkway), at mile 0.8, across Mill Basin. This notice of proposed rulemaking would allow the bridge owner to open only one of the two moveable spans for the passage of vessel traffic from March 1, 2006 through September 7, 2006. This proposed rule is necessary to facilitate bridge deck replacement.

DATES: Comments must reach the Coast Guard on or before March 1, 2006.

ADDRESSES: You may mail comments to Commander (dpb), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except, Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District, Bridge Branch, 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 the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. July Leung-Yee, Project Officer, First Coast Guard District, (212) 668–7195.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–06–006), 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 if 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.

We anticipate making this rule effective in less than 30 days after publication in the **Federal Register** to allow for the rehabilitation work to commence in time for the March 1, 2006, deck replacement construction start date. The deck replacement for the New York City Highway (Belt Parkway) Bridge is vital, necessary work that must be performed without delay as a result of deterioration of the existing bridge deck which could fail if not replaced with all due speed. In order to assure the continued safe and reliable operation of the bridge construction work should begin as scheduled on March 1, 2006. However, the Coast Guard desires to allow as much time as possible for public participation in the rulemaking process. Thus, we are allowing the comment period to run into the 30-day time period normally included between publication and the effective date.

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 First Coast Guard District, Bridge Branch, 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

The New York City Highway Bridge (Belt Parkway) has a vertical clearance of 34 feet at mean high water and 39 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.795(b).

The owner of the bridge, New York City Department of Transportation (NYCDOT), requested a temporary change to the drawbridge operation regulations to facilitate the replacement of the bridge roadway deck.

This rulemaking is necessary because during the prosecution of this rehabilitation construction, the opening span that is undergoing deck replacement cannot open for vessel traffic. As a result, the bridge owner requested that only one of the two opening spans need open for the passage of vessel traffic from March 1, 2006 through September 7, 2006.

Discussion of Proposed Rule

This proposed change would amend 33 CFR 117.795 by suspending paragraph (b), which lists the New York City Highway Bridge (Belt Parkway), and add a temporary paragraph (d) to allow single span bridge openings from March 1, 2006 through September 7, 2006.

The horizontal clearance at the bridge is 135 feet with both spans opened and 67.5 feet with a single span open.

The Coast Guard believes this proposed rule is reasonable because the recreational vessel traffic that normally transits this bridge can safely pass through the bridge with a single span opening of 67.5 feet of horizontal clearance.

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 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 polices and procedures of DHS is unnecessary.

This conclusion is based on the fact that the vessel traffic that normally transits this bridge should not be precluded from transiting due to single span bridge openings.

Small Entities

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

The Coast Guard certifies under section 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 notice of proposed rulemaking would not have a significant economic impact on a substantial number of small

entities for the following reason: Mill Basin is navigated predominantly by recreational vessels.

The single span bridge openings should not preclude vessel traffic from transiting the bridge because the recreational vessels that normally use this waterway should be able to transit through the bridge with the reduced horizontal clearance of 67.5 feet due to their relative small size.

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 us in writing at, Commander (dpb), First Coast Guard District, Bridge Branch, One South Street, New York, NY 10004. The telephone number is (212) 668–7165. 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 effect a taking of private property or otherwise have taking implications under E.O. 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 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 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 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 M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have 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 (32)(e), of the Instruction, from further environment documentation because this action relates to the promulgation of operating regulations or procedures for drawbridges.

Under figure 2–1, paragraph (32)(e) of the instruction, an ''Environmental Analysis Checklist'' is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From March 1, 2006 through September 7, 2006, § 117.795 is

amended by suspending paragraph (b) and adding a temporary paragraph (d) to read as follows:

§ 117.795 Jamaica Bay and Connecting Waterways.

* * * * *

(d) The New York City Highway Bridge (Belt Parkway), mile 0.8, across Mill Basin, need only open one moveable span for the passage of vessel traffic from March 1, 2006 through September 7, 2006. The draw need not be opened for the passage of vessel traffic from 12 p.m. to 9 p.m. on Sundays from May 15 through September 30, and on Memorial Day, Independence Day, and Labor Day. However, on these days the draw shall open on signal from the time two hours before to one hour after the predicted high tide(s). For the purpose of this section, predicted high tide(s) occur 15 minutes later than that predicted for Sandy Hook, as documented in the tidal current data, which is updated, generated and published by the National Oceanic and Atmospheric Administration/National Ocean Service.

Dated: January 22, 2006.

David P. Pekoske,

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

[FR Doc. 06–855 Filed 1–25–06; 4:03 pm]

BILLING CODE 4910–15–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 16 and 39

[FAR Case 2003–008]

RIN 9000–AJ74; Docket 2006–0015

Federal Acquisition Regulation; FAR Case 2003–008, Share-In-Savings Contracting

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed to withdraw the proposed rule, FAR case 2003–008, Share-in-Savings Contracting, which was published in the **Federal Register** on July 2, 2004. The rule proposed amending the Federal Acquisition Regulation (FAR) as it pertains to types of contracts and acquisition of information technology to address the inclusion of Share-in-Savings (SIS) contracting. However, the SIS concept was not reauthorized by Congress.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Kenneth Buck at (202) 219–0311. Please cite FAR case 2003–008. For information pertaining to status or publication schedules, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755.

Dated: January 24, 2006.

Gerald Zaffos,

Director, Contract Policy Division.

[FR Doc. 06–816 Filed 1–27–06; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. NHTSA–2005–23216]

RIN 2127–AJ76

New Car Assessment Program (NCAP); Safety Labeling

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: One of the provisions of the recently enacted Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) requires new passenger vehicles to be labeled with safety rating information published by the National Highway Traffic Safety Administration's New Car Assessment Program. This document proposes a regulation to implement that new labeling requirement beginning September 1, 2007.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than March 31, 2006.

ADDRESSES: Comments should refer to the docket number and be submitted by any of the following methods:

- Federal Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Web Site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site. Please note, if you are submitting petitions electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using an Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- 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: All submissions must include the agency name and docket number. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Comment heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all petitions received into any of our dockets by the name of the individual submitting the petition (or signing the petition, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For technical issues regarding the information in this document, please contact Mr. Nathaniel Beuse at (202) 366–1740. For legal issues, please contact Ms. Dorothy Nakama (202) 366–2992. Both of these individuals may be reached by mail at the National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Overview

Section 10307 of the recently enacted Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Pub. L. 109–59 (August 10, 2005; 119 Stat. 1144), requires new passenger vehicles to be labeled with the National Highway Traffic Safety Administration's (NHTSA) New Car Assessment Program (NCAP) ratings. The Act specifies a number of detailed requirements for the label, including content, format, and

location.[1] It also requires the Department of Transportation to issue regulations to ensure that the new labeling requirements are implemented by September 1, 2007.

This document proposes a regulation to implement the new labeling requirement. Under the proposal:

(1) New passenger vehicles must include specified NCAP information on the label required by the Automobile Information Disclosure Act (the ''Monroney label'' or price sticker);

(2) The specified information includes a graphical depiction of the number of stars achieved for each assigned safety test;

(3) Information describing the nature and meaning of the test data, and a reference to *http://www.safercar.gov* for additional vehicle safety information, is also required on the label;

(4) The label must be legible and cover at least eight percent of the price sticker label or an area with a minimum length of 4½ inches and a minimum height of 3½ inches;

(5) If a vehicle has not been tested by the agency or safety ratings have not been assigned, a statement to that effect in the appropriate rating category must be included; and

(6) Ratings must be placed on new vehicles manufactured 30 or more days after notification to the manufacturer by NHTSA of ratings for those vehicles.

II. Proposed Label

For each of the sections described herein, NHTSA will discuss the proposed safety label requirement and the corresponding rationale. However, the agency notes that given the specificity set forth by the Congress in SAFETEA–LU, there is little discretion with most aspects of the proposed label.

A. Location

The Automobile Information Disclosure Act of 1958 (AIDA), 15 U.S.C. 1231–1233, requires the affixing of a retail price sticker to the windshield or side window of new automobiles. This label, also known as the ''Monroney'' label, may also include other information, such as information about fuel economy and vehicle content. SAFETEA–LU amended section 3 of AIDA to require the label to include NCAP vehicle safety ratings published by NHTSA.

NHTSA has examined several existing Monroney labels, and recognizes that there is a limited amount of free or open space to accommodate additional information, and that not all automobile manufacturers use the same layout for the Monroney label. Therefore, to allow manufacturers continued flexibility in designing their Monroney labels, we are not proposing a specific location on the Monroney label where the safety information (i.e., NCAP vehicle information) must be located.

B. Covered Vehicles

Under AIDA, Monroney labels are required on new ''automobiles.'' The Department of Justice (DOJ), which generally administers AIDA, has defined automobiles to include passenger vehicles and station wagons, and by extension passenger vans.[2] The new safety labeling requirements apply to these vehicles, whether or not the vehicles have been rated by the agency.

To provide consumers with the largest number of comparable vehicle ratings, the agency has been testing vehicles with a gross vehicle weight rating (GVWR) of 8,500 lbs. or less.[3] This is the limit in our frontal protection standard, so it has become the limit for our NCAP. Under SAFETEA–LU, the agency was also directed to provide rollover ratings for 15-passenger vans, which have a GVWR of more than 8,500 lbs. We also note that as to Federal Motor Vehicle Safety Standard (FMVSS) No. 214, the safety standard that the side NCAP test procedure is based on, the agency has proposed an upgrade that would include vehicles up to 10,000 lbs. GVWR; FMVSS No. 214 is now applicable only to vehicles up to 6,000 lbs. GVWR. While NHTSA has not yet changed its selection criteria, as test procedures are upgraded the agency could potentially test vehicles up to 10,000 lbs for side impact. Additionally, the agency posts information about the safety features of these vehicles on its Web site. As such, the agency is proposing to require all new passenger cars, multipurpose passenger vehicles (sport utility vehicles and vans) and buses with a GVWR of 10,000 lbs or less to have a section for NCAP ratings on the Monroney label, whether or not the vehicle has been tested by NHTSA.

AIDA does not require Monroney labels for pickup trucks. We note, however, that manufacturers routinely include Monroney stickers on this class of vehicle, and we anticipate that manufacturers will voluntarily include the NCAP information as well. However, since Congress did not explicitly require information to be provided for vehicles not required to provide a Monroney Label, this notice does not propose any requirement either.

C. Content

SAFETEA–LU requires that the safety label include ''a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating'' for front, side, and rollover testing conducted by the agency. The statute further specifies that the label must be legible, visible, and prominent and that it contain ''information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including *http://www.safecar.gov,*'' the NHTSA safety rating Web site. Finally, with regard to content, SAFETEA–LU specifies that ''if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect'' must appear.

As will be more thoroughly discussed later, SAFETEA–LU limits the space for the NCAP label to 8 percent of the total area of the existing label or to an area with a minimum length of 4½ inches and a minimum height of 3½ inches. NHTSA believes it is Congress' intent to also limit the NCAP label information to only that specified in SAFETEA–LU. NHTSA thus proposes that no additional information of any kind, other than the same information provided in a language other than English, may be voluntarily provided in the NCAP label area. NHTSA does not construe the same information provided in a language other than English to be additional information.

Since 1994 the agency has used solid stars to translate vehicle test results in a format that consumers can understand, and the vehicles' rating has been displayed using a graphical depiction of the number of stars as opposed to some other method. NHTSA has conducted a substantial amount of research, and has found that consumers easily understand the graphical depiction stars.

NHTSA has also investigated various graphical displays, such as struck stars, hollow stars, and multi-colored stars, to further improve how information is displayed to consumers. The research has shown that consumers can become confused when solid stars are intermingled with different

[1] The text of the legislation can be found in Appendix A, following the proposed regulatory text.

[2] See *http://www.usdoj.gov/civil/ocl/monograph* and click on ''Automobile Information Disclosure.''

[3] Additional information with regard to NHTSA's testing practice can be found in Appendix B.

representations such as struck stars, hollow stars, and the like.[4] NHTSA is aware that both the European and Japanese consumer information programs have used shading while intermingling solid stars with grayed out stars, on a single line, to display a vehicle's achieved star rating and the maximum possible rating. However, NHTSA is not aware of any consumer research to support this methodology.

As such, based on its previous research, NHTSA believes that the use of solid stars, by themselves, is the most effective way to display a vehicle's star rating to consumers. Therefore, the agency is proposing that the label use solid stars, in the appropriate rating category to represent a vehicle's star rating. As discussed later in this document, we are also proposing to require the label to include a statement that ''Star ratings range from 1 to 5 stars (★★★★★) with 5 being the highest''. This proposed approach would fulfill the statutory requirement that the graphic depiction of the vehicle rating be displayed in a clearly differentiated fashion while also indicating the maximum possible rating.

Because of workload limits at the available laboratories, new models selected for testing by NHTSA cannot be tested simultaneously and not all ratings can be available at the same time. As such, the agency relies on *http://www.safercar.gov* to keep consumers informed on the current status of vehicles that will be tested and availability of new ratings as soon as they are available. The agency understands that manufacturers will not be able to keep the safety label as up to date as NHTSA can on a Web site. Therefore, the agency is proposing that the term ''Not Rated'' be used in the appropriate category until such time that a rating has been released by the agency. The term ''not rated'' will be used rather than ''not tested'' to prevent any consumer misconception that a vehicle has not been tested to ensure compliance with NHTSA's Federal Motor Vehicle Safety Standards; all applicable new vehicles must conform and certify compliance to these safety standards before they can be sold in the United States. Later in this notice, we discuss the timing for including new ratings on the Monroney label.

For the past several years, NHTSA has informed consumers of test occurrences resulting in safety concerns that are not included in the star rating. Examples of such safety concerns are high likelihoods of thigh injury, pelvic injury, or head injury; fuel leakage; and door openings. NHTSA believes these events are significant and has conducted research on this topic to explore consumer perceptions, opinions, beliefs, and attitudes on these occurrences. When asked about how safety concerns would influence their decision, most respondents responded that ''having information about crash test anomalies is important and they would use the information to assist them in making a decision to purchase one vehicle over another.'' [5] Furthermore, the agency believes that consumers would be misled if, when shopping for a vehicle, the NHTSA Web site indicated that there was a safety concern but none appeared on the label at the point of sale. Therefore, NHTSA is proposing that when a test occurrence indicates a safety concern, the following symbol

be placed in the appropriate rating category positioned as a superscript to the right of the right-most star in the rating category.[6]

D. Format

SAFETEA–LU specifies that the size or area of the NCAP label must be at least ''8 percent of the total area of the existing label or an area with a minimum length of 4½ inches and a minimum height of 3½ inches.'' [7] We are proposing to include this requirement in the regulation.

We are also proposing to require that the text be legible and in English. We note that some manufacturers may wish to also use Spanish or other languages to convey this important safety information to consumers who do not speak English or for whom English is not their first language. NHTSA is not proposing to restrict in any way a manufacturer's ability to provide NCAP information in additional languages, given that the required information is first provided in English and that the additional information does not confuse or obscure the required information in English.

NHTSA has reviewed the literature and believes that there is no single ''best'' font type for readability; therefore we are not proposing a single font type. To ensure that the label is readable, the agency is proposing that the text ''Frontal Crash,'' ''Side Crash,'' ''Rollover,'' ''Driver,'' ''Passenger,'' ''Front Seat,'' ''Rear Seat'' and ''Not Rated,'' where applicable, the star graphic indicating each rating, as well as any text in the header and footer areas of the label have a minimum font size of 12 point. This would make the text consistent with NHTSA's Automobile Parts Content Label (49 CFR part 583), often contained on the Monroney label, which specifies a minimum font size of 12 point (see 49 CFR 583.5(d)). NHTSA is aware that the Automobile Parts Content Label also allows a minimum font size of 10 point for explanatory notes, however due to the minimum space requirements for this safety label, NHTSA is specifying that all other text or symbols on the label must have a minimum font size of 8 point. We are also proposing to require that, unless otherwise noted, the background be in a color that contrasts easily with dark text and that dark text be used. We believe that this would help to ensure a stark contrast so that the information can be easily read. From its experience in previous label rulemakings, NHTSA believes that backgrounds that are gray or are similar in contrast to black or dark text are difficult to read.

The agency is proposing to require that the safety label portion of the Monroney label be surrounded by a dark line and sub-divided into six areas described as a heading area, frontal crash area, side crash area, rollover area, general text area, and footer area. We are proposing to require that these areas be arranged such that the heading area is at the top, followed by the frontal, side, rollover, general, and footer area (at the bottom) and that the frontal, side, rollover, and general areas be separated from each other by a black line.

We believe that the dark line around the border of the label would help to distinguish the NHTSA safety information from the other information on the Monroney label. The purpose of specifying separate sub areas and separating them with a dark line would be to add clarity by grouping the applicable safety rating together with the applicable test information. We believe this would enable consumers to readily distinguish and decipher the various pieces of information being displayed on the safety label. The format of each sub area is outlined below.

Heading Area

The heading area would help consumers find and identify the NHTSA safety information on the Monroney

[4] ''Focus Groups Regarding Presentations of Crash Test Anomalies'' NHTSA–2004–19104–1.

[5] ''Focus Groups Regarding Presentations of Crash Test Anomalies'' NHTSA–2004–19104–1.

[6] Detailed information concerning the specific safety rating will be published in a NHTSA press release as well as posted on the *safercar.gov* Web site.

[7] NHTSA believes the phrase ''existing label'' means the existing Monroney label as specified by 15 U.S.C. 1232.

label. The agency is proposing that the heading read ''Government Safety Ratings'' and to require that the heading area be printed with a dark background that easily contrasts with white lettering and that white lettering be used.

Frontal Area

Currently, NHTSA provides consumers with frontal crash ratings for two seating positions; the driver and the right front passenger. Ratings for each seating position are based on the combined chance of serious injury to the head and chest. On the Web site *http://www.safercar.gov,* in the agency's advertising guidelines for manufacturers, and in the agency's publication of ''Buying A Safer Car,'' the term ''Frontal Crash'' and ''Frontal Star Rating'' are used interchangeably to describe the frontal crash test results, whereas the driver and the right front passenger test positions are only referred to as ''Driver'' and ''Passenger,'' respectively.

In keeping with the existing terminology, NHTSA is proposing that ''Frontal Crash'' be used to describe the frontal crash test ratings and that ''Driver'' and ''Passenger'' be used to describe the seating positions and the applicable star rating. NHTSA believes it would be redundant to repeat the term ''Rating'' here since it is already used in the *header area.* We also believe that the term ''Frontal Crash'' is a more general term and more appropriate than ''Frontal Star Rating''. Additionally, the terms ''Driver'' and ''Passenger'' are easily understood, have been used in NHTSA publications for some time, and are used by manufacturers in their advertising.

For this section, NHTSA is also proposing to require that the statement ''Star ratings based on the risk of injury in a frontal impact'' be provided at the bottom of the frontal area to help explain to consumers the nature and meaning of the test. This generic statement would also provide the agency the flexibility to update the rating (for example with additional injury criteria) without conducting further rulemaking to update the label.

Lastly, due to the nature of NHTSA's frontal crash test, those ratings can only be compared to the vehicles in the same weight class. The agency believes that until such time as NHTSA's frontal ratings no longer require this additional information, that it would be inappropriate and misleading to not include this information at the point of sale. This is especially true given that consumers are generally familiar with the different classes of vehicles and could be comparing vehicles in different classes on the same lot. As such, NHTSA is proposing that the statement ''Frontal ratings should ONLY be compared to other vehicles of similar size and weight'' be the second line in the general area.

Side Area

The agency currently conducts side impact tests that provide consumers with side ratings for the first and second row of a vehicle. For each of these positions, ratings are based on the chance of serious injury to the chest. On the Web site *http://www.safercar.gov*, in the agency's advertising guidelines for manufacturers, and in the agency's publication of ''Buying A Safer Car,'' the term ''Side Crash'' and ''Side Star Rating'' are used interchangeably to describe the side crash test results. The first and second row test positions are referred to as ''Front Seat'' and ''Rear Seat'', and ''Front Passenger'' and ''Rear Passenger'' interchangeably.

In keeping with the existing terminology, NHTSA is proposing that ''Side Crash'' be used as opposed to ''Side Star Rating'' to describe the side crash test ratings, and that ''Front Seat'' and ''Rear Seat'' be used to describe the seating positions and the applicable star rating. For the side area, NHTSA is also proposing that the statement ''Star ratings based on the risk of injury in a side impact'' be used at the bottom of this section to help explain to consumers the nature and meaning of the test. As stated previously, this generic statement will also allow the agency the flexibility to update the label without conducting further rulemaking.

Rollover Area

The rollover tests currently conducted by the agency measure the chances that a vehicle will roll over in a single-vehicle crash. Ratings are based on the combined results of the static measurement of the vehicle and the results of a dynamic test. On the NHTSA Web site *http://www.safercar.gov*, in the agency's advertising guidelines for manufacturers and in the agency's publication of ''Buying A Safer Car,'' the term ''Rollover'' and ''Rollover Rating'' are used interchangeably to describe the test results. As such, NHTSA is proposing that ''Rollover'' be used to describe the rollover test results.

Furthermore, some vehicles can have both a 4 x 2 and 4 x 4 version, each of which can have a different rollover rating. Therefore, the agency wants to make clear that the NCAP rollover rating that appears on a vehicle must be the rating that applies to the trim version of that vehicle, i.e., 4 x 2 or 4 x 4.

As discussed previously it would be redundant to include the term ''rating'' in the title. Furthermore, NHTSA is proposing that the statement ''Star ratings based on the risk of rollover in a single-vehicle crash'' be used at the bottom of the rollover area to help explain to consumers the nature and meaning of the rollover tests.

General Area

By their very nature, rating systems have a highest and lowest scale. For its five-star rating system, the agency has used wording such as ''ratings range from one to five stars'' to indicate to consumers that the maximum rating in each category is five stars.[8] As such, NHTSA believes that the safety label should also contain similar wording and that this wording should be the first line in the general area. Therefore, NHTSA is proposing that the text ''Star ratings range from 1 to 5 stars (★★★★★) with 5 being the highest'' be used to remind consumers that the maximum rating is five stars. We believe this fulfills the Congressional requirement that the graphic depiction of the vehicle rating be displayed in a clearly differentiated fashion while also indicating the maximum possible rating.

As mentioned previously, when applicable, NHTSA is proposing that safety concerns be noted next to the appropriate rating category. On the NHTSA Web site, information describing the safety concern and any remedy taken by the manufacturer is described by clicking on the hypertext. Given the space constraints for safety information and in the Monroney label in general, NHTSA recognizes that requiring manufacturers to include the same level of safety information on the label as on the NHTSA Web site could easily make the text illegible. However, NHTSA does believe it is important that the label indicate to consumers where they can find additional information on the safety concern. As such, NHTSA proposes that when testing identifies a safety concern associated with a vehicle, the following symbol

be placed in the appropriate rating category positioned as a superscript to the right of the star rating, as well as the text ''Safety Concern: Visit *http://www.safercar.gov.*''

Finally, NHTSA is proposing that the text ''Source: National Highway Traffic Safety Administration (NHTSA)'' appear as the last line in the general area.

[8] *http://www.safercar.gov*, Agency Press Releases, ''Buying a Safer Car Brochure''.

NHTSA believes that placing this statement at the bottom of the general area would give consumers the added confidence that manufacturers are not supplying the ratings and that the ratings are from a government agency.

Footer Area

A footer area would help consumers identify the agency's Web site where additional NHTSA safety information can be found. The agency is proposing that the heading read ''VISIT www.safercar.gov'' and that the footer area be printed with a dark background that easily contrasts with white lettering. This also would fulfill the mandate from Congress that the label contain reference to *http://www.safercar.gov* and additional vehicle safety resources, as the Web site provides other safety information.

E. Notification

In June of each year, NHTSA collects vehicle information from vehicle manufacturers to help the agency identify new vehicle models and redesigns, as well as which vehicles are carry-over models.[9] Once the agency performs its analysis of the information provided, the carry-over models, new models not being tested, and new models to be tested are then posted to the agency's Web site *http://www.safercar.gov.*[10] The agency also sends a letter to each manufacturer indicating which models are selected for NCAP testing.

The agency plans to maintain this current process. However, in addition to the letter sent to manufacturers indicating which models have been selected for testing, the agency now plans to send a separate letter to officially inform each manufacturer which models the agency has determined to be a carry-over and their NCAP star rating(s). NHTSA plans to provide these letters to the manufacturers as soon as a determination is made regarding the status of vehicles (carryover or non-carryover) to ensure that the manufacturers can place NCAP star ratings on these models as soon as they begin the new year of production.

For newly tested vehicles, the agency will maintain its current quality control process and posting of results to the Web site. Once NHTSA has completed the quality control process, the agency plans to send a letter to the manufacturer of the tested vehicle, informing them of the rating that has been given to the vehicle. This letter will also inform the manufacturer the agency's determination as to which trim lines and corporate twins the ratings will be applied.[11]

F. Timing

In order for this labeling program to be effective and to provide timely NCAP information to consumers, vehicles should have their ratings displayed as soon as possible. Therefore, the agency is proposing to require vehicle manufacturers to place the NCAP ratings on the Monroney label of new vehicles manufactured 30 days or more after receipt of NHTSA notification of the test results. The agency believes that this is a reasonable time frame since the Monroney label will already have a section for the NCAP star rating (whether or not the vehicle has been rated). The only change that would need to be made on the label is placing the number of stars and safety concern (if applicable) that the vehicle received in the appropriate section. Consequently, the agency has tentatively concluded that 30 days after receipt of NHTSA notification is a sufficient amount of time for the manufacturer to begin labeling new vehicles, but requests specific comment on this issue.

NHTSA is not proposing to require manufacturers to reprint Monroney labels for vehicles that were produced prior to agency notification; the vehicles that are required to have the NCAP star rating will be determined by the vehicle manufacturing date. NHTSA has tentatively determined that the cost and burden on manufacturers of such a requirement would have little benefit in a large number of cases. This is especially true since some vehicles would have already been sold. However, under our proposal, we would allow manufacturers to voluntarily re-label vehicles, should they choose, by replacing the entire Monroney label (not just the section with the NCAP information).

Despite providing information on a significant portion of vehicles in the U.S. fleet, the agency does not rate every single vehicle nor is it able to retest vehicles that have undergone a significant safety improvement during the model year. Therefore, in 1987, the agency published a notice establishing an optional test program.[12] The optional program serves to provide consumers with up-to-date safety information on new vehicles that have undergone a mid-model year production change, models with optional safety equipment that the agency had not selected for testing, or a make and model not selected for testing by the agency. The optional NCAP operates according to the same guidelines and procedures as the regular NCAP. To qualify for the optional NCAP, the manufacturer must submit evidence that a significant safety change has been made, and then the optional test must be approved by NHTSA.

Every year, a number of tests are conducted under this program, with many being mid-model year safety changes. For those vehicles that fall into this category, and whose ratings may no longer be accurate (because the production change has occurred prior to NHTSA granting the request), the agency is proposing that when the agency grants an optional NCAP request, a manufacturer may immediately begin to label those changed vehicles as ''Not Rated.'' Upon completion of the optional NCAP quality control, the manufacturer would be notified of the results and then be required to display the ratings on the Monroney Label.

III. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this proposed rule under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be ''non-significant'' under the Department of Transportation's regulatory policies and procedures. The agency concludes that if this rule were made final, the impacts of the amendments would be so minimal that preparation of a full regulatory evaluation is not required.

This NPRM proposes a regulation to implement a statutory requirement for manufacturers to add NCAP rating information to the existing Monroney label. We have considered and concluded that the one-time design cost, the cost of redesign to replace ''Not Rated'' with stars each time a vehicle is rated, and the increase in cost of adding the NCAP safety information to the existing Monroney label all to be minor.

[9] Carry-over models are vehicles that have been tested under the NCAP in previous years, and whose design has not changed, therefore retaining the previous safety rating.

[10] Through carry-over and new testing, NCAP provides ratings for about 80 percent of the vehicle fleet each year.

[11] This determination will be based on the information submitted to the agency as part of its annual collection of information.

[12] Initial criteria published on August 21, 1987 (52 FR 31691), and then revised on February 5, 1988 (53 FR 3479).

No other NCAP procedures would be modified as a result of this rulemaking.

We estimate that the cost of a label about this size would be $0.08 to $0.14 per vehicle (in 2004 dollars). This assumes that the size of the Monroney label is made larger to include this information. If the label is kept the same size and this information is just added to the label, the cost would be about $0.01 per vehicle. In either case, the costs are considered minimal.

B. Regulatory Flexibility Act

Pursuant to 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 effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this proposed rule under the Regulatory Flexibility Act. There are four small motor vehicle manufacturers in the United States building vehicles that would be affected by this rule. I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that we do not believe that this proposal adds a significant economic cost (estimated to be less than $0.15 per vehicle) to a motor vehicle.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. For the following reasons, NHTSA concludes that if made final, this rulemaking would not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained. As earlier described, this rule, if made final, would require vehicle manufacturers to include on Monroney labels, the safety rating information published by NCAP. This NPRM proposes how NHTSA will describe the appearance of the label, and specify to the manufacturers, in both individual letters to the manufacturers and on NHTSA's NCAP Web site (*http://www.safercar.gov*) the information specific to a particular motor vehicle model and make that the vehicle manufacturer must put on the Monroney label.

Because, if this rule is made final, NHTSA will specify the format of the label, and the information each manufacturer must include on the Monroney label, this ''collection of information'' falls within the exception described in 5 CFR 1320.3(c)(2) which states in part: ''The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within this definition.''

NCAP ratings are created by NHTSA. This rule, if made final, would require vehicle manufacturers to take NHTSA's NCAP ratings (which NHTSA will supply to each manufacturer) and report them on Monroney labels, thus disclosing them to potential customers (i.e., the public). For this reason, this proposed rule, if made final, would impose a ''collection of information'' requirement for which 5 CFR part 1320 approval need not be obtained.

D. National Environmental Policy Act

NHTSA has analyzed this proposed rule for the purposes of the National Environmental Policy Act and has determined that if made final, the rule will not have any significant impact on the quality of the human environment.

E. Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA to develop a process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation with Federalism implications and that preempts State law unless the agency consults with State and local officials early in the process of developing the proposed regulation.

The agency has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. If made final, this rule will have no substantial effects on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

F. Civil Justice Reform

This proposed rule will not have any retroactive effect. Parties are not required to exhaust administrative remedies before filing suit in court.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The agency searched for, but did not find any voluntary consensus standards relevant to this proposed rule.

H. Unfunded Mandates Reform Act

This proposed rule will not impose any unfunded mandates under the Unfunded Mandates Reform Act of 1995. This rule will not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

I. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make this rulemaking easier to understand?

If you have any responses to these questions, please include them in your comments on this NPRM.

J. Privacy Act Statement

Anyone is able to search the electronic form of all comments or petitions received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

IV. Public Comment

Comments are sought on the proposed requirements discussed herein and not on the usefulness of such a labeling requirement. To facilitate analysis of the comments, it is requested that responses be organized by the requirements listed above. Suggestions for additional requirements are also sought. NHTSA will consider all comments and suggestions in deciding what changes, if any, should be made to the label. Given the timeframe, NHTSA would request that other suggestions include any available data and supporting rationale, and research needed to implement them to assist the agency in evaluating their merit.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must be no longer than 15 pages long (49 CFR 553.21). We establish this limit to encourage the preparation of comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit to the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given at the beginning of this document under **ADDRESSES.**

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. This submission must include the information that you are claiming to be private; that is, confidential business information. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

Will the Agency Consider Late Comments?

We will consider all comments that are received by Docket Management before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a proposal concerning this label, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read Comments Submitted by Other People?

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also review the comments on the Internet. To access the comments on the Internet, take the following steps:

1. Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).
2. On that page, click on ''Search.''
3. On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''Search.''
4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You can download the comments.

Please note that even after the comment closing date we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

V. Proposed Regulatory Text

List of Subjects in 49 CFR Part 575

Consumer protection, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, 49 CFR part 575 would be amended to read as follows:

PART 575—CONSUMER INFORMATION

1. The authority citation for part 575 would be revised to read as follows:

Authority: 49 U.S.C. 32302, 30111, 30115, 30117, 30166, and 30168, P.L. 104–414, 114 Stat. 1800, P.L. 109–59, 119 Stat. 1144, 15 U.S.C. 1232(g); delegation of authority at 49 CFR 1.50.

2. The heading for subpart A would be revised to read as follows:

Subpart A—Regulations Issued Under Section 112(d) of the National Traffic and Motor Vehicle Safety Act; General

3. Subpart D would be added to read as follows:

Subpart D—Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU); Consumer Information

§ 575.301 Vehicle Labeling of Safety Rating Information.

(a) *Purpose and Scope.* The purpose of this section is to aid potential purchasers in the selection of new passenger motor vehicles by providing them with safety rating information developed by NHTSA in its New Car Assessment Program (NCAP) testing. Manufacturers of passenger motor vehicles described in paragraph (b) of this section are required to include this information on the Monroney label. Although NHTSA also makes the information available through means such as postings at *http://www.safercar.gov* and *http://www.nhtsa.dot.gov*, the additional Monroney label information is intended to provide consumers with relevant information at the point of sale.

(b) *Application.* This section applies to passenger cars, multipurpose passenger vehicles (sport utility vehicles and vans), and buses with a GVWR of 10,000 pounds or less manufactured on or after September 1, 2007.

(c) *Definitions.*

The terms *bus, multipurpose passenger vehicle* and *passenger* car have the meanings assigned to them in 49 CFR part 571.3.

Monroney label means the label placed on new automobiles with the manufacturer's suggested retail price and other consumer information, as specified at 15 U.S.C. sections 1231–1233.

Safety rating label means the label with NCAP safety rating information, as specified at 15 U.S.C. section 1232(g). The safety rating label is part of the Monroney label.

(d) *Required Label.* (1) Each vehicle to which this section applies must have a safety rating label as part of the Monroney label, which meets the requirements specified in paragraph (e) of this section and which conforms in format and sequence to the sample label depicted in Figure 1 of this section.

(2) The label must depict the star ratings for that vehicle as reported to the vehicle manufacturer by NHTSA.

(3) For vehicle tests for which NHTSA reports a safety concern as part of the star rating, the label must depict the related symbol depicted in Figure 3 of this section and the wording ''Safety Concern: Visit *http://www.safercar.gov* for more details.''

(4) Whenever NHTSA reports a new safety rating to a manufacturer, including any safety concerns, the manufacturer must include the new information on vehicles manufactured on or after the date 30 days after receipt by the manufacturer of the information.

(5) If the agency grants a request for an optional NCAP test, the manufacturer may depict the vehicle as untested for that particular test.

(6) The text ''Frontal Crash,'' ''Side Crash,'' ''Rollover,'' ''Driver,'' ''Passenger'', ''Front Seat'', ''Rear Seat'' and ''Not Rated,'' where applicable, the star graphic indicating each rating, as well as any text in the header and footer areas of the label must have a minimum font size of 12 point. All remaining text or symbols on the label including the star graphic specified in paragraph (d)(8)(ii) of this section, must have a minimum font size of 8 point.

(e) *Required information and format.* (1) *Label Border.* The label must be surrounded by a solid dark line that is a minimum of 3 points in width.

(2) *Label Size and legibility.* The label must be presented in a legible, visible, and prominent fashion that covers at least 8 percent of the total area of the Monroney label or must cover an area with a minimum of 4½ inches in length and 3½ inches in height on the Monroney label.

(3) *Heading Area.* The text must read ''Government Safety Ratings'' in boldface, capital letters that are in a font that easily contrasts with a dark background, and be centered over the entire top length of the label.

(4) *Frontal Crash Area.* (i) The frontal crash area must be placed below the heading area, and must be of a dark text against a light background. Both the driver and the right front passenger frontal crash test ratings must be displayed with the maximum star ratings achieved.

(ii) The text ''Frontal Crash'' must be in boldface, cover two lines, and must be aligned along the left side of the label.

(iii) The text ''Driver'' must be on the same line as the text ''Frontal Crash'' and must be aligned in the center of the label. The achieved star rating for ''Driver'' must be on the same line, aligned to the right of the label.

(iv) If NHTSA has not released the star rating for the ''Driver'' position, the text ''Not Rated'' must be used in boldface.

(v) The text ''Passenger'' must be on the same line as the text ''Frontal Crash'', below the text ''Driver'', and aligned in the center of the label. The achieved star rating for ''Passenger'' must be on the same line, aligned to the right of the label.

(vi) If NHTSA has not released the star rating for ''Passenger'', the text ''Not Rated'' in boldface must be used.

(vii) The text: ''Star ratings based on the risk of injury in a frontal impact'' must be placed at the bottom of the frontal crash area.

(viii) ''Frontal ratings should ONLY be compared to other vehicles of similar size and weight.''

(5) *Side Crash Area.* (i) The side crash area must be below the frontal crash area, separated by a dark line that is a minimum of three points in width. The text must be dark against a light background. Both the driver and the rear seat passenger side crash test rating must be displayed with the maximum star rating achieved.

(ii) The text ''Side Crash'' must cover two lines, and be aligned along the left side of the label in boldface.

(iii) The text ''Front Seat'' must be on the same line as the text ''Side Crash'' and be aligned in the center of the label. The achieved star rating for ''Front Seat'' must be on the same line and aligned to the right of the label.

(iv) If NHTSA has not released the star rating for ''Front Seat'', the text ''Not Rated'' in boldface must be used.

(v) The text ''Rear Seat'' must be on the same line as the text ''Side Crash'', below the text ''Front Seat'', and aligned in the center of the label. The achieved star rating for ''Rear Seat'' must be on the same line, aligned to the right of the label.

(vi) If NHTSA has not released the star rating for ''Rear Seat'', the text ''Not Rated'' in boldface must be used.

(vii) The text: ''Star ratings based on the risk of injury in a side impact'' must be placed at the bottom of the side crash area.

(6) *Rollover Area.* (i) The rollover area must be below the side crash area, separated by a dark line that is a minimum of three points in width. The text must be dark against a light background. The rollover test rating must be displayed with the maximum star rating achieved.

(ii) The text ''Rollover'' must be aligned along the left side of the label in boldface. The achieved star rating must be on the same line, aligned to the right of the label.

(iii) If NHTSA has not tested the vehicle, the text ''Not Rated'' in boldface must be used.

(iv) The text: ''Star ratings based on the risk of rollover in a single vehicle

crash'' must be placed at the bottom of the rollover area.

(7) *Graphics.* The star graphic is depicted in Figure 2 of this section and the safety concern graphic is depicted in Figure 3 of this section.

(8) *General Information.* (i) This information must be below the rollover area, separated by a black line that is a minimum of three points in width. The text must be dark against a light background. The text must state the following, in the specified order:

(ii) ''Star ratings range from 1 to 5 stars, with 5 stars being the highest.''

(iii) ''If there is a safety concern, provide the graphic in Figure 3 followed by the words ''Visit *www.safercar.gov* for more details''.

(iv) ''Source: National Highway Traffic Safety Administration (NHTSA)''.

(9) *Footer Area.* (i) The footer area must be below the rollover area, separated by a black line that is a minimum of three points in width.

(ii) The footer area must be printed in a dark color that contrasts with the background of the label.

(iii) The footer area must contain the text: ''VISIT www.safercar.gov'' in boldface letters that are in white font.

(iv) The footer area must be centered over the entire bottom length of the label.

Figure 1 to Sec. 575.301

Sample Label for Sec. 575.301

Figure 2 to Sec. 575.301
Sample Star Rating Graphic for Sec. 575.301

Figure 3 to Sec. 575.301
Sample Safety Concern Graphic for Sec. 575.301

Editorial Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix A—Relevant Statutory Language (For Explanatory Purposes—Not Part of the Proposed Regulatory Text)

On August 10, 2005, the President of the United States signed H.R. 3 into law (SAFETEA–LU) which requires the Secretary of Transportation to issue regulations to ensure that the section's labeling requirements, which amend section 3 of the Automobile Information Disclosure (AID) Act (15 U.S.C. 1232), are implemented by September 1, 2007. These labeling requirements concern the safety rating information published by NHTSA's NCAP. Section 10307 reads as follows:

''AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) Safety Labeling Requirement—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended—

(1) by striking ''and'' after the semicolon in subsection (e);

(2) by inserting ''and'' after the semicolon in subsection (f)(3);

(3) by striking ''(3).'' in subsection (f)(4) and inserting ''(3);''; and

(4) by adding at the end the following:

(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

(1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating;

(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests);

(3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including *http://www.safecar.gov;* and

(4) is presented in a legible, visible, and prominent fashion and covers at least—

(A) 8 percent of the total area of the label; or

(B) an area with a minimum length of 4½ inches and a minimum height of 3½ inches; and

(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.

(b) Regulations—The Secretary of Transportation shall issue regulations to ensure that the labeling requirements under subsections (g) and (h) of section 3 of the Automobile Information Disclosure Act, as added by subsection (a), are implemented by September 1, 2007.''

Appendix B—Background Information About NCAP (For Explanatory Purposes, Not Part of the Proposed Regulatory Text)

Both the frontal and side NCAP test programs are based on FMVSS No. 208 and No. 214 respectively. For FMVSS No. 208 the weight limit is a GVWR of 8,500 lbs. and for FMVSS No. 214 that weight limit is a GVWR of 6,000 lbs. Additionally, these standards apply to passenger vehicles, sport utility vehicles (SUV's), vans, and pickups. For rollover, there is no associated FMVSS and the agency established in its final decision notice establishing the program, that it has the ability to test vehicles with a GVWR of up to 10,000 lbs.

Many vehicle manufacturers offer optional equipment, like side air bags and electronic stability control, on their vehicles that could affect the vehicles' test results. Similarly, the agency recognizes that many vehicles come in two-door or four-door versions, and/or 4x4 or 4x2 version. Pickup trucks are also often available in regular cab, extended cab, and four-door cab versions. To alleviate test burden, the agency tests 4x2 pickup trucks and 4x4 sport utility vehicles in the frontal and side NCAP tests. These ratings are then applicable to all versions of 4x4 pickup trucks and 4x2 sport utility vehicles respectively. For rollover, both 4x4 and 4x2 pickups and sport utility vehicles are tested due to the differences in performance in rollover NCAP. Under most circumstances, only extended cab pickup trucks are tested. The resulting ratings are applied to regular cab and four-door pickup trucks as well.

Manufacturers will always have an opportunity to provide data showing that the 4x2/4x4, or the regular cab/extended cab models perform differently. Optional tests on these vehicles will then be available to the manufacturers who wish to perform them. For both the crash and rollover programs, the agency will consider 2- and 4-door models to be separate vehicles unless the manufacturer provides data showing that the two perform the same.

Issued on: January 24, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 06–827 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 611

[Docket No. FTA–2005–22841]

RIN 2132–AA81

Major Capital Investment Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This advance notice of proposed rulemaking provides interested parties with the opportunity to comment on the characteristics and requirements proposed by the Federal Transit Administration (FTA) for a new capital investment program. This new program, ''Small Starts'', is a discretionary grant program for public transportation capital projects that run along a dedicated corridor or a fixed guideway, have a total project cost of less than $250 million, and are seeking less than $75 million in Small Starts program funding.

This Small Starts program is a component of the existing New Starts program, but will offer project sponsors an expedited and streamlined application and review process.

Consistent with the intent and provisions of the new public transit statute, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU), FTA hopes to simplify the planning and project development process for proposed Small Starts projects in a number of ways. In addition to the reduced number of evaluation measures specified in SAFETEA–LU, the process may be further simplified by allowing small projects to conduct alternatives analysis with a reduced set of alternatives, allowing evaluation measures for mobility and cost-effectiveness to be developed without having to rely on complicated travel demand modeling procedures in some cases, and possibly defining some classes of low-cost improvements that are pre-approved as effective and cost-effective in certain contexts.

DATES: Comments must be received by March 10, 2006.

ADDRESSES: *Written Comments:* Submit written comments to the Dockets Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

Comments. You may submit comments identified by the docket number (FTA–2005–22841) by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2478.
- *Mail:* Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *Hand Delivery:* To the Docket Management System; Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this notice. 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. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading under **SUPPLEMENTARY INFORMATION**.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the Docket Management System (see **ADDRESSES**).

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 20590–0001. Office hours are from 9 a.m. to 5:30 p.m. for FTA, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. 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 Federal Transit Administration's (FTA's) fixed guideway capital investment program known as ''New Starts''. In addition to the changes made to the New Starts program, for which FTA intends to issue separate policy guidance and a revised regulation, section 5309 has been amended to add a new subsection (3) containing a new capital investment program category for projects requesting federal funding of less than $75,000,000 with a total project cost of less than $250,000,000. That new capital investment program, which will be referred to as the ''Small Starts'' program, is the subject of this ANPRM. FTA plans to issue a Notice of Proposed Rulemaking (NPRM) in the near future that will address changes to the existing New Starts program made by section 3011 of SAFETEA–LU, as well as a proposal for the Small Starts program based on comments received in response to this ANPRM.

SAFETEA–LU created the new Small Starts program category by amending section 5309(e) of Chapter 53 of Title 49, United States Code. At the same time, the current process for larger new fixed guideway and extension (''New Starts'') projects was continued (with some modifications) under section 5309(d). The conference report accompanying SAFETEA–LU indicates the expectation that projects in this new ''Small Starts'' category would be ''advanced through an expedited and streamlined evaluation and rating process.''

The New Starts process now required under section 5309(d) for larger new fixed guideway and extension projects has been in place for some time and we believe represents the point of departure from which the new Small Starts category should be developed. The New Starts process was first outlined by a Statement of Policy in 1976 and was refined in subsequent Statements of Policy in 1978, 1980, and 1984. In the Surface Transportation and Uniform Relocation Assistance Act of 1987, the process called for in the Statements of Policy was enacted into law, and was subsequently modified by the Intermodal Surface Transportation Efficiency Act of 1991. A Statement of Policy in 1997 and further amendments in the Transportation Equity Act for the 21st Century, enacted in 1998, culminated in the current Final rule on Major Capital Investments (Title 49; Vol. 6 CFR611.1), issued in December 2000 and went into effect in April 2001.

Under the process laid out in statute and in the December 2000 Final Rule, New Starts projects, like all transportation investments in metropolitan areas, must emerge from a

regional, multi-modal transportation planning process. Under the process, local project sponsors are required to perform an alternatives analysis that evaluates the mode and alignment options in the community. Once local and regional decision makers select a locally preferred alternative, and it is adopted by the Metropolitan Planning Organization (MPO) into its long-range transportation plan, this phase is complete and the project is ready to be approved by FTA to enter the next phase—Preliminary Engineering (PE). During PE, local project sponsors consider their design options to refine the locally preferred alternative and complete the National Environmental Policy Act (NEPA) process. Upon approval by FTA, the project may undertake Final Design, which includes the preparation of final construction plans, detailed specifications, construction cost estimates, and bid documents. A project which meets the statutory criteria for funding is constructed using a ''full funding grant agreement'' which defines the scope of the project to be constructed, the schedule and costs, the source and commitment of funds, and the amount and timing of Federal funds committed to the project.

Section 5309(d) requires that larger New Starts projects (seeking greater than $75 million in New Starts funds or greater than $250 million in total project costs) be evaluated and rated in terms of project justification and local financial commitment. For project justification, section 5309(d) requires an assessment of mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, and transit supportive land use and future patterns. (The SAFETEA–LU amendment to section 5309(d) added economic development effects to the justification criteria. As noted above, this and other changes made by SAFETEA–LU will be the subject of a subsequent rulemaking.) For local financial commitment, assessments include the proposed share of total project costs from sources other than New Starts under section 5309, including federal transit formula and flexible funds, the local match required by Federal law, and any additional capital funding; the stability and reliability of the proposed capital financing plan; and the ability of the sponsoring agency to fund the operations and maintenance of the entire transit system (including existing service) as planned, once the project is built. To assign overall project ratings to each proposed New Starts project, FTA considers the individual ratings for each of the project justification and local financial commitment measures. FTA combines this information into summary ''finance'' and ''project justification'' ratings for each prospective New Starts project. Individual measures and summary ratings are designated as ''High,'' ''Medium-High,'' ''Medium,'' ''Medium-Low'' or ''Low.'' These are then combined into a single overall rating, which prior to enactment of SAFETEA–LU, was either ''Highly Recommended,'' ''Recommended,'' or ''Not Recommended;'' under the changes made by SAFETEA–LU, the summary ratings will range from ''High'' to ''Low.''

The statutory language in section 5309(e) for Small Starts projects provides for some significant differences for the Small Starts program in comparison to the requirements for larger New Starts projects in section 5309(d). First, the eligibility for funding is broader, including certain ''corridor-based bus capital projects,'' rather than only new fixed guideway systems and extensions. Projects are limited to those with a proposed section 5309 amount of less than $75,000,000 and a total project cost of less than $250,000,000. The project justification criteria are simplified, focusing on three criteria—cost-effectiveness, public transportation supportive land use policies, and effect on local economic development—rather than the more extensive list provided for in section 5309(d). The criteria for local financial commitment have been simplified to focus only on a shorter term financial plan. The project development process has three steps—alternatives analysis, project development, and construction—rather than the four steps—alternatives analysis, preliminary engineering, final design, and construction—in the section 5309(d) process. Finally, the instrument used for implementing these Small Starts projects is a ''project construction grant agreement'' which is to be structured as a streamlined version of the ''full funding grant agreement'' required for larger New Starts projects under section 5309(d).

II. Purpose of This ANPRM

While we believe that the New Starts process represents a good starting point for the development of the new Small Starts program, it is clear from the statutory and report language that significant simplification is contemplated. Indeed, the concept of Small Starts was included in the Administration's reauthorization proposal because of our belief that it is appropriate to apply a simpler process and more streamlined evaluation approach for smaller projects seeking a more limited amount of Federal assistance. While FTA believes a considerable body of experience with the New Starts can be applied to enhance development of the Small Starts program we believe that a fresh look and early examination of key issues related to the process and criteria is warranted before we develop a Notice of Proposed Rulemaking. First, the expanded definition of eligibility raises a number of questions. Second, tailoring the project rating and evaluation process to the smaller scale and different nature of the projects, which are likely to be proposed for funding in this program deserves further attention. Finally, the project development process should also be scaled to properly reflect the size and nature of these projects.

Each of these issues is discussed below, in turn. In each section, we describe the nature of the specific program issues which must be addressed in a Final Rule, and we pose a series of questions, the answers to which will help us frame our approach to the Notice of Proposed Rulemaking. In addition to accepting written comments on these issues, FTA plans to hold listening sessions in the following cities to solicit input on the Small Starts and New Starts programs:

—San Francisco, CA—February 15–16, Hyatt Regency San Francisco
—Ft. Worth, TX—March 1–2, Radisson Plaza Hotel Forth Worth
—Washington, DC—March 9–10, Wardman Park Marriott Hotel

For more information, please contact Tonya Holland at 202–493–0283 or *Tonya.Holland@fta.dot.gov.*

III. Small Starts Eligibility

SAFETEA–LU constrains eligibility of projects for Small Starts funding by imposing limits of $75 million in section 5309 Small Starts funds and $250 million for total project cost. However, it broadens eligibility in terms of project definition by relaxing the existing requirement that the project include a fixed guideway. With this change, a project that would not meet the fixed-guideway criterion is now eligible if it (1) includes a substantial portion that is in a separate right-of-way, or (2) represents a substantial investment in specific kinds of transit improvements in a defined corridor.

The eligibility provisions of the statute raise several issues: how to define ''substantial portion in a separate right-of-way''; how to define ''substantial investment''; the possibility

that project sponsors could divide traditional New Starts projects into two or more Small Starts projects; and the possibility that a Small Starts project might be proposed as the initial transit service in a corridor.

(a) ''Separate Right-of-Way''

The characteristics that qualify a project as having ''a substantial portion'' in separate right-of-way are not self-explanatory. We might define ''substantial'' either as some minimum fraction of the project length or as a performance based determination of whether the separate right-of-way is substantial. We believe that the purpose of a separate right-of-way is generally to reduce trip times and improve reliability for transit passengers. Therefore, a ''substantial'' separate right-of-way could be defined as one that results in a significant travel time reduction along the physical extent of the project. For example, if end-to-end trip time is reduced by some percentage, say 20 percent, the separate right-of-way could be considered ''substantial'' and the project would be eligible no matter what percent of the project was in a separate right-of-way.

(b) ''Substantial Investment''

It seems clear from the language of SAFETEA–LU, referring to a ''substantial investment'' and ''corridor'' that the Small Starts program is not intended to fund single stations or buy a few additional transit vehicles, but to fund corridor-based projects that are more comprehensive in nature. A thoughtful definition here will be important to prevent the Small Starts program from becoming an adjunct to the bus and rail capital-grants programs that agencies use for routine reinvestment in and expansion of transit systems. In response, ''substantial investment—might be defined as some minimum project cost or cost per mile of the proposed project. An alternative strategy would be to define it in terms of a minimum scope of the project—providing for elements that together represent a comprehensive package of improvements.

The statutory language specifically references a variety of project features including park-and-ride lots, transit stations, bus arrival and departure signage, traffic signal priority/pre-emption, off board fare collection, and advanced bus technologies, among others, that could indicate that a project constitutes a ''substantial'' investment. One approach would be to determine whether a project contains several of these project elements that have the effect of constituting a comprehensive package of physical and service improvements in a defined corridor, the project would be considered eligible. Since each of these potential project elements has a different purpose and effect, we do not believe that all Small Starts projects need to have all of the specified elements. Rather, the mix of project elements should respond specifically to the problems or opportunities presented in the corridor. For instance, a project that is intended to speed up peak period bus service in a congested corridor might be required to include several improvements, such as signal priority/pre-emption, queue jumpers, multi-door boarding and fare pre-payment, that effectively result in faster bus speeds. Projects with other goals could have a different mix of project elements as long as they represent a comprehensive attempt to solve the problems or respond to the opportunities presented in the corridor.

Another potential way to ensure that Small Starts projects contain a comprehensive package of improvements would be to impose a multi-year period from the date the project requests entry into project development, in which the project sponsor could not request additional Small Starts funds for the same corridor. This would prevent projects from using the Small Starts program for miscellaneous bus system improvements that do not represent a ''substantial'' corridor investment and would also prevent the subdividing of New Starts projects as discussed below.

A ''defined corridor'' might be defined as narrowly as a single street or as broadly as a geographic section of the metropolitan area. A more comprehensive definition might be derived from the travel patterns established on the current transit system—as in ''the travel corridor connecting residents of the northeastern suburbs to downtown.'' Still another definition might be based on the bus route(s) operating on a single arterial street or highway, or the rail line(s) operating on a single right of way, along with their branches.

(c) Subdividing New Starts Projects

Project sponsors might elect to subdivide a traditional New Starts project into two or more Small Starts projects in order to qualify for the simplified evaluation and rating process. This possibility is not addressed in the language of SAFETEA–LU, but the possibility clearly exists for larger projects to be segmented or phased into development as separate Small Starts projects. This may or may not be desirable. It may be sensible to build some Small Starts projects in phases over a longer period of time. If each of those phases represents a valid Small Starts project, it may be justified that the Small Starts funding be utilized. However, it is probably undesirable for large projects that would otherwise be built entirely at the same time to be redefined as several Small Starts projects. At least three reasons suggest that this subdividing strategy is undesirable. First a small number of subdivided New Starts projects could quickly deplete the Small Starts funding allocation, thereby making the Small Starts option unavailable to projects more consistent with the purpose of the Small Starts allocation. Second, costly New Starts projects ought to undergo the full New Starts evaluation rather than the simpler evaluation reserved for smaller projects with lower costs and less risk. Third, FTA oversight resources would be stretched even further by the proliferation of artificially subdivided projects.

If it is determined that separate phases of larger projects should not be able to use Small Starts funds, we could introduce an eligibility requirement that all potential Small Starts projects in a single corridor be considered simultaneously for eligibility. We could ensure that even if a Small Starts project is to be built in stages, the comprehensive plan for the corridor meets the eligibility criteria for a Small Starts project and be evaluated and rated as a comprehensive program of improvements. If the comprehensive corridor improvement plan exceeds the Small Starts cost criterion, the project should then be evaluated and rated as a traditional New Starts project.

(d) Small Starts as the Initial Service Offering

Given the relatively low cost of Small Starts projects, some project sponsors might propose a Small Starts project as a way of initiating transit service in previously unserved areas. That strategy increases risk, however, if the transit market has not yet been sufficiently developed in the planned service area. Further, the strategy seems inconsistent with the purpose of the Small Starts program—to provide higher-quality service than is available from conventional bus routes. Consequently, we might establish a minimum-current-ridership requirement—say 1,000 riders per average weekday in the immediate corridor—to screen out proposals for corridors where transit markets are not yet sufficiently developed.

Questions

We invite comment on our current thinking regarding the project eligibility for the Small Starts category of the New Starts program:

1. What portion of the project should be in a separate right-of-way to qualify for funding under the Small Starts eligibility criteria? Should this determination be based on length or on performance?

2. How might we interpret the requirement that a project represent a ''substantial investment''?

3. How might we ensure that a Small Starts project be in a ''defined corridor''?

4. Should we try to prevent traditional New Starts projects from being divided into two or more Small Starts projects? If so, in what ways might we prevent this from happening?

5. Should we establish a minimum ridership requirement to ensure that Small Starts projects are used to improve the quality of service for existing transit markets rather than represent the first transit service offered to potentially new transit markets? If not, how can a project demonstrate need for investment?

IV. Evaluation and Ratings

SAFETEA–LU section 3011(e)(2) requires that the Secretary of Transportation provide funding assistance to a proposed project under this new Small Starts category only if the Secretary finds that the project is:

(A) Based on the results of planning and alternatives analysis;

(B) Justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

(C) Supported by an acceptable degree of local financial commitment.

The statute expands on the justification required in paragraph (B), requiring that the Secretary make the following determinations:

- The degree to which the project is consistent with local land use policies and is likely to achieve local development goals;
- The cost effectiveness of the project at the time of the initiation of revenue service;
- The degree to which a project will have a positive effect on local economic development;
- The reliability of the forecasting methods used to estimate costs and ridership associated with the project; and
- Any other factors that the Secretary determines appropriate to make funding decisions.

The SAFETEA–LU provisions for the evaluation of proposed Small Starts projects raise several issues. These include the framework for the evaluation; the specific measures used in the evaluation; and scaling of the evaluation approach for Small Starts projects of different size, cost, and complexity.

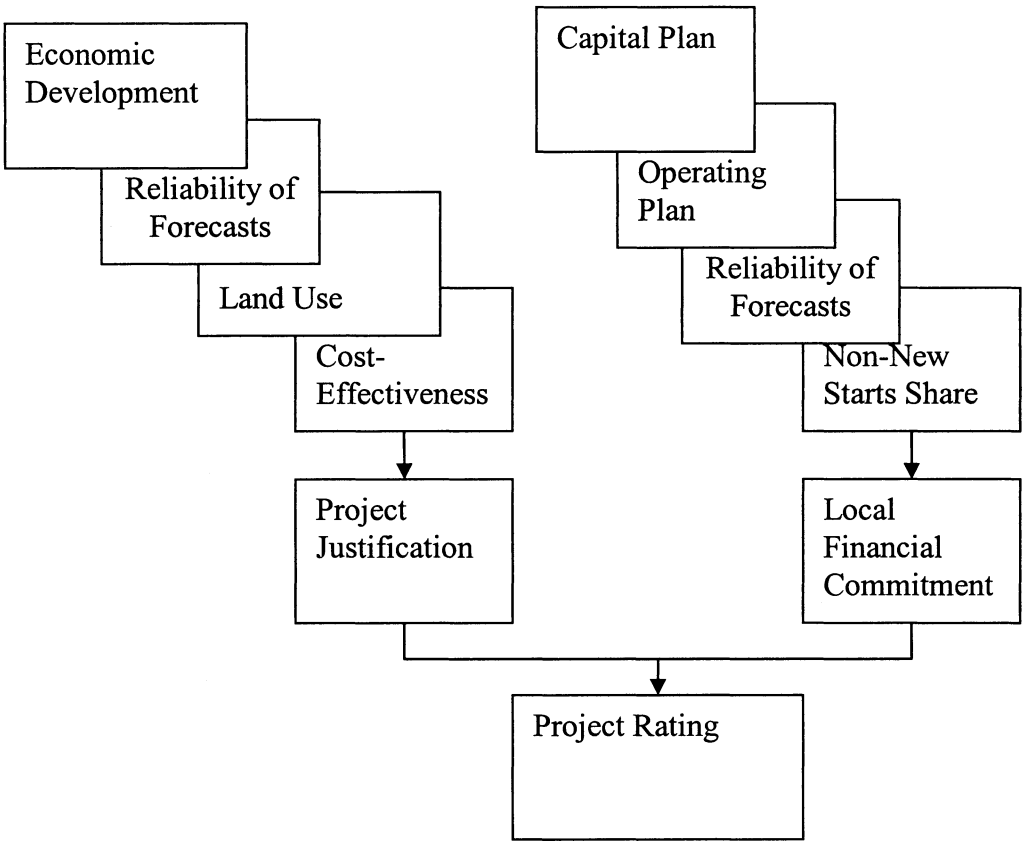
(a) Evaluation Framework

At least two options exist for the framework used to organize the evaluation measures and synthesize the findings for individual projects. The first would be an extension of the framework used for New Starts projects described in the December 2000 Final Rule on Major Capital Investment Projects (Title 49; Vol 6; 49 CFR 611.1), adjusted to add and delete the specific measures listed in SAFETEA–LU. The second would adopt a framework designed both to implement the Small Starts evaluation criteria specified by SAFETEA–LU and to organize the measures in a way which we believe supports an informative, analytical discussion of the project and its merits for Small Starts funding.

Option 1—Extension of the Evaluation Framework for New Starts

The framework that we currently use to evaluate New Starts projects considers each candidate project from two separate perspectives: the project's ''justification'' and local financial commitment proposed by its sponsor. Figure 1 illustrates one way in which the current framework could be adapted to the evaluation of Small Starts. Currently, ''justification'' considers a broad array of criteria but is based chiefly on two: cost effectiveness (50 percent of the justification rating) and land use (50 percent). Cost effectiveness addresses the trade-off between the capital, operating, and maintenance costs of the project and the mobility benefits that it is expected to produce. Land use addresses the extent to which the land-use setting for the project would promote a successful project—both in terms of the transit orientation of current land use and the policies adopted locally to foster transit orientation in future development. For Small Starts, we might respond to SAFETEA–LU direction by simply adding an economic-development criterion and a forecast-reliability criterion to the existing definition of the justification perspective. As we do currently for New Starts projects, we could assign a rating for each of the now four components (cost effectiveness, land use, economic development, and forecast reliability) and compute an overall justification rating as a weighted average of the individual ratings. Given that we expect far more applications than awards and the intense scrutiny and interest in cost-effectiveness of recommended projects among various participants in federal funding recommendations (*e.g.*, Congress, the Office of Management and Budget (OMB), the General Accounting Office (GAO), and others), it may be desirable to continue to assign roughly half of the ''justification'' weighting to the cost-effectiveness component, perhaps allocating the other half equally across the land use, economic development, and reliability criteria.

Figure 1: Small Starts Evaluation Framework, Option 1



Currently, local financial commitment is defined for New Starts in terms of the strength of the financial plan for the capital costs of the proposed project (50 percent of the financial rating), the strength of the financial plan for operating and maintaining the entire transit system including the proposed project (30 percent), and the level of non-New-Starts funding proposed by the sponsor (20 percent). We compute an overall rating on local financial commitment as the weighted average of the individual ratings on these three criteria. Application of these three criteria, augmented by a new measure to reflect the reliability of the revenue and cost forecasts, might provide a sufficient framework for the evaluation of Small Starts as well.

Option 2—Development of a Broader Framework

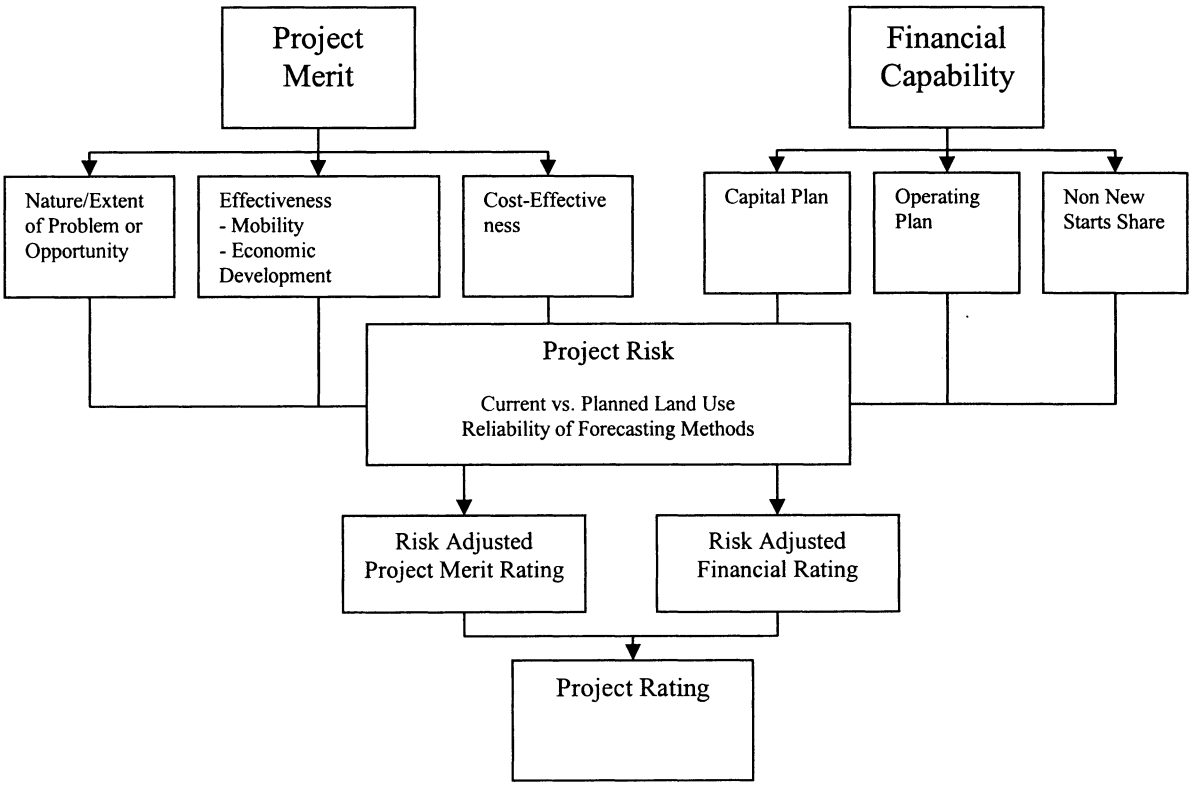
For some time, we have been considering ways to provide a better framework for the assessment of major investment projects. The current approach, while consistent with current laws, tends to focus attention on the measures themselves, rather than promoting a thoughtful consideration of project merit. To address these concerns, a second option would be to broaden the perspectives we use to evaluate proposed projects, re-organize the evaluation criteria within these perspectives, and add a brief, clearly written narrative that synthesizes the insights available from various measures into the best possible case for the project as a candidate for Small Starts funding. Together, the evaluation measures and the narrative case for the project might consider:

- The nature of the problem/opportunity—because meritorious transit projects emerge from efforts to solve transportation problems and respond to important opportunities to improve mobility and support economic development;
- The effectiveness of the project as a response—because meritorious transit projects increase mobility for existing and new transit riders, preserve and expand mobility for transit dependents, and support economic development;
- The cost-effectiveness of the required investment—because meritorious projects generate benefits that are commensurate with their capital, operating, and maintenance costs;
- The strength of the local financial commitment—because financially sound projects draw on capital and operating funding sources that are readily available given reasonable expectations of revenue streams and acknowledgment of competing uses for the funds; and
- Risk in the forecasts and in the evaluation measures—because informed decision-making requires an understanding of any major uncertainties in information used to evaluate the project including land use forecasts, land use policy intentions, ridership forecasts, cost estimates, and other assumptions and forecasts.

We believe that an evaluation framework comprising these five perspectives would provide a natural and logical place for each of the criteria specified in SAFETEA–LU. Cost effectiveness and local financial commitment are themselves two of the perspectives. Economic development would be a principal component of the effectiveness perspective. Land use policies and the reliability of ridership and cost forecasts would be central elements of the uncertainties perspective.

Figure 2 provides an overview of the framework presented as Option 2 for the evaluation of Small Starts projects. The framework could examine separately the merits and the financial plan for the proposed project, as well as factor in the risks associated with the reliability of the data. Project merit could depend on the weighted results of project evaluation from three distinct perspectives: The nature of the problems/opportunities, the effectiveness of the project in addressing the problems/opportunities, and the cost-effectiveness of the necessary investment in capital, operating, and maintenance costs. Given that we expect far more applications than awards and the intense scrutiny and interest at the federal level in funding cost-effective projects, it may be desirable to continue to assign roughly half of the project-merit weighting to the cost-effectiveness component, perhaps allocating the other half equally across the problems/opportunities and effectiveness criteria.

Figure 2: Small Starts Evaluation Framework, Option 2



In the evaluation of effectiveness and cost effectiveness, the basis for comparison for a proposed project might appropriately depend on the nature of the proposal. For projects that do not involve construction of a new guideway, the baseline might be current transit services in the corridor. For projects that include a new guideway, the baseline might be similar service levels provided by buses operating on the same or nearby streets and/or highways, and serving a comparable set of stations. Regardless of the specifics, the timeframe for the comparison of ridership, mobility benefits, and cost-effectiveness would be the year of opening of the proposed Small Starts project.

Financial capacity could depend on the weighted results of financial analysis from three perspectives—the soundness of the capital funding plan, the soundness of the operating/maintenance funding plan, and the proposed non-New-Starts share of the project—with weights equal to those used currently for New Starts evaluations.

Risk could reflect the levels of uncertainty present in the information used to develop each of the component ratings for project merit and local financial commitment. Consequently, each component rating would be accompanied by an indicator of its reliability. The risk measures might be based on (1) the comparability of cost estimates and ridership forecasts to peer projects both locally and nationally, (2) the steps that the project sponsor has taken—including data collection, sensitivity testing, and peer reviews—to identify and minimize uncertainties, and (3) the performance of the project sponsor in delivering previous transit projects that met forecasts of costs and ridership.

The evaluation framework might include an analytical discussion of the project and its performance against the evaluation criteria, providing direct answers to several key questions:

- What is the problem?
- What project is proposed in response?
- What are its costs?
- How well does it address the problem?
- Is it worth the investment?
- Can the project sponsor and other funding sources afford it?
- What are the trade-offs versus other alternatives?
- Where are the large uncertainties?

This discussion would ensure that the evaluation rested as much on well stated insights into the merits of the project as on the mechanics of the evaluation measures themselves. We

might use the case for the project to support project advancement or funding decisions for marginally rated projects.

Baseline Alternative

Virtually from the beginning of the New Starts program, FTA has required that the benefits and costs of the proposed New Starts project be assessed versus a baseline alternative defined as the best that can be done without building a new fixed guideway. The purpose of the baseline alternative has been to distill the benefits (and costs) of the proposed New Starts project from the benefits achieved through low-cost improvements such as route realignments, increases in service frequency, park-and-ride lots, signal preemption and other low-cost improvements that could have significant benefits, but which could be achieved without the significant cost of a New Starts project's infrastructure. The baseline alternative has proven to be essential in properly accounting for benefits and costs of traditional New Starts projects. A secondary benefit is that it allows FTA to better evaluate projects fairly. In essence, a consistently defined baseline alternative prevents regions with good existing transit service from being disadvantaged relative to areas with poor existing service in the competition for New Starts funds.

For the Small Starts program, a baseline alternative may be less important in both accurately determining the costs and benefits of some projects and establishing a level playing field for evaluations across the country. History has shown the need for a baseline for larger projects now eligible for Small Starts funding, but a baseline alternative may not be necessary for certain kinds of projects based on their costs or other characteristics.

(b) Specific Evaluation Measures

Regardless of the framework that emerges, each criterion will require specific evaluation measures. In principle, the measures should be accurate indicators of the performance of proposed projects, be readily computed by project sponsors, be transit-mode-neutral, and be free of inherent biases that would distort the level playing field that we try to maintain for all project sponsors.

A particular challenge is the appropriate inclusion of land use in the evaluation. Land use might usefully play a role in two parts of the evaluation framework: as part of the economic-development criterion and as part of the risk assessment. Our current evaluation of New Starts projects employs land use measures (current land use, plans and policies, and the track record of those plans and policies) that effectively address the risk perspective: The measures indicate the transit-friendliness of the project corridor, both now and in the future, to indicate the extent to which the proposed project would be implemented in a setting conducive to its success. However, because current land use and plans/policies do not measure the benefits generated by the proposed project, they do not address the anticipated development benefits from the project. The absence of measures of economic-development benefits is the result of our continuing difficulties in finding methods for predicting development impacts with sufficient reliability for use in New Starts evaluation. These difficulties extend to Small Starts evaluation as well. Further, because SAFETEA–LU introduces a separate economic-development criterion, the potential role for land use as a measure of development benefits becomes even less evident. A distinction between land-use development and economic development seems elusive. Consequently, an appropriate strategy might be to define ''land-use/economic development'' as a measure of project effectiveness and to define ''transit-orientation of land use'' as a measure of risk inherent in both the mobility benefits and the land-use/economic development benefits.

Nature of the Problem/Opportunity

New Starts projects are almost always intended to solve specific transportation problems, or take advantage of opportunities to improve transportation services, or support economic development. For this reason, the most useful starting point for evaluation of proposed transportation investments may be the nature and severity of the problems/opportunities the proposed projects are designed to address. Such a criterion might rate very highly projects designed to address clearly identifiable and particularly severe mobility problems, while rating more moderately those projects that take advantage of specific opportunities to improve service, but are not in corridors with a particular mobility problem.

An immediate question, then, is what kinds of problems/opportunities is the Small Starts program intended to address. Both the New Starts program and the SAFETEA–LU provisions for Small Starts both emphasize cost effectiveness and support for economic/land use development. Mobility benefits are implicit in cost effectiveness because our cost effectiveness measure has, since its inception, compared costs with some indicator of mobility benefits (initially new transit trips and, since 2001, user benefits). Consequently, measures to represent the nature of the problem or opportunity addressed by a proposed Small Starts project ought to reflect economic development and mobility. Useful measures for economic development might include vacancy rates, the value of land parcels compared to the value of current improvements on those parcels, and similar measures of development conditions in the corridor of interest. Useful measures for mobility might include current bus travel speeds in the immediate corridor, current highway speeds on principal arterials in the corridor, and projected speeds in the future—perhaps in 10 years.

Effectiveness

Small Starts projects are likely to produce a wide variety of benefits that are candidate measures of their performance. SAFETEA–LU calls out two kinds of benefits: economic/land-use development specifically and mobility improvement implicitly through cost-effectiveness.

Predicting economic development impacts of transit improvements—particularly the types of improvements anticipated to be funded through the Small Starts program—is a particular challenge. No predictive tools are available in standard practice and development of new tools is infeasible in the short run. Consequently, the best-available measures of likely economic development/land-use benefits may be derived from the circumstances in which the projects would be implemented rather than from forecasts of their specific development impacts. A survey of available research on the development impacts of transit suggests that increased accessibility and permanence of the transit investment are the primary transit-related drivers of development. Those project-related characteristics, plus indicators of the availability of land for development or redevelopment, may provide a workable representation of likely development benefits. Specific measures might be (1) current land-use conditions, (2) development plans and policies, (3) the economic development climate in the corridor and region, (4) the project-related change in transit accessibility for developable areas in the corridor, and (5) the economic lifespan of new transit facilities proximate to those developable areas.

The measure of mobility benefits ought to capture as many benefits as

possible. Currently for New Starts projects, we define ''user benefits'' to include all changes in mobility that are measured by local ridership-forecasting methods and define the scope of those benefits to include both existing and new transit riders. (The definition also includes benefits to users of the highway system but measurement of those benefits has been precluded by the insufficient state of the practice for predicting changes in highway speeds.) Consequently, the user-benefits measure credits transit projects with reductions in transit travel times (including time spent walking, waiting, transferring, and riding in transit vehicles), any other service characteristics (such as the number of transfers) included in local forecasting methods, and the availability of multiple competitive travel options, again as represented by local forecasting methods. The user-benefits measure is also defined to give appropriate credit for other project characteristics that improve the quality of transit service including changes in reliability, span of service, safety and security, passenger stations, passenger information, permanence of the facilities, and other characteristics not represented by travel times and costs. Unfortunately, these harder-to-measure impacts of transit improvements are rarely measured explicitly in local travel models and are instead represented—very roughly—as lump-sum differences (transit-mode-specific ''constants'') in the attractiveness of different transit modes (bus, light rail, express bus, commuter rail, and so forth). Further, the state of the practice in ridership forecasting makes difficult the task of quantifying these effects in urban areas where a variety of transit modes exists today and provides no information on these effects in urban areas where the transit system includes bus service only. Most unfortunately, these hard-to-measure effects may be central to the merits of smaller projects that may not produce large changes in travel times. For example, we may specify standard values for the benefits generated by the various non-travel-time improvements introduced by a proposed Small Starts project. For example, we might define passenger stations to provide the equivalent of M minutes of travel time savings for each rider, an exclusive guideway N minutes per passenger-mile of equivalent savings, and all-day high-quality service P minutes per rider. We would then employ these standard values as default measures of benefits for metropolitan areas introducing a new transit mode. To maintain a level playing field for project evaluation, we might also use the standard values as limits on the estimated values of these benefits in metropolitan areas that already have the mode in question. FTA's ''Dear Colleague'' letter dated April 29, 2005, which addressed changes in New Starts ratings, stated that FTA had decided to postpone the introduction of mode-specific constants for new guideway modes to an area. The creation of the Small Starts program has prompted reconsideration of the application of these constants.

Given the key role that transit plays in the lives of travelers who rely on it for basic mobility, we might also include an indicator of the extent to which a proposed project improves mobility for transit dependent residents of the urban area. A straightforward measure might be the fraction of total mobility benefits that accrues to travelers in the lowest economic stratum (usually household income or auto-ownership) used in the local ridership-forecasting methods, normalized by the fraction of all trips made by residents of that stratum.

Cost-Effectiveness

Since the inception of the transit major capital investment program, we have employed a cost effectiveness measure and have translated its computed value for a project into a cost-effectiveness rating for that project using a set of breakpoints (that is, a computed value between X and Y obtains a ''Medium'' rating). Traditionally, we have computed the cost-effectiveness of New Starts projects as annualized capital, operating, and maintenance costs of the project per unit of transportation benefits, all compared to a non-guideway baseline alternative. We currently use the transit-user-benefits measure to capture the full range of quantifiable transportation benefits of proposed projects. A broader cost-effectiveness measure might add non-transportation benefits—economic development/land-use and mobility benefits to transit dependents, for Small Starts—to the effectiveness side of the calculation. In addition to the difficulty in quantifying non-transportation benefits such as economic development and land use, another complication is the need to avoid double-counting in the calculation of benefits applied in the cost effectiveness measure.

Its role is to compare a careful accounting of costs with a careful accounting of benefits. The inclusion of measures that represent different manifestations of the same benefit would distort the benefits accounting. This problem occurs for mobility improvements and economic development/land-use: a review of the available research shows that transit-related changes in land values and consequent increases in development are largely the result of the accessibility improvements and apparent degree of permanence of a transit project. We contend that these impacts are already counted in the user benefits measure of mobility improvements and that they should not be counted a second time in the form of consequent economic development/land-use impacts. To the extent that some economic development/land-use benefits are independent of mobility and permanence, large uncertainties would occur in attempts to include those benefits in the cost-effectiveness calculation while avoiding double-counting of the main effects. Consequently, a more tractable approach might be to make allowances for these uncounted development benefits in the way that we translate values of the cost-effectiveness measure into cost-effectiveness ratings for projects. For example, if adding a new class of benefits to the cost-effectiveness measure proves unworkable, we could adjust the cost-effectiveness breakpoints to account for the existence and likely magnitude of those benefits.

Local Financial Commitment

The financial evaluation measures currently used for New Starts projects provide a useful starting point for consideration of possible Small Starts measures. The New Starts measures include the strength of the financial plan for non-New Starts funding of the project's capital costs, the strength of the financial plan for non-New Starts funding of the entire local transit system once the project is in place, and the non-New Starts funding proposed by the project sponsor. SAFETEA–LU specifies that financial commitment for Small Starts projects shall be evaluated ''within the project timetable.'' Therefore, a possible adaptation of the current measures might be to adjust the New Starts financial evaluation measures for Small Starts to reflect the shorter timeframe ending with the opening year of the proposed project.

Risk

There is inherent risk and uncertainty in project evaluation. The ratings assigned to a project are based on information, assumptions and forecasts that often include uncertainty in the predictions of eventual project performance. The statutory language makes it clear that the evaluation of Small Starts projects is to consider the reliability of the forecasting methods

used to estimate costs and ridership (note that SAFETEA–LU also included this language for New Starts projects). Since SAFETEA–LU requires that the financial and cost-effectiveness measures be evaluated based on near term forecasts for Small Starts projects, some of the forecasting risk may be reduced. Uncertainties clearly remain, however. Therefore, in principle, the evaluation framework would include a specific risk indicator for each evaluation criterion. Some options for incorporating risk and uncertainty are described below.

The risk associated with measures related to the nature and severity of the problem or opportunity could be based on an evaluation of peer projects—projects that have been implemented in similar conditions and their apparent success in addressing similar problems and/or seizing the opportunities that motivated project sponsors.

The risk inherent in measures of project merit could be evaluated based on (1) the current land use and land-use policies, (2) the soundness of forecasting tools and data used to predict ridership and mobility benefits including steps to reduce uncertainty through peer reviews and other quality control procedures, (3) comparisons of ridership forecasts against peer projects—similar projects in similar settings, with particular risk assigned to projects without any peers, and (4) the track record of the project sponsor with benefits forecasts for previous transit projects.

The risk associated with a cost-effectiveness measure would necessarily include the uncertainties in both the project-effectiveness measures and the cost estimates. The effectiveness risk could be quantified with the measures outline above. The cost risk could be based on (1) the soundness of cost-estimating procedures including steps to reduce risk through peer reviews and other quality-control efforts, (2) comparisons of the cost estimates against peer projects, and (3) the track record of the project sponsor with cost estimates for previous transit projects.

A project finance risk measure could be based on apparent availability of non-federal funds and the ability of the financial plan to withstand a specific percentage increase in capital costs of the project. This type of evaluation is currently included within the financial evaluation of New Starts projects, but may be better as a separate financial risk measure.

(c) Project Ratings

SAFETEA–LU specifies that projects are to be rated as high, medium-high, medium, medium-low, and low, based on the analysis of both project merit and local financial commitment and that to receive a funding recommendation, projects should be both meritorious and have an acceptable degree of local financial commitment.

Currently for New Starts projects, we develop separate ratings for project merit (''justification'') and local financial commitment, and then derive from these component ratings an overall project rating using decision rules. These decision rules ensure that a project does not get a very high or an acceptable rating unless the ratings for both project merit (''justification'') and financial commitment are high or acceptable respectively. A similar rating process could be developed for Small Starts.

Because risk may be an important element of ratings for Small Starts projects, a strategy may be needed to incorporate risk measures into the ratings process. It seems clear that each risk measure ought to be associated as directly as possible with the evaluation measure to which it applies; uncertainties in the cost estimate, for example, ought to affect whichever evaluation criteria rely on measures computed from the cost estimate. A variety of strategies might be used to adjust the rating for each criterion to reflect the risk measure—including probability weightings and Monte Carlo simulations analogous to those used currently in FTA-sponsored ''risk assessments'' of the capital cost estimates for New Starts projects. A simpler strategy, however, might be to use the risk indicators to decide the outcome for ratings at the margins: a project rating whose measures produce a result at the breakpoint between Medium and Medium-High, for example, might be rated Medium if the associated risk indicator suggests large uncertainties and Medium-High if the risk indicator suggests minimal uncertainties.

(d) Scaling the Evaluation for Projects of Different Size

Small Starts projects may range in size from non-guideway improvements costing $20 million, or perhaps less, to new guideways costing just under $250 million. Given this relatively wide range of cost and potential for complexity and risk, different approaches might be appropriate for projects of different scale. We recognize that the effort expended by project sponsors to develop the necessary information—and by FTA to ensure the reliability of that information—should be matched to the size and complexity of the proposed project. Sponsors of relatively simple projects with very low costs—particularly those with no guideway construction like arterial BRT or commuter rail service on an existing high quality rail line, for example—should be able to make the case for their projects with less effort than sponsors of relatively more complex and expensive Small Starts projects. Lower levels of effort should result from lower levels of complexity, detail, and rigor but not from a reduced ability to address the full range of evaluation criteria.

Given the relatively straightforward nature of the financial measures, most of the differences in evaluation methods might occur in the evaluation of project merit (justification)—particularly in the methods used to compute mobility benefits and, therefore, cost-effectiveness. Several options are available for evaluation of project merit for Small Starts proposals: (1) Application of the same evaluation methods for all projects regardless of scale; (2) development of simplified analytical procedures for smaller projects; and (3) defining for small projects a set of conditions—effectively ''warrants'' based on project scope and implementation setting—within which proposals are automatically deemed to have acceptable levels of project merit.

Option 1—Same Methods, Regardless of Scale

A travel forecasting capability is available in most metropolitan areas, usually including a forecasting component for transit ridership. In many urban areas with recent experience in forecasting for New Starts projects, these forecasting procedures are ready for use in ridership forecasting for Small Starts planning. The procedures consider project impacts on all travelers in the region, predict changes in both travel mode and transit routing, and provide forecasts for individual travel markets. In areas that do not have ridership forecasting procedures of acceptable quality, the necessary refinements can be done with appropriate data within a year or so. Therefore, one available option is to require that the benefits of all Small Starts proposals, regardless of cost or complexity, are forecast with traditional methods that attempt to capture the full range of impacts that a project would have on the quality of transit service in a corridor.

Option 2—Simplified Methods Where Possible

At least some Small Starts proposals are likely to affect only a very specific set of travelers and may therefore not require the comprehensive analysis of

transportation impacts provided by traditional ridership forecasting methods. For these proposals, a simplified analysis may be sufficient to quantify the mobility benefits and provide insights into the merits of the project. A simplified analysis might rest on data rather than models, spreadsheet computations rather than sophisticated software, and limited geographic scope rather than region-wide analysis. For example, a very simple Small Starts project might be the conversion of an existing bus route into a streetcar line with passenger stations, dynamic passenger information, off-board fare collection, traffic signal priorities, some reservation of existing traffic lanes, and headway improvements. A sufficient analysis of the mobility benefits of this project might be based on on/off counts, a limited on-board survey, an estimate of stop-to-stop reductions in wait times and travel times, and a spreadsheet-based calculation of travel-time savings (and whatever representation we determine is appropriate of the hard-to-quantify benefits of better passenger facilities, schedule information, and other project elements). To the extent that this limited analysis identifies mobility benefits sufficient for the project to compete well for Small Starts funding, the approach may be all that is needed to quantify those benefits. To the extent that another project has a broader set of impacts—because of service changes on a large number of bus routes throughout a corridor, for example—then the project sponsor might elect to use the traditional forecasting methods to capture the broader set of benefits.

Option 3—Development of ''Warrants'' for Smaller Projects

We are considering specifying a class of low-cost improvements that are ''warranted'' to be cost effective based on their definition and the environment in which they are to be applied. This strategy would be for us to distinguish and evaluate differently those projects that are very low cost and that employ only those elements that are demonstrably effective and cost-effective within specified maximum prices and minimum usage (ridership). Justification for these ''Very Small Starts'' would be based simply on the scope/cost of the project and salient characteristics of the setting in which it would be implemented. Justification would require documentation only of (1) the scope elements of the project, (2) the unit costs for each scope element, (3) total cost, and (4) existing ridership in the immediate corridor. This strategy would avoid a requirement that project sponsors attempt to quantify benefits for low-cost projects comprising only those elements that have been demonstrated elsewhere to be effective and cost-effective transit improvements.

This concept might be extended to Small Starts projects that add a new guideway along with the low-cost elements that would otherwise qualify a project for Very Small Starts treatment. A low-cost guideway project, for example, might also include the stations, signal pre-emption, ''branding,'' and other elements whose benefits are difficult to quantify. Again, this strategy would avoid the substantial difficulties inherent in attempting to calculate the benefits of low-cost project elements with real but hard-to-quantify impacts on the quality and attractiveness of transit services.

Questions

6. How should the evaluation framework for New Starts be changed or adapted for Small Starts projects?

7. How should the baseline alternative be defined?

8. How might FTA evaluate economic development and land use as distinct and separate measures?

9. Are there other measures of effectiveness that should be considered?

10. Is it desirable for FTA to attempt to incorporate other measures of effectiveness besides mobility when evaluating cost-effectiveness? If so, what measures might be incorporated and in what manner?

11. Should mode-specific constants be allowed in the travel forecasts? If so, how should they be applied?

12. How might FTA incorporate risk and uncertainty into project evaluation for Small Starts?

13. What weights should FTA apply to each measure?

14. Should the FTA make a distinction in the way we evaluate Small Starts projects of different total project costs and scope?

V. Procedures for Planning and Project Development

SAFETEA–LU specifies some different procedures to be used by Small Starts projects in the planning and project development process compared to New Starts projects. Similar to the requirement for traditional New Starts, funding for Small Starts requires the Secretary to find that the project has been based on the results of planning and an alternatives analysis. Unlike traditional New Starts, Small Starts need only be approved to advance from planning and alternatives analysis to project development and construction; no approval to enter final design is required. A project construction grant agreement can be used to provide funding for the Small Start for future years. The main issues addressed in this section include defining alternatives analysis in a way that is appropriate to the scale of small projects, the basis for our decision to allow entry into project development, and linking alternatives analysis and the environmental process.

Alternatives Analysis

While larger projects require a number of alternatives to be considered in an alternatives analysis to assess the numerous tradeoffs in costs, benefits, and impacts, the consideration of Small Starts often implies that fewer useful alternatives exist and in some cases, there may only be two alternatives, one representing the Small Start and the other today's service levels. Nevertheless, the number of alternatives considered must continue to meet the requirements of NEPA, good planning practices, and proper identification of project costs and benefits for funding recommendations.

Just as there could be a simpler evaluation approach applied to simpler projects described as Very Small Starts in the evaluation section above, a very simple alternatives analysis and subsequent evaluation process could be used when Very Small Starts are being considered. Projects that are Very Small Starts could be able to utilize a very simple project definition-based alternatives analysis process. The key elements of the highly simplified AA report could be:

- Clear description and assessment of the opportunity to improve transportation service in the corridor.
- Clearly defined proposed project description designed to take advantage of the opportunity to improve transit service in the corridor, including a clearly defined scope, list of project elements, their associated costs and expected effect on transit service in the corridor.
- Comparison of the Very Small Start only to conditions today for a subset of the required measures. Mobility benefits and cost-effectiveness could be assumed to be met if the proposed project only includes pre-approved elements.
- A determination of whether or not the project sponsor can afford the capital and operating costs of the alternatives.
- A well supported explanation for the choice of a proposed project that includes an analysis of the likelihood of the proposed project achieving the project goals and any risks.
- A plan for implementing and operating the proposed project that

addresses the project sponsor's technical capability to build, operate and maintain the proposed project.

Where the proposed New Starts project fits the eligibility criteria for a Small Start but cannot qualify as a Very Small Starts project, a simplified alternatives analysis could be allowed. Compared to Very Small Starts this type of alternatives analysis would include a more detailed analysis of the mobility benefits and cost-effectiveness of the proposed project. They could also entail consideration of a broader range of alternatives because project alternatives could cost as much as $250 million. As costs rise, considerations of different length alternatives may give insights into what could be significant differences in the tradeoffs of costs, benefits and impacts. Even without other build alternatives, examination of an alternative other than existing system service could be required if the Small Starts project is proposed where no transit service currently exists, so that the benefits of the investment itself can be distinguished from the simple realignment of service. Similarly, assessing a third alternative with the non-fixed-guideway elements of a fixed guideway project would permit the proper identification of the benefits and costs accruing from the guideway investment itself.

The features of this simplified AA report could be:

- Clear description and assessment of the opportunity to improve transportation service in the corridor.
- Clearly defined set of transportation alternatives to take advantage of the opportunity to improve transit service. In cases where the proposed project does not involve a new fixed guideway, the alternatives analysis could consider a minimum of two alternatives as follows: (1) The no-build (existing conditions), (2) a Very Small Starts alternative if the proposed project includes a guideway or there is no existing service in the corridor, (3) the proposed Small Start, and (4) any useful length alternatives to the proposed project.
- Analysis of the effectiveness of the alternatives.
- Comparison of the benefits and costs of the alternatives.
- A determination of whether or not the project sponsor can afford the costs of the alternatives.
- A well supported choice of a proposed project that includes an analysis of the likelihood of the proposed project achieving the project goals and any risks.
- A plan for implementing and operating the proposed project that addresses the project sponsor's technical capability to build, operate and maintain the proposed project.

We would use the alternatives analysis report or subsequent AA/DEIS to rate and evaluate the proposed Small Starts projects.

Another type of alternatives analysis could occur when a traditional New Starts project is one of the alternatives and the locally preferred alternative is eligible for Small Starts funds. Projects that result from a traditional alternatives analysis will have to adjust their evaluation measures to reflect opening year rather than the forecast year.

Entry Into Project Development

We currently envision reviewing the following items soon after they are developed during the alternatives analysis in order to support a decision to allow entry into project development:

- Alternatives analysis initiation report that includes a clear and concise description of the problem or opportunity to improve service in the corridor, the initial list of alternatives and their key elements, and the proposed approach to evaluating the alternatives.
- Interim report that specifies the alternatives to be evaluated and the methods that were used to forecast the mobility benefits.
- Final report and choice of locally preferred alternative.
- Local adoption of the proposed project and financial plan into the fiscally constrained, conforming (if in a non-attainment or maintenance area) plan and Transportation Improvement Program (TIP).

Projects that are eligible for Small Starts funds and achieve acceptable ratings for the Small Starts criteria could be admitted into project development. We are considering including the before and after study requirement in the construction grant agreement as a pre-requisite for receiving funding for Small Starts projects. Like traditional New Starts, documenting the predicted and actual scope, cost, and ridership of projects built using Small Starts funds will allow us as well as project sponsors to evaluate this information and develop in the future better approaches to forecast the costs and benefits of Small Starts. The results of before and after studies would also assist us in responding to the requirement in SAFETEA–LU that we consider the reliability of forecasting methods used to estimate ridership and costs when we consider funding proposed Small Starts projects.

Linking Alternatives Analysis to the Environmental Process

Currently alternatives analyses can be conducted concurrently with NEPA or in advance of formal NEPA activities that begin with a Notice of Intent. Problems have arisen when alternatives analyses are conducted in advance of formal NEPA processes for a variety of reasons, including the lack of proper consideration of environmental factors and lack of response by resource agencies. Alternatives analyses conducted concurrently with NEPA sometimes do not have the level of detail necessary for mitigation of impacts, requiring a supplemental document. An option that we are considering that could address these problems by efficiently and effectively linking alternatives analyses to NEPA is a recognized procedure known as ''early scoping.'' The concept of early scoping was explained by the President's Council on Environmental Quality in its ''40 Questions'' guidance, as follows:

> ''Use of Scoping Before Notice of Intent to Prepare EIS. Can the scoping process be used in connection with preparation of an environmental assessment, i.e., before both the decision to proceed with an EIS and publication of a notice of intent?
>
> A. Yes. Scoping can be a useful tool for discovering alternatives to a proposal, or significant impacts that may have been overlooked. In cases where an environmental assessment is being prepared to help an agency decide whether to prepare an EIS, useful information might result from early participation by other agencies and the public in a scoping process.
>
> The regulations state that the scoping process is to be preceded by a Notice of Intent (NOI) to prepare an EIS. But that is only the minimum requirement. Scoping may be initiated earlier, as long as there is appropriate public notice and enough information available on the proposal so that the public and relevant agencies can participate effectively.
>
> However, scoping that is done before the assessment, and in aid of its preparation, cannot substitute for the normal scoping process after publication of the NOI, unless the earlier public notice stated clearly that this possibility was under consideration, and the NOI expressly provides that written comments on the scope of alternatives and impacts will still be considered.''
>
> Council on Environmental Quality, *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations,* 46 FR 18026, 18030 (1981) (Answer to Question No. 13).

Projects developed through the Small Starts program are not likely to generate significant effects on the quality of the human environment. Nevertheless, potential environmental effects associated with Small Starts proposals cannot be overlooked. In order to

accommodate applicable environmental review requirements and to integrate such requirements efficiently into Small Starts proposals, we are considering requiring the use of ''early scoping'' as an adjunct to Alternatives Analysis. Although early scoping is not a substitute for the standard scoping process, in combination with required notification initiating the environmental review process, early scoping would serve to signal the beginning of the NEPA process and provide a forum in which participating and cooperating agencies, as well as the public, could be actively and purposefully engaged.

Early scoping links transportation planning (Alternatives Analysis) with the National Environmental Policy Act process in a way that promotes consideration of required environmental factors without pre-determining the kind of documentation that has to be prepared. This approach is entirely consistent with regulations implementing the National Environmental Policy Act, as well as the planning and environmental review provisions of SAFETEA–LU.

It is likely that many Very Small Starts proposals will qualify as Categorical Exclusions, in which case sponsors may petition to be exempted from the early scoping requirement. A Small Starts sponsor may still choose to avail itself of the practice of combining traditional ''scoping'' (following issuance of a Notice of Intent) with Alternatives Analysis when preparation of an Environmental Impact Statement is anticipated.

Questions

15. Should there be a distinction in the alternatives analysis requirements for Small Starts compared to traditional New Starts?

16. Should there be a distinction in the alternatives analysis requirements for Very Small Starts compared to larger projects that qualify as Small Starts?

17. Within an alternatives analysis, what other alternatives should be considered in addition to the Small Start and the existing service alternatives?

18. What should be the key elements or features of a highly simplified or simplified alternatives analysis?

19. Should Small Starts projects also be required to perform a Before and After study?

20. Should FTA mandate an early scoping approach for those alternatives analyses that are not being conducted concurrently with the formal NEPA process? Are there other approaches that should be considered for better linking alternatives analysis and NEPA?

VI. Regulatory Notices

A. Executive Order 13132: Federalism

Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. We invite State and local governments with an interest in this rulemaking to comment on the effect that adoption of specific Small Starts proposals may have on State or local governments.

B. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 requires agencies to assure meaningful and timely input from Indian tribal government representatives in the development of rules that ''significantly or uniquely affect'' Indian communities and that impose ''substantial and direct compliance costs'' on such communities. We invite Indian tribal governments to provide comments on the effect that adoption of specific small starts proposals may have on Indian communities.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), we must consider whether a proposed rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. If your business or organization is a small entity and if adoption of specific small starts proposals could have a significant economic impact on your operations, please submit a comment to explain how and to what extent your business or organization could be affected.

D. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major Federal actions and that they prepare a detailed statement on actions significantly affecting the quality of the human environment. Interested parties are invited to address the potential environmental impacts of the small starts proposals contained in this ANPRM. We are particularly interested in comments about the costs and benefits that specific small starts proposals may have on the human and natural environment, or on alternative actions the agency could take that would provide beneficial impacts.

E. Statutory/Legal Authority for This Rulemaking

This rulemaking is issued under authority of section 3011 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU), which requires the Secretary of Transportation to prescribe regulations for capital investment projects funded under 49 U.S.C. § 5309 with a federal share of less than $75,000,000 and a total cost of less than $250,000,000.

F. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking will likely be considered a significant regulatory action under section 3(f) of Executive Order 12866 and the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11032). This ANPRM was reviewed by the Office of Management and Budget.

E.O. 12866 requires agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' We therefore request comments, including specific data if possible, concerning the costs and benefits of the specific small starts proposals contained in this ANPRM.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. This ANPRM does not propose any new information collection burdens.

H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

I. Privacy Act

Anyone is able to search the electronic form for all comments

received into any of our dockets by the name of the individual submitting the comments (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://dms.dot.gov*.

Issued in Washington, DC this 24th day of January, 2006.

Sandra K. Bushue,

Deputy Administrator, Federal Transit Administration.

[FR Doc. 06–870 Filed 1–27–06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 060111007–6007–01; I.D. 010906A]

RIN 0648–AT56

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes to approve and implement changes to the Pacific Halibut Catch Sharing Plan (Plan) for the International Pacific Halibut Commission's (IPHC or Commission) regulatory Area 2A off Washington, Oregon, and California (Area 2A). NMFS proposes to update the tribal season in the Plan to reflect recent IPHC season date-setting trends. NMFS also proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC, which includes the sport fishery management measures for Area 2A, the flexible inseason management provisions in Area 2A, fishery election in Area 2A, and Area 2A non-treaty commercial fishery closed areas. NMFS proposes to codify all but the sport fishery management measures for Area 2A, at 50 CFR part 300, subpart E. These actions are intended to enhance the conservation of Pacific halibut, to protect yelloweye rockfish and other overfished groundfish species from incidental catch in the halibut fisheries, and to provide greater angler opportunity where available.

DATES: Comments on the proposed changes to the Plan and on the proposed domestic Area 2A halibut management measures must be received no later than 5 p.m., local time on February 14, 2006.

ADDRESSES: Copies of the Plan, Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), and/or Categorical Exclusion (CE) are available from D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Electronic copies of the Plan, including proposed changes for 2006, and of the CE and draft RIR/IRFA are also available at the NMFS Northwest Region Web site: *http://www.nwr.noaa.gov*, click on ''Groundfish & Halibut.''

You may submit comments on the proposed Plan and domestic Area 2A halibut management measures or supporting documents, identified by 010906A, by any of the following methods:

- E-mail: *PHalibut2006.nwr@noaa.gov*. Include the I.D. number 010906A in the subject line of the message.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, Attn: Jamie Goen, 7600 Sand Point Way NE., Seattle, WA 98115–0070.
- Fax: 206–526–6736, Attn: Jamie Goen.

FOR FURTHER INFORMATION CONTACT: Jamie Goen or Yvonne deReynier (Northwest Region, NMFS), phone: 206–526–6150, fax: 206–526–6736 or e-mail: *jamie.goen@noaa.gov* or *yvonne.dereynier@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Northern Pacific Halibut Act (Halibut Act) of 1982, at 16 U.S.C. 773c, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Halibut Convention between the United States and Canada (Halibut Convention). It requires the Secretary to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and the Halibut Act. Section 773c of the Halibut Act authorizes the regional fishery management councils to develop regulations governing the Pacific halibut catch in their corresponding U.S. Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Each year between 1988 and 1995, the Pacific Fishery Management Council (Pacific Council) had developed a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-treaty harvesters and among non-treaty commercial and sport fisheries in Area 2A.

In 1995, NMFS implemented the Pacific Council-recommended long-term Plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries. The Plan allocates 35 percent of the Area 2A TAC plus 25,000 lb (11.3 mt) to Washington treaty Indian tribes in Subarea 2A–1 and 65 percent minus 25,000 lb (11.3 mt) to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53.30′ N. lat.), Oregon, and California. North of 46°53.30′ N. lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the primary limited entry longline sablefish fishery when the overall Area 2A TAC is above 900,000 lb (408.2 mt). The Plan also divides the sport fisheries into seven geographic subareas, each with separate allocations, seasons, and bag limits.

The Area 2A TAC will be set by the IPHC at its annual meeting on January 16–20, 2006, in Bellevue, WA. NMFS requests public comments on the Pacific Council's recommended modifications to the Plan and the proposed domestic fishing regulations by February 14, 2006. This allows the public the opportunity to consider the final Area 2A TAC before submitting comments on the proposed rule. The States of Washington and Oregon will conduct public workshops shortly after the IPHC meeting to obtain input on the sport season dates. After the Area 2A TAC is known and after NMFS reviews public comments and comments from the states, NMFS will issue a final rule for the Area 2A Pacific halibut fisheries concurrent with the IPHC regulations for the 2006 Pacific halibut fisheries.

Pacific Council Recommended Changes to the Plan and Domestic Fishing Regulations

Each year, the states (Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW)) and tribes consider whether changes to the Plan are needed or desired by their fishery participants. Fishery managers from the states hold public meetings before both the September and November Pacific Council meetings to get public input on revisions to the Plan. At the September 2005 Pacific Council meeting, the states recommended several changes to the Plan and the tribes announced that they had no proposal for revising the Plan in 2006. Following the meeting, the states again reviewed their proposals with the public and drafted their recommended revisions for review by the Pacific Council.

At its October 30–November 4, 2005, meeting in San Diego, CA, the Pacific Council considered the results of state-sponsored workshops on the proposed changes to the Plan and public comments, and made the final recommendations for modifications to the Plan as follows:

(1) For the Oregon Central Coast all-depth recreational summer fishery, allow an increase in the daily bag limit to two fish after Labor Day subsequent to consultation with the IPHC, NMFS, and ODFW.

(2) Increase the Oregon possession limit on land from two daily limits to three daily limits statewide.

(3) For the Columbia River subarea, increase the allocation to this subarea from Oregon to 5.0 percent of the Oregon/California sport allocation. The Washington contribution is unchanged. The season will be split with the early season given 70 percent of the subarea allocation, open seven days per week, beginning May 1 through the earlier of the early season quota or the third Sunday in July. Any remaining quota will be added to the remaining 30 percent of the subarea quota for the late season, which will be open Friday through Sunday beginning the first Friday in August through the earlier of the overall subarea quota or September 30. If there is insufficient quota for another day of fishing in the Columbia River subarea, any remaining quota may be transferred to another Oregon and/or Washington subarea in proportion to the state's contribution.

(4) For the Columbia River subarea, prohibit retention of groundfish with a halibut on board, except sablefish or Pacific cod when allowed under groundfish regulations.

(5) For the Washington South Coast subarea, remove the reference to the automatic seven days per week season beginning July 1, and specify that the northern nearshore area will reopen to accommodate incidental halibut catch on Fridays and Saturdays only.

(6) For the Washington South Coast subarea, modify the definition of the northern nearshore area to: from 47°25.00′ N. lat. south to 46°58.00′ N. lat., and east of 124°30.00′ W. long.

(7) For the Washington North Coast subarea May fishery, reduce the number of days open per week from five consecutive days (Tuesday through Saturday) to three staggered days (Tuesday, Thursday, and Saturday); for the June fishery, reduce the number of days open from five days to two staggered days (Thursday and Saturday).

(8) For the Washington North Coast subarea June fishery, specify the opening date as the first Thursday after June 17.

Proposed Changes to the Plan

In addition to the Pacific Council's recommendations, NMFS proposes to update the tribal season in the Catch Sharing Plan to reflect season dates adopted by the IPHC. NMFS is proposing to approve the Pacific Council recommendations and to implement the above-described changes by making the following changes to the Plan:

In section (d) of the Plan, Treaty Indian Fisheries, revise the first sentence of paragraph (2) to read as follows:

The tribal commercial fishery season dates will be set within the season dates determined by the IPHC and implemented in IPHC regulations. The tribal commercial fishery will close when the subquota is taken.

In section (f) of the Plan, Sport Fisheries, revise the fifth and sixth sentences of paragraph (1)(ii) to read as follows:

The fishery will open on the first Tuesday between May 9 and 15, and continue 3 days per week (Tuesday, Thursday, and Saturday) until the May allocation is projected to be taken. The fishery will then reopen in June on the first Thursday following June 17, and continue until the remaining quota is projected to be taken, 2 days per week (Thursday and Saturday.)

In section (f) of the Plan, Sport Fisheries, revise the sixth sentence of paragraph (1)(iii) to read as follows:

The fishery will be open Sunday through Thursday in all areas, except where prohibited, and the fishery will be open 7 days per week in the area from 47°25.00′ N. lat. south to 46°58.00′ N. lat. and east of 124°30.00′ W. long.

In section (f) of the Plan, Sport Fisheries, revise the eighth sentence of paragraph (1)(iii) to read as follows:

Subsequent to this closure, if there is insufficient quota remaining to reopen the entire subarea for another fishing day, then any remaining quota may be used to accommodate incidental catch in the nearshore area from 47°25.00′ N. lat. south to 46°58.00′ N. lat. and east of 124°30.00′ W. long. on Fridays and Saturdays only, or be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

In section (f) of the Plan, Sport Fisheries, revise paragraph (1)(iv) to read as follows:

This sport fishery subarea is allocated 2.0 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 4.0 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) (except as provided in section (e)(3) of this Plan). This subarea is also allocated 5.0 percent of the Oregon/California sport allocation or an amount equal to the contribution from the Washington sport allocation, whichever is greater. This subarea is defined as waters south of Leadbetter Point, WA (46°38.17′ N. lat.) and north of Cape Falcon, OR (45°46.00′ N. lat.). The fishery will open on May 1, and continue 7 days per week until 70 percent of the subarea allocation is taken or until the third Sunday in July, whichever is earlier. The fishery will reopen on the first Friday in August and continue 3 days per week, Friday through Sunday until the remainder of the subarea quota has been taken, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution. The daily bag limit is one halibut per person, with no size limit. No groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by groundfish regulations, if halibut are on board the vessel.

In section (f) of the Plan, Sport Fisheries, revise paragraph (1)(v) to read as follows:

This subarea extends from Cape Falcon (45°46.00′ N. lat.) to Humbug Mountain, Oregon (42°40.50′ N. lat.) and is allocated 92.0 percent of the Oregon/

California sport allocation minus any amount of pounds needed to contribute to the Oregon portion of the Columbia River subarea quota. The structuring objectives for this subarea are to provide two periods of fishing opportunity in spring and in summer in productive deeper water areas along the coast, principally for charterboat and larger private boat anglers, and provide a period of fishing opportunity in the summer for nearshore waters for small boat anglers. Any poundage remaining unharvested in the spring all-depth subquota will be added to the summer all-depth sub-quota. Any poundage that is not needed to extend the inside 40–fm (73–m) fishery through October 31 will be added to the summer all-depth season if it can be used, and any poundage remaining unharvested from the summer all-depth fishery will be added to the inside 40–fm (73–m) fishery subquota, if it can be used. If inseason it is determined via joint consultation between IPHC, NMFS and ODFW, that the combined all-depth and inside 40–fm (73–m) fisheries will not harvest the entire quota to the subarea, quota may be transferred inseason to another subarea south of Leadbetter Point, WA by NMFS via an update to the recreational halibut hotline. The daily bag limit is one halibut per person, unless otherwise specified, with no size limit. During days open to all-depth halibut fishing, no groundfish may be taken and retained, possessed or landed, except sablefish when allowed by groundfish regulations, if halibut are on board the vessel. A yelloweye rockfish conservation area that is closed to recreational halibut fishing is defined by the following coordinates in the order listed:

(1) 44°37.46′ N. lat.; 124°24.92′ W. long.;

(2) 44°37.46′ N. lat.; 124°23.63′ W. long.;

(3) 44°28.71′ N. lat.; 124°21.80′ W. long.;

(4) 44°28.71′ N. lat.; 124°24.10′ W. long.;

(5) 44°31.42′ N. lat.; 124°25.47′ W. long.;

and connecting back to 44°37.46 N. lat.; 124°24.92′ W. long.

ODFW will sponsor a public workshop shortly after the IPHC annual meeting to develop recommendations to NMFS on the open dates for each season each year. The three seasons for this subarea are as follows.

A. The first season opens on May 1, only in waters inside the 40–fm (73–m) curve, and continues daily until the subquota (8 percent of the subarea quota) is taken, or until October 31, whichever is earlier. Any overage in the all-depth fisheries would not affect achievement of allocation set aside for the inside 40–fm (73–m) curve fishery.

B. The second season is an all-depth fishery with two potential openings and is allocated 69 percent of the subarea quota. Fixed season dates will be established preseason for the first spring opening and will not be modified inseason except if the combined Oregon all-depth spring and summer season total quotas are estimated to be achieved. Recent year catch rates will be used as a guideline for estimating the catch rate for the spring fishery each year. The number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea subquota for this season. The first opening will be structured for 2 days per week (Friday and Saturday) if the season is for 4 or fewer fishing days. The fishery will be structured for 3 days per week (Thursday through Saturday) if the season is for 5 or more fishing days. The fixed season dates will occur in consecutive weeks starting the second Thursday in May (if the season is 5 or more fishing days) or second Friday in May (if the season is 4 or fewer fishing days), with possible exceptions to avoid adverse tidal conditions. If, following the ''fixed'' dates, quota for this season remains unharvested, a second opening will be held. If it is determined appropriate through joint consultation between IPHC, NMFS and ODFW, fishing may be allowed on one or more additional days. Notice of the opening(s) will be announced by NMFS via an update to the recreational halibut hotline. The fishery will be open every other week on Thursday through Saturday except that week(s) may be skipped to avoid adverse tidal conditions. The potential open Thursdays through Saturdays will be identified preseason. The fishery will continue until there is insufficient quota for an additional day of fishing or July 31, whichever is earlier.

C. The last season is an all-depth fishery that begins on the first Friday in August and is allocated 23 percent of the subarea quota. The fishery will be structured to be open every other week on Friday through Sunday except that week(s) may be skipped to avoid adverse tidal conditions. The fishery will continue until there is insufficient quota remaining to reopen for another fishing day or October 31, whichever is earlier. The potential open Fridays through Sundays will be identified preseason. If after the first scheduled open period, the remaining Cape Falcon to Humbug Mountain entire season quota (combined all-depth and inside 40–fm (73–m) quotas) is 60,000 lb (27.2 mt) or more, the fishery will re-open on every Friday through Sunday (versus every other Friday through Sunday), if determined to be appropriate through joint consultation between IPHC, NMFS, and ODFW. The inseason action will be announced by NMFS via an update to the recreational halibut hotline. If after the Labor Day weekend, the remaining Cape Falcon to Humbug Mountain entire season quota (combined all-depth and inside 40–fm (73–m) quotas) is 30,000 lb (13.6 mt) or more and the fishery is not already open every Friday through Sunday, the fishery will re-open on every Friday through Sunday (versus every other Friday through Sunday), if determined to be appropriate through joint consultation between IPHC, NMFS, and ODFW. After the Labor Day weekend, the IPHC, NMFS, and ODFW will consult to determine whether increasing the Oregon Central Coast bag limit to two fish is warranted with the intent that the quota for the subarea is taken by September 30. If the quota is not taken by September 30, the season will remain open, maintaining the bag limit in effect at that time, through October 31 or quota attainment, whichever is earlier. The inseason action will be announced by NMFS via an update to the recreational halibut hotline.

In section (f) of the Plan, Sport Fisheries, revise paragraph (3) to read as follows:

Possession limits. The sport possession limit on land in Washington and California is two daily bag limits, regardless of condition, but only one daily bag limit may be possessed on the vessel. The sport possession limit on land in Oregon is three daily bag limits, regardless of condition, but only one daily bag limit may be possessed on the vessel.

Proposed 2006 Sport Fishery Management Measures

NMFS is proposing sport fishery management measures that are necessary to implement the Plan in 2006. The 2006 TAC for Area 2A will be determined by the IPHC at its annual meeting on January 16–20, 2006, in Bellevue, WA. Because the 2006 TAC has not yet been determined, these proposed sport fishery management measures use the IPHC's preliminary 2006 Area 2A TAC recommendation of 1,380,000 lb (626 mt), which is higher than the 2005 TAC of 1,330,000 lb (603 mt). The proposed 2006 sport fishery regulations are based on the preliminary 2006 Area 2A TAC of 1,380,000 lb (626 mt). Where season dates are not indicated, those dates will be provided

in the final rule, following determination of the 2006 TAC and consultation with the states and the public. In Section 24 of the annual domestic management measures, ''Sport Fishing for Halibut,'' paragraph (4)(b) is proposed to read as follows:

* * * * *

(4)* * *

(b) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions in § 300.63 (c). All sport fishing in Area 2A is managed on a ''port of landing'' basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(i) In Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30′ N. lat., 124°23.70′ W. long. north to 48°24.10′ N. lat., 124°23.70′ W. long., there is no quota. This area is managed by setting a season that is projected to result in a catch of 68,607 lb (31 mt).

(A) The fishing season in eastern Puget Sound (east of 123°49.50′ W. long., Low Point) is (insert season dates) and the fishing season in western Puget Sound (west of 123°49.50′ W. long., Low Point) is (insert season dates), 5 days a week (Thursday through Monday). (The final determination of the season dates would be based on the allowable harvest level and projected 2006 catch rates after the 2006 TAC is set by the IPHC.)

(B)The daily bag limit is one halibut of any size per day per person.

(ii) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (4)(b)(i) of this section and north of the Queets River (47°31.70′ N. lat.), is 119,244 lb (54 mt).

(A) The fishing seasons are:

(*1*) Commencing on May 9 and continuing 3 days a week (Tuesday, Thursday, and Saturday) until 85,856 lb (39 mt) are estimated to have been taken and the season is closed by the Commission.

(*2*) From June 22, and continuing thereafter for 2 days a week (Thursday and Saturday) until the overall quota of 119,244 lb (54 mt) are estimated to have been taken and the area is closed by the Commission, or until September 30, whichever is earlier.

(B) The daily bag limit is one halibut of any size per day per person.

(C) A ''C-shaped'' yelloweye rockfish conservation area southwest of Cape Flattery is closed to sport fishing for halibut. This area is defined by the following coordinates in the order listed:

(1) 48°18.00′ N. lat.; 125°18.00′ W. long.;

(2) 48°18.00′ N. lat.; 124°59.00′ W. long.;

(3) 48°11.00′ N. lat.; 124°59.00′ W. long.;

(4) 48°11.00′ N. lat.; 125°11.00′ W. long.;

(5) 48°04.00′ N. lat.; 125°11.00′ W. long.;

(6) 48°04.00′ N. lat.; 124°59.00′ W. long.;

(7) 48°00.00′ N. lat.; 124°59.00′ W. long.;

(8) 48°00.00′ N. lat.; 125°18.00′ W. long.;

and connecting back to 48°18.00′ N. lat.; 125°18.00′ W. long.

(iii) The quota for landings into ports in the area between the Queets River, WA (47°31.70′ N. lat.) and Leadbetter Point, WA (46°38.17′ N. lat.), is 53,952 lb (24 mt).

(A) The fishing season commences on May 1 and continues 5 days a week (Sunday through Thursday) in all waters, except that in the area from 47°25.00′ N. lat. south to 46°58.00′ N. lat. and east of 124°30.00′ W. long. (i.e., the Washington South coast, northern nearshore area), the fishing season commences on May 1 and continues 7 days a week. The fishery will continue from May 1 until 53,952 lb (24 mt) are estimated to have been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining to reopen the entire subarea for another fishing day, then any remaining quota may be used to accommodate incidental catch in the nearshore area from 47°25.00′ N. lat. south to 46°58.00′ N. lat. and east of 124°30.00′ W. long. on Fridays and Saturdays only, or be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

(B) The daily bag limit is one halibut of any size per day per person.

(iv) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17′ N. lat.) and Cape Falcon, OR (45°46.00′ N. lat.), is 21,170 lb (10 mt).

(A) The fishing season commences on May 1, and continues 7 days a week until 14,819 lb (6.7 mt) are estimated to have been taken and the season is closed by the Commission or until July 16, whichever is earlier. The fishery will reopen on August 4 and continue 3 days a week (Friday through Sunday) until 21,170 lb (10 mt) have been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

(B) The daily bag limit is one halibut of any size per day per person.

(C) Pacific Coast groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(v) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00′ N. lat.) and Humbug Mountain (42°40.50′ N. lat.), is 254,310 lb (115 mt).

(A) The fishing seasons are:

(*1*) The first season (the ''inside 40–fm'' fishery) commences May 1 and continues 7 days a week through October 31, in the area shoreward of a boundary line approximating the 40–fm (73–m) depth contour, or until the sub-quota for the central Oregon ''inside 40–fm'' fishery (20,345 lb (9.2 mt)) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier. The boundary line approximating the 40–fm (73–m) depth contour between 45°46.00′ N. lat. and 42°40.50′ N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 45°46.00′ N. lat., 124°04.49′ W. long.;

(2) 45°44.34′ N. lat., 124°05.09′ W. long.;

(3) 45°40.64′ N. lat., 124°04.90′ W. long.;

(4) 45°33.00′ N. lat., 124°04.46′ W. long.;

(5) 45°32.27′ N. lat., 124°04.74′ W. long.;

(6) 45°29.26′ N. lat., 124°04.22′ W. long.;

(7) 45°20.25′ N. lat., 124°04.67′ W. long.;

(8) 45°19.99′ N. lat., 124°04.62′ W. long.;

(9) 45°17.50′ N. lat., 124°04.91′ W. long.;

(10) 45°11.29′ N. lat., 124°05.19′ W. long.;

(11) 45°05.79′ N. lat., 124°05.40′ W. long.;

(12) 45°05.07′ N. lat., 124°05.93′ W. long.;

(13) 45°03.83′ N. lat., 124°06.47′ W. long.;

(14) 45°01.70′ N. lat., 124°06.53′ W. long.;

(15) 44°58.75′ N. lat., 124°07.14′ W. long.;
(16) 44°51.28′ N. lat., 124°10.21′ W. long.;
(17) 44°49.49′ N. lat., 124°10.89′ W. long.;
(18) 44°44.96′ N. lat., 124°14.39′ W. long.;
(19) 44°43.44′ N. lat., 124°14.78′ W. long.;
(20) 44°42.27′ N. lat., 124°13.81′ W. long.;
(21) 44°41.68′ N. lat., 124°15.38′ W. long.;
(22) 44°34.87′ N. lat., 124°15.80′ W. long.;
(23) 44°33.74′ N. lat., 124°14.43′ W. long.;
(24) 44°27.66′ N. lat., 124°16.99′ W. long.;
(25) 44°19.13′ N. lat., 124°19.22′ W. long.;
(26) 44°15.35′ N. lat., 124°17.37′ W. long.;
(27) 44°14.38′ N. lat., 124°17.78′ W. long.;
(28) 44°12.80′ N. lat., 124°17.18′ W. long.;
(29) 44°09.23′ N. lat., 124°15.96′ W. long.;
(30) 44°08.38′ N. lat., 124°16.80′ W. long.;
(31) 44°08.30′ N. lat., 124°16.75′ W. long.;
(32) 44°01.18′ N. lat., 124°15.42′ W. long.;
(33) 43°51.60′ N. lat., 124°14.68′ W. long.;
(34) 43°42.66′ N. lat., 124°15.46′ W. long.;
(35) 43°40.49′ N. lat., 124°15.74′ W. long.;
(36) 43°38.77′ N. lat., 124°15.64′ W. long.;
(37) 43°34.52′ N. lat., 124°16.73′ W. long.;
(38) 43°28.82′ N. lat., 124°19.52′ W. long.;
(39) 43°23.91′ N. lat., 124°24.28′ W. long.;
(40) 43°20.83′ N. lat., 124°26.63′ W. long.;
(41) 43°17.96′ N. lat., 124°28.81′ W. long.;
(42) 43°16.75′ N. lat., 124°28.42′ W. long.;
(43) 43°13.98′ N. lat., 124°31.99′ W. long.;
(44) 43°13.71′ N. lat., 124°33.25′ W. long.;
(45) 43°12.26′ N. lat., 124°34.16′ W. long.;
(46) 43°10.96′ N. lat., 124°32.34′ W. long.;
(47) 43°05.65′ N. lat., 124°31.52′ W. long.;
(48) 42°59.66′ N. lat., 124°32.58′ W. long.;
(49) 42°54.97′ N. lat., 124°36.99′ W. long.;
(50) 42°53.81′ N. lat., 124°38.58′ W. long.;
(51) 42°50.00′ N. lat., 124°39.68′ W. long.;
(52) 42°49.14′ N. lat., 124°39.92′ W. long.;
(53) 42°46.47′ N. lat., 124°38.65′ W. long.;
(54) 42°45.60′ N. lat., 124°39.04′ W. long.;
(55) 42°44.79′ N. lat., 124°37.96′ W. long.;
(56) 42°45.00′ N. lat., 124°36.39′ W. long.;
(57) 42°44.14′ N. lat., 124°35.16′ W. long.;
(58) 42°42.15′ N. lat., 124°32.82′ W. long.; and
(59) 42°40.50′ N. lat., 124°31.98′ W. long.;

(*2*) The second season (spring season), which is for the ''all-depth'' fishery, is open on (insert dates beginning with May 11). The projected catch for this season is 175,474 lb (80 mt). If sufficient unharvested catch remains for additional fishing days, the season will re-open. Dependent on the amount of unharvested catch available, the potential season re-opening dates will be: (insert dates, no later than July 31). If NMFS decides inseason to allow fishing on any of these re-opening dates, notice of the re-opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline. (The final determination of the season dates would be based on the allowable harvest level and projected 2006 catch rates and on a public meeting held by ODFW after the 2006 TAC is set by the IPHC.)

(*3*) If sufficient unharvested catch remains, the third season (summer season), which is for the ''all-depth'' fishery, will be open on (insert dates beginning with August 4), or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, totaling 233,965 lb (106 mt), are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if a certain amount of quota remains after August 6 and September 3. If after August 6, greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40–fm (73–m) quota, the fishery may re-open every Friday through Sunday, beginning August 11 – 13, and ending October 27 – 29. If after September 3, greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40–fm (73–m) quota, and the fishery is not already open every Friday through Sunday, the fishery may re-open every Friday through Sunday, beginning September 8 – 10, and ending October 27 – 29 and may have a bag limit of two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(B) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(C) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(D) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40–fm (73–m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40–fm (73–m) depth contour is prohibited.

(E) A yelloweye rockfish conservation area off central Oregon is closed to sport fishing for halibut. Notwithstanding Section 24(12) of the annual domestic management measures and IPHC regulations, halibut may be retained onboard recreational fishing vessels trolling for salmon while those vessels are operating within this closed area. This area is defined by the following coordinates in the order listed:

(1) 44°37.46′ N. lat.; 124°24.92′ W. long.;
(2) 44°37.46′ N. lat.; 124°23.63′ W. long.;
(3) 44°28.71′ N. lat.; 124°21.80′ W. long.;
(4) 44°28.71′ N. lat.; 124°24.10′ W. long.;
(5) 44°31.42′ N. lat.; 124°25.47′ W. long.;
(6) and connecting back to 44°37.46′ N. lat.; 124°24.92′ W. long.

(vi) In the area south of Humbug Mountain, Oregon (42°40.50′ N. lat.) and off the California coast, there is no quota. This area is managed on a season that is projected to result in a catch of 8,293 lb (3.8 mt).

(A) The fishing season will commence on May 1 and continue 7 days a week until October 31.

(B) The daily bag limit is one halibut of any size per day per person.

Flexible Inseason Management Provisions for Sport Halibut Fisheries in Area 2A

The flexible inseason management provisions in Area 2A have not changed since 2005. These provisions outline the process and circumstances that allow inseason adjustments to be made to the sport halibut fisheries in Area 2A. The flexible inseason management provisions are found at section (f)(5) of the Plan and previously appeared in the annual halibut management measures published in the **Federal Register**. These provisions would remain in the Plan, but would be moved from the annual halibut management measures into codified regulatory language at 50 CFR part 300, subpart E, beginning in 2006.

Fishery Election in Area 2A

The fishery election process in Area 2A implements the Plan and has not changed since 2005. This section implements the restrictions for participation in the halibut fisheries in Area 2A. The fishery election in Area 2A previously appeared in the annual halibut management measures published in the **Federal Register**. This section would be moved from the annual halibut management measures into codified regulatory language at 50 CFR part 300, subpart E, beginning in 2006.

Area 2A Non-Treaty Commercial Fishery Closed Areas

Since 2003, large closed areas have applied to commercial vessels operating in the directed non-treaty commercial fishery for halibut in Area 2A. The Area 2A non-treaty commercial fishery closed areas implement the Plan and previously appeared in the annual halibut management measures published in the **Federal Register**. This section would be moved from the annual halibut management measures into codified regulatory language at 50 CFR part 300, Subpart E, beginning in 2006.

Corrections

50 CFR 300.63 paragraph (b)(3) would be corrected to revise an out of date reference to 50 CFR 660.323 paragraph (a)(2) which has since moved to 50 CFR 660.372. In addition, 50 CFR 300.63 paragraph (b)(3) would be corrected to revise coordinate references for Pt. Chehalis, WA, from degrees minutes seconds to degrees decimal minutes to match coordinate references for Pt. Chehalis, WA, in Federal Pacific Coast groundfish regulations.

Classification

NMFS has prepared an RIR/IRFA and a CE on the proposed changes to the Plan and annual domestic Area 2A halibut management measures. Copies of these documents are available from NMFS (see **ADDRESSES**).

NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows:

A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of $3.5 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all of its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the $3.5 million criterion for fish harvesting operations. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all of its affiliated operations worldwide. For marinas and charter/party boats, a small business is one with annual receipts not in excess of $6.0 million. All of the businesses that would be affected by this action are considered small businesses under Small Business Administration guidance.

The proposed changes to the Plan, which allocates the catch of Pacific halibut among users in Washington, Oregon and California, would: decrease the days open per week in the Washington North Coast subarea; specify the opening date for the June fishery in the Washington North Coast subarea as the first Thursday after June 17; revise the Washington South Coast subarea season to reopen the northern nearshore area on Fridays and Saturdays if insufficient quota remains to open the entire subarea for another fishing day; revise the definition of the northern nearshore area in the Washington South Coast subarea; increase the Oregon contribution to the Columbia River subarea allocation by taking it from the Oregon Central Coast subarea allocation; split the Columbia River subarea season into an early and a late season; prohibit retention of groundfish, except sablefish and Pacific cod, when Pacific halibut are onboard the vessel in the Columbia River subarea; allow an increase in the daily bag limit to two fish after Labor Day for the Oregon central coast; increase the Oregon possession limit on land from two daily limits to three daily limits statewide. NMFS proposes to update the tribal season in the Plan to reflect recent IPHC season date-setting trends. NMFS also proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC, which includes the sport fishery management measures for Area 2A, the flexible inseason management provisions in Area 2A, fishery election in Area 2A, and Area 2A non-treaty commercial fishery closed areas. NMFS proposes to codify all but the sport fishery management measures for Area 2A, at 50 CFR part 300, Subpart E. These actions are intended to enhance the conservation of Pacific halibut, to protect yelloweye rockfish and other overfished groundfish species from incidental catch in the halibut fisheries, and to provide greater angler opportunity where available.

For each of the revisions proposed for 2006, the Council recommended a Plan or regulatory revision intended to either improve flexibility for anglers or to ensure consistency between Federal groundfish and halibut regulations. As mentioned in the preamble, WDFW and ODFW held state meetings and crafted alternatives to adjust management of the sport halibut fisheries in their respective states. These alternatives were then narrowed down by the states and brought to the Council at the Council's September and November meetings. Generally, by the time the alternatives reach the Council, and because they have been through the state public review process, they are narrowed down into the proposed action and status quo. There were no alternatives that could have similarly improved angler enjoyment of and participation in the fisheries while simultaneously protecting halibut and co-occurring groundfish species from overharvest.

Approximately 750 vessels were issued IPHC licenses to retain halibut in 2005. IPHC issues licenses for: the directed commercial fishery in Area 2A, including licenses issued to retain halibut caught incidentally in the

primary sablefish fishery (216 licenses in 2005); incidental halibut caught in the salmon troll fishery (392 licenses in 2005); and the charterboat fleet (148 licenses in 2005). No vessel may participate in more than one of these three fisheries per year. Individual recreational anglers and private boats are the only sectors that are not required to have an IPHC license to retain halibut.

Specific data on the economics of halibut charter operations is unavailable. However, in January 2004, the Pacific States Marine Fisheries Commission (Commission) completed a report on the overall West Coast charterboat fleet. In surveying charterboat vessels concerning their operations in 2000, the Commission estimated that there were about 315 charterboat vessels in operation off Washington and Oregon. Compared with the 148 IPHC licenses in 2005, this estimate suggests that approximately 45 percent of the charterboat fleet participates in the halibut fishery. The Commission has developed preliminary estimates of the annual revenues earned by this fleet and they vary by size class of the vessels and home state. Small charterboat vessels range from 15 to 30 ft (4.572 to 9.144 m), and typically carry 5 to 6 passengers. Medium charterboat vessels range from 31 to 49 ft (9.44 to 14.93 m) in length and typically carry 19 to 20 passengers. (Neither state has large vessels of greater than 49 ft (14.93 m) in their fleet.) Average annual revenues from all types of recreational fishing, whalewatching and other activities ranged from $7,000 for small Oregon vessels to $131,000 for medium Washington vessels. These data confirm that charterboat vessels qualify as small entities under the Regulatory Flexibility Act (RFA).

These changes are authorized under the Pacific Halibut Act, implementing regulations at 50 CFR 300.60 - .65, and the Pacific Council process of annually evaluating the utility and effectiveness of Area 2A Pacific halibut management under the Plan. The proposed changes to the Plan and annual domestic Area 2A halibut management measures are expected to result in either no impact at all, or a modest increase in fishing opportunity for commercial and sport halibut fishermen and operators. The proposed sport management measures for 2006 implement the Plan by managing the recreational fishery to meet the differing fishery needs of the various areas along the coast according to the Plan's objectives. The proposed commercial management measures will allow the fishery access to a portion of the Area 2A TAC while protecting overfished rockfish species that co-occur with halibut. The measures will be very similar to last year's management measures. The changes to the Plan and domestic management measures are minor changes and are intended to increase flexibility in management and opportunity to harvest available quota. There are no large entities involved in the halibut fisheries; therefore, none of these changes to the Plan and domestic management measures will have a disproportionate negative effect on small entities versus large entities. None of these changes to the Plan will significantly reduce profitability for small entities. In fact, increasing opportunity to harvest available quota and increasing the area available to fishing may increase profitability for some small entities along the West Coast.

These changes do not include any reporting or recordkeeping requirements. These changes will also not duplicate, overlap or conflict with other laws or regulations. Consequently, these changes to the Plan and annual domestic Area 2A halibut management measures are not expected to meet any of the RFA tests of having a ''significant'' economic impact on a ''substantial number'' of small entities. Nonetheless, NMFS has prepared an IRFA.

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

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. At section 302(b)(5), the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. Government formally recognizes that the 12 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed (U and A) fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the proposed changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

List of Subjects in 50 CFR Part 300

Fishing, Fisheries, and Indian fisheries.

Dated: January 24, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 16 U.S.C. 951–961 and 971 *et seq.*; 16 U.S.C. 973–973r; 16 U.S.C. 2431 *et seq.*; 16 U.S.C. 3371–3378; 16 U.S.C. 3636(b); 16 U.S.C. 5501 *et seq.*; and 16 U.S.C. 1801 *et seq.*

2. In § 300.63, paragraph (b)(3) is revised, and paragraphs (c) through (g) are added to read as follows:

§ 300.63 Catch sharing plan and domestic management measures in Area 2A.

* * * * *

(b) * * *

(3) A portion of the Area 2A Washington recreational TAC is allocated as incidental catch in the primary directed longline sablefish fishery north of 46°53.30′ N. lat, (Pt. Chehalis, WA), which is regulated under 50 CFR 660.372. This fishing opportunity is only available in years in which the Area 2A TAC is greater than 900,000 lb (408.2 mt,) provided that a minimum of 10,000 lb (4.5 mt) is available above a Washington recreational TAC of 214,100 lb (97.1 mt). Each year that this harvest is available, the landing restrictions necessary to keep this fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the **Federal Register**. These restrictions will be designed to ensure the halibut harvest is incidental to the sablefish harvest and will be based on the amounts of halibut and sablefish available to this fishery, and other pertinent factors. The restrictions may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings.

(i) In years when this incidental harvest of halibut in the directed sablefish fishery north of 46°53.30′ N. lat. is allowed, it is allowed only for vessels using longline gear that are registered to groundfish limited entry permits with sablefish endorsements and that possess the appropriate incidental halibut harvest license issued by the Commission.

(ii) It is unlawful for any person to possess, land or purchase halibut south of 46°53.30′ N. lat. that were taken and retained as incidental catch authorized by this section in the directed longline sablefish fishery.

* * * * *

(c) *Flexible Inseason Management Provisions for Sport Halibut Fisheries in Area 2A.*

(1) The Regional Administrator, NMFS Northwest Region, after consultation with the Chairman of the Pacific Fishery Management Council, the Commission Executive Director, and the Fisheries Director(s) of the affected state(s), or their designees, is authorized to modify regulations during the season after making the following determinations:

(i) The action is necessary to allow allocation objectives to be met.

(ii) The action will not result in exceeding the catch limit for the area.

(iii) If any of the sport fishery subareas north of Cape Falcon, OR are not projected to utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to another Washington sport subarea.

(iv) If any of the sport fishery subareas south of Leadbetter Point, WA are not projected to utilize their respective quotas by their season ending dates, NMFS may take inseason action to transfer any projected unused quota to another Oregon sport subarea.

(2) Flexible inseason management provisions include, but are not limited to, the following:

(i) Modification of sport fishing periods;

(ii) Modification of sport fishing bag limits;

(iii) Modification of sport fishing size limits;

(iv) Modification of sport fishing days per calendar week; and

(v) Modification of subarea quotas north of Cape Falcon, OR.

(3) Notice procedures.

(i) Actions taken under this section will be published in the **Federal Register**.

(ii) Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 206–526–6667 or 800–662–9825 (May through October) and by U.S. Coast Guard broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the notice to mariners will be immediately broadcast. Since provisions of these regulations may be altered by inseason actions, sport fishers should monitor either the telephone hotline or U.S. Coast Guard broadcasts for current information for the area in which they are fishing.

(4) Effective dates.

(i) Any action issued under this section is effective on the date specified in the publication or at the time that the action is filed for public inspection with the Office of the **Federal Register**, whichever is later.

(ii) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the **Federal Register**. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after publication of the action in the **Federal Register**.

(iii) Any inseason action issued under this section will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

(5) Availability of data. The Regional Administrator will compile, in aggregate form, all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, NMFS, Sustainable Fisheries Division, 7600 Sand Point Way NE., Seattle, WA.

(d) *Fishery Election in Area 2A.*

(1) A vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(i) The sport fishery under Section 24 of the annual domestic management measures and IPHC regulations;

(ii) The commercial directed fishery for halibut during the fishing period(s) established in Section 8 of the annual domestic management measures and IPHC regulations and/or the incidental retention of halibut during the primary sablefish fishery described at 50 CFR 660.372; or

(iii) The incidental catch fishery during the salmon troll fishery as authorized in Section 8 of the annual domestic management measures and IPHC regulations.

(2) No person shall fish for halibut in the sport fishery in Area 2A under Section 24 of the annual domestic management measures and IPHC regulations from a vessel that has been used during the same calendar year for commercial halibut fishing in Area 2A or that has been issued a permit for the same calendar year for the commercial halibut fishery in Area 2A.

(3) No person shall fish for halibut in the directed commercial halibut fishery during the fishing periods established in Section 8 of the annual domestic management measures and IPHC regulations and/or retain halibut incidentally taken in the primary sablefish fishery in Area 2A from a vessel that has been used during the same calendar year for the incidental catch fishery during the salmon troll fishery as authorized in Section 8 of the annual domestic management measures and IPHC regulations.

(4) No person shall fish for halibut in the directed commercial halibut fishery and/or retain halibut incidentally taken in the primary sablefish fishery in Area 2A from a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A or that is licensed for the sport charter halibut fishery in Area 2A.

(5) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under section 8 of the annual domestic management measures and IPHC regulations taken on a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A, or that is licensed for the sport charter halibut fishery in Area 2A.

(6) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under section 8 of the annual domestic management measures and IPHC regulations taken on a vessel that, during the same calendar year, has been used in the directed commercial halibut fishery during the fishing periods established in Section 8 of the annual domestic management measures and IPHC regulations and/or retained halibut incidentally taken in the primary sablefish fishery for Area 2A or that is licensed to participate in these commercial fisheries during the fishing periods established in Section 8 of the annual domestic management measures and IPHC regulations in Area 2A.

(e) *Area 2A Non-Treaty Commercial Fishery Closed Areas.* Non-treaty commercial vessels operating in the directed commercial fishery for halibut in Area 2A are required to fish outside of a closed area, known as the Rockfish Conservation Area (RCA), that extends along the coast from the U.S./Canada border south to 40°10′ N. lat. Between the U.S./Canada border and 46°16′ N. lat., the eastern boundary of the RCA is the shoreline. Between 46°16′ N. lat. and 40°10′ N. lat., the RCA is defined along an eastern boundary approximating the 30–fm (55–m) depth contour. Coordinates for the 30–fm (55–m) boundary are listed at § 300.63 (f). Between the U.S./Canada border and 40°10′ N. lat., the RCA is defined along

a western boundary approximating the 100–fm (183–m) depth contour. Coordinates for the 100–fm (183–m) boundary are listed at § 300.63 (g).

(f) The 30–fm (55–m) depth contour between 46°16′ N. lat. and 40°10′ N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 46°16.00′ N. lat., 124°13.05′ W. long.;
(2) 46°07.00′ N. lat., 124°07.01′ W. long.;
(3) 45°55.95′ N. lat., 124°02.23′ W. long.;
(4) 45°54.53′ N. lat., 124°02.57′ W. long.;
(5) 45°50.65′ N. lat., 124°01.62′ W. long.;
(6) 45°48.20′ N. lat., 124°02.16′ W. long.;
(7) 45°46.00′ N. lat., 124°01.86′ W. long.;
(8) 45°43.47′ N. lat., 124°01.28′ W. long.;
(9) 45°40.48′ N. lat., 124°01.03′ W. long.;
(10) 45°39.04′ N. lat., 124°01.68′ W. long.;
(11) 45°35.48′ N. lat., 124°01.89′ W. long.;
(12) 45°29.81′ N. lat., 124°02.45′ W. long.;
(13) 45°27.96′ N. lat., 124°01.89′ W. long.;
(14) 45°27.22′ N. lat., 124°02.67′ W. long.;
(15) 45°24.20′ N. lat., 124°02.94′ W. long.;
(16) 45°20.60′ N. lat., 124°01.74′ W. long.;
(17) 45°20.25′ N. lat., 124°01.85′ W. long.;
(18) 45°16.44′ N. lat., 124°03.22′ W. long.;
(19) 45°13.63′ N. lat., 124°02.70′ W. long.;
(20) 45°11.04′ N. lat., 124°03.59′ W. long.;
(21) 45°08.55′ N. lat., 124°03.47′ W. long.;
(22) 45°02.82′ N. lat., 124°04.64′ W. long.;
(23) 45°03.38′ N. lat., 124°04.79′ W. long.;
(24) 44°58.06′ N. lat., 124°05.03′ W. long.;
(25) 44°53.97′ N. lat., 124°06.92′ W. long.;
(26) 44°48.89′ N. lat., 124°07.04′ W. long.;
(27) 44°46.94′ N. lat., 124°08.25′ W. long.;
(28) 44°42.72′ N. lat., 124°08.98′ W. long.;
(29) 44°38.16′ N. lat., 124°11.48′ W. long.;
(30) 44°33.38′ N. lat., 124°11.54′ W. long.;
(31) 44°28.51′ N. lat., 124°12.03′ W. long.;
(32) 44°27.65′ N. lat., 124°12.56′ W. long.;
(33) 44°19.67′ N. lat., 124°12.37′ W. long.;
(34) 44°10.79′ N. lat., 124°12.22′ W. long.;
(35) 44°09.22′ N. lat., 124°12.28′ W. long.;
(36) 44°08.30′ N. lat., 124°12.30′ W. long.;
(37) 44°00.22′ N. lat., 124°12.80′ W. long.;
(38) 43°51.56′ N. lat., 124°13.17′ W. long.;
(39) 43°44.26′ N. lat., 124°14.50′ W. long.;
(40) 43°33.82′ N. lat., 124°16.28′ W. long.;
(41) 43°28.66′ N. lat., 124°18.72′ W. long.;
(42) 43°23.12′ N. lat., 124°24.04′ W. long.;
(43) 43°20.83′ N. lat., 124°25.67′ W. long.;
(44) 43°20.49′ N. lat., 124°25.90′ W. long.;
(45) 43°16.41′ N. lat., 124°27.52′ W. long.;
(46) 43°14.23′ N. lat., 124°29.28′ W. long.;
(47) 43°14.03′ N. lat., 124°28.31′ W. long.;
(48) 43°11.92′ N. lat., 124°28.26′ W. long.;
(49) 43°11.02′ N. lat., 124°29.11′ W. long.;
(50) 43°10.13′ N. lat., 124°29.15′ W. long.;
(51) 43°09.27′ N. lat., 124°31.03′ W. long.;
(52) 43°07.73′ N. lat., 124°30.92′ W. long.;
(53) 43°05.93′ N. lat., 124°29.64′ W. long.;
(54) 43°01.59′ N. lat., 124°30.64′ W. long.;
(55) 42°59.73′ N. lat., 124°31.16′ W. long.;
(56) 42°53.75′ N. lat., 124°36.09′ W. long.;
(57) 42°50.00′ N. lat., 124°38.39′ W. long.;
(58) 42°49.37′ N. lat., 124°38.81′ W. long.;
(59) 42°46.42′ N. lat., 124°37.69′ W. long.;
(60) 42°46.07′ N. lat., 124°38.56′ W. long.;
(61) 42°45.29′ N. lat., 124°37.95′ W. long.;
(62) 42°45.61′ N. lat., 124°36.87′ W. long.;
(63) 42°44.28′ N. lat., 124°33.64′ W. long.;
(64) 42°42.75′ N. lat., 124°31.84′ W. long.;
(65) 42°40.50′ N. lat., 124°29.67′ W. long.;
(66) 42°40.04′ N. lat., 124°29.19′ W. long.;
(67) 42°38.09′ N. lat., 124°28.39′ W. long.;
(68) 42°36.72′ N. lat., 124°27.54′ W. long.;
(69) 42°36.56′ N. lat., 124°28.40′ W. long.;
(70) 42°35.76′ N. lat., 124°28.79′ W. long.;
(71) 42°34.03′ N. lat., 124°29.98′ W. long.;
(72) 42°34.19′ N. lat., 124°30.58′ W. long.;
(73) 42°31.27′ N. lat., 124°32.24′ W. long.;
(74) 42°27.07′ N. lat., 124°32.53′ W. long.;
(75) 42°24.21′ N. lat., 124°31.23′ W. long.;
(76) 42°20.47′ N. lat., 124°28.87′ W. long.;
(77) 42°14.60′ N. lat., 124°26.80′ W. long.;
(78) 42°13.67′ N. lat., 124°26.25′ W. long.;
(79) 42°10.90′ N. lat., 124°24.57′ W. long.;
(80) 42°07.04′ N. lat., 124°23.35′ W. long.;
(81) 42°02.16′ N. lat., 124°22.59′ W. long.;
(82) 42°00.00′ N. lat., 124°21.81′ W. long.;
(83) 41°55.75′ N. lat., 124°20.72′ W. long.;
(84) 41°50.93′ N. lat., 124°23.76′ W. long.;
(85) 41°42.53′ N. lat., 124°16.47′ W. long.;
(86) 41°37.20′ N. lat., 124°17.05′ W. long.;
(87) 41°24.58′ N. lat., 124°10.51′ W. long.;
(88) 41°20.73′ N. lat., 124°11.73′ W. long.;
(89) 41°17.59′ N. lat., 124°10.66′ W. long.;
(90) 41°04.54′ N. lat., 124°14.47′ W. long.;
(91) 40°54.26′ N. lat., 124°13.90′ W. long.;
(92) 40°40.31′ N. lat., 124°26.24′ W. long.;
(93) 40°34.00′ N. lat., 124°27.39′ W. long.;
(94) 40°30.00′ N. lat., 124°31.32′ W. long.;
(95) 40°28.89′ N. lat., 124°32.43′ W. long.;
(96) 40°24.77′ N. lat., 124°29.51′ W. long.;
(97) 40°22.47′ N. lat., 124°24.12′ W. long.;
(98) 40°19.73′ N. lat., 124°23.59′ W. long.;
(99) 40°18.64′ N. lat., 124°21.89′ W. long.;
(100) 40°17.67′ N. lat., 124°23.07′ W. long.;

(101) 40°15.58′ N. lat., 124°23.61′ W. long.;
(102) 40°13.42′ N. lat., 124°22.94′ W. long.; and
(103) 40°10.00′ N. lat., 124°16.65′ W. long.

(g) The 100–fm (183–m) depth contour between the U.S./Canada border and 40°10′ N. lat. is defined by straight lines connecting all of the following points in the order stated:
(1) 48°15.00′ N. lat., 125°41.00′ W. long.;
(2) 48°14.00′ N. lat., 125°36.00′ W. long.;
(3) 48°09.50′ N. lat., 125°40.50′ W. long.;
(4) 48°08.00′ N. lat., 125°38.00′ W. long.;
(5) 48°05.00′ N. lat., 125°37.25′ W. long.;
(6) 48°02.60′ N. lat., 125°34.70′ W. long.;
(7) 47°59.00′ N. lat., 125°34.00′ W. long.;
(8) 47°57.26′ N. lat., 125°29.82′ W. long.;
(9) 47°59.87′ N. lat., 125°25.81′ W. long.;
(10) 48°01.80′ N. lat., 125°24.53′ W. long.;
(11) 48°02.08′ N. lat., 125°22.98′ W. long.;
(12) 48°02.97′ N. lat., 125°22.89′ W. long.;
(13) 48°04.47′ N. lat., 125°21.75′ W. long.;
(14) 48°06.11′ N. lat., 125°19.33′ W. long.;
(15) 48°07.95′ N. lat., 125°18.55′ W. long.;
(16) 48°09.00′ N. lat., 125°18.00′ W. long.;
(17) 48°11.31′ N. lat., 125°17.55′ W. long.;
(18) 48°14.60′ N. lat., 125°13.46′ W. long.;
(19) 48°16.67′ N. lat., 125°14.34′ W. long.;
(20) 48°18.73′ N. lat., 125°14.41′ W. long.;
(21) 48°19.67′ N. lat., 125°13.70′ W. long.;
(22) 48°19.70′ N. lat., 125°11.13′ W. long.;
(23) 48°22.95′ N. lat., 125°10.79′ W. long.;
(24) 48°21.61′ N. lat., 125°02.54′ W. long.;
(25) 48°23.00′ N. lat., 124°49.34′ W. long.;
(26) 48°17.00′ N. lat., 124°56.50′ W. long.;
(27) 48°06.00′ N. lat., 125°00.00′ W. long.;
(28) 48°04.62′ N. lat., 125°01.73′ W. long.;
(29) 48°04.84′ N. lat., 125°04.03′ W. long.;
(30) 48°06.41′ N. lat., 125°06.51′ W. long.;
(31) 48°06.00′ N. lat., 125°08.00′ W. long.;
(32) 48°07.08′ N. lat., 125°09.34′ W. long.;
(33) 48°07.28′ N. lat., 125°11.14′ W. long.;
(34) 48°03.45′ N. lat., 125°16.66′ W. long.;
(35) 47°59.50′ N. lat., 125°18.88′ W. long.;
(36) 47°58.68′ N. lat., 125°16.19′ W. long.;
(37) 47°56.62′ N. lat., 125°13.50′ W. long.;
(38) 47°53.71′ N. lat., 125°11.96′ W. long.;
(39) 47°51.70′ N. lat., 125°09.38′ W. long.;
(40) 47°49.95′ N. lat., 125°06.07′ W. long.;
(41) 47°49.00′ N. lat., 125°03.00′ W. long.;
(42) 47°46.95′ N. lat., 125°04.00′ W. long.;
(43) 47°46.58′ N. lat., 125°03.15′ W. long.;
(44) 47°44.07′ N. lat., 125°04.28′ W. long.;
(45) 47°43.32′ N. lat., 125°04.41′ W. long.;
(46) 47°40.95′ N. lat., 125°04.14′ W. long.;
(47) 47°39.58′ N. lat., 125°04.97′ W. long.;
(48) 47°36.23′ N. lat., 125°02.77′ W. long.;
(49) 47°34.28′ N. lat., 124°58.66′ W. long.;
(50) 47°32.17′ N. lat., 124°57.77′ W. long.;
(51) 47°30.27′ N. lat., 124°56.16′ W. long.;
(52) 47°30.60′ N. lat., 124°54.80′ W. long.;
(53) 47°29.26′ N. lat., 124°52.21′ W. long.;
(54) 47°28.21′ N. lat., 124°50.65′ W. long.;
(55) 47°27.38′ N. lat., 124°49.34′ W. long.;
(56) 47°25.61′ N. lat., 124°48.26′ W. long.;
(57) 47°23.54′ N. lat., 124°46.42′ W. long.;
(58) 47°20.64′ N. lat., 124°45.91′ W. long.;
(59) 47°17.99′ N. lat., 124°45.59′ W. long.;
(60) 47°18.20′ N. lat., 124°49.12′ W. long.;
(61) 47°15.01′ N. lat., 124°51.09′ W. long.;
(62) 47°12.61′ N. lat., 124°54.89′ W. long.;
(63) 47°08.22′ N. lat., 124°56.53′ W. long.;
(64) 47°08.50′ N. lat., 124°57.74′ W. long.;
(65) 47°01.92′ N. lat., 124°54.95′ W. long.;
(66) 47°01.14′ N. lat., 124°59.35′ W. long.;
(67) 46°58.48′ N. lat., 124°57.81′ W. long.;
(68) 46°56.79′ N. lat., 124°56.03′ W. long.;
(69) 46°58.01′ N. lat., 124°55.09′ W. long.;
(70) 46°55.07′ N. lat., 124°54.14′ W. long.;
(71) 46°59.60′ N. lat., 124°49.79′ W. long.;
(72) 46°58.72′ N. lat., 124°48.78′ W. long.;
(73) 46°54.45′ N. lat., 124°48.36′ W. long.;
(74) 46°53.99′ N. lat., 124°49.95′ W. long.;
(75) 46°54.38′ N. lat., 124°52.73′ W. long.;
(76) 46°52.38′ N. lat., 124°52.02′ W. long.;
(77) 46°48.93′ N. lat., 124°49.17′ W. long.;
(78) 46°41.50′ N. lat., 124°43.00′ W. long.;
(79) 46°34.50′ N. lat., 124°28.50′ W. long.;
(80) 46°29.00′ N. lat., 124°30.00′ W. long.;
(81) 46°20.00′ N. lat., 124°36.50′ W. long.;
(82) 46°18.00′ N. lat., 124°38.00′ W. long.;
(83) 46°17.52′ N. lat., 124°35.35′ W. long.;
(84) 46°17.00′ N. lat., 124°22.50′ W. long.;
(85) 46°16.00′ N. lat., 124°20.62′ W. long.;
(86) 46°13.52′ N. lat., 124°25.49′ W. long.;
(87) 46°12.17′ N. lat., 124°30.75′ W. long.;
(88) 46°10.63′ N. lat., 124°37.95′ W. long.;
(89) 46°09.29′ N. lat., 124°39.01′ W. long.;
(90) 46°02.40′ N. lat., 124°40.37′ W. long.;
(91) 45°56.45′ N. lat., 124°38.00′ W. long.;
(92) 45°51.92′ N. lat., 124°38.49′ W. long.;
(93) 45°47.19′ N. lat., 124°35.58′ W. long.;
(94) 45°46.41′ N. lat., 124°32.36′ W. long.;
(95) 45°46.00′ N. lat., 124°32.10′ W. long.;
(96) 45°41.75′ N. lat., 124°28.12′ W. long.;
(97) 45°36.96′ N. lat., 124°24.48′ W. long.;
(98) 45°31.84′ N. lat., 124°22.04′ W. long.;
(99) 45°27.10′ N. lat., 124°21.74′ W. long.;

(100) 45°20.25′ N. lat., 124°18.54′ W. long.;
(101) 45°18.14′ N. lat., 124°17.59′ W. long.;
(102) 45°11.08′ N. lat., 124°16.97′ W. long.;
(103) 45°04.38′ N. lat., 124°18.36′ W. long.;
(104) 45°03.83′ N. lat., 124°18.60′ W. long.;
(105) 44°58.05′ N. lat., 124°21.58′ W. long.;
(106) 44°47.67′ N. lat., 124°31.41′ W. long.;
(107) 44°44.55′ N. lat., 124°33.58′ W. long.;
(108) 44°39.88′ N. lat., 124°35.01′ W. long.;
(109) 44°32.90′ N. lat., 124°36.81′ W. long.;
(110) 44°30.33′ N. lat., 124°38.56′ W. long.;
(111) 44°30.04′ N. lat., 124°42.31′ W. long.;
(112) 44°26.84′ N. lat., 124°44.91′ W. long.;
(113) 44°17.99′ N. lat., 124°51.03′ W. long.;
(114) 44°13.68′ N. lat., 124°56.38′ W. long.;
(115) 44°08.30′ N. lat., 124°55.99′ W. long.;
(116) 43°56.67′ N. lat., 124°55.45′ W. long.;
(117) 43°56.47′ N. lat., 124°34.61′ W. long.;
(118) 43°42.73′ N. lat., 124°32.41′ W. long.;
(119) 43°30.93′ N. lat., 124°34.43′ W. long.;
(120) 43°20.83′ N. lat., 124°39.39′ W. long.;
(121) 43°17.45′ N. lat., 124°41.16′ W. long.;
(122) 43°07.04′ N. lat., 124°41.25′ W. long.;
(123) 43°03.45′ N. lat., 124°44.36′ W. long.;
(124) 43°03.90′ N. lat., 124°50.81′ W. long.;
(125) 42°55.70′ N. lat., 124°52.79′ W. long.;
(126) 42°54.12′ N. lat., 124°47.36′ W. long.;
(127) 42°50.00′ N. lat., 124°45.33′ W. long.;
(128) 42°44.00′ N. lat., 124°42.38′ W. long.;
(129) 42°40.50′ N. lat., 124°41.71′ W. long.;
(130) 42°38.23′ N. lat., 124°41.25′ W. long.;
(131) 42°33.03′ N. lat., 124°42.38′ W. long.;
(132) 42°31.89′ N. lat., 124°42.04′ W. long.;
(133) 42°30.09′ N. lat., 124°42.67′ W. long.;
(134) 42°28.28′ N. lat., 124°47.08′ W. long.;
(135) 42°25.22′ N. lat., 124°43.51′ W. long.;
(136) 42°19.23′ N. lat., 124°37.92′ W. long.;
(137) 42°16.29′ N. lat., 124°36.11′ W. long.;
(138) 42°13.67′ N. lat., 124°35.81′ W. long.;
(139) 42°05.66′ N. lat., 124°34.92′ W. long.;
(140) 42°00.00′ N. lat., 124°35.27′ W. long.;
(141) 41°47.04′ N. lat., 124°27.64′ W. long.;
(142) 41°32.92′ N. lat., 124°28.79′ W. long.;
(143) 41°24.17′ N. lat., 124°28.46′ W. long.;
(144) 41°10.12′ N. lat., 124°20.50′ W. long.;
(145) 40°51.41′ N. lat., 124°24.38′ W. long.;
(146) 40°43.71′ N. lat., 124°29.89′ W. long.;
(147) 40°40.14′ N. lat., 124°30.90′ W. long.;
(148) 40°37.35′ N. lat., 124°29.05′ W. long.;
(149) 40°34.76′ N. lat., 124°29.82′ W. long.;
(150) 40°36.78′ N. lat., 124°37.06′ W. long.;
(151) 40°32.44′ N. lat., 124°39.58′ W. long.;
(152) 40°30.00′ N. lat., 124°38.13′ W. long.;
(153) 40°24.82′ N. lat., 124°35.12′ W. long.;
(154) 40°23.30′ N. lat., 124°31.60′ W. long.;
(155) 40°23.52′ N. lat., 124°28.78′ W. long.;
(156) 40°22.43′ N. lat., 124°25.00′ W. long.;
(157) 40°21.72′ N. lat., 124°24.94′ W. long.;
(158) 40°21.87′ N. lat., 124°27.96′ W. long.;
(159) 40°21.40′ N. lat., 124°28.74′ W. long.;
(160) 40°19.68′ N. lat., 124°28.49′ W. long.;
(161) 40°17.73′ N. lat., 124°25.43′ W. long.;
(162) 40°18.37′ N. lat., 124°23.35′ W. long.;
(163) 40°15.75′ N. lat., 124°26.05′ W. long.;
(164) 40°16.75′ N. lat., 124°33.71′ W. long.;
(165) 40°16.29′ N. lat., 124°34.36′ W. long.; and
(166) 40°10.00′ N. lat., 124°21.12′ W. long.

[FR Doc. E6–1113 Filed 1–27–06; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 051213334–5334–01; I.D. 112905C]

RIN 0648–AT98

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Correction

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

ACTION: Proposed rule; correction.

SUMMARY: On January 12, 2006, a proposed rule to implement Amendment 19 to the Pacific Coast Groundfish Fishery Management Plan (FMP) was published in the **Federal Register.** The proposed rule was published with an incorrect RIN. Also, this proposed rule contained a number of errors in the Prohibition section and the different lists of coordinates. This document corrects those errors.

DATES: Effective January 30, 2006.

FOR FURTHER INFORMATION CONTACT: Steve Copps (Northwest Region, NMFS) 206–526–6150.

SUPPLEMENTARY INFORMATION: On January 12, 2006, (71 FR 1998) a proposed rule was published that would implement Amendment 19 to the FMP. The proposed rule was published with an incorrect RIN. Also, there is an incorrect section number in two places in the Prohibition section and in a number of places in the proposed rule, some of the coordinates and the numbering of these coordinates were published incorrectly.

Correction

In the proposed rule FR DOC, in the issue of Thursday, January 12, 2006 (71 FR 1998) make the following corrections:

1. On page 1998, in column 2, the RIN is corrected to read 0648–AT98.

2. On page 2005, in column 1, § 660.306 should be corrected to read as follows:

§ 660.36 Prohibitions.

* * * * *

(a) * * *

(13) Fish with dredge gear (defined in § 660.302) anywhere within the EEZ.

(14) Fish with beam trawl gear (defined in § 660.302) anywhere within the EEZ.

* * * * *

(h) * * *

(4) Fish with bottom trawl gear (defined in § 660.302) anywhere within the EEZ seaward of a line approximating the 700 fathom (1280 m) depth contour, as defined in § 660.395.

(5) Fish with bottom trawl gear (defined in § 660.302) with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within the EEZ.

(6) Fish with bottom trawl gear (defined in § 660.302) with a footrope diameter greater than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within the EEZ shoreward of a line approximating the 100-fm (183-m) depth contour (defined in § 660.393).

(7) Fish with bottom trawl gear (as defined in § 660.302), within the EEZ in the following areas (defined in § 660.395: Olympic 2, Biogenic 1, Biogenic 2, Grays Canyon, Biogenic 3, Nahelem Bank/Shale Pile, Astoria Canyon, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Heceta Bank, Deepwater off Coos Bay, Bandon High Spot, Rogue Canyon.

(8) Fish with bottom trawl gear (as defined in § 660.302), other than Danish or demersal seine, within the EEZ in the following areas (defined in § 660.395.): Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Outer Cordell Bank, Pt. Arena South Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port San Luis, East Santa Lucia Bank, Point Conception, Potato Bank (with Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West) Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island and Cowcod Conservation Area East.

(9) Fish with botton contact gear (as defined in § 660.302) within the EEZ in the following areas (defined in § 660.395): Anacapa Island SMR, Anacapa Island SMCA, Carrington Point, Footprint, Gull Island, Harris Point, Judith Rock, Painted Cave, Richardson Rock, Santa Barbara, Scorpion, Skunk Point, and South Point, Thompson Seamount, President Jackson Seamount, (50 fm (91 m) isobath).

(10) Fish with bottom contact gear (as defined in § 660.302), or any other gear that is deployed deeper than 500 fm (914 m), within the Davidson Seamount area (defined in § 660.395).

* * * * *

3. Beginning on page 2005, in column 2, in § 660.395, the introductory text, and paragraphs (a), (c), (k), (w), (y), (z), (aa), (jj), (kk), and (nn) are corrected to read as follows:

§ 660.395 Groundfish Essential Fish Habitat (EFH) conservation areas.

Essential fish habitat (EFH) is defined as those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity (16 U.S.C. 1802 (10)). The areas in this subsection are designated to minimize to the extent practicable adverse effects to EFH caused by fishing (16 U.S.C. 1853 section 303(a)(7)). Straight lines connecting a series of latitude/longitude coordinates demarcate the boundaries for areas desingated as Groundfish EFH Conservation Areas. Coordinates outlining the boundaries of Groundfish EFH Conservation Areas are provided in § 660.395. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at § 660.306 and § 660.385.

(a) *Seaward of the 700-fm (1280-m) contour.* This area includes all waters within the West Coast EEZ west of a line approximating the 700-fm (1280-m) depth contour and is defined by straight lines connecting all of the following points in the order stated:

(1) 48°06.97′ N. lat., 126°02.96′ W. long.;

(2) 48°00.44′ N. lat., 125°54.96′ W. long.;

(3) 47°55.96′ N. lat., 125°46.51′ W. long.;

(4) 47°47.21′ N. lat., 125°43.73′ W. long.;

(5) 47°42.89′ N. lat., 125°49.58′ W. long.;

(6) 47°38.18′ N. lat., 125°37.26′ W. long.;

(7) 47°32.36′ N. lat., 125°32.87′ W. long.;

(8) 47°29.77′ N. lat., 125°26.27′ W. long.;

(9) 47°28.54′ N. lat., 125°18.82′ W. long.;

(10) 47°19.25′ N. lat., 125°17.18′ W. long.;

(11) 47°08.82′ N. lat., 125°10.01′ W. long.;

(12) 47°04.69′ N. lat., 125°03.77′ W. long.;

(13) 46°48.38′ N. lat., 125°18.43′ W. long.;

(14) 46°41.92′ N. lat., 125°17.29′ W. long.;

(15) 46°27.49′ N. lat., 124°54.36′ W. long.;

(16) 46°14.13′ N. lat., 125°02.72′ W. long.;

(17) 46°09.53′ N. lat., 125°04.75′ W. long.;

(18) 45°46.64′ N. lat., 124°54.44′ W. long.;

(19) 45°40.86′ N. lat., 124°55.62′ W. long.;

(20) 45°36.50′ N. lat., 124°51.91′ W. long.;

(21) 44°55.69′ N. lat., 125°08.35′ W. long.;

(22) 44°49.93′ N. lat., 125°01.51′ W. long.;

(23) 44°46.93′ N. lat., 125°02.83′ W. long.;

(24) 44°41.96′ N. lat., 125°10.64′ W. long.;

(25) 44°28.31′ N. lat., 125°11.42′ W. long.;

(26) 43°58.37′ N. lat., 125°02.93′ W. long.;

(27) 43°52.74′ N. lat., 125°05.58′ W. long.;

(28) 43°44.18′ N. lat., 124°57.17′ W. long.;

(29) 43°37.58′ N. lat., 125°07.70′ W. long.;

(30) 43°15.95′ N. lat., 125°07.84′ W. long.;

(31) 42°47.50′ N. lat., 124°59.96′ W. long.;

(32) 42°39.02′ N. lat., 125°01.07′ W. long.;

(33) 42°34.80′ N. lat., 125°02.89′ W. long.;

(34) 42°34.11′ N. lat., 124°55.62′ W. long.;

(35) 42°23.81′ N. lat., 124°52.85′ W. long.;

(36) 42°16.80′ N. lat., 125°00.20′ W. long.;

(37) 42°06.60′ N. lat., 124°59.14′ W. long.;

(38) 41°59.28′ N. lat., 125°06.23′ W. long.;

(39) 41°31.10′ N. lat., 125°01.30′ W. long.;

(40) 41°14.52′ N. lat., 124°52.67′ W. long.;

(41) 40°40.65′ N. lat., 124°45.69′ W. long.;

(42) 40°35.05′ N. lat., 124°45.65′ W. long.;

(43) 40°23.81′ N. lat., 124°41.16′ W. long.;

(44) 40°20.54′ N. lat., 124°36.36′ W. long.;

(45) 40°20.84′ N. lat., 124°57.23′ W. long.;

(46) 40°18.54′ N. lat., 125°09.47′ W. long.;

(47) 40°14.54′ N. lat., 125°09.83′ W. long.;

(48) 40°11.79′ N. lat., 125°07.39′ W. long.;

(49) 40°06.72′ N. lat., 125°04.28′ W. long.;

(50) 39°50.77′ N. lat., 124°37.54′ W. long.;

(51) 39°56.67′ N. lat., 124°26.58′ W. long.;

(52) 39°44.25′ N. lat., 124°12.60′ W. long.;

(53) 39°35.82′ N. lat., 124°12.02′ W. long.;
(54) 39°24.54′ N. lat., 124°16.01′ W. long.;
(55) 39°01.97′ N. lat., 124°11.20′ W. long.;
(56) 38°33.48′ N. lat., 123°48.21′ W. long.;
(57) 38°14.49′ N. lat., 123°38.89′ W. long.;
(58) 37°56.97′ N. lat., 123°31.65′ W. long.;
(59) 37°49.09′ N. lat., 123°27.98′ W. long.;
(60) 37°40.29′ N. lat., 123°12.83′ W. long.;
(61) 37°22.54′ N. lat., 123°14.65′ W. long.;
(62) 37°05.98′ N. lat., 123°05.31′ W. long.;
(63) 36°59.02′ N. lat., 122°50.92′ W. long.;
(64) 36°50.32′ N. lat., 122°17.44′ W. long.;
(65) 36°44.54′ N. lat., 122°19.42′ W. long.;
(66) 36°40.76′ N. lat., 122°17.28′ W. long.;
(67) 36°39.88′ N. lat., 122°09.69′ W. long.;
(68) 36°44.52′ N. lat., 122°07.13′ W. long.;
(69) 36°42.26′ N. lat., 122°03.54′ W. long.;
(70) 36°30.02′ N. lat., 122°09.85′ W. long.;
(71) 36°22.33′ N. lat., 122°22.99′ W. long.;
(72) 36°14.36′ N. lat., 122°21.19′ W. long.;
(73) 36°09.50′ N. lat., 122°14.25′ W. long.;
(74) 35°51.50′ N. lat., 121°55.92′ W. long.;
(75) 35°49.53′ N. lat., 122°13.00′ W. long.;
(76) 34°58.30′ N. lat., 121°36.76′ W. long.;
(77) 34°53.13′ N. lat., 121°37.49′ W. long.;
(78) 34°46.54′ N. lat., 121°46.25′ W. long.;
(79) 34°37.81′ N. lat., 121°35.72′ W. long.;
(80) 34°37.72′ N. lat., 121°27.35′ W. long.;
(81) 34°26.77′ N. lat., 121°07.58′ W. long.;
(82) 34°18.54′ N. lat., 121°05.01′ W. long.;
(83) 34°02.68′ N. lat., 120°54.30′ W. long.;
(84) 33°48.11′ N. lat., 120°25.46′ W. long.;
(85) 33°42.54′ N. lat., 120°38.24′ W. long.;
(86) 33°46.26′ N. lat., 120°43.64′ W. long.;
(87) 33°40.71′ N. lat., 120°51.29′ W. long.;
(88) 33°33.14′ N. lat., 120°40.25′ W. long.;
(89) 32°51.57′ N. lat., 120°23.35′ W. long.;
(90) 34°38.54′ N. lat., 120°09.54′ W. long.;
(91) 32°35.76′ N. lat., 119°53.43′ W. long.;
(92) 32°29.54′ N. lat., 119°46.00′ W. long.;
(93) 32°25.99′ N. lat., 119°41.16′ W. long.;
(94) 32°30.46′ N. lat., 119°33.15′ W. long.;
(95) 32°23.47′ N. lat., 119°25.71′ W. long.;
(96) 32°19.19′ N. lat., 119°13.96′ W. long.;
(97) 32°13.18′ N. lat., 119°04.44′ W. long.;
(98) 32°13.40′ N. lat., 118°51.87′ W. long.;
(99) 32°19.62′ N. lat., 118°47.80′ W. long.;
(100) 32°27.26′ N. lat., 118°50.29′ W. long.;
(101) 32°28.42′ N. lat., 118°53.15′ W. long.;
(102) 32°31.30′ N. lat., 118°55.09′ W. long.;
(103) 32°33.04′ N. lat., 118°53.57′ W. long.;
(104) 32°19.07′ N. lat., 118°27.54′ W. long.;
(105) 32°18.57′ N. lat., 118°18.97′ W. long.;
(106) 32°09.01′ N. lat., 118°13.96′ W. long.;
(107) 32°06.57′ N. lat., 118°18.78′ W. long.;
(108) 32°01.32′ N. lat., 118°18.21′ W. long.; and
(109) 31°57.82′ N. lat., 118°10.34′ W. long.;

* * * * *

(c) *Daisy Bank/Nelson Island.* Daisy Bank/Nelson Island is defined by straight lines connecting all of the following points in the order stated:
(1) 44°39.73′ N. lat., 124°41.43′ W. long.;
(2) 44°39.60′ N. lat., 124°41.29′ W. long.;
(3) 44°37.17′ N. lat., 124°38.60′ W. long.;
(4) 44°35.55′ N. lat., 124°39.27′ W. long.;
(5) 44°37.57′ N. lat., 124°41.70′ W. long.;
(6) 44°36.90′ N. lat., 124°42.91′ W. long.;
(7) 44°38.25′ N. lat., 124°46.28′ W. long.;
(8) 44°38.52′ N. lat., 124°49.11′ W. long.;
(9) 44°40.27′ N. lat., 124°49.11′ W. long.;
(10) 44°41.35′ N lat., 124°48.03′ W. long.; and connecting back to 44°39.73′ N. lat., 124°41.43′ W. long.

* * * * *

(k) *Grays Canyon.* Grays Canyon is defined by straight lines connecting all of the following points in the order stated:
(1) 46°51.55′ N. lat., 125°00.00′ W. long.;
(2) 46°56.79′ N. lat., 125°00.00′ W. long.;
(3) 46°58.01′ N. lat., 124°55.09′ W. long.;
(4) 46°55.07′ N. lat., 124°54.14′ W. long.;
(5) 46°59.60′ N. lat., 124°49.79′ W. long.;
(6) 46°58.72′ N. lat., 124°48.78′ W. long.;
(7) 46°54.45′ N. lat., 124°48.36′ W. long.;
(8) 46°53.99′ N. lat., 124°49.95′ W. long.;
(9) 46°54.38′ N. lat., 124°52.73′ W. long.;
(10) 46°52.38′ N. lat., 124°52.02′ W. long.;
(11) 46°48.93′ N. lat., 124°49.17′ W. long.; and connecting back to 46°51.55′ N. lat., 125°00.00′ W. long.

* * * * *

(w) *Heceta Bank.* Heceta Bank is defined by straight lines connecting all of the following points in the order stated:
(1) 43°57.68′ N. lat., 124°55.48′ W. long.;
(2) 44°00.14′ N. lat., 124°55.25′ W. long.;
(3) 44°02.88′ N. lat., 124°53.96′ W. long.;
(4) 44°13.47′ N. lat., 124°54.08′ W. long.;
(5) 44°20.30′ N. lat., 124°38.72′ W. long.;
(6) 44°13.52′ N. lat., 124°40.45′ W. long.;
(7) 44°09.00′ N. lat., 124°45.30′ W. long.;
(8) 44°03.46′ N. lat., 124°45.71′ W. long.;
(9) 44°03.26′ N. lat., 124°49.42′ W. long.;
(10) 43°58.61′ N. lat., 124°49.87′ W. long.; and connecting back to 43°57.68′ N. lat., 124°55.48′ W. long.

* * * * *

(y) *Deepwater off Coos Bay.* Deepwater off Coos Bay is defined by straight lines connecting all of the following points in the order stated:
(1) 43°29.32′ N. lat., 125°20.11′ W. long.;
(2) 43°38.96′ N. lat., 125°18.75′ W. long.;
(3) 43°37.88′ N. lat., 125°08.26′ W. long.;

(4) 43°36.58′ N. lat., 125°06.56′ W. long.;
(5) 43°33.04′ N. lat., 125°08.41′ W. long.;
(6) 43°27.74′ N. lat., 125°07.25′ W. long.;
(7) 43°15.95′ N. lat., 125°07.84′ W. long.;
(8) 43°15.38′ N. lat., 125°10.47′ W. long.;
(9) 43°25.73′ N. lat., 125°19.36′ W. long.; and connecting back to 43°29.32′ N. lat., 125°20.11′ W. long.

(z) *Siletz Deepwater.* Siletz Deepwater is defined by straight lines connecting all of the following points in the order stated:
(1) 44°42.72′ N. lat., 125°18.49′ W. long.;
(2) 44°56.26′ N. lat., 125°12.61′ W. long.;
(3) 44°56.34′ N. lat., 125°09.13′ W. long.;
(4) 44°49.93′ N. lat., 125°01.51′ W. long.;
(5) 44°46.93′ N. lat., 125°02.83′ W. long.;
(6) 44°41.96′ N. lat., 125°10.64′ W. long.;
(7) 44°33.36′ N. lat., 125°08.82′ W. long.;
(8) 44°33.38′ N. lat., 125°17.08′ W. long.; and connecting back to 44°42.72′ N. lat., 125°18.49′ W. long.

(aa) Essential fish habitat (EFH) is defined as those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity. The areas in this subsection are designated to minimize adverse effects to EFH caused by fishing to the extent practicable. Straight lines connecting a series of latitude/longitude coordinates demarcate the boundaries for areas designated as Goundfish EFH Conservation Areas. Coordinates outlining the boundaries of Groundfish EFH Conservation Areas are provided in § 660.395. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a Groundfish EFH Conservation Area is detailed at § 660.306 and § 660.385.

* * * * *

(jj) *Catalina Island.* Catalina Island is defined by straight lines connecting all of the following points in the order stated:
(1) 33°34.71′ N. lat., 118°11.40′ W. long.;
(2) 33°25.88′ N. lat., 118°03.76′ W. long.;
(3) 33°11.69′ N. lat., 118°09.21′ W. long.;
(4) 33°19.73′ N. lat., 118°35.41′ W. long.;
(5) 33°23.90′ N. lat., 118°35.11′ W. long.;
(6) 33°25.68′ N. lat., 118°41.66′ W. long.;
(7) 33°30.25′ N. lat., 118°42.25′ W. long.;
(8) 33°32.73′ N. lat., 118°38.38′ W. long.;
(9) 33°27.07′ N. lat., 118°20.33′ W. long.;and connecting back to 33°34.71′ N. lat., 118°11.40′ W. long.

(kk) *Monterey Bay/Canyon.* Monterey Bay/Canyon is defined by straight lines connecting all of the following points in the order stated:
(1) 36°38.21′ N. lat., 121°55.96′ W. long.;
(2) 36°25.31′ N. lat., 121°54.86′ W. long.;
(3) 36°25.25′ N. lat., 121°58.34′ W. long.;
(4) 36°30.86′ N. lat., 122°00.45′ W. long.;
(5) 36°30.02′ N. lat., 122°09.85′ W. long.;
(6) 36°30.23′ N. lat., 122°36.82′ W. long.;
(7) 36°55.08′ N. lat., 122°36.46′ W. long.;
(8) 36°51.41′ N. lat., 122°14.14′ W. long.;
(9) 36°49.37′ N. lat., 122°15.20′ W. long.;
(10) 36°48.31′ N. lat., 122°18.59′ W. long.;
(11) 36°45.55′ N. lat., 122°18.91′ W. long.;
(12) 36°40.76′ N. lat., 122°17.28′ W. long.;
(13) 36°39.88′ N. lat., 122°09.69′ W. long.;
(14) 36°44.94′ N. lat., 122°08.46′ W. long.;
(15) 36°47.37′ N. lat., 122°03.16′ W. long.;
(16) 36°49.60′ N. lat., 122°00.85′ W. long.;
(17) 36°51.53′ N. lat., 122°58.25′ W. long.;
(18) 36°50.78′ N. lat., 121°56.89′ W. long.;
(19) 36°47.39′ N. lat., 121°58.16′ W. long.;
(20) 36°48.34′ N. lat., 121°50.95′ W. long.;
(21) 36°47.23′ N. lat., 121°52.25′ W. long.;
(22) 36°45.60′ N. lat., 121°54.17′ W. long.;
(23) 36°44.76′ N. lat., 121°56.04′ W. long.;
(24) 36°41.68′ N. lat., 121°56.33′ W. long.; and connecting back to 36°38.21′ N. lat., 121°55.96′ W. long.

* * * * *

(nn) *Mendocino Ridge.* Mendocino Ridge is defined by straight lines connecting all of the following points in the order stated:
(1) 40°25.23′ N. lat., 124°24.06′ W. long.;
(2) 40°12.50′ N. lat., 124°22.59′ W. long.;
(3) 40°14.40′ N. lat., 124°35.82′ W. long.;
(4) 40°16.16′ N. lat., 124°39.01′ W. long.;
(5) 40°17.47′ N. lat., 124°40.77′ W. long.;
(6) 40°19.26′ N. lat., 124°47.97′ W. long.;
(7) 40°19.98′ N. lat., 124°52.73′ W. long.;
(8) 40°20.06′ N. lat., 125°02.18′ W. long.;
(9) 40°11.79′ N. lat., 125°07.39′ W. long.;
(10) 40°12.55′ N. lat., 125°11.56′ W. long.;
(11) 40°12.81′ N. lat., 125°12.98′ W. long.;
(12) 40°20.72′ N. lat., 125°57.31′ W. long.;
(13) 40°23.96′ N. lat., 125°56.83′ W. long.;
(14) 40°24.04′ N. lat., 125°56.82′ W. long.;
(15) 40°25.68′ N. lat., 125°09.77′ W. long.;
(16) 40°21.03′ N. lat., 124°33.96′ W. long.;
(17) 40°25.72′ N. lat., 124°34.15′ W. long.; and connecting back to40°25.23′ N. lat., 124°24.06′ W. long.;

* * * * *

Dated: January 20, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 06–843 Filed 1–27–06; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register

Vol. 71, No. 19

Monday, January 30, 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.

AFRICAN DEVELOPMENT FOUNDATION

Meeting; Sunshine Act; Board of Directors Meeting

TIME: Tuesday, January 31, 2006, 10 a.m.–4 p.m.

PLACE: The African Development Foundation, Conference Room, 1400 I Street, NW., Washington, DC 20005.

DATES: Tuesday, January 31, 2006.

STATUS: Open Session—January 31, 2006, 10 a.m.–10:30 a.m.

Closed Executive Session—January 31, 2006, 10:30 a.m.–12 p.m.

Open Session—January 31, 2006, 12 p.m.–4 p.m.

Agenda

Tuesday, January 31, 2006

10 a.m. Chairman's Report.

10:15 a.m. President-elect Remarks.

10:30 a.m. Executive Session.

12 p.m. Lunch.

1 p.m. Board Member Comments.

1:30 p.m. Swearing-In Ceremony.

2 p.m. President's Report.

4 p.m. Adjournment.

Due to security requirements and limited seating, all individuals wishing to attend the open sessions of the meeting must notify Doris Martin, General Counsel, at (202) 673–3916 or *mrivard@adf.gov* of your request to attend by noon on Friday, January 27, 2006.

If you have any questions or comments, please direct them to Doris Martin, General Counsel, who may be reached at (202) 673–3916.

Nathaniel Fields,

President.

[FR Doc. 06–869 Filed 1–25–06; 4:28 pm]

BILLING CODE 6117–01–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Natural Resources Conservation Service (NRCS), USDA.

ACTION: Notice; correction.

SUMMARY: The Natural Resources Conservation Service (NRCS) published in the **Federal Register** notice of November 8, 2005 (70 FR 67658), a document stating ''Notice of Intent to Extend a Currently Approved Information Collection.'' This notice corrects the previously published document. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the intention of NRCS to request an extension for, and a revision to, the currently approved information collection Volunteer Program—Earth Team. The collected information will help NRCS to match the skills of individuals who are applying for volunteer work that will further the Agency's mission. Information will be collected from potential volunteers who are 14 years of age or older.

DATES: Comments on this notice must be received within 60 days after publication in the **Federal Register** to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Contact Michele Eginoire, National Earth Team Office, Natural Resources Conservation Service, Suite C, 5140 Park Avenue, Des Moines, Iowa 50321; telephone: (515) 289–0325, extension 102; fax: (515) 289–4561; e-mail: *Michele.Eginoire@ia.usda.gov*.

SUPPLEMENTARY INFORMATION: Collection of this information is necessary to document the service of volunteers as required by Federal Personnel Manual Supplement 296–33, Subchapter 3. Agencies are authorized to recruit, train, and accept, with regard to civil service classification laws, rules or regulations, the services of individuals to serve without compensation. Volunteers may assist in any Agency program/project, and may perform any activities which Agency employees are allowed to conduct. Volunteers must be at least 14 years of age. Persons interested in volunteering will have to write, call, e-mail, visit an NRCS office, or visit the E-Gov Web site to complete and submit the forms.

Title: Volunteer Program—Earth Team.

OMB Number: 0578–0024.

Expiration Date of Approval: March 31, 2006.

Type of Request: Revision of a currently approved collection.

Description of Information Collection: NRCS–PER–001, Volunteer Application, and the NRCS–PER–003, Agreement for Sponsored Voluntary Services, are the volunteer application forms. After one of these forms is signed by the volunteer group leader and the NRCS representative, the individual or group is enrolled in the NRCS volunteer program. The forms provide contact information for the volunteer, emergency contact information, and a job description. This form is placed in a volunteer ''case file'' and will be destroyed 3 years after the volunteer has completed service. In the event that the volunteer is injured, the ''case file'' will be transferred to an Official Personnel Folder (OPF). NRCS–PER–002, Volunteer Interest and Placement Summary, is an optional form that assists the volunteer supervisor in placing the volunteer in a position that will benefit the Agency and the volunteer. The aforementioned form is placed in a volunteer ''case file'' and will be destroyed 3 years after the volunteer has completed service. In the event that the volunteer is injured, the ''case file'' will be transferred to an OPF. NRCS–PER–004, Time and Attendance, is an optional form that assists the volunteer supervisor in documenting hours worked by the volunteer, and may be used to substantiate a Workers' Compensation Claim. This form is placed in a volunteer ''case file'' and will be destroyed 3 years after the volunteer has completed service. In the event that the volunteer is injured, the ''case file'' will be transferred to an OPF.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 36 minutes per response.

Respondents: Retirees, students, persons with disabilities, or senior citizens.

Estimated Number of Respondents: 22,260.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 788.

Comments are invited on: (1) 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) 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. Comments may be sent to Michele Eginoire, National Earth Team Office, Natural Resources Conservation Service, Suite C, 5140 Park Avenue, Des Moines, Iowa 50321; telephone: (515) 289–0325, extension 102; fax: (515) 289–4561; e-mail: *Michele.Eginoire@ia.usda.gov*. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments also will become a matter of public record.

Signed in Washington, DC on January 24, 2006.

Bruce I. Knight,

Chief, Natural Resources Conservation Service.

[FR Doc. 06–867 Filed 1–27–06; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0005]

Notice of Request for Approval of an Information Collection; PPQ Form 816; Contract Pilot and Aircraft Acceptance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: New information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request approval of a new information collection activity for contract pilot and aircraft acceptance associated with the grasshopper and Mormon cricket control program.

DATES: We will consider all comments that we receive on or before March 31, 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–2006–0005 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–2006–0005, 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–2006–0005.

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: For information on the information collection for contract pilot and aircraft acceptance, contact Mr. Timothy Roland, Director, Aircraft and Equipment Operations, PPQ, APHIS, 22675 N. Moorefield Road, Edinburg, TX 78541; (956) 580–7270. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: PPQ Form 816; Contract Pilot and Aircraft Acceptance.

OMB Number: 0579–XXXX.

Type of Request: Approval of a new information collection.

Abstract: The Plant Protection Act of 2000 directs the Secretary of Agriculture to carry out a program, subject to available funds, to control grasshoppers and Mormon crickets on all Federal lands to protect rangeland. The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture carries out this program, primarily by treating infested lands by aerial spraying of pesticides from aircraft. APHIS contracts for these services, and prior to any aerial applications, requests certain information from the contractor and/or contract pilots to ensure that the work will be done according to contract specifications. Among other things, APHIS asks to see aircraft registration, the aircraft's airworthiness certificate, the pilot's license, the pilot's medical certification, the pilot's proof of flight review, the pilot's pesticide applicator's license, and the aircraft logbook. APHIS transfers information from these documents to PPQ Form 816, which is then signed by the APHIS official collecting the information and the contractor or contract pilot, indicating acceptance of the pilot and aircraft for the job.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Contractors and/or pilots of aircraft.

Estimated annual number of respondents: 100.

Estimated annual number of responses per respondent: 35.

Estimated annual number of responses: 3,500.

Estimated total annual burden on respondents: 875 hours. (Due to

averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 24th day of January 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–1105 Filed 1–27–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Emergency Food Assistance Program; Availability of Commodities for Fiscal Year 2006

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the surplus and purchased commodities that the Department expects to make available for donation to States for use in providing nutrition assistance to the needy under the Emergency Food Assistance Program (TEFAP) in Fiscal Year (FY) 2006. The commodities made available under this notice must, at the discretion of the State, be distributed to eligible recipient agencies for use in preparing meals, and/or for distribution to households for home consumption.

DATES: Effective: October 1, 2005.

FOR FURTHER INFORMATION CONTACT: Lillie Ragan, Assistant Branch Chief, Policy Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594 or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION: In accordance with the provisions set forth in the Emergency Food Assistance Act of 1983 (EFAA), 7 U.S.C. 7502, and the Food Stamp Act of 1977, 7 U.S.C. 2011, *et seq.*, the Department makes commodities and administrative funds available to States for use in providing nutrition assistance to those in need through TEFAP. In accordance with 7 CFR 251.3(h), each State's share of TEFAP commodities and administrative funds is based 60 percent on the number of low-income households within the State and 40 percent on the number of unemployed persons within the State. State officials are responsible for establishing the network through which the commodities will be used by eligible recipient agencies (ERAs) in providing nutrition assistance to those in need, and for allocating commodities and administrative funds among those agencies. States have full discretion in determining the amount of commodities that will be made available to ERAs for use in preparing meals, and/or for distribution to households for home consumption.

The types of commodities the Department expects to make available to States for distribution through TEFAP in FY 2006 are described below.

Surplus Commodities

Surplus commodities donated for distribution under TEFAP are Commodity Credit Corporation (CCC) commodities purchased under the authority of section 416 of the Agricultural Act of 1949, 7 U.S.C. 1431 (section 416) and commodities purchased under the surplus removal authority of section 32 of the Act of August 24, 1935, 7 U.S.C. 612c (section 32). The types of commodities typically purchased in section 416 included dairy, grains, oils, and peanut products. The types of commodities purchased under section 32 include meat, poultry, fish, vegetables, dry beans, juices, and fruits.

In FY 2006, the Department anticipates that there will be sufficient quantities of fresh apples, frozen and canned asparagus, canned apple juice, pineapple juice, and cranberry juice concentrate, canned apricots, applesauce, mixed fruit, peaches, dehydrated potatoes, and fresh and canned sweet potatoes under section 32, to support the distribution of these commodities through TEFAP. Other surplus commodities may be made available to TEFAP later in the year. The Department would like to point out that commodity acquisitions are based on changing agricultural market conditions; therefore, the availability of commodities is subject to change.

Approximately $57.7 million in surplus commodities purchased in FY 2005 are being delivered to States in FY 2006. These commodities include fresh apples, frozen and canned asparagus, canned apple juice, pineapple juice, and cranberry juice concentrate, canned apricots, applesauce, mixed fruit, peaches, dehydrated potatoes, and fresh and canned sweet potatoes.

Purchased Commodities

In accordance with section 27 of the Food Stamp Act of 1977, 7 U.S.C. 2036, the Secretary is directed annually, through FY 2007, to purchase $140 million worth of commodities for distribution through TEFAP. These commodities are made available to States in addition to those surplus commodities which otherwise might be provided to States for distribution under TEFAP. However, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006, (Public Law 109–97) permits States to convert any of their entire fair share of $10 million of these funds to administrative funds to pay costs associated with the distribution of TEFAP commodities at the State and local level.

For FY2006, the Department anticipates purchasing the following commodities for distribution through TEFAP: Dehydrated potatoes, corn syrup, egg mix, blackeye beans, great northern beans, kidney beans, lima beans, pinto beans, dried plums, raisins, bakery mix, lowfat bakery mix, egg noodles, white and yellow corn grits, macaroni, oats, peanut butter, rice, spaghetti, vegetable oil, rice cereal, corn flakes, corn squares, oat cereal, bran flakes, frozen ground beef, frozen chicken, frozen ham, frozen turkey roast, and the following canned items: Green beans, refried beans, vegetarian beans, carrots, cream corn, whole kernel corn, sliced potatoes, spaghetti sauce, tomatoes, tomato sauce, tomato soup , vegetarian soup, apple juice, cranapple juice, grapefruit juice, orange juice, pineapple juice, tomato juice, apricots, peaches, pineapples, applesauce, pears, plums, beef, beef stew, chicken, port, tuna, turkey, and roasted peanuts. The amounts of each item purchased will depend on the prices the Department must pay, as well as the quantity of each item request by the States. Changes in agricultural market conditions may result in the available of additional types of commodities or the non-availability of one or more types listed above.

Dated: January 17, 2006.

Roberto Salazar,

Administrator.

[FR Doc. 06–813 Filed 1–27–06; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2005–0047]

Codex Alimentarius Commission: Meeting of the Codex Committee on Milk and Milk Products

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), the Agricultural Marketing Service (AMS), USDA, and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS), are sponsoring a public meeting on March 14, 2006. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States positions that will be discussed at the Seventh Session of the Codex Committee on Milk and Milk Products (CCMMP) of the Codex Alimentarius Commission (Codex), which will be held in Queenstown, New Zealand, March 27–April 1, 2006. The Under Secretary for Food Safety, AMS and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 7th Session of CCMMP and to address items on the agenda.

DATES: The public meeting is scheduled for Tuesday, March 14, 2006 from 9 a.m. to 12 noon.

ADDRESSES: The public meeting will be held in Room 2504, South Agriculture Building, USDA, 14th Street and Independence Avenue, SW., Washington, DC 20250. Documents related to the 7th Session of the CCMMP will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.*

FSIS invites interested persons to submit comments on this notice. Comments may be submitted by any of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. FSIS prefers to receive comments through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and, in the ''Search for Open Regulations'' box, select ''Food Safety and Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select the FDMS Docket Number FSIS–2005–0047 to submit or view public comments and to view supporting and related materials available electronically.

Mail, including floppy disks or CD–ROM's, and hand- or courier-delivered items: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102, Cotton Annex Building, Washington, DC 20250–3700.

Electronic mail: fsis.regulationscomments@fsis.usda.gov.

All submissions received must include the Agency name and docket number FSIS–2005–0047.

All comments submitted in response to this notice, as well as research and background information used by FSIS in developing this document, will be posted to the regulations.gov Web site. The background information and comments also will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

In addition, the U.S. Delegate to the CCMMP, Mr. Duane Spomer of AMS, invites U.S. interested parties to submit their comments electronically to the following e-mail address (*susan.sausville@usda.gov*).

Pre-Registration: To gain admittance to this meeting, individuals must present a photo ID for identification and also *are required to pre-register.* In addition, no cameras or videotaping equipment will be permitted in the meeting room. To pre-register, please send the following information to this e-mail address (*susan.sausville@usda.gov*) by *March 13, 2006:*

—Your Name
—Organization
—Mailing Address
—Phone number
—E-mail address

FOR FURTHER INFORMATION ABOUT THE 7TH SESSION OF THE CCMMP CONTACT: Susan Sausville, Assistant to the U.S. Delegate to the CCMMP, Chief Dairy Standardization Branch, AMS, USDA, 1400 Independence Avenue, SW., Room 2746, South Building, Washington, DC 20250, Phone: (202) 720–7473, Fax: (202) 720–2643. E-mail: *susan.sausville@usda.gov.*

FOR FURTHER INFORMATION ABOUT THE PUBLIC MEETING CONTACT: Amjad Ali, International Issues Analyst, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, Phone: (202) 205–7760, Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius (Codex) was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Milk and Milk Products was established to elaborate codes, guidelines, standards and related texts for Milk and Milk Products. The committee is hosted by New Zealand.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 7th Session of the Committee will be discussed during the public meeting:

- Matters referred to the Committee from other Codex bodies.
- Review of the Proposed Draft and Draft Revised Standards: Dairy Spreads; Processed Cheese; Individual Cheeses; and Whey Cheeses.
- Proposed Standards for Products in Which Milkfat is Substituted for by Vegetable Fat.
- Model Export Certificate for Milk Products.
- Specific Food Additive Listings for the Codex Standard for Fermented Milk Products.
- Discussion Papers on new work on Fermented Milk Drinks, Naming of Non Standardized Dairy Products, and on an Amendment to the List of Additives Included in the Codex Standard for Creams and Prepared Creams.

Each issue listed will be fully described in documents distributed, or to be distributed, by the New Zealand Secretariat prior to the Meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Public Meeting

At the March 14th public meeting, draft U.S. positions on the agenda items will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 7th Session of CCMMP, Mr. Duane Spomer, (see **ADDRESSES**). Written comments should state that they relate to activities of the 7th Session of the CCMMP.

Additional Information

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with

disabilities are aware of this notice, FSIS will announce it on-line through the FSIS web page located at *http://www.fsis.usda.gov/regulations/2005_Notices_Index/index.asp.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding SSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meeting, recalls, and other types of information that could affect or would be of interest to our constituents and stakeholders. The update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides an automatic and customized notification when popular pages are updated, including **Federal Register** publications and related documents. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/* and allows FSIS customers to sign up for subscription options across eight categories.

Options range from recalls to export information to regulations, directives and notices.

Done at Washington, DC on January 24, 2006.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. E6–1091 Filed 1–27–06; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Madison-Beaverhead Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393), the Beaverhead-Deerlodge National Forest's Madison-Beaverhead Resource Advisory Committee will meet on Tuesday, February 14, 2006, from 10 a.m. until 4 p.m. in Dillon, Montana, for a business meeting. The meeting is open to the public.

DATES: Tuesday, February 14, 2006.

ADDRESSES: The meeting will be held at the USDA Service Center, at 420 Barrett Street, Dillon, MT 59725.

FOR FURTHER INFORMATION CONTACT: Bruce Ramsey, Designated Forest Official (DFO), Forest Supervisor, Beaverhead-Deerlodge National Forest, at (406) 684–3973.

SUPPLEMENTARY INFORMATION: Agenda topics for these meetings include hearing proposal for projects to fund under Title II of Pub. L. 106–393, hearing public comments, and other business. If the meeting location changes, notice will be posted in local newspapers, including the Dillon Tribune and The Montana Standard.

Dated: January 23, 2006.

Bruce Ramsey,

Forest Supervisor.

[FR Doc. 06–823 Filed 1–27–06; 8:45 am]

BILLING CODE 3410–11–M

ANTITRUST MODERNIZATION COMMISSION

Notice of Public Hearings

AGENCY: Antitrust Modernization Commission.

ACTION: Notice of public hearings.

SUMMARY: The Antitrust Modernization Commission will hold a public hearing on February 15, 2006. The topic of the hearing is international antitrust issues.

DATES: February 15, 2006, 10 a.m. to 12 p.m. Interested members of the public may attend. Registration is not required.

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

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

SUPPLEMENTARY INFORMATION: The purpose of these hearings is for the Antitrust Modernization Commission to take testimony and receive evidence regarding international antitrust issues. Materials relating to the hearing, including a list of witnesses and the prepared statements of the witnesses, will be made available on the Commission's Web site (*http://www.amc.gov*) in advance of the hearings.

Interested members of the public may submit written testimony on the subject of the hearing in the form of comments, pursuant to the Commission's request for comments. *See* 70 FR 28,902 (May 19, 2005); 70 FR 69,510 (Nov. 16, 2005). Members of the public will not be provided with an opportunity to make oral remarks at the hearing.

The AMC is holding this hearing pursuant to its authorizing statute. Antitrust Modernization Commission Act of 2002, Public Law No. 107–273, § 11057(a), 116 Stat. 1758, 1858.

Dated: January 25, 2006.

By direction of the Antitrust Modernization Commission.

Andrew J. Heimert,

Executive Director & General Counsel, Antitrust Modernization Commission.

[FR Doc. E6–1094 Filed 1–27–06; 8:45 am]

BILLING CODE 6820–YH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey from the People's Republic of China: Amended Final Results of Antidumping Duty New Shipper Review

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

SUMMARY: On November 2, 2005, the United States Court of International Trade (CIT) affirmed the U.S. Department of Commerce's (the Department's) redetermination on remand of the final results of the antidumping duty new shipper review on honey from the People's Republic of China. *See Wuhan Bee Healthy Co., Ltd. v. United States*, Slip Op. 05–142 (CIT 2005). The Department is now issuing these amended final results reflecting the CIT's decision.

EFFECTIVE DATE: January 30, 2006.

FOR FURTHER INFORMATION CONTACT: Angelica Mendoza or Abdelali Elouaradia, AD/CVD Operations, Office 7, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3019 or (202) 482–1374, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 2003, the Department published the final results of the antidumping duty new shipper review on honey from the People's Republic of China for the period December 1, 2001, through May 31, 2002. *See Notice of Final Results of Antidumping Duty New*

Shipper Review: Honey From the People's Republic of China, 68 FR 62053 (October 31, 2003) (*Final Results*) and accompanying Issues and Decision Memorandum (Decision Memo). On July 16, 2004, Wuhan Bee Healthy Co., Ltd. (Wuhan Bee) filed a lawsuit challenging the final results. On June 10, 2005, the CIT remanded the Department's decision to rely on Indian Import Statistics from the *Monthly Statistics of Foreign Trade of India (MSFTI)* value as a surrogate for steam coal rather than the *Tata Energy Research Institute's (TERI) Energy Data Directory & Yearbook for 2001/2002* domestic coal prices for steam coal placed on the record by Wuhan Bee. *See Wuhan Bee Healthy Co., Ltd. v. United States*, Slip Op. 05–65 (CIT June 10, 2005).

In accordance with the CIT's remand order, the Department filed its remand results on September 7, 2005. In those remand results, the Department used the domestic coal prices for steam coal as reported in the TERI data as a surrogate value for the steam coal input and recalculated Wuhan Bee's margin accordingly. *See Final Results Pursuant to Remand for Wuhan Bee Healthy Co., Ltd. v. United States*, Slip Op. 05–65 published on Import Administration's website (http://ia.ita.doc.gov).

On November 2, 2005, the CIT affirmed the Department's remand redetermination. *See Wuhan Bee Healthy Co., Ltd. v. United States*, Slip Op. 05–142 (CIT 2005). There was no appeal of the CIT's decision to the U.S. Court of Appeals for the Federal Circuit filed within the appeal period. Therefore, the CIT's decision is now final and conclusive.

Amendment to Final Results

We are now amending the final results of this new shipper review to reflect the final and conclusive decision of the CIT. The changes to our calculations with respect to Wuhan Bee resulted in a change in the weighted–average margin from 32.84 percent to 32.63 percent for the period of review. The Department will instruct U.S. Customs and Border Protection to liquidate entries of honey from the People's Republic of China produced by, exported to, or imported into the United States by Wuhan Bee during the review period at the assessment rates the Department calculated for these amended final results of review.

We are issuing and publishing these results in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: January 20, 2006.

David Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–1111 Filed 1–27–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty–Free Entry of Scientific Instruments

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

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

Docket Number: 05–057. Applicant: Consortium for Astro-particle Research in Utah/University of Utah, Suite 200, 215 South State Street, Salt Lake City, Utah 84111. Instrument: Fluorescent Telescope Array; with Ground Scintillator, Laser Atmosphere Monitor and LAN Network. Manufacturer: Various; Japan, UK. Intended Use: The instrument is intended to be used in a joint US–Japan scientific project to measure the energy, pointing direction and chemical composition of ultra high energy cosmic rays using both the fluorescence technique, which uses large telescopes to observe fluorescent tracks from cosmic ray showers in the atmosphere and the secondary shower charged particle technique, which uses ground–based light sensing photo–tubes and counters to measure the number and timing of particle arrival. Results obtained by these techniques will be cross correlated for greater precision and making comparisons. Application accepted by Commissioner of Customs: December 13,2005.

Docket Number: 05–058. Applicant: Villanova University, 800 Lancaster Ave., Villanova, PA 19085 Instrument: Electron Microscope. Manufacturer: Hitachi High–Technologies Corporation, Japan. Intended Use: The instrument is intended to be used for biological studies of: lipid rafts, developing muscle in birds, changes in ultrastructure of rat uteri following drug and hormone treatments, comparative ultrastructure of plants from extreme environments, ultrastructure of kinetoplastid flagellates in insects, etc. Materials science applications include examination of carbon nanotubes, metal nanoparticles, virus constructs, and plasmids. It will also be used for educational purposes. Application accepted by Commissioner of Customs: December 27, 2005.

Docket Number: 06–001. Applicant: Medical College of Georgia, 1120 15th Street, CB- 3909, Augusta, GA 30912. Instrument: Micromanipulator System. Manufacturer: Luigs & Neuman. Intended Use: The instrument is intended to be used to maneuver electrophysiology equipment that requires precision in its location which will be centered around a confocal microscope. The overall goal of the research is to understand thedevelopment, structure and function of dendritic spines as they may relate to synapse and signaling in epileptic patients. Application accepted by Commissioner of Customs: January 11, 2006.

Gerald A. Zerdy,

Program ManagerStatutory Import Programs Staff.

[FR Doc. E6–1116 Filed 1–27–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Massachusetts Institute of Technology, et al., Notice of Consolidated Decision on Applications, for Duty–Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 05–046. Applicant: Massachusetts Institute of technology, Boston, MA. Instrument: High–resolution Superconducting Magnet. Manufacturer: Jastec, Japan.Intended Use: See notice at 70 FR 73991, December 14, 2005. Reasons: The foreign article is a compatible ancillary device for a 500 MHz 200 mm room–temperature bore magnetic resonance spectrometer under development at MIT. It provides a persistent–mode cryocooled MRI magnet that is nominally operated at 4.2 K, but when not cryocooled, can still operate in persistent mode for up to 12 hours as the winding temperature rises from 4.2K to 6.0K. A cold body consisting of 65 liters of solidified neon permits the magnet to maintain a central field of 11.74 T (500 MHz) for the 12–hour period with its cryocooler shut off and thermally disconnected from the cold body. When the temperature reaches 6.0K, the system is recyled as the cryocooler is turned on and thermally recoupled to the cold body until the magnet returns to 4.2K. This magnet was specially designed to conform to the applicant's specifications. Two domestic manufacturers possibly capable of building the magnet declined to bid.

Docket Number: 05–054. Applicant: University of Illinois, Champaign IL. Instrument: Curved Image Plate Detector. Manufacturer: Technische Universitat Darmstadt, Germany. Intended Use: See notice at 70 FR 77145, December, 29 2005. Reasons: The foreign instrument is a compatible ancillary device which is intended to be used to develop a fast, high–resolution, x–ray powder diffraction apparatus using a beamline facility (Beamline 33–BM) at the Advanced Photon Source of Argonne National Laboratory. The detector is capable of detecting and storing x–ray intensity information proportionally over a wide dynamical range of at least five orders of magnitude with high resolution, high sensitivity and low noise (high S/N ratio). Complex algorithms are not required to extract data from the x–ray detector. Since it is curved, diffracted x–rays are incident normal to it and thus do not induce any distortion errors, while retaining the fidelity of the diffraction pattern. Intrinsic resolution down to 0.006° can translate into accuracy in peak position of ≤0.001°. Position of the scanner head is provided by an optical tracking system with a grid resolution of 20 μm. The detector has an on site reader.

The capabilities of each of the foreign articles described above are pertinent to each applicant's intended purpose and we know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each article.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. E6–1114 Filed 1–27–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

University of Texas, Medical Branch et al., Notice of Consolidated Decision on Applications, for Duty–Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

Docket Number: 05–052. Applicant: University of Texas, Medical Branch, Galveston, TX. Instrument: Electron Microscope, Model JEM–2100 Manufacturer: JEOL Ltd., Japan. Intended Use: See notice at 70 FR 77145, December 29, 2005. Order Date: June 3, 2002.

Docket Number: 05–053. Applicant: Howard Hughes MedicalInstitute, Chevy Chase, MD. Instrument: Electron Microscope, Model Technai G^2 F20 TWIN. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 70 FR 77145, December 29, 2005. Order Date: July 19,2005.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument OR at the time of receipt of application by U.S. Customs and Border Protection.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. E6–1115 Filed 1–27–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Completion of Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the final remand determination made by the U.S. International Trade Commission, in the matter of Hard Red Spring Wheat from Canada, Secretariat File No. USA–CDA–2003–1904–06.

SUMMARY: Pursuant to the Order of the Binational Panel dated December 12, 2005, affirming the final remand determination described above was completed on January 24, 2006.

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: On December 12, 2005, the Binational Panel issued an order, which affirmed the final remand determination of the United States International Trade Commission (ITC) concerning Hard Red Spring Wheat from Canada. The Secretariat was instructed to issue a Notice of Completion of Panel Review on the 31st day following the issuance of the Notice of Final Panel Action, if no request for an Extraordinary Challenge was filed. No such request was filed. Therefore, on the basis of the Panel Order and Rule 80 of the *Article 1904 Panel Rules,* the Panel Review was completed and the panelists discharged from their duties effective January 24, 2005.

Dated: January 24, 2006.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E6–1067 Filed 1–27–06; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011806I]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of permits 1185, 1280, 1440, and 1452.

SUMMARY: NMFS has issued permit 1185 to Natural Resource Scientists, Inc., permit 1280 to Turlock Irrigation District, permit 1440 to the Interagency Ecological Program, and permit 1452 to KDH Environmental Services.

ADDRESSES: Copies of the permit may be obtained from the Protected Resources Division, NMFS, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814, or e-mail your request to: *FRNpermits.sac@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Rosalie del Rosario at phone number 916-930-3614, or e-mail: *FRNpermits.sac@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to federally endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*), threatened Central Valley steelhead (*O. mykiss*), threatened Central California Coast steelhead (*O. mykiss*), and/or proposed listed North American green sturgeon (*Acipenser medirostris*)

Permits

Permit 1185 was issued to Natural Resource Scientists, Inc. on February 4, 2005, authorizing capture (using rotary screw traps) and release of ESA-threatened adult and juvenile Central Valley steelhead in the Merced River. All lethal take is expected to be unintentional and Permit 1185 authorizes unintentional mortality associated with research activities not to exceed 5 percent of the captured ESA-listed fish (*e.g.*, 1 adult and 1 juvenile Central Valley steelhead). The purpose of the study is to provide scientific data on outmigrating salmonids in the Merced River and to assess several ongoing fishery management programs. Permit 1185 expires on June 30, 2009.

Permit 1280 was issued to Turlock Irrigation District on September 15, 2005, authorizing capture (using seines, rotary screw traps, hook-and-line angling, electrofishing and stranding surveys) and release of ESA-threatened adult and juvenile Central Valley steelhead in the lower Tuolumne River. All lethal take is expected to be unintentional and Permit 1280 authorizes unintentional mortality associated with research activities not to exceed 1 percent of the captured ESA-listed fish (*e.g.*, 1 adult or 1 juvenile Central Valley steelhead). The purpose of the study is to monitor juvenile fall-run Chinook salmon density and distribution, steelhead life history, salmonid outmigration patterns, and assess predator populations in the lower Tuolumne River. Permit 1280 expires on December 31, 2010.

Permit 1440 was issued to the Interagency Ecological Program on December 1, 2005, authorizing take of ESA-listed Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, Central Valley steelhead, Central California Coast steelhead, and proposed listed North American green sturgeon, while conducting an interagency ecological monitoring program in the San Francisco Estuary, which includes the Sacramento-San Joaquin Delta. Permit 1440 authorizes the Interagency Ecological Program to take listed salmonids to conduct 15 fisheries-related studies to provide ecological information for use in the management of the Estuary. These include long-term monitoring projects and short-term projects to study the trends in abundance, distribution, and species interactions of resident and anadromous fishes and invertebrates. All lethal take is expected to be unintentional. From the salmonids that are captured or handled, potential lethal take should not exceed more than 8 percent adult and 10 percent juvenile Sacramento River winter-run Chinook salmon, 9 percent adult and 7 percent juvenile Central Valley spring-run Chinook salmon, 8 percent adult and 3 percent juvenile Central Valley steelhead, and 4 percent adult and sub-adult North American green sturgeon. No lethal take of Central California Coast steelhead is authorized. Permit 1440 expires on June 30, 2015.

Permit 1452 was issued to KDH Environmental Services on February 10, 2005, authorizing capture (by hook-and-line fishing) and release of ESA-threatened adult Central Valley steelhead in the lower Tuolumne River. All lethal take is expected to be unintentional and Permit 1452 authorizes unintentional mortality associated with research activities not to exceed 1 percent of the captured ESA-listed fish (*e.g.*, 4 adult Central Valley steelhead). The purpose of the study is to provide scientific data on the distribution and abundance of steelhead and rainbow trout in the Lower Tuolumne River. This information will be used to prepare a biological evaluation on the impacts of the New Don Pedro Project on Central Valley steelhead. Permit 1452 expires on December 31, 2008.

NMFS has determined that take levels authorized in the permits will not jeopardize listed salmon and steelhead nor result in the destruction or adverse modification of critical habitat where described.

NMFS' conditions in the permit will ensure that the take of ESA-listed anadromous fish will not jeopardize the continued existence of the listed species. Issuance of this permit, as required by the ESA, was based on a finding that the permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of the listed species which are the subject of the permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA. This permit was issued in accordance with, and is subject to, 50 CFR part 222, the NMFS regulations governing listed species permits.

Dated: January 24, 2006.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–1110 Filed 1–27–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011806J]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of application for research permit 1558; request for comment.

SUMMARY: Notice is hereby given that NMFS has received an application for a permit for scientific research from William Mitchell, as principal investigator for Jones and Stokes, in Sacramento, CA. The permit would affect federally threatened Central Valley spring-run Chinook salmon and threatened Central Valley steelhead. This document serves to notify the

public of the availability of the permit application for review and comment.

DATES: Written comments on the permit application must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on March 1, 2006.

ADDRESSES: Written comments on the permit application should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the request. Comments will not be accepted if submitted via e-mail or the Internet. The permit application and related documents for permit 1558 are available for review by appointment at: Protected Resources Division, NMFS, 650 Capitol Mall, Suite 8–300, Sacramento, CA 95814 (ph: 916–930–3604, fax: 916–930–3629). Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: Michael Tucker at phone number 916–930–3604, or e-mail: *FRNpermit.sac@noaa.gov*

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531 1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

This notice is relevant to federally threatened Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), and threatened Central Valley steelhead (*O. mykiss*).

Applications Received

William Mitchell of Jones and Stokes requests a 4 year-permit (1558) for take of juvenile Central Valley spring-run Chinook salmon and Central Valley steelhead in the Yuba River, California. The purpose of this study is to evaluate the effectiveness of specific flow reduction and fluctuation criteria that have been established for the lower Yuba River, by examining the levels of juvenile stranding and isolation, and redd dewatering that may occur as a result of flow fluctuations allowable under these new criteria. Take is expected to occur as a result of deliberate flow reductions that will be implemented for the specific purpose of studying the impacts of these reductions on juvenile salmonids. No field evaluations of redd dewatering are proposed. Instead, the potential for redd dewatering will be evaluated using a habitat modeling approach.

Quantitative estimates of total take are not possible given the size of the area to be affected (the entire lower Yuba River from Englebright Dam to the mouth), substantial annual variability in fish distribution and abundance, and unpredictable impacts to listed salmonids associated with the proposed flow reductions (the purpose of the study). Instead, annual take estimates are expressed in terms of the total area of river where stranding and other forms of take may occur during each phase of the study. Based on preliminary estimates, a maximum of 20 acres of off channel habitat and 151 acres of low gradient (<2 percent slope) bar habitat could be isolated orexposed during the maximum range of flow reductions that would be implemented as part of the study.

Dated: January 24, 2006.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–1112 Filed 1–27–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Final Notice of Applicability of Special Use Permit Requirements to Certain Categories of Activities Conducted Within the National Marine Sanctuary System

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: On May 20, 2002 NOAA published a notice in the **Federal Register** announcing the applicability of the special use permit requirements (Section 310) of the National Marine Sanctuaries Act to certain categories of activities conducted within the National Marine Sanctuary System. The notice requested public comment on the subject of special use permits. This notice makes minor changes to the previously published list and responds generally to the comments received. Through this notice, NOAA is also expanding the list of activities subject to the requirements of special use permits by adding private overflights to the overflights category.

DATES: This notice is effective as of January 30, 2006. Comments on the addition of private overflights to the list must be received by March 31, 2006.

ADDRESSES: Submit all written comments to David Bizot, National Permit Coordinator, National Marine Sanctuary Program, 1305 East West Highway (N/ORM6), 11th floor, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: John Armor at (301) 713–3125.

SUPPLEMENTARY INFORMATION:

Background

Congress first granted NOAA the authority to issue special use permits for the conduct of specific activities in National Marine Sanctuaries (NMSs or sanctuaries) in the 1988 Amendments to the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*; NMSA) (Pub. L. 100–627). The NMSA allows NOAA to issue special use permits to establish conditions of access to and use of any sanctuary resource or to promote public use and understanding of a sanctuary resource. Since 1988, special use permits have been issued to persons conducting usually commercial (and usually revenue-generating), otherwise prohibited, activities in NMSs. Such activities have included a diving

concessionaire conducting trips to the USS Monitor, the filming of television advertisements, and the use of Sanctuaries for public events. Section 310 of the NMSA (16 U.S.C. 1441) allows NOAA to issue special use permits to authorize the conduct of specific activities with four conditions. The NMSA requires that special use permits:

1. Shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

2. Shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by NOAA;

3. Shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

4. Shall require the permittee to purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

Condition 3 above tends to be the most limiting in that NOAA may only issue a special use permit if the activity does not destroy, cause the loss of, or injure a sanctuary resource. Since an activity that is prohibited by National Marine Sanctuary Program (NMSP) regulations (15 CFR Part 922) has some adverse impact, it is generally thought that it should not qualify for a special use permit. While this is generally true, there are some prohibited activities that, when conducted pursuant to specific terms and conditions, are not likely to destroy, cause the loss of, or injure a sanctuary resource. Several of these activities are of a nature that do not qualify for other NMS permit types (for example, because they are not related to research or education), but do meet the statutory conditions for special use permits. Therefore, special use permits may be issued for certain activities that are both prohibited by NMSP regulations and do not destroy, cause the loss of, or injure a sanctuary resource when conducted in a certain way.

Section 310 of the NMSA allows NOAA to assess and collect fees for special use permits. A special use permit fee must include each of three components. They are:

1. The costs incurred, or expected to be incurred, by NOAA in issuing the permit;

2. The costs incurred, or expected to be incurred, by NOAA as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

3. An amount which represents the fair market value of the use of the sanctuary resource.

Number 1 above essentially covers the administrative costs that NOAA incurs when it processes permit applications (including labor, printing costs, and contracts for the preparation of supporting documentation). Number 2 includes amounts to fund monitoring projects designed to assess the success or failure of the permittee to comply with the terms and conditions of the permit, including confirming the lack of resource damage. It may also include money to recoup any costs incurred by NOAA in enforcing permit terms and conditions. Number 3 is calculated using economic valuation methods appropriate to the situation. In the National Marine Sanctuaries Amendments Act of 2000 (Pub. L. 106–513), Congress added a new requirement that prior to requiring a special use permit for any category of activity, NOAA shall give appropriate public notice. Subsection (b) of section 310 of the NMSA, as amended by Public Law 106–513, provides: ''[NOAA] shall provide appropriate public notice before identifying any category of activity subject to a special use permit under subsection (a).'' In addition, Public Law 106–513 gives the NMSP the authority to accept in-kind contributions in lieu of these fees, or waive or reduce any fees for any activity that does not derive a profit from the access to or use of sanctuary resources. To comply with this new requirement, on May 20, 2002, NOAA published in the **Federal Register** (67 FR 35501), a list of categories of activities that are subject to the special use permitting requirements of the NMFS. The May 20, 2002 notice listed those categories of activities that have been subject to the requirements of Section 310 in the past and will continue to be in the future (subject to possible future amendments). This notice makes minor changes to the list published on May 20, 2002 and responds to the public comments received. Through this notice, NOAA is also expanding one of the categories listed in the May 20, 2002 notice and will accept comments on the addition of this new category.

Final List of Categories of Activities Subject to the Special Use Permitting Requirements

The list of categories of activities subject to the requirements of special use permits and the descriptions of those activities published in the **Federal Register** on May 20, 2002 (67 FR 35501) has been modified to: Expand the overflight category to include private overflights; respond as appropriate to public comments; and to clarify the activity descriptions. The revised list of categories of activities and their descriptions are below.

The following categories of activities are subject to the requirements of special use permits under section 310 of the NMSA:

1. The disposal of cremated human remains by a commercial operator in any national marine sanctuary;

2. The operation of aircraft below the minimum altitude in restricted zones of national marine sanctuaries;

3. The placement and subsequent recovery of objects associated with public events on non-living substrate of the seabed;

4. The deposit or placement and immediate recovery of objects related to special effects of motion pictures; and

5. The continued presence of commercial submarine cables beneath or on the seabed.

Each category of activities listed above is further described below.

Disposal of Cremated Human Remains by a Commercial Entity

The NMSP has received permit applications to spread cremated human remains (*i.e.*, ashes) over and within the Monterey Bay National Marine Sanctuary (MBNMS). Since most NMS regulations prohibit the discharge of material or other matter into a sanctuary, this activity requires a permit. After an extensive review of the common practices involved with the disposal of cremated human remains, the MBNMS Superintendent determined that no detectable negative impacts to NMS resources and qualities were expected to result from the practice when certain conditions are adhered to by those engaged in the activity.

Conditions placed on this activity that eliminate negative impacts to sanctuary resources include: Restricting the minimum altitude of any aircraft used to facilitate the spreading of the ashes; prohibiting the use of any plastics or any other toxic material associated with the remains; and requiring that the remains be sufficiently incinerated.

Commercial entities proposing the dispersion of cremated human remains must apply for and receive a special use permit prior to initiating this activity within the boundaries of any sanctuary, as described above.

Overflights in Restricted Zones

To protect sanctuary resources, the operation of aircraft below certain

altitudes within zones of MBNMS, Olympic Coast National Marine Sanctuary (OCNMS), Channel Islands National Marine Sanctuary, and Gulf of the Farallones National Marine Sanctuary is restricted by NMSP regulations (15 CFR Part 922).

The NMSP has received applications for permits to fly below the minimum altitude for commercial and private purposes within the restricted zones of MBNMS. Examples of commercial activities that have been subject to special use permits in the past include the filming of television advertisements and documentaries. The NMSP has also received an application for a permit to fly below the minimum altitude within the restricted zones of MBNMS for private purposes. This request was made by an individual who needed to fly below the threshold to access his/her private landing strip.

When conditioned so that impacts to sanctuary resources are eliminated, these activities may qualify for special use permits. Conditions on the permits generally include, but are not limited to, limitations on the number of passes an aircraft can take in a particular location, requirements for monitors to be present during operations, and seasonal restrictions so as to avoid certain areas during particularly sensitive times of the year (*e.g.,* marine mammal pupping season). The NMSP will not issue a special use permit if disturbance of sensitive marine resources (*e.g.,* birds, marine mammals) may result.

Overflights for scientific research or educational purposes are eligible for research or education permit categories issued under the NMSP's regulatory authority.

Anyone wishing to operate an aircraft for commercial or private purposes below the designated altitude in any of the restricted overflight zones must apply for and receive a special use permit prior to conducting that activity.

The Placement and Subsequent Recovery of Objects Associated With Public Events on Non-Living Substrate

The NMSP has, in the past, issued special use permits to non-profit institutions and public entities to place temporary objects (*e.g.,* marker buoys) on non-living portions of the seabed when that activity is associated with public events. Public triathlons and the California Chocolate Abalone dive are two such events that have been subject to special use permit requirements. Since the placement of objects on the seabed within most NMSs is prohibited by NMSP regulations, this activity usually requires a permit.

Conditions of special use permits for these types of public events require that each object be placed on the seafloor in such a way as to not destroy, cause the loss of, or injure sanctuary resources or qualities. The objects are required to be removed in a similar non-intrusive fashion after each event. In addition, the markers and other objects themselves are to be composed of substances that do not leach deleterious materials or other matter into the sanctuary.

Special use permits are required for public events that involve the placement of objects on the seafloor in any sanctuary. Anyone wishing to hold a public event that involves the placement of an object on the seafloor of a sanctuary must apply for and receive a special use permit prior to holding the event. Scientific research or educational activities that involve the placement and subsequent recovery of objects on the seafloor are eligible for research or education permit categories issued under the NMSP's requlatory authority.

The Deposit or Placement and Immediate Recovery of Objects Related to Special Effects of Motion Pictures

The NMSP has received inquiries from motion picture companies seeking to deposit or place objects for special effects into a sanctuary and immediately recover them. No special use permit has been applied for or issued for this type of activity to date. Sanctuary regulations generally prohibit the deposit or placement of objects on the seabed as well as the discharge of material or other matter into the sanctuary. If the NMSP determines to allow this type of activity, the permit would be conditioned to ensure the objects being deposited or placed would not injure, cause the loss of, or destroy any sanctuary resource (*e.g.,* are of a nature that would not cause harmful substances to leach into the sanctuary, that the objects would be recovered from the sanctuary immediately, adn that the area of the seafloor where the object would be deposited is not sensitive to the proposed disturbance). In addition, the NMSP would require that, if permitted, this type of activitity is done at locations and during times of the year that are least likely to have sensitive sanctuary resources in the vicinity of the activity.

Any individual or entity proposing to deposit or place into a sanctuary any object related to special effects by the motion picture or other industry must apply for and receive a special use permit prior to conducting this activity.

The Continued Presence of Commercial Submarine Cables on or Beneath the Seafloor

The NMSP has issued two special use permits to allow the ongoing or continued presence of telecommunications fiber optic cables within the OCNMS (two cables permitted in November of 1999) and Stellwagen Bank National Marine Sanctuary (one cable permitted in June of 2000). While the actual installation (*e.g.,* burial), removal, and any necessary repair activities were authorized under the NMSP's regulatory authority, the continued presence of the cable was allowed through the special use permit issued pursuant to section 310 of the NMSA. This category of activity will continue to be subject to the requirements of section 310 of the NMSA.

The NMSP does not consider intrusive activities related to commercial submarine cables such as installation (*e.g.,* burial), removal, and maintenance/repair work to qualify for a special use permit. When such activities are subject to NMSP regulatory prohibitions, they will be reviewed and, if appropriate, approved through the NMSP's regulatory authority (and not through the special use permit authority). Commercial submarine cables that were installed in a sanctuary prior to the sanctuary's designation or prior to the date of this notice are not required to get a special use permit to remain in place if they have not already been required to do so. Intrusive activities subject to NMSP regulatory prohibitions (trenching, removal, etc.) related to existing commercial submarine cables would require approval under the NMSP's regulatory authority before proceeding.

Responses to Comments

The NMSP received comments from four entities during the comment period (May 20, 2002 through July 19, 2002). The Department of the Navy (Office of General Counsel), the MBNMS Sanctuary Advisory Council, the Ocean Conservancy, and the North American Submarine Cable Association submitted comments. Comments are summarized below with responses.

Comment 1. Special use permits are not required or are not appropriate for the maintenance of submarine cables (MBNMS/SAC; Navy; NASCA; OC).

Response: In writing the original notice, NOAA used the phrase ''maintenance of commercial submarine cables'' to mean the simple act of the cable lying on or beneath the seafloor. NOAA did not intent for this to include

intrusive maintenance activities, such as cable removal or repair work. These activities are not considered appropriate for special use permits. The description of this activity (as well as the title) has been changed in this notice to reflect this. Specifically, the term ''maintenance'' has been replaced by ''continued presence'' to more accurately reflect NOAA's intent.

As stated in NOAA's May 20, 2002 **Federal Register** notice, NOAA is currently considering the continued appropriateness of issuing special use permits to allow the continued presence of commercial submarine cables on or beneath the seafloor of a NMS. Depending on the outcome of this separate process, NOAA may amend this notice, as appropriate. Until further notice, however, the continued presence of commercial submarine cables remains subject to the requirements of Section 310 of the NMSA.

Comment 2. NOAA has failed to justify its distinction between commercial and non-commercial submarine cables. (NASCA).

Response: NOAA disagrees and is justified in making a distinction in how it processes applications to conduct activities related to cable systems for different purposes (*i.e.,* commercial versus non-commercial cable systems). Activities related to commercial submarine cable system do not fit within the scope of the permit types under the NMSP regulations. NMSP regulations provide for the issuance of permits for a variety of non-commercial purposes (*e.g.,* research and education) that further a sanctuary's goals and objectives. Rather, commercial cables appear to clearly fall within the Congressional intent for the use of special use permits.

Comment 3. In adopting rules, regulations, and policies for submarine cables beyond the 12-mile territorial sea, NOAA must ensure that it does not infringe upon high-seas freedoms regarding submarine cables as guaranteed by international law. (Navy; NASCA).

Response: NOAA recognizes that under international law other nations are entitled to lay and maintain submarine cables on the United States' continental shelf beyond the 12-mile territorial sea. As a coastal nation, under international law the Untied States has sovereign rights with respect to its natural resources and may take reasonable measures to protect those resources from harmful activities, consistent with the rights of other nations under applicable international law. It is NOAA's intent to apply the NMSA and implementing regulations in a manner that both protects the resources of its sanctuaries and respects the rights of other nations under international law, as is required by the NMSA.

Comment 4. Activities conducted by the Department of Defense to maintain its submarine cable systems are not subject to the requirements of special use permits. (Navy).

Response: First, please see the response to comment number one regarding the term ''maintenance'' in the original notice. Second, as discussed in the response to comment number two, non-commercial submarine cable activities that are prohibited under the NMSP regulations are more appropriately addressed under NMSP regulatory authority for approval (*e.g.,* research permits). Finally, many ongoing military activities conducted by the Department of Defense since prior to the designation of a NMS are expressly exempted from by NMSP regulations and would therefore not require any form of approval from the NMSP.

Comment 5. 16 U.S.C. 1434(d) outlines a process for federal agencies to consult with sanctuary personnel regarding actions of federal agencies which are ''likely to destroy, cause the loss of, or injure any sanctuary resources.'' To the extent maintenance of DoD submarine cables is ''likely to destroy, cause the loss of, or injure any sanctuary resource,'' which the Department of Defense believes it will not, the consultation process would govern the maintenance process and not the proposed special permit process. (Navy)

Response: Section 304(d) consultation (16 U.S.C. 1434(d)) applies to Federal agency actions internal or external to a sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource. Section 304(d) does not supplant the NMSP regulations. Rather, it is an additional tool for protecting sanctuary resources. Therefore, Federal agency actions are subject to both the requirements of section 304(d) of the NMSA and the NMSP regulations.

In cases where a Federal agency action is both a prohibited activity under NMSP regulations and requires consultation pursuant to section 304(d) of the NMSA, the Federal agency should apply for the appropriate NMS permit or other authorization. If the permit or other authorization is issued, the Federal agency would also be notified that its obligations to consult under section 304(d) of the NMSA have been satisfied. Most military activities, however, are expressly exempted from the NMSP regulations and do not require a permit from the NMSP.

Comment 6. The NMSP should publish a separate **Federal Register** notice soliciting comment for each special use permit it considers so that the public will have opportunity to provide input on each permit application. (OC).

Response: NOAA does not think that issuance of a separate **Federal Register** notice for most special use permit applications is necessary or appropriate because most will be for small, short-term activities. In some cases, however, NOAA may choose to solicit public comments on a pending special use permit application. The NMSP will decide on a case-by-case basis whether issuance of a case-specific **Federal Register** notice is appropriate.

Comment 7. Submarine cables offer important public interest benefits which NOAA's permitting processes and rulemaking have yet to acknowledge. (NASCA).

Response: The public interest benefits ofa specific submarine cable project is not a factor that would determine the applicability of the special use permit requirements to that entire category of activities. Further, the NMSA does not exclude activities with ''important public interest benefits'' from being subject to the requirements of special use permits.

Comment 8. NOAA should explain its suggestion that commercial submarine cables should be barred from NMSs. (NASCA).

Response: Nothing in this notice suggests that submarine cables should be barred from NMSs. This notice merely states that NOAA has required special use permits for the continued presence of commercial submarine cables in the past and will continue to do so until further notice (*see* response to comment number one).

Comment 9. Submarine cables are environmentally benign. (NASCA).

Response: Addressing this issue generally is beyond the scope of this notice. As for special use permits, the NMSA specifically requires that special use permits be issued only for activities that do not destroy, cause the loss of, or injure sanctuary resources.

Comment 10. Any fear of a long-term upward trend in submarine cable deployment is unfounded. (NASCA).

Response: The list of categories of activities in this notice are not necessarily those activities NOAA thinks will be increasing in frequency in the future. Rather, the list represents all categories of activities for which NOAA has issued special use permits in the last few years or for which NOAA

expects to receive an application in the near future.

Comment 11. NOAA's National Environmental Policy Act (NEPA) compliance section in the notice (1) is flawed because its criteria for determining the significance of the environmental impacts of an action give inappropriate weight to public opposition and (2) evidences insufficient interagency coordination. (NASCA).

Response: The NEPA analysis provided in the previous notice (67 FR 35501) was for the action of publishing the notice and for that action alone. The NEPA analysis was not intended to meet NOAA's NEPA responsibilities for the issuance of future special use permits. The notice did, however, provide additional information about how NOAA might meet its NEPA obligations for future special use permit decisions by stating that: ''* * * the special use permit authority may at times be used to allow activities that may meet the Council on Environmental Quality's definition of the term 'significant' despite the lack of apparent environmental impacts (*e.g.*, publicly controversial activities).'' This was not meant to imply that public controversy alone would dictate the level of NEPA documentation NOAA would prepare for individual actions. Rather, NOAA will consider public controversy among the other factors provided in the Council on Environmental Quality's implementing regulations (40 CFR Parts 1500–1508) and NOAA Administrative Order 216–6 in deciding the appropriate level of NEPA documentation for each special use permit decision. In the interest of clarity, we have deleted the sentence in question.

The notice also stated: ''* * * NOAA may, in certain circumstances, combine its special use permit authority with other regulatory authorities to allow activities not described above that may result in environmental impacts to NMS resources and thus require the preparation of an environmental assessment or environmental impact statement.'' The ''other regulatory authorities'' referred to NOAA's regulatory authority under 15 CFR 922.49, which allows the NMSP to allow in some sanctuaries the conduct of activities (that would otherwise be prohibited by NMSP regulations) that are specifically authorized by a local, state, or federal authority of competent jurisdiction. This reference was not meant to allude to NOAA's responsibilities under NEPA to coordinate with other Federal agencies. NOAA has coordinated extensively with other government agencies regarding the issue of submarine cables in NMSs including the Federal Communications Commission, the Army Corps of Engineers, the United States Coast Guard, the State of Washington, the Makah Indian Nation, the Commonwealth of Massachusetts, and others. NOAA will continue to involve appropriate entities in meeting its obligations and responsibilities under NEPA.

Request for Comments

By this notice, NOAA is also requesting comments on the expansion of the overflight category to include private overflights in the list of categories of activities subject to the special use permit requirements. NOAA is especially interested in comments that pertain specifically to the impacts of private overflights on sanctuary resources and the eligibility of that category of activities for special use permits.

Miscellaneous Requirements

Paperwork Reduction Act

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. Applications for the special use permits discussed in this notice involves a collection-of-information requirement subject to the requirements of the PRA. OMB has approved this collection-of-information requirement under OMB control number 0648–0141.

The collection-of-information requirement applies to persons seeking special use permits to conduct otherwise prohibited activities and is necessary to determine whether the proposed activities are consistent with the terms and conditions of special use permits prescribed by the NMSA. Public reporting burden for this collection of information is estimated to average twenty four (24) hours per response (application, annual report, and financial report), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This estimate also includes the significant time that may be required should the applicant choose to prepare a draft of any documentation that may be required under the NEPA, *e.g.,* environmental impact statement or environmental assessment. If the applicant chooses not to prepare a draft of any NEPA documentation for the proposed activity, or if only minimal NEA documentation is needed, the public reporting burden would be much less (approximately one hour for each response). If additional NEPA documentation is required and not prepared in draft by the permit applicant, NOAA would be required to prepare this documentation using its own staff and resources prior to NOAA taking final action on the application. As staff time and funding resources are limited, the preparation of complicated NEPA documents can significantly add to the time NOAA takes to review the application and take final action. This may also significantly add to the costs incurred by the federal government in processing the special use permit applications and thus the cost to the applicant. Send comments on the burden estimate or on any other aspect of the collection of information, and ways of reducing the burden, to NOAA and OMB (see **ADDRESSES**).

National Environmental Policy Act

NOAA has concluded that this action will not have a significant effect, individually or cumulatively, on the human environment. This action is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement in accordance with Section 6.05c3(i) of NOAA Administrative Order 216–6. Specifically, this action is a notice of an administrative and legal nature. Furthermore, individual permit actions by the NMSP will be subject to additional case-by-case analysis, as required under NEPA, and will be completed when those actions are proposed to be taken by NMSP in the future.

NOAA also expects that many of these individual actions will also meet the criteria of one or more of the categorical exclusions described in NOAA Administrative Order 216–6 because special use permits cannot be issued for activities that are expected to result in any destruction of, injury to, or loss of any sanctuary resource. NOAA may, in certain circumstances, combine its special use permit authority with other regulatory authorities to allow activities not described above that may result in environmental impacts and thus require the preparation of an environmental assessment or environmental impact statement. In these situations NOAA will ensure that the appropriate NEPA documentation is prepared prior to

taking final action on a permit or making any irretrievable or irreversible commitment of agency resources.

Dated: January 23, 2006.

John H. Dunnigan,

Assistant Administrator, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 06–808 Filed 1–27–06; 8:45 am]

BILLING CODE 3510–NK–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 March 1, 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 24, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: Evaluation of Math Curricula.

Frequency: Semi-Annually.

Affected Public: Not-for-profit institutions; Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 10,200.

Burden Hours: 5,000.

Abstract: The Evaluation of Math Curricula will assess the effectiveness of up to five early elementary math curricula. This submission includes recruitment of districts and schools only; forms will be developed and submitted in a second request.

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 2932. 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. E6–1125 Filed 1–27–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Environmental Management; Environmental Management Advisory Board Renewal

Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), and in accordance with Title 41 of the Code of Federal Regulations, section 102–3.65(a), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Environmental Management Advisory Board (Board) is being renewed for a two-year period beginning on January 17, 2006. The Board will provide advice and recommendations to the Assistant Secretary for Environmental Management (EM).

The Board provides the Assistant Secretary for EM with information and strategic advice on a broad range of corporate issues affecting the EM program. It recommends options to resolve difficult issues faced in the EM program including, but not limited to: Project management and oversight activities; cost/benefit analyses; program performance; contracts and acquisition strategies; human capital management; and site end states activities. Consensus recommendations to the DOE from the Board on programmatic nationwide resolution of numerous difficult issues will help achieve the DOE's objective of the safe and efficient cleanup of its contaminated sites.

Additionally, the renewal of the Environmental Management Advisory Board has been determined to be essential to the conduct of the DOE's business and to be in the public interest in connection with the performance of duties imposed on the DOE by law and agreement. The Board will operate in accordance with the provisions of the FACA, and rules and regulations issued in implementation of that Act.

Further information regarding this Advisory Board may be obtained from Ms. Terri Lamb at (202) 586–9007.

Issued in Washington, DC on January 24, 2006.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. E6–1117 Filed 1–27–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Funding Opportunity Announcement DE–PS26–06NT15430, Enhanced Oil and Natural Gas Production Through Carbon Dioxide Injection

AGENCY: National Energy Technology Laboratory, Department of Energy (DOE).

ACTION: Notice of release of funding opportunity announcement.

SUMMARY: The DOE will support producers of oil and gas in carrying out projects to inject carbon dioxide for the purpose of enhancing recovery of oil or natural gas, while increasing the sequestration of carbon dioxide (CO_2).

The National Energy Technology Laboratory's (NETL) Strategic Center for Natural Gas and Oil program mission is to enhance U.S. security by ensuring the Nation has a reliable energy supply. The Strategic Center for Natural Gas and Oil seeks to accomplish this critical goal by advancing environmentally responsible technological solutions that bolster domestic oil and natural gas recovery. Priority will be given to projects in the noted areas of interest—the Williston Basin in North Dakota/Montana and the Cook Inlet Basin in Alaska. This solicitation seeks to maximize U.S. oil and natural gas production in a cost-effective manner through the injection of CO_2, while at the same time sequestering significant quantities of CO_2. To promote greater use of industrial CO_2, additional consideration will be given to those proposals that use anthropogenic CO_2 from existing industrial processes for the CO_2 flood (e.g., ethanol and gas processing plants, oil refineries, petroleum coke gasification, coal liquefaction, etc.). Projects should clearly set forth the manner in which adverse environmental impacts would be minimized. Finally, the solicitation will give priority programmatic consideration to projects that involve, in a significant way, existing state/regional institutions that have a mandate or significant interest in supporting enhanced oil or natural gas recovery, and reducing the carbon intensity/CO_2 emissions in the state and/or region.

DATES:

Funding Opportunity Announcement Issue: 03 Feb 2006.
Proposal Receipt: 05 May 2006.
Selection Notification: 04 Aug 2006.
Award: 30 Sep 2006.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for additional detail.

FOR FURTHER INFORMATION CONTACT: Mary Beth Pearse, *Marybeth.pearse@netl.doe.gov.*

SUPPLEMENTARY INFORMATION: These specific demonstration projects are Congressionally mandated in the 2005 Energy Policy Act, H.R. 6, Section 354, Subsection (c), with the purpose of promoting the capture, transportation and injection of produced carbon dioxide for sequestration into oil and gas fields, while promoting oil and natural gas production.

Projects selected under this solicitation will add to the technological base by demonstrating technology methods for improving the economic viability and effectiveness of CO_2 flooding, capture and sequestration techniques. The efforts will support national air quality goals by answering questions surrounding the increased use of CO_2 for enhanced oil and natural gas recovery, while also allowing more CO_2 to remain in the geologic formations. The results will provide additional benefits by improving the industry performance and extending the life of producing fields.

Examples of improved recovery technologies will be demonstrated at DOE's CO_2 EOR Workshop in Houston, hosted by the Petroleum Technology Transfer Council (PTTC). This workshop is tentatively scheduled for Feb. 22–23, 2006. Please refer to PTTC's Web site at *http://www.pttc.org* for finalized dates and meeting details.

Address Information: The Funding Opportunity Announcement DE–PS26–06NT15430, Enhanced Oil and Natural Gas Production through Carbon Dioxide Injection, can be found at *http://www.e-center.doe.gov* or *http://grants.gov,* after the Funding Opportunity Announcement issue date above.

Issued in Pittsburgh PA on January 19, 2006.

Richard D. Rogus,

Procurement Team Leader.

[FR Doc. E6–1098 Filed 1–27–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Study of the Potential Benefits of Distributed Generation

AGENCY: National Energy Technology Laboratory, U.S. Department of Energy.

ACTION: Notice of inquiry and request for public comment.

SUMMARY: The Distributed Energy Program from the Department of Energy's (DOE) Office of Electricity Delivery and Energy Reliability (OE) is seeking public input for a study of the potential benefits of distributed generation required by section 1817 of the Energy Policy Act of 2005. DOE invites interested parties to relate experiences, convey data, communicate results of case studies or analyses, or provide other information pertaining to the planning, installation, commissioning and operation of distributed energy systems as outlined below.

DATES: Comments, reports, case studies and other information offered in response to this Notice shall be received no later than February 23, 2006 at any of the addresses listed in the **ADDRESSES** section.

ADDRESSES: Interested parties are invited to submit comments electronically (using Adobe® Acrobat® or Microsoft® Word formats) or in hard copy. Submissions should include a cover page containing the commenter's name, affiliation, telephone number, mailing address, and e-mail address. DOE will consider all comments received.

Comments prepared in electronic formats may be submitted directly, via the Web at: *http://www.dg1817report.org.* Links to this Web page may also be found on the OE Web site: *http://www.electricity.doe.gov*, or the NETL Web site: *http://www.netl.doe.gov.* Written submissions may also be sent by regular mail to: Mario Sciulli, U.S. Department of Energy, National Energy Technology Laboratory, PO Box 10940, MS 922–342C, Pittsburgh, PA 15236; or by e-mail to: *mario.sciulli@netl.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Mario Sciulli, U.S. Department of Energy, National Energy Technology Laboratory, PO Box 10940, MS 922–342C, Pittsburgh, PA 15236, e-mail address: *mario.sciulli@netl.doe.gov.* Information offered by commenters in response to this Notice will be available for public inspection at the Department of Energy, Freedom of Information Reading Room, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585 between the hours of 9 a.m. and 4 p.m. Monday through Friday, except for holidays.

SUPPLEMENTARY INFORMATION:

I. Background.

Section 1817 of the Energy Policy Act of 2005 (EPAct 2005) requires DOE to conduct a study in consultation with the Federal Energy Regulatory Commission (FERC) of the potential benefits of cogeneration and small power production. The Electricity Modernization Act § 1817, 119 Stat. 594, 1130 (2005). This study will encompass various forms of distributed energy technologies, ranging from those that produce only electricity to those that produce a combination of heat and power (CHP), installed at or near the point of use.

The first component of the DOE study will analyze potential benefits associated with expanded utilization of distributed energy technologies. For purposes of this Notice the terms ''distributed generation'' (DG), ''cogeneration'' and ''small power production'' are synonymous.[1] Specific

[1] The term ''cogeneration facility'' typically describes a facility that produces electric and/or thermal energy independent of or interconnected to the local electricity supplier (grid). 16 U.S.C. 796(18)(A). Similarly, ''small power production

case studies will be evaluated to gauge the impact of regulatory mandates, tariffs, rate structures and similar policies on the proliferation of DG, CHP systems and other distributed energy technologies. The second component of the DOE study will address the rate-related issues ''that may impede or otherwise discourage the expansion of'' distributed energy technologies. Id. section 1817(a)(3).

II. Questions for Public Comment and Request for Data

To aid in conducting this study, DOE requests public input/comment that addresses the two issues discussed below.

A. Potential Benefits

In accordance with section 1817 of EPAct 2005, this study will attempt to identify, discuss and quantify benefits that are received directly or indirectly by three classes of recipients: ''(i) * * * electricity distribution or transmission service provider[s]; (ii) other customers served by an electricity distribution or transmission service provider; and (iii) the general public in the area served by the public utility in which the cogenerator or small power producer is located.'' Id. section 1817(a)(1)(B)(i)–(iii).

In analyzing the potential benefits of DG, CHP and other distributed energy technologies, the study will focus on the following areas:

(i) Dynamics of the electric system (grid) including reliability in terms of outages (seconds to hours), power quality (microseconds), and ancillary services (including reactive power or volt-amperes reactive);

(ii) Economic ramifications of distributed energy technologies, including reduction of peak power requirements due to on-site generation (based on distribution feeder load duration curves), offsets to investments in generation, transmission or distribution facilities that would otherwise be recovered through rates, and diminished land use effects and rights-of-way acquisitions; and

(iii) Physical security and emergency supply of power, including reducing vulnerability of a system to terrorism.

To accomplish this aspect of the study, DOE requests case studies, analyses, or reports valuing these potential benefits under varying circumstances for individual DG, CHP and other distributed energy technologies.

B. Rate-Related Impediments

Subsection 1817(a) of EPAct 2005 states that DOE's study must include, among other things, an analysis of rate-related issues that ''may impede or otherwise discourage the expansion of cogeneration and small power production facilities.'' Id. Section 1817(a)(2)(B). To evaluate rate-related impediments that may hinder or otherwise discourage the expansion of DG, CHP systems and other distributed energy technologies, this study will analyze whether rates, rules, tariffs, or other requirements imposed on such installations are comparable to rates imposed on other customers of the same class that do not have distributed energy facilities. For this portion of the study, DOE requests public comment (in the form of case studies or similar information) depicting the effect of rate-related issues on the planning, financing, installation, commissioning or operation of DG, CHP and other distributed energy technologies.

III. Public Participation

A. Report

DOE will make the draft report available to the public and provide an opportunity for interested parties to submit written comments on the initial conclusions reached by the study. Following the public review period, DOE will subsequently present the results of the study to the President and Congress not later than February 8, 2007, and will thereafter publish a final report.

B. Submission of Comments

DOE requests written comments from interested parties on all aspects of the study required by section 1817. DOE is especially interested in receiving written comments from persons with particular knowledge of the legal, economic and technical elements related to the benefits and rate-related issues concerning DG, CHP and other distributed energy technologies. Any information submitted to DOE, however, should not contain confidential, proprietary or business sensitive data.

Issued in Washington, DC, on January 24, 2006.

Kevin Kolevar,

Director, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy.

[FR Doc. E6–1096 Filed 1–27–06; 8:45 am]

BILLING CODE 6450–01–P

facility'' usually refers to a facility that produces less than 80 megawatts of electricity. Id.

Section 796(17)(A). ''Distributed generation'' (DG) generally applies to energy systems that produce electricity and/or thermal energy at or near the point of use.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–195–000, ER06–195–001]

K Road BG Management LLC; Notice of Issuance of Order

January 23, 2006.

K Road BG Management LLC (K Road) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sales of energy and capacity at market-based rates. K Road also requested waiver of various Commission regulations. In particular, K Road requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by K Road.

On January 20, 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 K Road should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is February 21, 2006.

Absent a request to be heard in opposition by the deadline above, K Road 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 K Road, 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 K Road'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. E6–1129 Filed 1–27–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–229–000, ER06–229–001]

Safeway, Inc.; Notice of Issuance of Order

January 23, 2006.

Safeway, Inc. (Safeway) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sales of energy and capacity at market-based rates. Safeway also requested waiver of various Commission regulations. In particular, Safeway requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Safeway.

On January 20, 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 Safeway should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is February 21, 2006.

Absent a request to be heard in opposition by the deadline above, Safeway 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 Safeway, 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 Safeway'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. E6–1127 Filed 1–27–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–63–000; ER06–63–001]

Take Two, LLC; Notice of Issuance of Order

January 23, 2006.

Take Two, LLC (Take Two) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sales of energy and capacity at market-based rates. Take Two also requested waiver of various Commission regulations. In particular, Take Two requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Take Two.

On January 20, 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 Take Two should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is February 21, 2006.

Absent a request to be heard in opposition by the deadline above, Take Two 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 Take Two, 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 Take Two'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. E6–1128 Filed 1–27–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

January 23, 2006.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER04–608–006; EL05–127–002.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC resubmits 2nd Revised Sheet No. 33 et al to the 10/24/05 filing of several settlement documents including a settlement agreement in compliance with FERC's 12/16/05 Order & Order 614.
Filed Date: 01/13/2006.
Accession Number: 20060119–0105.
Comment Date: 5 p.m. eastern time on Friday, February 03, 2006.

Docket Numbers: ER05–26–002.
Applicants: Mirant Kendall LLC.
Description: Mirant Kendall, LLC & Mirant Americas Energy Marketing, LP submits Original Sheet 1 et al to FERC Electric Tariff, Original Volume No. 1 pursuant to Order 614.
Filed Date: 01/13/2006.
Accession Number: 20060123–0031.
Comment Date: 5 p.m. eastern time on Friday, February 3, 2006.

Docket Numbers: ER05–977–002.
Applicants: Union Power Partners, LP.
Description: Union Power Partners, LP submits its revised rate schedule for Reactive Supply and Voltage Control from Generation Sources Service, FERC Rate Schedule No. 2.
Filed Date: 01/13/2006.
Accession Number: 20060119–0023.
Comment Date: 5 p.m. eastern time on Friday, February 3, 2006.

Docket Numbers: ER06–212–001.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Co submits its revised Power Sales Agreement with the City of Crystal Falls, Michigan, in compliance with FERC's 12/20/05 Order.
Filed Date: 01/13/2006.
Accession Number: 20060123–0033.
Comment Date: 5 p.m. eastern time on Friday, February 3, 2006.

Docket Numbers: ER06–427–000.
Applicants: Mystic Development, LLC.
Description: Mystic Development, LLC submits the signature page for Alan C Heintz's affidavit to their 12/29/05 filing.
Filed Date: 01/05/2006.
Accession Number: 20060106–0153.
Comment Date: 5 p.m. eastern time on Thursday, January 31, 2006.

Docket Numbers: ER06–446–001.
Applicants: Connecticut Light & Power Company.
Description: Northeast Utilities Service Co on behalf of its affiliates the Connecticut Light & Power Co. amends their January 3 filing to submit a non-public, non-redacted version of their termination agreement.
Filed Date: 01/13/2006.
Accession Number: 20060119–0103.
Comment Date: 5 p.m. eastern time on Friday, February 3, 2006.

Docket Numbers: ER06–465–000.
Applicants: Alcoa Power Generating Inc.
Description: Alcoa Power Generating Inc submits the required ministerial changes to the Large Generator Interconnection Agreement sections of its Long Sault Division OATT.
Filed Date: 01/10/2006.
Accession Number: 20060112–0325.
Comment Date: 5 p.m. eastern time on Tuesday, January 31, 2006.

Docket Numbers: ER06–474–000.
Applicants: BIV Generation Company, LLC.
Description: BIV Generation Co, LLC submits certain revised sheets to its market-based rate tariff FERC Electric Tariff Volume No. 1.
Filed Date: 01/11/2006.
Accession Number: 20060119–0206.
Comment Date: 5 p.m. eastern time on Wednesday, February 1, 2006.

Docket Numbers: ER06–481–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Co submits First Revised Sheet No. 2 et al to the Globe Street Wholesale Distribution Load Interconnection Facilities Agreement with the City of Moreno Valley.
Filed Date: 01/13/2006.
Accession Number: 20060119–0022.
Comment Date: 5 p.m. eastern time on Friday, February 3, 2006.

Docket Numbers: ER06–482–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC's executed Interconnection Service Agreement with Exelon Generating Co, LLC and PEPCO Energy Company.
Filed Date: 01/13/2006.
Accession Number: 20060119–0021.
Comment Date: 5 p.m. eastern time on Friday, February 3, 2006.

Docket Numbers: ER06–483–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Co submits a proposed amendment to the Power Service Agreement w/Alger Delta Cooperative Electric Association.
Filed Date: 01/13/2006.
Accession Number: 20060119–0018.
Comment Date: 5 p.m. eastern time on Friday, February 3, 2006.

Docket Numbers: ER06–484–000.
Applicants: Idaho Power Company.
Description: Idaho Power Co submits Second Revised Sheet No. 238 et al to FERC Electric Tariff, First Revised Volume No. 5 in compliance with the Commission's Order 661–A.
Filed Date: 01/13/2006.
Accession Number: 20060119–0017.
Comment Date: 5 p.m. eastern time on Friday, February 3, 2006.

Docket Numbers: ER06–485–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Co submits a proposed amendment to the Power Service Agreement with the Ontonagon County Electrification Association.
Filed Date: 01/13/2006.
Accession Number: 20060119–0020.
Comment Date: 5 p.m. eastern time on Friday, February 3, 2006.

Docket Numbers: ER06–486–000.
Applicants: Central Illinois Public Service Company.
Description: Central Illinois Public Service Co submits revisions to the Facility Use Agreement with Illinois Power Co dated 5/2/05.
Filed Date: 01/13/2006.
Accession Number: 20060119–0016.
Comment Date: 5 p.m. eastern time on Friday, February 3, 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. E6–1123 Filed 1–27–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

January 23, 2006.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER03–647–008.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc submits its Third Annual Compliance Report on Implementation of the ICAP Demand Curves.
Filed Date: 1/3/2006.
Accession Number: 20060103–4004.
Comment Date: 5 p.m. eastern time on Thursday, February 2, 2006.

Docket Numbers: ER03–1182–002.
Applicants: Tyr Energy, LLC.
Description: Tyr Energy, LLC submits developments constituting a non-material change in status related to the market-based rate authority required by Order 652.
Filed Date: 1/17/2006.
Accession Number: 20060123–0022.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER03–838–004; ER04–1081–002; ER04–1080–002; ER03–209–003; ER03–290–003ER03–341–003; ER03–342–003; ER99–970–004; ER99–1983–004; ER00–38–005; ER03–446–003; ER00–1171–003; ER00–1115–004; ER00–2080–003.
Applicants: Power Contract Financing, L.L.C.; PCF2,LLC; Calpine Energy Management, L.P.; CES Marketing V, L.P.; Calpine California Equipment Finance Company, LLC; Calpine Power America—OR, LLC; Calpine Power America CA, LLC; RockGen Energy LLC; Geysers Power Company, LLC; Broad River Energy LLC; Calpine Philadelphia Inc.; Tiverton Power Associates, L.P.; Calpine Construction Finance Company, L.P.; Rumford Power Associates, L.P.
Description: Calpine Entities submits their joint updated market power analysis and revised rate schedule sheets.
Filed Date: 1/17/2006.
Accession Number: 20060119–0194.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER04–1248–000; ER04–1249.
Applicants: Union Light, Heat & Power Company; The Cincinnati Gas & Electric Company.
Description: Union, Heat & Power Co. and the Cincinnati Gas & Electric Co. Notification that the Transfer of Generating Facilities occured effective 1/1/06.
Filed Date: 1/17/2006.
Accession Number: 20060117–5007.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER05–428–006.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator submits compliance filing of the New York Independent System Operator, Inc.
Filed Date: 1/17/2006.
Accession Number: 20060119–0187.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER06–58–001.
Applicants: California Independent System Operator.
Description: California Independent System Operator Corp submits a filing in compliance with FERC's 12/15/05 Order.
Filed Date: 1/17/2006.
Accession Number: 20060119–0192.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER06–61–001.
Applicants: California Independent System Operator Corporation.
Description: The California Independent System Operator Corp submits a filing in compliance with FERC's 12/15/05 Order.
Filed Date: 1/17/2006.
Accession Number: 20060119–0197.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 7, 2006.

Docket Numbers: ER06–182–002.
Applicants: MidAmerican Energy Company.
Description: MidAmerican Energy Co submits updated Original Sheet No. 42 included filing of 12/9/05.
Filed Date: 1/17/2006.
Accession Number: 20060123–0021.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER06–312–001; ER03–198–005.
Applicants: Pacific Gas & Electric Company.
Description: Pacific Gas & Electric Co submits Substitute Second Revised Sheet No. 1 et al to FERC Electric Tariff, Original Volume No. 13 reflecting the revisions made to the 12/9/05 filing pursuant to Order 652.
Filed Date: 1/17/2006.
Accession Number: 20060123–0025.
Comment Date: 5 p.m. eastern time on Tuesday, January 31, 2006.

Docket Numbers: ER06–487–000; ER06–488–000; ER06–489–000; ER06–490–000.
Applicants: PJM Transmission Owners *et al.*
Description: PJM Interconnection, LLC and the PJM Transmission Owners submit three separate agreements and establish the Consolidated Transmission Owner Agreement, PJM Rate Schedule No. 42.
Filed Date: 1/17/2006.
Accession Number: 20060119–0193.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER06–491–000.
Applicants: CED Rock Springs, LLC.
Description: CED Rock Springs, LLC submits Revised Schedule No. 7, Schedule No. 8 and Attachment H–7 to the PJM Tariff, Sixth Revised Volume No. 1.
Filed Date: 1/17/2006.
Accession Number: 20060119–0186.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER06–492–000.
Applicants: American Electric Power Service Corporation.
Description: American Electric Power System submits amendments to the OATT, FERC Electric Tariff, Third Revised Volume No. 6.
Filed Date: 1/17/2006.

Accession Number: 20060119–0185.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER06–493–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc's proposed revisions to Section 7.14(a) and Attachment L of the OATT and Energy Markets Tariff, FERC Electric Tariff, Third Revised Volume No. 1.
Filed Date: 1/17/2006.
Accession Number: 20060119–0184.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER06–494–000.
Applicants: Sierra Pacific Resources Operating Companies.
Description: Nevada Power Co & Sierra Pacific Power Corp submit amendments to the Sierra Pacific Resources Operating Companies Open Access Transmission Tariff, Third Revised Volume No. 1.
Filed Date: 1/17/2006.
Accession Number: 20060119–0183.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER06–495–000.
Applicants: Duke Energy Corporation.
Description: Duke Electric Transmission submits its compliance filing, in compliance with FERC's Order 661–A.
Filed Date: 1/17/2006.
Accession Number: 20060119–0182.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER06–496–000.
Applicants: Portland General Electric Company.
Description: Portland General Electric Co submits revisions to the pro forma open access transmission tariff pursuant to FERC's Order 661 et al.
Filed Date: 1/17/2006.
Accession Number: 20060119–0191.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 2006.

Docket Numbers: ER06–497–000.
Applicants: Old Dominion Electric Cooperative.
Description: Old Dominion Electric Cooperative submits proposed rate schedule for Old Dominion Electric Cooperative Rock Springs Transmission Revenue Requirement Recovery, for inclusion in PJM Tariff Attachment H–3 etc.
Filed Date: 1/17/2006.
Accession Number: 20060119–0196.
Comment Date: 5 p.m. eastern time on Tuesday, February 7, 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. E6–1124 Filed 1–27–06; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at Meeting of Southwest Power Pool Board of Directors/Members Committee

January 23, 2006.

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the meeting of the Southwest Power Pool (SPP) Board of Directors/Members Committee noted below. Their attendance is part of the Commission's ongoing outreach efforts.

Regional State Committee: January 30, 2006, (1 p.m.–5 p.m., CST). Omni Mandalay Hotel at Las Colinas, 221 East Las Colinas Blvd., Irving, TX. 972–556–0800.

Board of Directors/Members Committee: January 31, 2006, (8 a.m.–3p.m., CST). Omni Mandalay Hotel at Las Colinas, 221 East Las Colinas Blvd., Irving, TX. 972–556–0800.

The discussions may address matters at issue in the following proceedings:

Docket Nos. RT04–1 and ER04–48, *Southwest Power Pool, Inc.*
Docket No. ER05–109, *Southwest Power Pool, Inc.*
Docket No. ER05–652, *Southwest Power Pool, Inc.*
Docket No. ER05–666, *Southwest Power Pool, Inc.*
Docket No. ER05–799, *Southwest Power Pool, Inc.*
Docket No. ER05–1065, *Entergy Services, Inc.*
Docket No. ER05–1118, *Southwest Power Pool, Inc.*
Docket No. ER05–1012, *Union Electric Company.*
Docket No. ER05–1072, *American Electric Power Service Corporation.*
Docket No. ER05–1285, *Southwest Power Pool, Inc.*
Docket No. ER05–1352, *Southwest Power Pool, Inc.*
Docket No. ER06–15, *Southwest Power Pool, Inc.*
Docket No. ER06–451, *Southwest Power Pool, Inc.*

The meetings are open to the public.

For more information, contact Tony Ingram, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission at (501) 614–4789 or *tony.ingram@ferc.gov.*

Magalie R. Salas,
Secretary.
[FR Doc. E6–1126 Filed 1–27–06; 8:45 am]
BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0471; FRL–7760–1]

FIFRA Scientific Advisory Panel; Notice of Rescheduled Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The February 14 – 16, 2006, Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) meeting to consider the Review of Worker Exposure Assessment Methods has been rescheduled.

DATES: The meeting will now be held on April 4 – 6, 2006, from 8:30 a.m. to approximately 5 p.m., eastern time.

Comments: For the deadlines for the submission of requests to present oral comments and submission of written comments, see Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

Nominations: Nominations of scientific experts to serve as ad hoc members of the FIFRA SAP for this meeting should be provided on or before February 13, 2006.

Special accommodations: For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT** at least 10 business days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Holiday Inn Rosslyn at Key Bridge, 1900 North Fort Myer Drive, Arlington, VA 22209. The telephone number for the Holiday Inn Rosslyn at Key Bridge is (703) 807–2000.

Comments: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0471, by one of the following methods:

• *http://www.regulations.gov/.* Follow the on-line instructions for submitting comments.

• *E-mail: opp-docket@epa.gov.*

• *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA–HQ–OPP–2005–0471. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0471. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be captured automatically and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/docket.htm/.*

Docket: All documents in the docket are listed in the regulation.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov/* or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805.

Nominations, requests to present oral comments, and special accommodations: See Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Myrta R. Christian, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8498; fax number: (202) 564–8382; e-mail address: *christian.myrta@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and the Food Quality Protection Act of 1996 (FQPA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

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

When preparing and submitting comments, remember to use these tips:

1. Identify the document by docket number and other identifying information (subject heading,**Federal Register** date and page number).
2. Follow directions. The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

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

C. How May I Participate in this Meeting?

You may participate in this meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–OPP–2005–0471 in the subject line on the first page of your request.

1. *Oral comments.* Oral comments presented at the meetings should not be repetitive of previously submitted oral or written comments. Although requests to present oral comments are accepted until the date of the meeting (unless otherwise stated), to the extent that time permits, interested persons may be permitted by the Chair of FIFRA SAP to present oral comments at the meeting. Each individual or group wishing to make brief oral comments to FIFRA SAP is strongly advised to submit their request to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than noon, eastern time, March 28, 2006, in order to be included on the meeting agenda. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of his or her comments and presentation slides for distribution to FIFRA SAP at the meeting.

2. *Written comments.* Although written comments will be accepted until the date of the meeting (unless otherwise stated), the Agency encourages that written comments be submitted, using the instructions in **ADDRESSES**, no later than noon, eastern time, March 21, 2006, to provide FIFRA SAP the time necessary to consider and review the written comments. It is requested that persons submitting comments directly to the docket also notify the DFO listed under **FOR FURTHER INFORMATION CONTAC**T. There is no limit on the extent of written comments for consideration by FIFRA SAP. Persons wishing to submit written comments at the meeting should bring 30 copies.

3. *Seating at the meeting.* Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access and assistance for the hearing impaired, should contact the DFO at least 10 business days prior to the meeting using the information under **FOR FURTHER INFORMATION CONTACT** so that appropriate arrangements can be made.

4. *Request for nominations of prospective candidates for service as ad hoc members of the FIFRA SAP for this meeting.* As part of a broader process for developing a pool of candidates for each meeting, the FIFRA SAP staff routinely solicit the stakeholder community for nominations of prospective candidates for service as ad hoc members of the FIFRA SAP. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates for a specific meeting. Individuals nominated for this meeting should have expertise in one or more of the following areas: Occupational exposure assessment, occupational exposure monitoring, agricultural practices (especially hand labor practices), statistics, and risk assessment. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this meeting. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before [*insert date 12 days after date of publication in the* **Federal Register**]. The Agency will consider all nominations of prospective candidates for this meeting that are received on or before this date. However, final selection of ad hoc members for this meeting is a discretionary function of the Agency.

The selection of scientists to serve on the FIFRA SAP is based on the function of the panel and the expertise needed to address the Agency's charge to the panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency (except the EPA). Other factors considered during the selection process include availability of the potential panel member to fully participate in the panel's reviews, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias. Though financial conflicts of interest, the appearance of lack of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on the FIFRA SAP. Numerous qualified candidates are identified for each panel. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the panel. In order to have the collective breadth of experience needed to address the Agency's charge for this meeting, the Agency anticipates selecting approximately 12 ad hoc scientists.

If a prospective candidate for service on the FIFRA SAP is considered for participation in a particular session, the candidate is subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. As such, the FIFRA SAP candidate is required to submit a Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency (EPA Form 3110–48 5–02) which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, and where applicable, sources of research support. The EPA will evaluate the candidate's financial disclosure form to assess that there are no financial conflicts of interest, no appearance of lack of impartiality and no prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service on the FIFRA SAP.

Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes. The list of FIFRA SAP members participating at this meeting will be posted on the FIFRA SAP web site or may be obtained by contacting the PIRIB at the address or telephone number listed under **ADDRESSES**.

II. Background

A. Purpose of the FIFRA SAP

Amendments to FIFRA enacted November 28, 1975 (7 U.S.C. 136w(d)), include a requirement under section 25(d) of FIFRA that notices of intent to cancel or reclassify pesticide registrations pursuant to section 6(b)(2) of FIFRA, as well as proposed and final forms of regulations pursuant to section 25(a) of FIFRA, be submitted to a SAP prior to being made public or issued to

a registrant. In accordance with section 25(d) of FIFRA, the FIFRA SAP is to have an opportunity to comment on the health and environmental impact of such actions. The FIFRA SAP also shall make comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of analyses made by Agency scientists. Members are scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) of FIFRA. The Deputy Administrator appoints seven individuals to serve on the FIFRA SAP for staggered terms of 4 years, based on recommendations from the National Institutes of Health and the National Science Foundation.

Section 104 of FQPA (Public Law 104–170) established the FQPA Science Review Board (SRB). These scientists shall be available to the FIFRA SAP on an ad hoc basis to assist in reviews conducted by the FIFRA SAP.

B. Public Meeting

The FIFRA SAP will meet to consider the Review of Worker Exposure Assessment Methods. The Agency issued its first occupational exposure testing guidelines in the early 1980s. These guidelines were intended to standardize the methodology used to conduct the studies necessary to allow the Agency to determine the potential exposures, and consequently, risks associated with the activities surrounding pesticide exposures. These activities included handling pesticides (i.e., mixing, loading and applying) as well as exposures resulting from working in fields following pesticide applications (e.g., harvesting, thinning, weeding). In the early 1990s, the Pesticide Handlers Exposure Database was constructed in order to estimate exposures resulting from mixing/loading/applying pesticides. The studies assembled for use in this database were taken from published literature as well as from industry-generated studies. This database has been used as the main source for estimating occupational exposures to workers handling pesticides for both registration and reregistration actions. In 1995, in order to develop a similar database, which could be used to address fieldworker exposures, the Agency issued a Data Call-In Notice (DCI) for post-application farmworker exposure data. As a result of this DCI, every pesticide registrant who manufactured products that could lead to post-application farmworker exposures needed to generate data that could be used to quantify exposures to their products.

In response to the issuance of the 1995 DCI, most major pesticide registrants consolidated their efforts and formed the Agricultural Reentry Task Force (ARTF). For more details, see *http://www.exposuretf.com.* The ARTF has generated the vast majority of the post-application farmworker exposure monitoring data since that time. It follows that the bulk of the data that have been generated by ARTF include exposure monitoring studies for a variety of hand-labor practices in a range of crops.

The purpose of this meeting of the FIFRA Science Advisory Panel (SAP) is to evaluate certain methodologies used to generate exposure studies and how the Agency uses these and other studies to conduct occupational exposure assessments. Three key issues have been identified by the Agency as the focus of this review. These include:

• *Hand exposure methods.* Based upon review of the data, it appears that the hands are important contributors to overall exposures levels. In most monitoring studies used by the Agency, a wash technique, which is based on methods described in the scientific literature, is generally utilized to measure exposure to the hands. The goal of this evaluation is to identify issues associated with the use of this technique and to make recommendations with regard to how these data should be interpreted for exposure assessment purposes based on factors such as chemical properties and exposure duration.

• *Predictive capability of exposure monitoring techniques.* Most exposure data that are currently available are based on the use of passive dosimetry techniques (e.g., whole-body dosimeters and handwash). These data quantify the residues that result on the surface of the skin after completing a job task of some sort. The purpose of this evaluation is to characterize the performance of passive dosimetry as a predictive tool for risk assessment purposes (e.g., through comparison with biological monitoring data and other possible analyses).

• *Clustering of hand labor tasks for exposure assessment purposes.* The crops in the United States that require hand labor for successful production are extremely varied and range from field crops such as lettuce (e.g., harvest is a key labor requirement) to tree fruit such as apples (e.g., thinning and harvest are key labor requirements). Based on the currently available data and a need to address exposures related to hand labor across agriculture, the Agency has created clusters or groups that represent categories of exposures that are believed to be similar for assessment purposes. These categories allow the Agency to develop risk estimates for a wide range of crops and were defined based on agronomic and ergonomic similarities in crops and workers, respectively. The purpose of this evaluation is to characterize the methods used to define a representative cluster and analyze the monitoring data that pertains to that group, which are then used for exposure assessment purposes. An example based on vineyard and trellis crops will be used for illustrative purposes.

C. FIFRA SAP Documents and Meeting Minutes

EPA's position paper, charge/questions to FIFRA SAP, FIFRA SAP composition (i.e., members and consultants for this meeting), and the meeting agenda will be available by March 2006. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, from the regulation.gov Web site and the FIFRA SAP homepage at *http://www.epa.gov/scipoly/sap.*

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency in approximately 90 days after the meeting. The meeting minutes will be posted on the FIFRA SAP web site or may be obtained by contacting the PIRIB at the address or telephone number listed under **ADDRESSES**.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 24, 2006.

Clifford J. Gabriel,

Director, Office of Science Coordination and Policy.

[FR Doc. E6–1106 Filed 1–27–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8023–7]

Science Advisory Board Staff Office; Notification of a Teleconference of the Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference meeting of the chartered SAB to discuss a draft SAB report, EPA's Draft Risk Assessment of the Potential Human Health Effects Associated with Exposure to Perfluorooctanoic Acid (PFOA): A Review by the PFOA Review Panel of the EPA Science Advisory Board.

DATES: The date for the teleconference is February 15, 2006, from 1:45–4 p.m. (eastern time).

ADDRESSES: The meeting will take place via telephone only.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number and access code to participate in the telephone conference may contact Mr. Thomas O. Miller, Designated Federal Officer (DFO), Science Advisory Board Staff Office (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via telephone/voice mail at (202) 343–9982 or via e-mail at *miller.tom@epa.gov.* General information about the SAB as well as any updates concerning the meeting announced in this notice, may be found on the SAB Web site at *http://www.epa.gov/sab.* The technical contact in EPA's Office of Pollution Prevention and Toxics (OPPT) is Dr. Jennifer Seed who can be reached via e-mail at *seed.jennifer@epa.gov* or via telephone/voice mail at 202–564–7634.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the SAB will hold a public teleconference on the date and time provided above. The purpose of this telephone conference is to have the chartered SAB review and approve the draft SAB report EPA's Draft Risk Assessment of the Potential Human Health Effects Associated with Exposure to Perfluorooctanoic Acid (PFOA): A Review by the PFOA Review Panel of the EPA Science Advisory Board. The focus of the meeting is to consider whether: (i) The charge to the SAB review panel has been adequately addressed in the draft report, (ii) the draft report is clear and logical and (iii) the conclusions drawn or recommendations made in the draft report are supported by the body of the report.

Background

EPA's Office of Pollution Prevention and Toxics (OPPT) had requested that the SAB peer review the Agency's Perfluorooctanoic Acid (PFOA) Risk Assessment. Background on the PFOA Review Panel activities can be found in several **Federal Register** notices 69 FR 16249–16250 (March 29 2004); 70 FR 2157–2158 (January 12, 2005); 70 FR 32771–32772 (June 6, 2005). Information can also be found on the EPA SAB Web site at *http://www.epa.gov/sab/panels/pfoa_rev_panel.htm.*

Availability of Meeting Materials

A roster of participating SAB members and the meeting agenda will be posted on the SAB Web site prior to the meeting. The draft report that is the subject of this meeting will be available on the SAB Web site (see above) prior to the meeting.

Procedures for Providing Public Input

Interested members of the public may submit relevant written or oral information for the SAB Panel to consider during the advisory process. Oral Statements: In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker with no more than a total of thirty minutes for all speakers. Interested parties should contact the DFO, contact information provided above, in writing via e-mail by February 7, 2006, to be placed on the public speaker list for the teleconference. Written Statements: Written statements should be received in the SAB Staff Office by February 7, 2006, so that the information may be made available to the Panel for their consideration. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Meeting Accommodations

For information on access or services for individuals with disabilities, please contact the DFO, contact information provided above. To request accommodation of a disability, please contact the DFO, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: January 18, 2006.

Anthony Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. 06–583 Filed 1–27–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2005–0555; FRL–7758–9]

Review of Chemical Proposals for Addition under the Stockholm Convention on Persistent Organic Pollutants; Solicitation of Information for the Development of Risk Profiles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice solicits information relevant to the development of risk profiles pursuant to the Stockholm Convention on Persistent Organic Pollutants (POPs Convention) for the following chemicals which are being reviewed for possible addition to the POPs Convention's Annexes A, B, and/or C as POPs: Hexabromobiphenyl (HBB) (CAS No. 36355–01–8); pentabromodiphenyl ether (PBDE) (CAS No. 32534–81–9); chlordecone (CAS No. 143–50–0); lindane (CAS No. 58–89–9); and perfluorooctane sulfonate (PFOS). EPA is issuing this notice to alert interested and potentially affected persons of these proposals and the status of their review under the POPs Convention, and to encourage such persons to provide information relevant to the development of risk profiles under Article 8 and Annex E of the POPs Convention.

DATES: Comments must be received on or before February 14, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2005–0555, by one of the following methods.

- *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail*: *oppt.ncic@epa.gov*.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO, EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2005–0555. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–

2005–0555. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through 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 regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through regulations.gov or in hard copy at the OPPT Docket, EPA Docket Center (EPA/DC), EPA West, Rm. B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Linter, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Amy Breedlove, Chemical Control Division, (7405M), Office Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–9823; e-mail address: *breedlove.amy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to chemical substance and pesticide manufacturers, importers, and processors. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. Procedures for preparing confidential information related to pesticides and industrial chemicals are in Unit I.B.1. Send confidential information about industrial chemicals using the submission procedures under **ADDRESSES**. Send confidential information about pesticides to: Cathleen McInerney Barnes, International Programs Manager, Office of Pesticide Programs (7506C), Environmental Protection Agency, Washington, DC 20460–0001 or hand delivered to: Cathleen Barnes, Government and International Services Branch, Office of Pesticide Programs, Rm. 1104G, Crystal Mall #2, 1801 Bell St., Arlington, VA.

3. Commenters should note that none of the CBI information received by EPA will be forwarded to the POPs Secretariat. Information from submissions containing CBI may be incorporated into larger products by EPA but CBI will be masked in any such products.

4. *Tips for preparing your comments*. When submitting comments, remember to:

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

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

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

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

v. If you estimate potential costs or burdens, explain how you arrived at the estimate.

vi. Provide specific examples to illustrate your concerns, and suggested alternatives.

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

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

II. Background

The POPs Convention is a multilateral environmental agreement designed to protect human health and the environment from POPs. The United States signed the POPs Convention in May of 2001 but has not yet ratified it (and thus is not a Party to the POPs Convention). The POPs Convention, which went into force in May of 2004, requires the Parties to reduce or eliminate the production and use of a number of intentionally produced POPs used as pesticides or industrial chemicals. The POPs Convention also calls upon Parties to take certain specified measures to reduce releases of certain unintentionally produced POPs with the goal of their continuing minimization and, where feasible, ultimate elimination. It also imposes controls on the handling of POPs wastes and on trade in POPs chemicals. In addition, there are specific science-based procedures that Parties to the POPs Convention must use when adding new chemicals to the POPs Convention's Annexes.

The first meeting of the committee that reviews proposals for listing of new chemicals, called the POPs Review Committee (POPRC), took place November 7–11, 2005, in Geneva, Switzerland. Information about the POPs Convention and the November POPRC meeting is available at the POPs Convention website at *http://www.pops.int* and *http://www.pops.int/documents/meetings/poprc*, respectively. The POPRC had before it five proposals which were submitted for its consideration by Parties to the POPs Convention, for addition to Annexes A, B, and/or C of the POPs Convention. Three of the five proposals were for industrial chemicals:

- PBDE.
- HBB.
- PFOS.

Two of the five proposals were for pesticides:

- Lindane.
- Chlordecone.

In accordance with the procedure laid down in Article 8 of the POPs Convention, during the November meeting POPRC examined the proposals and applied the screening criteria in Annex D of the POPs Convention (''Information Requirements and Screening Criteria''). With regard to all five chemicals, POPRC decided that it was satisfied that the screening criteria had been fulfilled and that further work should therefore be undertaken in accordance with the provisions of the POPs Convention.

The next step in the process is for POPRC to prepare a risk profile for each of the chemicals to, as noted in Annex E of the POPs Convention, ''evaluate whether the chemical is likely, as a result of its long-range environmental transport, to lead to significant adverse human health and/or environmental effects, such that global action is warranted.'' The risk profile must further evaluate and elaborate on the information referred to in Annex D of the POPs Convention and include, as far as possible, the information listed in Annex E of the POPs Convention (''Information Requirements for the Risk Profile''). A draft outline of the risk profile has been developed by POPRC, available at *http://www.pops.int/documents/meetings/poprc*. As requested by POPRC through the POPs Convention Secretariat, the risk profile will take into account information to be submitted by Parties and Observers (the current step). If, on the basis of the risk profile, POPRC decides that the chemical is likely, as a result of its long-range environmental transport, to lead to significant adverse human health and/or environmental effects, such that global action is warranted, it will proceed to develop a risk management evaluation. This will include an analysis of the possible control measures as well as the socio-economic considerations, and at that stage information relating to socio-economic considerations will be requested from Parties and Observers. See Annex F of the POPs Convention (''Information on Socio-economic Considerations'').

A. What Action is the Agency Taking?

The Agency is issuing this notice to increase awareness of the proposals concerning the chemicals, and to provide interested persons with an opportunity to provide relevant information. The POPs Convention Secretariat's invitation to submit information states that the POPs Convention Secretariat is only accepting responses from Parties and Observers. The United States is an Observer. EPA is requesting that any information be submitted to EPA no later than February 14, 2006. The United States intends to make an initial submission by January 27, 2006, to meet the POPs Secretariat's deadline. However, EPA also plans to make a second submission, as appropriate, based on information resulting from this notice on or about mid-to-late February 2006. In addition, EPA will consider the information during its review of the risk profiles developed by the POPRC in the coming months. Individuals or organizations that wish to submit information directly to the POPs Convention Secretariat should work through their respective observer organizations, if any.

B. What Information is Being Requested?

The EPA is seeking information that is supplementary to the information in the proposals on the chemicals and POPRC's evaluation of the proposals against Annex D of the POPs Convention's screening criteria. The proposals and the evaluations are available at the POPs Convention website at *http://www.pops.int/documents/meetings/poprc/default.htm*.

EPA has previously solicited information through the Lindane Reregistration Eligibility Document (RED) and through its participation in the draft North American Regional Action Plan (NARAP) on Lindane and other Hexachlorocyclohexane Isomers. Consequently, EPA is only interested in any new information on lindane that may have been developed since those activities.

Commenters are invited to provide information they deem relevant to POPRC's development of risk profiles, such as that specified in Annex E of the POPs Convention and other related information, as described below:

1. Sources, including as appropriate:

i. Production data, including quantity and location.

ii. Uses.

iii. Releases, such as discharges, losses, and emissions.

2. Hazard assessment for the endpoint or endpoints of concern (as identified in the proposals and/or POPRC's evaluation of the proposals against the screening criteria of Annex D of the POPs Convention), including a consideration of toxicological interactions involving multiple chemicals.

3. Environmental fate, including data and information on the chemical and physical properties of a chemical as well as its persistence and how they are linked to its environmental transport, transfer within and between environmental compartments, degradation, and transformation to other chemicals. (POPRC is to make a determination of the bioconcentration factor or bio-accumulation factor, based on measured values, available, except when monitoring data are judged to meet this need.)

4. Monitoring data.

5. Exposure in local areas and, in particular, as a result of long-range environmental transport, and including information regarding bio-availability.

In addition, POPRC has identified some additional types of information on several of the chemicals that would be useful in the development of the risk profiles. That information can be found in the Letter of Invitation on the POPs Convention website at *http://www.pops.int/documents/meetings/poprc/default.htm*.

C. How Should the Information be Provided?

1. EPA requests that commenters, where possible, use the form developed by POPRC to provide their information. The form can be found on the POPs Convention website at *http://www.pops.int/documents/meetings/poprc*. Commenters are requested to include clear and precise references for all sources. Without the exact source of the information, POPRC will not be able to use the information. If the information is not readily available in the public literature, commenters may consider attaching the original source of the information to their submission. Commenters should indicate clearly on the form which chemical the information concerns and use one form per chemical. If for some reason the form does not provide an adequate

mechanism for a type of comment or information, EPA requests that such comment or information be submitted using a similar format; this will increase the likelihood of the relevant information being considered.

2. Although POPRC has developed provisional arrangements for the treatment of confidential information, as mentioned in Unit I.B.3. no CBI will be forwarded to the POPs Convention Secretariat. EPA will, however, consider such information in development of the U.S. response to the POPs Convention Secretariat. Instructions on where and how to submit comments and confidential information can be found in Unit I.B.2. and **ADDRESSES**.

3. Anyone wishing to have an opportunity to communicate with EPA orally on this issue should consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

D. What is the Agency's Authority for Taking this Action?

EPA is requesting comment and information under the authority of section 102(2)(F) of the National Environmental Policy Act, 42 U.S.C. section 4321 *et seq.*, which directs all agencies of the Federal Government to ''[r]ecognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions and programs designed to maximize cooperation in anticipating and preventing a decline in the quality of mankind's world environment.'' Section 17(d) of Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) also provides additional support in that it directs the Administrator of EPA ''in cooperation with the Department of State and any other appropriate Federal agency, [to] participate and cooperate in any international efforts to develop improved pesticide research and regulations.''

List of Subjects

Environmental protection, Chemicals, Hazardous substances.

Dated: January 23, 2006.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. E6–1107 Filed 1–27–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8026–2]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act Regarding the CPS/Madison Superfund Site, Middlesex County, NJ

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative settlement and opportunity for public comment.

SUMMARY: The United States Environmental Protection (''EPA'') is proposing to enter into an administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''). In accordance with section 122(h)(i)(1) of CERCLA, notice is hereby given of a proposed administrative settlement concerning the CPS/Madison Site (''the Site''). Section 122(h) of CERCLA provides EPA with the authority to consider, compromise and settle certain claims for costs incurred by the United States. Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The administrative settlement is contained in the Administrative Order on Consent for Remedial Investigation and Feasibility Study (''RI/FS''), U.S. EPA Index No. CERCLA–02–2004–2027 (the ''Order''). The administrative settlement compromises $28,357.04 of EPA's past response costs incurred at the Site and provides that after Ciba Specialty Chemicals Corp. (''Ciba'') performs the RI/FS for the Site pursuant to the Order, it may apply for a credit, up to a maximum amount of $250,000.00, for the incremental cost of analyzing groundwater samples for metals in addition to other contaminants. The credit can be applied toward EPA's unreimbused response costs at the Site, should EPA attempt to recover those costs from Ciba in the future. The credit applies only to any future claim made by EPA for unreimbursed costs incurred or to be incurred by EPA concerning the Site.

EPA will consider any comments received during the comment period and may withdraw or withhold consent to the proposed settlement if comments disclose facts or considerations that indicate the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th floor, New York, New York 10007–1866. Telephone: (212) 637–3111.

DATES: Comments must be provided by March 1, 2006.

ADDRESSES: Comments should be sent to the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007 and should refer to: In the Matter of the CPS/Madison Superfund Site, U.S. EPA Index No. CERCLA–02–2004–2027.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007, (212) 637–3142.

SUPPLEMENTARY INFORMATION: A copy of the proposed administrative settlement, as well as background information relating to the settlement, may be obtained in person or by mail from Clay Monroe, U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007. Telephone: (212) 637–3142.

Dated: December 9, 2005.

Raymond Basso,

Acting Director, Emergency and Remedial Response Division, Region 2.

[FR Doc. E6–1108 Filed 1–27–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 15, 2006.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Richard A. Jensen, WaKeeney, Kansas, as trustee of the Jonathan D. Berkley GST Trust, the Brian J. Berkley GST Trust, and the Renee A. Berkley GST Trust, all in Stockton, Kansas; to acquire voting shares of Stockton Bancshares, Inc., Stockton, Kansas, and thereby indirectly acquire voting shares of Farmers and Merchants Bank of Hill City, Hill City, Kansas, The Stockton National Bank, Stockton, Kansas, and Trego-WaKeeney State Bank, WaKeeney, Kansas.

Board of Governors of the Federal Reserve System, January 25, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–1122 Filed 1–27–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 24, 2006.

A. Federal Reserve Bank of Cleveland (Cindy West, Manager) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. John R. Turner Holding Company, Jackson, Kentucky; to acquire 100 percent of the voting shares of Middleburg Bancorp, Inc., Middleburg, Kentucky, and thereby indirectly acquire Farmers Deposit Bank, Middleburg, Kentucky.

B. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30303:

1. Upper Cumberland Bancshares, Inc., Byrdstown, Tennessee, and Employee Stock Ownership Trust of People's Bank and Trust Company of Pickett County, Byrdstown, Tennessee; to acquire 100 percent of the voting shares of People's Bank and Trust Company of Clinton County, Albany, Kentucky (in organization).

Board of Governors of the Federal Reserve System, January 25, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–1121 Filed 1–27–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

American Health Information Community Chronic Care Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the first meeting of the American Health Information Community Chronic Care Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: February 1, 2006 from 1 p.m. to 5 p.m.

ADDRESSES: Hubert H. Humphrey Building (200 Independence Ave., SW., Washington, DC 20201), conference room 705A.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit.*

SUPPLEMENTARY INFORMATION: For information on how to access this workgroup meeting via the Web, including ensuring your PC's compatibility, go to: *http://www.hsrnet.net/onc/workgroups/*.

This notice is published less than 15 days in advance of the meeting due to logistical difficulties.

Dated: January 23, 2006.

Dana Haza,

Office of Programs and Coordination, Office of the National Coordinator.

[FR Doc. 06–830 Filed 1–27–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

American Health Information Community Biosurveillance Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the first meeting of the American Health Information Community Biosurveillance Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.)

DATES: February 2, 2006 from 1 p.m. to 5 p.m.

ADDRESSES: Hubert H. Humphrey Building (200 Independence Ave., SW., Washington, DC 20201), conference room 705A.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit.*

SUPPLEMENTARY INFORMATION: For information on how to access this workgroup meeting via the Web, including ensuring your PC's compatibility, go to *http://www.hsrnet.net/onc/workgroups.*

This notice is published less than 15 days in advance of the meeting due to logistical difficulties.

Dated: January 23, 2006.

Dana Haza,

Office of Programs and Coordination, Office of the National Coordinator.

[FR Doc. 06–831 Filed 1–27–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

American Health Information Community Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the fourth meeting of the American Health Information Community in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.) The American Health Information Community will advise the Secretary and recommend specific actions to achieve a common interoperability framework for health information technology (IT).

DATES: March 7, 2006 from 8:30 a.m. to 4 p.m.

ADDRESSES: Hubert H. Humphrey building (200 Independence Ave., SW., Washington, DC 20201), Conference Room 800.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit.*

SUPPLEMENTARY INFORMATION: A webcast of the third Community meeting will be available on the NIH Web site at: *http://www.videocast.nih.gov/*. If you have special needs for the meeting please contact Amanda Smith at *Amanda.Smith@hhs.gov* or (202) 690–7385.

Dated: January 23, 2006.

Dana Haza,

Office of Programs and Coordination, Office of the National Coordinator.

[FR Doc. 06–832 Filed 1–27–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

American Health Information Community Consumer Empowerment Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the first meeting of the American Health Information Community Consumer Empowerment Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: January 30, 2006 from 1 p.m. to 5 p.m.

ADDRESSES: Hubert H. Humphrey Building (200 Independence Ave., SW., Washington, DC 20201), conference room 705A.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit.*

SUPPLEMENTARY INFORMATION: For information on how to access this workgroup meeting via the Web, including ensuring your PC's compatibility, go to: *http://www.hsrnet.net/onc/workgroups/*.

This notice is published less than 15 days in advance of the meeting due to logistical difficulties.

Dated: January 23, 2006.

Dana Haza,

Office of Programs and Coordination, Office of the National Coordinator.

[FR Doc. 06–833 Filed 1–27–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

American Health Information Community Electronic Health Record Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the first meeting of the American Health Information Community Electronic Health Record Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: January 31, 2006 from 1 p.m. to 5 p.m.

ADDRESSES: Hubert H. Humphrey Building (200 Independence Ave., SW., Washington, DC 20201), conference room 800.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit.*

SUPPLEMENTARY INFORMATION: For information on how to access this workgroup meeting via the Web, including ensuring your PC's compatibility, go to: *http://www.hsrnet.net/onc/workgroups/*.

This notice is published less than 15 days in advance of the meeting due to logistical difficulties.

Dated: January 23, 2006.

Dana Haza,

Office of Programs and Coordination, Office of the National Coordinator.

[FR Doc. 06–834 Filed 1–27–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Amendment To Extend the January 24, 2003, Declaration Regarding Administration of Smallpox Countermeasures, as Amended on January 24, 2004 and January 24, 2005

AGENCY: Office of the Secretary (OS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: Concern that terrorists may have access to the smallpox virus and attempt to use it against the American public and United States Government facilities abroad continues to exist. The January 24, 2003, declaration regarding administration of smallpox countermeasures is revised to incorporate statutory definitions from the Smallpox Emergency Personnel Protection Act of 2003 and extended for one year until and including January 23, 2007.

DATES: This notice and the attached amendment are effective as of January 24, 2006.

FOR FURTHER INFORMATION CONTACT: Stewart Simonson, Assistant Secretary for the Office of Public Health Emergency Preparedness, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue, SW., Washington, DC 20201, Telephone (202) 205–2882 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 224(p) of the Public Health Service Act, which was established by section 304 of the Homeland Security Act of 2002 and amended by section 3 of the Smallpox Emergency Personnel Protection Act of 2003 (''SEPPA''), is intended to alleviate certain liability concerns associated with administration of smallpox countermeasures and, therefore, ensure that the countermeasures are available and can be administered in the event of a smallpox-related actual or potential public health emergency such as a bioterrorist incident.

On January 24, 2003, due to concerns that terrorists may have access to the smallpox virus and attempt to use it against the American public and U.S. Government facilities abroad, the Secretary issued a declaration making section 224's legal protections available. The declaration was effective until and including January 23, 2004; it included in section VI a number of definitions, which are no longer appropriate because of the statutory amendments in section 3 of SEPPA.

On January 24, 2004, the Secretary amended the definitions contained in the January 24, 2003 declaration in light of the statutory amendments in section 3 of SEPPA because such definitions were no longer appropriate, and extended the declaration for one year until January 23, 2005. On January 24, 2005, the Secretary extended the declaration for another year through January 23, 2006. Pursuant to section 224(p)(2)(A), the Secretary issues the amendment below to extend for one year, up to and including January 23, 2007, the January 24, 2003 declaration, as amended.

Amendment To Extend January 24, 2003 Declaration Regarding Administration of Smallpox Countermeasures

I. *Policy Determination:* The underlying policy determinations of the January 24, 2003 declaration continue to exist, including the heightened concern that terrorists may have access to the smallpox virus and attempt to use it

against the American public and U.S. Government facilities abroad.

II. *Amendment of Declaration:* I, Michael O. Leavitt, Secretary of the Department of Health and Human Services, have concluded, in accordance with the authority vested in me under section 224(p)(2)(A) of the Public Health Service Act, that a potential bioterrorist incident makes it advisable to extend the January 24, 2003 declaration regarding administration of smallpox countermeasures until and including January 23, 2007. The January 24, 2003, declaration as hereby amended may be further amended as circumstances require.

III. *Effective Dates:* This extension is effective January 24, 2006 until and including January 23, 2007. The effective period may be extended or shortened by subsequent amendment to the January 24, 2003, declaration as hereby amended.

Dated: January 24, 2006.

Michael O. Leavitt,

Secretary.

Amendment To Extend January 24, 2003 Declaration Regarding Administration of Smallpox Countermeasures as Amended on January 24, 2004 and January 24, 2005

I. *Policy Determination:* The underlying policy determinations of the January 24, 2003 declaration continue to exist, including the heightened concern that terrorists may have access to the smallpox virus and attempt to use it against the American public and U.S. Government facilities abroad.

II. *Amendment of Declaration:* I, Michael O. Leavitt, Secretary of the Department of Health and Human Services, have concluded, in accordance with the authority vested in me under section 224(p)(2)(A) of the Public Health Service Act, that a potential bioterrorist incident makes it advisable to extend the January 24, 2003 declaration regarding administration of smallpox countermeasures until and including January 23, 2007. The January 24, 2003, declaration as hereby amended may be further amended as circumstances require.

III. *Effective Dates:* This extension is effective January 24, 2006 until and including January 23, 2007. The effective period may be extended or shortened by subsequent amendment to the January 24, 2003, declaration as hereby amended.

Dated: January 24, 2006.

Michael O. Leavitt,

Secretary.

[FR Doc. 06–820 Filed 1–24–06; 4:50 pm]

BILLING CODE 4120–01–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.

Correction: This notice was published in the **Federal Register** on January 19, 2006, volume 71, number 12, page 3096–3097. ''Additional Information'' has been added.

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 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.

Additional Information: In order to expedite the security clearance process at the CDC Clifton Road campus, all attendees at the ACIP meeting are now required to register on-line at *http://www.cdc.gov/nip/acip,* which can be found under the ''Upcoming Meetings'' tab. Please be sure to complete all of the required fields before submitting your registration.

All non-US citizens who have not pre-registered by January 25, 2006 will not be allowed access to the campus, and will not be allowed to register on site. All non-US citizens are required to complete the ''Access Request Form'' in addition to registering on line. This form can be obtained by contacting Demetria Gardner at (404) 639–8836 and should be e-mailed directly to her upon completion at *dgardner@cdc.gov.*

Contact Person for More Information: Demetria Gardner, Epidemiology and Surveillance Division, National Immunization Program, CDC, 1600 Clifton Road, NE., (E–61), Atlanta, Georgia 30333, telephone 404/639–8836, 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 CDC and the Agency for Toxic Substances and Disease Registry.

Dated: January 24, 2006.

Alvin Hall,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. E6–1095 Filed 1–27–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005E–0249]

Determination of Regulatory Review Period for Purposes of Patent Extension; ENABLEX

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ENABLEX and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.*

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–013), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 240–453–6681.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the

actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product ENABLEX (darifenacin hydrobromide). ENABLEX is indicated for the treatment of overactive bladder with symptoms of urge urinary incontinence, urgency, and frequency. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ENABLEX (U.S. Patent No. 5,096,890) from Novartis International Phamaceutical Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 8, 2005, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of ENABLEX represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ENABLEX is 3,824 days. Of this time, 3,073 days occurred during the testing phase of the regulatory review period, while 751 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: July 6, 1994. The applicant claims June 13, 1994, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was July 6, 1994, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: December 3, 2002. The applicant claims December 30, 2002, as the date the new drug application (NDA) for ENABLEX (NDA 21–513) was initially submitted. However, FDA records indicate that NDA 21–513 was submitted on December 3, 2002.

3. *The date the application was approved*: December 22, 2004. FDA has verified the applicant's claim that NDA 21–513 was approved on December 22, 2004.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2,298 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see *ADDRESSES*) written or electronic comments and ask for a redetermination by March 31, 2006. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by July 31, 2006. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 5, 2006.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E6–1072 Filed 1–27–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004E–0021]

Determination of Regulatory Review Period for Purposes of Patent Extension; XOLAIR

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for XOLAIR and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human biological product.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–013), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 240–453–6681.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human biological product XOLAIR (omalizumab). XOLAIR is indicated for adults and adolescents (12 years of age and above) with moderate to severe persistent asthma who have a positive

skin test or in vitro reactivity to a perennial aeroallergen and whose symptoms are inadequately controlled by inhaled corticosteroids. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for XOLAIR (U.S. Patent No. 6,267,958) from Genentech, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 8, 2005, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of XOLAIR represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for XOLAIR is 3,440 days. Of this time, 2,329 days occurred during the testing phase of the regulatory review period, while 1,111 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: January 20, 1994. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on January 20, 1994.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act*: June 5, 2000. The applicant claims June 2, 2000, as the date the product license application (BLA) for XOLAIR (BLA 103976/0) was initially submitted. However, FDA records indicate that BLA 103976/0 was submitted on June 5, 2000.

3. *The date the application was approved*: June 20, 2003. FDA has verified the applicant's claim that BLA 103976/0 was approved on June 20, 2003.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 463 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by March 31, 2006. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by July 31, 2006. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 6, 2006.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E6–1078 Filed 1–27–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anti-Infective Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Anti-Infective Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 6, 2006, from 8:30 a.m. to 5 p.m.

Location: Food and Drug Administration, Center for Drug Evaluation and Research, Advisory Committee Conference Room, rm. 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Cathy A. Groupe, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093) Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *GroupeC@cder.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512530. Please call the information line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug application (NDA) 21–572/S–008, CUBICIN (daptomycin for injection 500 mg/vial), Sponsor Cubist Pharmaceuticals, for the proposed indication of the treatment of *Staphylococcus aureus* bacteremia, including those with known or suspected endocarditis caused by methicillin-susceptible and methicillin-resistant strains.

The background material will become available no later than the day before the meeting and will be posted on FDA's Web site at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm* under heading ''Anti-Infective Drugs Advisory Committee (AIDAC).'' (Click on the year 2006 and scroll down to AIDAC meetings.)

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by February 27, 2006. Oral presentations from the public will be scheduled between 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before February 27, 2006, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Cathy A. Groupe at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 20, 2006.

Jason Brodsky,

Acting Associate Commissioner for External Relations.

[FR Doc. E6–1069 Filed 1–27–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Blood Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 9, 2006, from 8 a.m. to 5 p.m. and March 10, 2006, from 8:30 a.m. to 4:30 p.m.

Location: Hilton Hotel Washington DC North/ Gaithersburg, 620 Perry Pkwy., Gaithersburg, MD 20877.

Contact Person: Donald W. Jehn, or Pearline K. Muckelvene, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014519516. Please call the Information Line for up-to-date information on this meeting.

Agenda: On March 9, 2006, in the morning the committee will hear updates on the following topics: (1) Summary of the Department of Health and Human Services Advisory Committee on Blood Safety and Availability January 2006 meeting; (2) current considerations for blood donor screening for West Nile Virus; (3) classification of transfusion recipient identification (ID) systems; and (4) summary of the workshop on behavior-based donor deferrals in the Nucleic Acid Test (NAT) era. The committee will then discuss rapid tests for detection of bacterial contamination of platelets. In the afternoon, the committee will discuss public comments on the ''Guidance for Industry and FDA Review Staff: Collection of Platelets by Automated Methods (DRAFT).'' On March 10, 2006, in the morning the committee will discuss proposed studies to support the approval of over-the-counter (OTC) home-use human immunodeficiency virus (HIV) test kits. In the afternoon, the committee will hear an overview of the research programs of the Office of Blood Research and Review, Center for Biologics Evaluation and Research (CBER), as presented to a subcommittee of the Blood Products Advisory Committee during their site visit on July 22, 2005, and discuss a subcommittee report in closed session. Additionally, the committee will hear an overview of the research programs in the Laboratory of Biochemistry and Vascular Biology and the Laboratory of Cellular Hematology, Division of Hematology, Office of Blood Research and Review, CBER and in closed session discuss the report from the laboratory site visit of October 6, 2005.

Procedure: On March 9, 2006, the meeting is open to the public. On March 10, 2006, from 8:30 a.m. to 3:15 p.m. and again from 4:15 p.m. to 4:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by February 28, 2006. Oral presentations from the public will be scheduled on March 9, 2006, between approximately 9:45 a.m. to 11:30 a.m. and 2:30 p.m. to 3:30 p.m. On March 10, 2006, oral presentations from the public will be scheduled between approximately 9:30 a.m. to 10:30 a.m. and 2:45 p.m. to 2:55 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before February 28, 2006, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On March 10, 2006, from 3:15 p.m. to 4:15 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)) and to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). The committee will discuss a subcommittee's report of the internal research programs in the Office of Blood Research and Review, CBER. In addition, the committee will discuss the site visit report for the Laboratory of Biochemistry and Vascular Biology and Laboratory of Cellular Hematology, Division of Hematology, Office of Blood Research and Review, CBER.

Following this closed session, the committee will provide summarized comments regarding the Office Site Visit Report in an open public session.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Donald W. Jehn or Pearline K. Muckelvene at least 7 days in advance of the meeting. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 20, 2006.

Jason Brodsky,

Acting Associate Commissioner for External Relations.

[FR Doc. E6–1075 Filed 1–27–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request Evaluation of the Impact of the New Conflicts of Interest Regulations on the National Institutes of Health's Ability To Recruit and Retain Staff

Summary: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Office of Human Resources (OHR) of the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: Evaluation of the Impact of the Conflicts of Interest Regulations on the National Institutes of Health's Ability to Recruit and Retain Staff. *Type of Information Collection Request:* New Collection. *Need and Use of Information Collection:* To assess the impact of new Department of Health and Human Services (HHS) ethics regulations on the NIH's ability to continue to attract and recruit highly qualified scientific personnel. This information collection

is essential to the mission of the NIH [42 U.S.C. 241 and 282(b)(1)]. In December 2003, the House Energy and Commerce Committee raised concerns about potential conflicts of interest at NIH. In response to these concerns, the NIH Director, Dr. Elias Zerhouni, ordered an internal investigation into consulting agreements at NIH and in June 2004 proposed changes to the agency's conflict-of-interest policies. Effective February 3, 2005, the new regulations (5 CFR Parts 5501 and 5502, ''Supplemental Standards of Ethical Conduct and Financial Disclosure Requirements for Employees of the Department of Health and Human Services,'' FR Vol. 70, No. 22, Thursday, February 3, 2005, 5543–5565, and Vol. 70, No. 168, Wednesday, August 31, 2005, 51559–51574) apply to all NIH employees and, among other things, place limits on certain financial holdings of the most senior NIH employees, their spouses, and minor children and on certain outside activities in which NIH staff may engage. Gauging both the immediate and longer term impact of these new rules is crucial to NIH's ability to develop and maintain a world-class staff. This project will produce data that will help NIH and HHS leaders determine the impact of the regulations and how to minimize the effect of the regulations on NIH's ability to recruit and retain staff. NIH intends to survey potential applicants for NIH employment from scientific organizations from which NIH has traditionally drawn leading scientific personnel, and those senior scientists and administrators who have voluntarily left NIH since February 2005. This will allow NIH to determine whether the regulations impact individuals' attitudes about employment at NIH and the likelihood of their joining and/or leaving the agency.

Frequency of Response: One time. *Affected Public:* Individuals and households. *Type of Respondent:* Highly trained and qualified scientists engaged in medicine and life sciences research. The annual reporting burden is as follows: *Estimated Number of Respondents:* 500; *Estimated Number of Responses per Respondent:* One; *Average Burden Hours Per Response:* 15 minutes; and *Estimated Total Annual Burden Hours Requested:* 117 hours. The annualized cost to respondents is estimated at $3,850. There are no Capital Costs, Operating Costs, or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate 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) 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; (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 the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

For More Information or to Direct Comments: To submit comments, to request more information on the proposed project, or to obtain a copy of the data collection plans and instruments, contact Mr. Richard M. Taffet, Acting Director, Client Services Division; Office of Human Resources, Office of the Director, National Institutes of Health, Room 2–D234, East Jefferson Street, Bethesda, MD 20892–8502, or call the non-toll-free number (301) 402–6627, or e-mail your comments or request, including your address, to: *taffetr@mail.nih.gov.*

Dated: January 23, 2006.

Raynard S. Kington,

Deputy Director, National Institutes of Health.

[FR Doc. 06–845 Filed 1–27–06; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, SBIR Topic 208 (Phase I) ''Targetry Systems for Production of Research Radionucleides''.

Date: February 23, 2006.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: C. Michael Kerwin, PhD, MPH, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8057, MSC 8329, Bethesda, MD 20892–8329, 301–496–7421, *kerwinm@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 23, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–846 Filed 1–27–06; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, SBIR Topic 207 (Phase I) ''Synthesis Modules for Radiopharmaceutical Production''.

Date: February 22, 2006.
Time: 12 p.m. to 4 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: C. Michael Kerwin, PhD, MPH, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8057, MSC 8329, Bethesda, MD 20892–8329, 301–496–7421, *kerwinm@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 23, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–848 Filed 1–27–06; 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 commerical 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 Special Emphasis Panel, Breast Cancer Registries.
Date: February 24, 2006.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6130 Executive Blvd., EPN J, Rockville, MD 20852.
Contact Person: Gerald G. Lovinger, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8101, Rockville, MD 20892–7405, 301/496–7987.

(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 23, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–849 Filed 1–27–06; 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 Special Emphasis Panel. ''The Therapy of AML.''
Date: February 28, 2006.
Time: 8 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Wlodek Lopaczynski, PhD, MD, Scientific Review Administrator, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8133, Bethesda, MD 20892. 301–594–1402. *lopacw@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 23, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–850 Filed 1–27–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel HIV Vaccine Design and Development Teams—RFP–P–NIAID–DAIDS–BAA–06–19–ZAI1–CCH–AA–C1.
Date: February 16–17, 2006.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Contact Person: Clayton C. Huntley, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *ch405t@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 23, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–847 Filed 1–27–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meetings

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 meetings.

The meetings 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 Institute of Dental and Craniofacial Research Special Emphasis Panel 06–56, Review K23.

Date: February 7, 2006.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Soheyla Saadi, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN32A, National Institute of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892, (301) 594–4805, *saadisoh@nidcr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 06–57, Review R03.

Date: February 21, 2006.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Soheyla Saadi, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN32A, National Institute of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892, (301) 594–4805, *saadisoh@nidcr.nih.gov*.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 06–49, Review RFA DE–06–003.

Date: March 2–3, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: H. George Hausch, PhD, Acting Director, 45 Center Dr., Natcher Building, Rm 4AN44F, National Institute of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892, (301) 594–2904, *george_hausch@nih.gov*.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 06–36, Review Clinical U01s (Group 2).

Date: March 20, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lynn M. King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN–32F, National Institute of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, (301) 594–5006, *lynn.king@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 23, 2006.

Anna Snouffer,

Acting Director, Office of Federal advisory Committee Policy.

[FR Doc. 06–851 Filed 1–27–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Targeted Capacity Expansion Grants for Jail Diversion Program Evaluation—In Use Without Approval

The Substance Abuse and Mental Health Services Administration's (SAMHSA), Center for Mental Health Services (CMHS) has implemented the Targeted Capacity Expansion Grants for Jail Diversion Programs. CMHS has developed a set of client outcome measures that will be collected over the length of the program.

Each jail diversion program participant has been approached to request their consent for participation. The main components of the baseline, 6- and 12-month interviews are Government Performance and Results Act (GPRA) measures. In addition to GPRA measures, the interviews include the following measures:

- DC Trauma Collaboration Study Violence and Trauma Screening to gauge traumatic events in the past year and lifetime (Baseline only)
- Colorado Symptom Index 1991 to gauge symptoms of mental illness (All interviews)
- Perceived Coercion Scale (from MacArthur Mandated Community Treatment Survey) to enter jail diversion programs (Baseline only)
- Mental Health Statistics Improvement Program quality of life measures (6 and 12 months only)
- Service use (6 and 12 months only)

In addition to data collected through interviews, grantees will collect the following information and will report it to the Technical Assistance and Policy Analysis (TAPA) Center:

- Events Tracking: This program captures the volume of activities (''events'') that jail diversion programs engage in to determine whom the program will serve.
- Person Tracking: This program is designed to record basic information on all individuals who are diverted and served with grant funds. It also helps grantees keep track of interview dates for those program participants who agree to take part in the evaluation.
- Service Use: Grantees collect self-reported data on services provided or information from official sources, such as statewide/agency management information systems or other agency records about the types of services received following diversion. This data must be provided to the TAPA Center.
- Arrest and Jail Days Data: Grantees report arrest and jail days data collected from official sources, such as a statewide criminal justice database, or that have been tracked for themselves for one year prior and one year following diversion.

As mentioned above, grantees collect this data from official sources or self-report data from their programs and submit it to the TAPA Center. This data is reported to the technical assistance provider through an electronic database system or through paper copies. Resulting compiled data is used to provide information of interest to policy makers, researchers, and communities engaged in developing jail diversion programs.

Project: (Title)—Revision

2006 Annual Reporting Burden

Data collection activity	Number of respondents	Responses per respondent	Total responses	Average hours per response	Total hour burden
Client Interviews:					
Baseline (at enrollment) [1]	600	1	600	.75	[2] 288
6 months	480	1	480	.75	[2] 263
12 months	380	1	380	.75	[2] 205
Subtotal	1,460		1,460		756
Record Management by Grantee Staff:					
Events Tracking	16	[3] 2,400	38,400	.03	1,152
Person Tracking	16	50	800	.10	[4] 52
Service Use [5]	16	25	400	.17	68
Arrest History [5]	16	25	400	.17	68
Subtotal	64		40,000		1,340
FY2003, FY2004 and FY2005 Grantees:					
Interview and Tracking data submission	16	12	192	.17	33
Overall Total:	1,540		41,652		2,129

[1] Only those program enrollees agreeing to participate in the evaluation receive a Baseline interview.

[2] This estimate is an added burden proportion which is an adjustment reflecting the extent to which programs typically already collect the data items. The formula for calculating the proportion of added burden is: total number of items in the standard instrument, minus the number of core items currently included, divided by the total number of items in the standard instrument. For the TCE Initiative's interviews the estimates were calculated as follows: For the Baseline interview the burden estimate = 450 times 0.64 (the proportion of added burden) = 288. For the 6-Month interview the burden estimate = 360 times 0.73 (the proportion of added burden) = 263. For the 12-Month interview the burden estimate = 285 times 0.72 (the proportion of added burden) = 205.

[3] The number of responses per respondent for the Events Tracking depends on the design of the jail diversion program and can range from a single screening for eligibility to four separate screenings; here 2 responses represents the average number of responses per respondent based on the experience of the previous grantees.

[4] For the Person Tracking program the burden estimate was calculated as follows: 80 times 0.65 (the proportion of added burden) = 52 (see Footnote 2 above for more information about the burden proportion).

[5] Record management forms (Service Use and Arrest) are only completed for those evaluation participants who receive both a Baseline interview and at least one follow-up (6- and/or 12-month) interview.

2007 Annual Reporting Burden

Data collection activity	Number of respondents	Responses per respondent	Total responses	Average hours per response	Total hour burden
Client Interviews:					
Baseline (at enrollment) [1]	330	1	330	.75	[2] 159
6 months	270	1	270	.75	[2] 148
12 months	210	1	210	.75	[2] 114
Subtotal	810		810		421
Record Management by Grantee Staff:					
Events Tracking	9	[3] 2,400	21,600	.03	648
Person Tracking	9	50	450	.10	[4] 29
Service Use [5]	9	25	225	.17	38
Arrest History [5]	9	25	225	.17	38
Subtotal	36		22,500		753
FY2004 and FY2005 Grantees:					
Interview and Tracking data submission	9	12	108	.17	18
Overall Total:	855		23,418		1,192

[1] Only those program enrollees agreeing to participate in the evaluation receive a Baseline interview.

[2] This estimate is an added burden proportion which is an adjustment reflecting the extent to which programs typically already collect the data items. The formula for calculating the proportion of added burden is: total number of items in the standard instrument, minus the number of core items currently included, divided by the total number of items in the standard instrument. For the TCE Initiative's interviews the estimates were calculated as follows: For the Baseline interview the burden estimate = 248 times 0.64 (the proportion of added burden) = 159. For the 6-Month interview the burden estimate = 203 times 0.73 (the proportion of added burden) = 148. For the 12-Month interview the burden estimate = 158 times 0.72 (the proportion of added burden) = 114.

[3] The number of responses per respondent for the Events Tracking depends on the design of the jail diversion program and can range from a single screening for eligibility to four separate screenings; here 2 responses represents the average number of responses per respondent based on the experience of the previous grantees.

[4] For the Person Tracking program the burden estimate was calculated as follows: 45 times 0.65 (the proportion of added burden) = 29 (see Footnote 2 above for more information about the burden proportion).

[5] Record management forms (Service Use and Arrest) are only completed for those evaluation participants who receive both a Baseline interview and at least one follow-up (6- and/or 12-month) interview.

2008 ANNUAL REPORTING BURDEN

Data collection activity	Number of respondents	Responses per respondent	Total responses	Average hours per response	Total hour burden
Client Interviews:					
Baseline (at enrollment) [1]	220	1	220	.75	[2] 106
6 months	180	1	180	.75	[2] 99
12 months	140	1	140	.75	[2] 76
Subtotal	540		540		281
Record Management by Grantee Staff:					
Events Tracking	6	[3] 2,400	14,400	.03	432
Person Tracking	6	50	300	.10	[4] 20
Service Use [5]	6	25	150	.17	26
Arrest History [5]	6	25	150	.17	26
Subtotal	24		15,000		504
FY2005 Grantees:					
Interview and Tracking data submission	6	12	72	.17	12
Overall Total:	570		15,612		797

[1] Only those program enrollees agreeing to participate in the evaluation receive a Baseline interview.

[2] This estimate is an added burden proportion which is an adjustment reflecting the extent to which programs typically already collect the data items. The formula for calculating the proportion of added burden is: total number of items in the standard instrument, minus the number of core items currently included, divided by the total number of items in the standard instrument. For the TCE Initiative's interviews the estimates were calculated as follows: For the Baseline interview the burden estimate = 165 times 0.64 (the proportion of added burden) = 106. For the 6-Month interview the burden estimate = 135 times 0.73 (the proportion of added burden) = 99. For the 12-Month interview the burden estimate = 105 times 0.72 (the proportion of added burden) = 76.

[3] The number of responses per respondent for the Events Tracking depends on the design of the jail diversion program and can range from a single screening for eligibility to four separate screenings; here 2 responses represents the average number of responses per respondent based on the experience of the previous grantees.

[4] For the Person Tracking program the burden estimate was calculated as follows: 30 times 0.65 (the proportion of added burden) = 20 (see Footnote 2 above for more information about the burden proportion).

[5] Record management forms (Service Use and Arrest) are only completed for those evaluation participants who receive both a Baseline interview and at least one follow-up (6- and/or 12-month) interview.

The averages for the three years of evaluations are 988 responses, 26,894 total responses, and 1,373 hours of burden.

Written comments and recommendations concerning the proposed information collection should be sent by March 1, 2006 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: January 24, 2006.

Anna Marsh,

Director, Office of Program Services.

[FR Doc. E6–1093 Filed 1–27–06; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

Title: National Fire Department Census.

OMB Number: 1660–0070.

Abstract: Many data products and reports exist that contain fragmented or estimated information about fire department demographics, and capabilities, but there is no single reference source today that aggregates this data to provide a complete and accurate profile of fire departments in the United States. The U.S. Fire Administration (USFA) [1] receives many requests for information related to fire departments, including total number of departments, number of stations per department, population protected, apparatus and equipment status. The USFA is working to identify all fire departments in the United States to develop and populate a national database that will include information related to demographics, capabilities and activities. The database will be used by USFA to guide programmatic decisions, provide the Fire Service and the public with information about fire departments, to produce mailing lists for USFA publications and other

[1] The U.S, Fire Administration 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.

materials. In the first year of this effort, information was collected from 16,000 fire departments. Since the first year of the collection, an additional 8,000 departments have registered with the census for a total of 24,000 fire departments. This leaves an estimated 9,000 departments still to respond. Additionally, fire departments already registered with the census will be contacted once every five years to provide updates or changes to their census data so that USFA can keep the database as current as possible. Fire departments are able to complete the census form on-line through the USFA Web site, or by filling out a paper census form and faxing the completed form, or sending it in a return envelope.

Affected Public: Federal, State, local, government, volunteer and industrial fire departments.

Number of Respondents: 9,000.

Estimated Time per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 3,750 hours.

Frequency of Response: Once.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs at OMB, Attention: Desk Officer for the Department of Homeland Security/FEMA, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503, or facsimile number (202) 395–7285. Comments must be submitted on or before March 1, 2006.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Chief, Records Management, FEMA, 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

Dated: January 19, 2006.

Darcy Bingham,

Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. E6–1064 Filed 1–27–06; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1616–DR]

North Dakota; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of North Dakota (FEMA–1616–DR), dated November 21, 2005, and related determinations.

DATES: *Effective Date:* January 13, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of North Dakota is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of November 21, 2005:

Slope County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Acting Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–1059 Filed 1–27–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1623–DR]

Oklahoma; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oklahoma (FEMA–1623–DR), dated January 10, 2006, and related determinations.

DATES: *Effective Date:* January 23, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this declared disaster is now November 27, 2005, and continuing.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Acting Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–1061 Filed 1–27–06; 8:45 am]

BILLING CODE 1061–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1623–DR]

Oklahoma; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major

disaster for the State of Oklahoma (FEMA–1623–DR), dated January 10, 2006, and related determinations.

EFFECTIVE DATE: January 10, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 10, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that damage in certain areas of the State of Oklahoma, resulting from an extreme wildfire threat beginning on December 1, 2005, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act). Therefore, I declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance for losses sustained in the designated areas on or after December 1, 2005, Hazard Mitigation assistance throughout the State, and assistance under the Public Assistance program (Category B) for emergency protective measures implemented on or after December 30, 2005, for eligible costs (as determined by FEMA) resulting from wildfires that pose a significant threat to life and property in any county, or portion thereof, to be designated by you in consultation with the State, for as long as such areas are threatened by an urgent danger of such wildfires, and such other forms of assistance under the Stafford Act as you may deem appropriate.

Designation of specific counties eligible for reimbursement will be made on a weekly basis for the duration of the incident, and those designated for approved reimbursements will be based on measurable weather and fire conditions that identify areas threatened by an urgent danger from wildfires.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided for Public Assistance, Hazard Mitigation, and Other Needs Assistance as authorized by the Stafford Act will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Acting Director, under Executive Order 12148, as amended, Philip Parr, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Oklahoma to have been affected adversely by this declared major disaster:

Canadian, Cotton, Garvin, Hughes, Lincoln, Logan, Mayes, Okfuskee, Oklahoma, Pottawatomie, Seminole, and Stephens Counties for Individual Assistance.

All 77 counties in the State of Oklahoma for Public Assistance (Category B) emergency protective measures implemented on or after December 30, 2005, for eligible costs (as determined by FEMA) resulting from wildfires that pose a significant threat to life and property in any county, or portion thereof, to be designated by FEMA in consultation with the State, for as long as such areas are threatened by an urgent danger of such wildfires.

Designation of specific counties eligible for reimbursement under this major disaster will be made on a weekly basis for the duration of the incident, and those designated for approved reimbursements will be based on measurable weather and fire conditions that identify areas threatened by an urgent danger from wildfires.

All counties within the State of Oklahoma are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Acting Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–1063 Filed 1–27–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1620–DR]

South Dakota; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Dakota (FEMA–1620–DR), dated December 20, 2005, and related determinations.

EFFECTIVE DATE: January 17, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of South Dakota is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 20, 2005:

Hand County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Acting Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–1068 Filed 1–27–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1624–DR]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–1624–DR), dated January 11, 2006, and related determinations.

DATES: *Effective Date:* January 11, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 11, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that damage in certain areas of the State of Texas, resulting from an extreme wildfire threat beginning on December 1, 2005, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act). Therefore, I declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance for losses sustained in the designated areas on or after December 1, 2005, Hazard Mitigation assistance throughout the State, and assistance under the Public Assistance program (Category B) for emergency protective measures implemented on or after December 27, 2005, for eligible costs (as determined by FEMA) resulting from wildfires that pose a significant threat to life and property in any county, or portion thereof, to be designated by you in consultation with the State, for as long as such areas are threatened by an urgent danger of such wildfires, and such other forms of assistance under the Stafford Act as you may deem appropriate.

Designation of specific counties eligible for reimbursement will be made on a weekly basis for the duration of the incident, and those designated for approved reimbursements will be based on measurable weather and fire conditions that identify areas threatened by an urgent danger from wildfires.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided for Public Assistance, Hazard Mitigation, and Other Needs Assistance as authorized by the Stafford Act will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Acting Director, under Executive Order 12148, as amended, Sandra Coachman, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster: Callahan, Cooke, Eastland, Erath, Hood, Montague, Palo Pinto, Tarrant, and Wise Counties for Individual Assistance.

All 254 counties in the State of Texas for Public Assistance (Category B) emergency protective measures implemented on or after December 27, 2005, for eligible costs (as determined by FEMA) resulting from wildfires that pose a significant threat to life and property in any county, or portion thereof, to be designated by FEMA in consultation with the State, for as long as such areas are threatened by an urgent danger of such wildfires.

Designation of specific counties eligible for reimbursement will be made on a weekly basis for the duration of the incident, and those designated for approved reimbursements will be based on measurable weather and fire conditions that identify areas threatened by an urgent danger from wildfires.

All counties within the State of Texas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Acting Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–1062 Filed 1–27–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Notice of Adjustment of Statewide Per Capita Threshold for Recommending a Cost Share Adjustment

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: FEMA gives notice that we are increasing the statewide per capita threshold for recommending cost share adjustments for disasters declared on or after January 1, 2006, through December 31, 2006.

DATES: *Effective Date:* January 30, 2006. *Applicability Date:* This notice applies to major disasters declared on or after January 1, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Pursuant to 44 CFR 206.47, FEMA annually adjusts the statewide per capita threshold that is used to recommend an increase of the Federal cost share from seventy-five percent (75%) to not more than ninety percent (90%) of the eligible cost of permanent work under section 406 and emergency work under section 403 and section 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The adjustment to the threshold is based on the Consumer Price Index for All Urban Consumers published annually by the U.S. Department of Labor. For disasters declared on January 1, 2006, through December 31, 2006, the qualifying threshold is $114 of State population.

We base the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 3.4 percent for the 12-month period ended in December 2005. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on January 18, 2006.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030,

Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050, Individual and Household Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Acting Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–1060 Filed 1–27–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5044–N–03]

Notice of Proposed Information Collection for Public Comment: Moving to Work Plans and Reports

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, 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: *Comments Due Date:* March 31, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Aneita Waites, (202) 708–0713, extension 4114, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB 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.

The notice also lists the following information:

Title of Proposal: Moving to Work Plans and Reports.

OMB Control Number: 2577–0216.

Description of the Need for the Information and Proposed Use: Those Housing Agencies participating in the Moving to Work Demonstration program (MTW) that have implemented specific aspects of the demonstration are required to submit MTW plans and reports instead of traditional Public Housing plans. The specific information outlined for the MTW plans and reports is based on requirements from the statute.

Agency Form Number: HUD–50900.

Members of the Affected Public: State or local government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents:

Number of respondents	Frequency of submission	Hours of responses	Burden hours
16	2 annual	40	1280

Status of the Proposed Information Collection: Reinstatement of previously approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended.

Dated: January 19, 2006.

Bessy Kong,

Deputy Assistant Secretary for Policy, Program, and Legislative Initiatives.

[FR Doc. E6–1131 Filed 1–27–06; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft General Management Plan/ Environmental Impact Statement, Chickasaw National Recreation Area, Oklahoma

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Termination of the Environmental Impact Statement for the General Management Plan, Chickasaw National Recreation Area.

SUMMARY: The National Park Service (NPS) is terminating preparation of an Environmental Impact Statement (EIS) for the General Management Plan, Chickasaw National Recreation Area, Oklahoma. A Notice of Intent to prepare the EIS for the Chickasaw National Recreation Area General Management Plan was published in Vol. 67, No. 184, of the September 23, 2002, **Federal Register** (59530). The National Park Service has since determined that an Environmental Assessment (EA) rather than an EIS is the appropriate environmental documentation for the general management plan.

SUPPLEMENTARY INFORMATION: The general management plan will establish the overall direction for the national recreation area, setting broad management goals for managing the area over the next 15 to 20 years. The plan was originally scoped as an EIS. However, few public comments were received in the scoping process. Although several concerns were expressed during the public scoping process, particularly on the future of the recreation area's water resources, no issues were identified for the general management plan that have the potential for controversial impacts.

In the general management planning process the NPS planning team developed three alternatives for the national recreation area, none of which would result in substantial changes in the operation and management of the area. The two action alternatives primarily focus on maintaining and protecting resources, upgrading several existing visitor facilities, addressing park maintenance/operations needs, implementing selected treatments from the recreation area's recent cultural landscape report, and conducting several future studies. The preliminary impact analysis of the alternatives revealed no major (significant) effects on the human environment nor impairment of park resources and values. Most of the impacts to the recreation area's resources and values were negligible to minor in magnitude.

For these reasons the NPS determined the appropriate National Environmental Policy Act documentation for the general management plan is an EA.

DATES: The draft general management plan/EA is expected to be distributed for a 30 day public comment period in the summer/fall of 2006 and a decision is expected be made in the fall of 2006. The NPS will notify the public by mail, Web site, and other means, and will include information on where and how to obtain a copy of the EA, how to comment on the EA, and the length of the public comment period.

FOR FURTHER INFORMATION CONTACT: Connie Rudd, Superintendent, Chickasaw National Recreation Area; 1008 W. 2nd, Sulphur, OK 73086, telephone: (580) 622–2161, extension 1–200; e-mail: *connie_rudd@nps.gov*.

Dated: January 5, 2006.

Michael D. Snyder,

Director, Intermountain Region.

[FR Doc. E6–1101 Filed 1–27–06; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

AGENCY: National Park Service.

ACTION: Notice of Availability of a Draft Environmental Impact Statement for the Great Smoky Mountains National Park, Elkmont Historic District General Management Plan Amendment.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and National Park Service (NPS) policy in Director's Order Number 2 (Park Planning) and Director's Order Number 12 (Conservation Planning, Environmental Impact Analysis, and Decisionmaking) the NPS announces the availability of a Draft Environmental Impact Statement/General Management Plan Amendment (Draft EIS/GMPA) for the Elkmont Historic District within Great Smoky Mountains National Park. The authority for publishing this notice is contained in 40 CFR 1506.6.

The document provides a framework for management, use, and development options for the historic district by the NPS for the next 15 to 20 years. The document describes seven management alternatives for consideration, including a no-action alternative that is tiered to the existing Park GMP, and analyzes the environmental impacts of those alternatives. The Elkmont Historic District is located within the Little River Watershed in Sevier County, Tennessee, approximately 6 miles from the Sugarlands Visitor Center and approximately 8 miles from the city of Gatlinburg, Tennessee.

DATES: There will be a 90-day comment period beginning with the Environmental Protection Agency's publication of its notice of availability in the **Federal Register**.

ADDRESSES: Copies of the Draft EIS/GMPA are available by contacting the Park Superintendent at Great Smoky Mountains National Park, 107 Park Headquarters Road, Gatlinburg, Tennessee 37738. An electronic copy of the Draft EIS/GMPA is available on the Internet at *http://www.nps.gov/grsm/pphtml/documents.html.*

SUPPLEMENTARY INFORMATION: The NPS held public and stakeholder meetings and consulting party meetings as outlined in 36 CFR 800.3 to gather advice and feedback on desired outcomes for the future management of the Elkmont Historic District. The meetings assisted the NPS in developing alternatives for managing the cultural and natural resources, creating interpretive and educational programs and ensuring traditional uses are maintained. Responses from the meetings were incorporated into the alternative described in the plan.

The No-Action Alternative is tiered to the GMP and calls for all structures to be removed and building sites to be returned to a natural state. Alternative A is similar to the No-Action Alternative but proposes active restoration of natural resources upon removal of all structures. Alternative B calls for the retention of 12 buildings for use as a museum community, and the Appalachian Clubhouse for use as a day use facility. Alternative C would retain 17 buildings for use as a museum community, including one cabin granted to a figure prominent in the creation of the National Park, and the Appalachian Clubhouse for use as a day use facility. Alternative D adds to the number of buildings retained and uses described in Alternative C by retaining 18 cabins for use as a museum community, including an additional building associated with a prominent figure from the Lumber Company that operated during the period of significance. Additionally, six cabins would be retained for overnight administrative use by visiting scientists participating in Park research programs, also included would be two options for the Wonderland Hotel and Annex, by either removing both or reconstructing the hotel and rehabilitating the annex for Park curatorial use for cultural resource collections. Alternative E would retain 17 buildings for use as a museum community and the Appalachian Clubhouse for use as a day use picnic facility. Additionally, six buildings would be retained for overnight use by visiting scientists as described in Alternative D and seven cabins would be retained for overnight use by visiting public operated by a private concessionaire. Two options for the Wonderland Hotel and Annex include either removing both or reconstructing the hotel and rehabilitating the annex for lodging by the visiting public also operated by a private concessionaire. Alternative F proposes retaining 17 buildings for use as a museum community and the Appalachian Clubhouse for use as a day use facility. In this alternative, 37 buildings would be retained for lodging by visiting public operated by a private concessionaire. Two options for the Wonderland Hotel and Annex include either removing both or reconstructing the hotel and rehabilitating the annex for lodging by the visiting public also operated by a private concessionaire. Alternative C is both the environmentally preferred and the agency preferred alternative.

Following the public comment period, all comments will be available for public review during regular business hours. 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. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your

name and/or address, you must state this prominently at the beginning of your comment. 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.

FOR FURTHER INFORMATION CONTACT: Ian Shanklin at 865–436–1318, or Amy Wirsching at 404–562–3124, extension 607.

The responsible official for this Draft EIS/GMPA is Patricia A. Hooks, Regional Director, Southeast Region, National Park Service, 100 Alabama Street, SW., 1924 Building, Atlanta, Georgia 30303.

Dated: December 7, 2005.

Patricia A. Hooks,

Regional Director, Southeast Region.

[FR Doc. 06–838 Filed 1–27–06; 8:45 am]

BILLING CODE 4310–8A–M

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan and Environmental Impact Statement, New River Gorge National River, WV

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Intent to prepare a General Management Plan and Environmental Impact Statement for New River Gorge National River.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), the National Park Service (NPS) announces its intent to prepare a General Management Plan and Environmental Impact Statement (GMP/EIS) for the New River Gorge National River, located in Fayette, Raleigh, and Summers Counties of southern West Virginia. The GMP will allow the park to develop a unified approach to managing the major changes in and adjacent to the park since the 1982 GMP was prepared, to focus on protecting park natural, cultural, and scenic resources, and to identify opportunities to facilitate appropriate forms of visitor education, interpretation and use. The GMP will provide an opportunity to inform the public regarding the park's significance and resources, and develop partnerships with various stakeholder groups for their preservation. Prepared by NPS staff at the park and the Northeast Region, and with the assistance of consultants, the GMP/EIS will propose a long-term approach to managing the New River Gorge National River.

FOR FURTHER INFORMATION CONTACT: Calvin Hite, Superintendent, New River Gorge National River, 104 Main Street, P.O. Box 246, Glen Jean, WV 25846, (304) 465–0508.

SUPPLEMENTARY INFORMATION: Consistent with the park's mission, NPS policy, and other laws and regulations, alternatives will be developed to guide the management of the national river over the next 15 to 20 years. The alternatives will incorporate various zoning and management prescriptions to ensure resource protection and public enjoyment of the national river. As a part of the process, the potential for wilderness will be assessed; if any areas are found to be potentially suitable, they will be considered as a part of the GMP/EIS. The environmental consequences that could result from implementing the various alternatives will be evaluated in the GMP/EIS. The public will be invited to express opinions about the management of the park early in the process through public meetings and other media and will have an opportunity to review and comment on the draft GMP/EIS. Following the public review processes outlined under NEPA, the final plan will become official, authorizing implementation of a preferred alternative. The target date for the Record of Decision is October 2007.

Dated: December 19, 2005.

Calvin Hite,

Superintendent, New River Gorge National River.

[FR Doc. E6–1102 Filed 1–27–06; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware Water Gap National Recreation Area Citizen Advisory Commission Meeting

AGENCY: National Park Service; Interior.

ACTION: Notice of public meetings.

SUMMARY: This notice announces three public meetings of the Delaware Water Gap National Recreation Area Citizen Advisory Commission. Notice of these meetings is required under the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2).

DATES: Saturday, March 11, 2006, 7 p.m.

ADDRESSES: Bushkill Meeting Center, Route 209, Bushkill, PA 18324.

The agenda will include reports from Citizen Advisory Commission members including committees such as Recruitment, Natural Resources, Inter-Governmental, Cultural Resources, By-Laws, Special Projects, and Public Visitation and Tourism. Superintendent John J. Donahue will give a report on various park issues, including cultural resources, natural resources, construction projects, and partnership ventures. The agenda is set up to invite the public to bring issues of interest before the Commission.

DATES: Saturday, March 11, 2006, Immediately following preceeding meeting.

ADDRESSES: Bushkill Meeting Center, Route 209, Bushkill, PA 18324.

The agenda will include the annual election of officers for the 2006–2007 term.

DATES: Thursday, May 4, 2006, 7 p.m.

ADDRESSES: Pequest Trout Hatchery and Natural Resource Education Center, 605 Pequest Rd., Oxford, NJ 07863.

The agenda will include reports from Citizen Advisory Commission members including committees such as Recruitment, Natural Resources, Inter-Governmental, Cultural Resources, By-Laws, Special Projects, and Public Visitation and Tourism. Superintendent John J. Donahue will give a report on various park issues, including cultural resources, natural resources, construction projects, and partnership ventures. The agenda is set up to invite the public to bring issues of interest before the Commission.

FOR FURTHER INFORMATION CONTACT: Superintendent John J. Donahue, 570–588–2418.

SUPPLEMENTARY INFORMATION: The Delaware Water Gap National Recreation Area Citizen Advisory Commission was established by Public Law 100–573 to advise the Secretary of the Interior and the United States Congress on matters pertaining to the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the recreation area and its surrounding communities.

John J. Donahue,

Superintendent.

[FR Doc. E6–1100 Filed 1–27–06; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

Golden Gate National Recreation Area Notice of Public Meetings for Calendar Year 2006

Notice is hereby given that public meetings of the Golden Gate National

Recreation Area will be scheduled in calendar year 2006 to hear presentations on issues related to management of the Golden Gate National Recreation Area. These public meetings are scheduled for the following dates in San Francisco and at locations yet to be determined in San Mateo County and Marin County, California:

Tuesday, February 28, 7 p.m., Park Headquarters, Fort Mason, San Francisco, CO.

Tuesday, May 16, 7 p.m., Marin County, CA location (TBA).

Possible date in June or July (TBA), Marin County, CA location (TBA).

Tuesday, September 19, 7 p.m., Pacifica, CA location (TBA).

Tuesday, November 28, 7 p.m., Park Headquarters, Fort Mason, San Francisco, CA.

All public meetings will be held at 7 p.m. at the scheduled locations to be announced (TBA). Information confirming the time and location of all public meetings or cancellations of any meetings can be received by calling the Office of the Public Affairs at (415) 561–4733. Public meeting agendas and all documents for public scoping and public comment on issues listed below can be found on the park Web site at *http://www.nps.gov/goga.*

Anticipated possible agenda items at meetings during calendar year 2006 include:

- Redwood Creek Coastal Wetland Restoration Project (Big Lagoon Wetland and Creek Restoration Project) Draft Environmental Impact Statement [DEIS].
- Marin Headlands—Fort Baker Transportation Plan Draft Environmental Impact Statement [DEIS].
- Golden Gate National Recreation General Management Plan Update Draft Environmental Impact Statement [DEIS].
- San Francisco Muni E-Line Extension Project Environmental Impact Statement [EIS].
- GGNRA Dog Management Plan.
- Crissy Marsh Expansion Project NEPA Document.
- Mori Point Trail and Restoration Plan Environmental Assessment [EA].
- Dias Ridge and Coast View Trails Rehabilitation and Access Improvement Project Environmental Assessment [EA].
- Maintenance Facility Interim Relocation Project Environmental Assessment [EA].
- Equestrian Planning Project Environmental Assessment [EA].
- Lower Redwood Creek Restoration Project Environmental Assessment [EA].
- Headlands Institute Campus Improvement Project Environmental Assessment [EA].
- Tennessee Valley Trail Improvement Project.

These meetings will also contain Superintendent's Reports on timely park issues and events. Each meeting will be conducted by a facilitator and a verbatim transcript will be prepared by a court reporter. Specific final agendas for these meetings will be made available to the public at least 15 days prior to each meeting and can be received by contacting the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123 or by calling (415) 561–4733. They are also noticed on the Golden Gate National Recreation Area Web site *http://nps.gov/goga* under the section ''Public Meetings''.

All meetings are open to the public. They will be recorded for documentation and transcribed for dissemination. Sign language interpreters are available by request at least one week prior to a meeting. The TDD phone number for these requests is (415) 556–2766. A verbatim transcript will be available three weeks after each meeting. For copies of the agendas contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123, or call (415) 561–4733.

Dated: December 16, 2005.

Mai Liis Bartling,

Acting General Superintendent, Golden Gate National Recreation Area.

[FR Doc. 06–837 Filed 1–27–06; 8:45 am]

BILLING CODE 4312–FN–M

DEPARTMENT OF THE INTERIOR

National Park Service

Kaloko-Honokohau National Historical Park; Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Na Hoapili O Kaloko Honokohau, Kaloko-Honokohau National Historical Park Advisory Commission will be held at 9 a.m., February 10, 2006 at Kaloko-Honokohau National Historical Park headquarters, Kailua-Kona, Hawaii.

The agenda will include a site visit on the proposed Live-In Cultural/Education Center.

The meeting is open to the public. Persons requiring special assistance should contact the Superintendent at (808) 329–6881 ext 7, 7 days prior to the meeting.

Minutes will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. Transcripts will be available after 30 days of the meeting.

For copies of the minutes, contact Kaloko-Honokohau National Historical Park at (808) 329–6881.

Dated: January 4, 2006.

Geraldine K. Bell,

Superintendent, Kaloko-Honokohau National Historical Park.

[FR Doc. 06–836 Filed 1–27–06; 8:45 am]

BILLING CODE 4312–BH–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Meeting of the Yakima River Basin Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, WA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: As required by the Federal Advisory Committee Act, notice is hereby given that the Yakima River Basin Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, Washington, established by the Secretary of the Interior, will hold a public meeting. The purpose of the Conservation Advisory Group is to provide technical advice and counsel to the Secretary of the Interior and Washington State on the structure, implementation, and oversight of the Yakima River Basin Water Conservation Program.

DATES: Tuesday, February 28, 2006, 9 a.m.–4 p.m.

ADDRESSES: Bureau of Reclamation Office, 1917 Marsh Road, Yakima, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. James Esget, Manager, Yakima River Basin Water Enhancement Project, 1917 Marsh Road, Yakima, Washington 98901; 509–575–5848, extension 267.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to review the staff reports requested at the last meeting and provide program oversight. This meeting is open to the public.

Dated: January 9, 2006.

James Esget,

Program Manager.

[FR Doc. 06–783 Filed 1–27–06; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interactive Advertising Bureau

Notice is hereby given that, on December 29, 2005, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1933, 15 U.S.C. 4301 et seq. (''the Act''), Interactive Advertising Bureau (''IAB'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, IAM has recently completed the development of standards for Broadband Ad Creative Guidelines and is currently developing standards for Nomenclature.

On September 17, 2004, IAB field its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 21, 2004 (69 FR 61868).

The last notification was filed with the Department on January 4, 2005. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on February 11, 2005 (70 FR 7307).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 06–819 Filed 1–27–05; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Notice of Appeal to the Board of Immigration Appeals from a Decision of a USCIS Officer.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and 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 31, 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 MaryBeth Keller, General Counsel, Executive Office for Immigration Review, U.S. Department of Justice, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 22041; telephone: (703) 305–0470.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Notice of Appeal to the Board of Immigration Appeals from a Decision of a USCIS Officer.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form EOIR–29, Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: A party who appeals a decision of a USCIS officer to the Board of Immigration Appeals (Board). Other: None. Abstract: A party affected by a decision of a USCIS officer may appeal that decision to the Board, provided that the Board has jurisdiction pursuant to 8 CFR 1003.1(b). The party must complete the Form EOIR–29 and submit it to the USCIS office having administrative control over the record of proceeding in order to exercise its regulatory right to appeal.

(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 2,971 respondents will complete the form annually with an average of thirty minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1485.5 total burden hours associated with this collection annually.

If additional information is required, contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 25, 2006.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E6–1118 Filed 1–27–06; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting Notice No. 1–06]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME: Thursday, February 9, 2006, at 11 a.m.

SUBJECT MATTER: (1) Issuance of Proposed Decisions in claims against Albania.

(2) Issuance of Proposed Decisions in claims against Cuba.

STATUS: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement

Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Mauricio J. Tamargo,

Chairman.

[FR Doc. 06–875 Filed 1–26–06; 11:10 am]

BILLING CODE 4410–01–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

January 24, 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 contacting 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 Employment Standards Administration (ESA), 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 Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Optional Use Payroll Form under the Davis-Bacon Act.

OMB Number: 1215–0149.

Form Number: WH–347.

Frequency: Weekly.

Type of Response: Reporting and Recordkeeping.

Affected Public: Business or other for-profit; Federal Government; and State, Local, or Tribal Government.

Number of Respondents: 54,620.

Annual Reponses: 5,025,040.

Average Response Time: 56 minutes.

Total Annual Burden Hours: 4,700,000.

Total Annualized Capital/startup Costs: $0.

Total Annual Costs (Operating/maintaining Systems or Purchasing Services): $211,052.

Description: The Copeland Act (40 U.S.C. 3145) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to ''furnish weekly a statement with respect to the wages paid each employee during the preceding week.'' Regulations 29 CFR 5.5(a)(3)(ii) requires contractors weekly to submit a copy of all payrolls to the Federal agency contracting for or financing the construction project. A signed ''Statement of Compliance'' indicating the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon Act prevailing wage rate for the work performed must accompany the payroll.

Regulations 29 CFR 3.3(b) requires each contractor to furnish such weekly ''Statements of Compliance.'' Regulations 29 CFR 5.5(a)(3)(i) requires the Social Security Number of each employee on such payrolls.

Regulations 29 CFR 3.4 and 5.5(a)(3)(i) require contractors to maintain these records for three years after completion of the work. Contractors and subcontractors must certify their payrolls by attesting that persons performing work on Davis-Bacon and Related Acts (DBRA) covered contracts have received the proper payment of wages and fringe benefits. Contracting officials and Wage and Hour Division staff use these certified payrolls to verify that contractors pay the required rates and as an aid in determining whether the contractors have properly classified the workers for the work they perform. The DOL has developed the optional use Form WH–347, Payroll Form, which contractors may use to meet the payroll reporting requirements. The form contains the basic payroll information that contractors must furnish each week they perform any work subject to the DBRA.

Ira L Mills,

Departmental Clearance Officer.

[FR Doc. E6–1132 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,500]

American Greetings, Lafayette, TN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on December 13, 2005 in response to a petition filed by a company official on behalf of workers at American Greetings, Lafayette, Tennessee.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 12th day of January 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–1140 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,978]

B.A.G. Corporation; Winzen Film, Inc.; Better Agriculture Goals; A Division of Super Sack Bag, Inc.; Savoy, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 18, 2005, applicable to workers of B.A.G. Corporation, a Division of Super Sack Bag, Inc., Savoy, Texas. The notice was published in the **Federal Register** on November 9, 2005 (70 FR 68099).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in support

activities for an affiliated plant engaged in the production of flexible intermediate bulk containers (bulk bags).

New information shows that the B.A.G. Corporation, Winzen Film, Inc. and Better Agriculture Goals are divisions of Super Sack Bag, Inc. Workers separated from employment at the subject firm had their wages reported under two separate unemployment insurance (UI) tax accounts for Winzen Film, Inc. and Better Agriculture Goals.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of B.A.G. Corporation, Savoy, Texas who were adversely affected by a shift of production to Mexico.

The amended notice applicable to TA–W–57,978 is hereby issued as follows:

''All workers of B.A.G. Corporation, Winzen Film, Inc. and Better Agriculture, Goals, A Division of Super Sack Bag, Inc., Savoy, Texas who became totally or partially separated from employment on or after September 15, 2004, through October 18, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 18th day of January 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–1137 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,576]

Chemical Products Corporation, Cartersville, GA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 4, 2006 in response to a worker petition filed by a company official on behalf of workers at Chemical Products Corporation, Cartersville, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 17th day of January 2006

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–1143 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,700]

Joy Technologies, Inc.; DBA Joy Mining Machinery; Mt. Vernon Plant; Mt. Vernon, IL; Notice of Negative Determination on Reconsideration

On November 16, 2005, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The Notice of determination regarding Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) was published in the **Federal Register** on December 15, 2005 (70 FR 74373).

The International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Local 483, (''Union'') filed a petition on behalf of workers producing underground mining machinery (*i.e.* shuttle cars, electrical motors, gearboxes, and armored face conveyors) at the subject facility. Workers are not separately identifiable by product line.

The initial investigation revealed that sales and employment at the subject facility increased in 2004 from 2003 levels, that sales remained stable in January through July 2005 over the corresponding 2004 period, and that employment increased during January through July 2005 over the corresponding 2004 period. Company-wide sales increased during January through July 2005 from January through July 2005 levels.

The investigation also revealed that the subject firm did not import articles like or directly competitive with those produced at the subject firm or shift production abroad. The Department determined that the worker separations at the subject firm are attributable to the firm's shift in production from the subject facility to another domestic production facility.

In a letter dated November 3, 2005, two workers and the Union requested administrative reconsideration. The request stated that the subject facility is ''an upstream supplier to the Joy Mining Machinery facility'' located in Franklin, Pennsylvania and alleged that component production is being shifted to Mexico.

While the Union had filed the petition as primarily-affected (affected by imports or production shift of articles produced at the subject facility), the request for reconsideration is based on a secondarily-affected position (affected by loss of business as a supplier/assembler/finisher of products or components for a TAA certified firm). Although the request for reconsideration is beyond the scope of the petition, the Department conducted an investigation to address the workers' and Union's allegations.

As part of the reconsideration investigation, the Department contacted the petitioning workers, Union representatives, and the subject company for additional information and clarification of previously-submitted information.

Joy Mining Machinery, Franklin, Pennsylvania, was certified for TAA on January 19, 2000 (expired January 19, 2002). Because the investigation revealed that employment, sales and production levels at the Franklin, Pennsylvania facility increased during relevant period and TAA certification for Joy Mining Machinery, Franklin, Pennsylvania had expired prior to the relevant period, the workers cannot be certified for TAA as secondarily-affected.

The reconsideration investigation also revealed that the subject company does not have a Mexico facility which produces articles which are like or directly competitive with those produced at the subject facility, that the work at issue is temporary work which was assigned to several subject company facilities (including the Mt. Vernon, Illinois facility) to help meet peak demand, and that the ''overflow'' work was for the production of articles not normally produced at the subject facility. The Department also confirmed that work shifted from the subject facility to an affiliated production facility in Kentucky.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 19th day of January 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance Assistance.

[FR Doc. E6–1134 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,177]

Rexnord Disc Coupling Operation, Coupling Division Warren, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated December 30, 2005, the International Association of Machinists and Aerospace Workers, Lodge No. 2304, (''the Union'') requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The Department's determination was issued on December 16, 2005. The Department's Notice was published in the **Federal Register** on January 5, 2006 (71 FR 620).

The negative determination was based on the findings that company sales and production did not decline from 2003 through 2004, and January through October 2005 over the corresponding 2004 period. The determination also stated that the subject firm shifted plant production to Auburn, Alabama.

In the request for reconsideration, the Union alleges that the subject firm increased imports, is shifting production to China and bringing back the finished product.

The Department carefully reviewed the Union's request for reconsideration and has determined that the Department will conduct further investigation based on new information provided by the Union and a more careful analysis of the record.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 18th day of January 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–1138 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,562]

Scholle Packaging, Rancho Dominguez, CA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on December 30, 2005 in response to a worker petition filed by a company official on behalf of workers at Scholle Packaging, Rancho Dominguez, California.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 17th day of January 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–1141 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,749; TA–W–57,749A]

Slater Screen Print Corporation; Pawtucket, RI; Slater Dye Works, Inc.; Pawtucket, RI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 14, 2005 applicable to workers of Slater Screen Print Corporation, Pawtucket, Rhode Island and Slater Dye Works, Inc., Pawtucket, Rhode Island. The notice was published in the **Federal Register** on October 6, 2005 (70 FR 58477).

The Department voluntarily reviewed the certification for workers of the subject firm. The workers were engaged in the production of printed fabric; they are not separately identifiable by product line.

New findings show that there was a previous certification, TA–W–52,384, issued on September 2, 2003, for workers of Slater Screen Print Corporation, Pawtucket, Rhode Island and Slater Dye Works, Inc., Pawtucket, Rhode Island who were engaged in employment related to the production of printed fabric. That certification expired September 2, 2005. To avoid an overlap in worker group coverage, this certification is being amended to change the impact date for workers of the subject firm from August 15, 2004 to September 3, 2005.

The amended notice applicable to TA–W–57,749 and TA–W–57,749A are hereby issued as follows:

''All workers of Slater Screen Print Corporation, Pawtucket, Rhode Island (TA–W–57,749) and Slater Dye Works, Inc., Pawtucket, Rhode Island (TA–W–57,749A), who became totally or partially separated from employment on or after September 3, 2005, through September 14, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 13th day of January 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–1135 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,838]

Texstyle, Inc.; Manchester, KY; Notice of Revised Determination on Reconsideration

On December 22, 2005, the Department of Labor issued a Notice of Affirmative Determination Regarding Application for Reconsideration applicable to the subject firm. The Notice will soon be published in the **Federal Register**.

During the initial investigation, the Department found that workers did not produce an article or support an affiliated domestic production facility during the relevant period.

During the reconsideration investigation, it was found that production of home furnishings occurred at the subject facility during

the relevant period. The investigation also revealed that the subject facility closed in December 2005 and that subject company imports increased following the production shift abroad.

The August 16, 2005 petition, filed by the subject company, did not request Alternative Trade Adjustment Assistance (ATAA).

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that a shift of production to China followed by increased imports of home furnishings contributed importantly to worker separations at the subject firm.

In accordance with the provisions of the Act, I make the following certification:

''All workers of TexStyle, Inc., Manchester, Kentucky, who became totally or partially separated from employment on or after August 16, 2004, through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed in Washington, DC, this 18th day of January 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–1136 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than February 9, 2006.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than February 9, 2006.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 18th day of January 2006.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

APPENDIX

TAA petitions instituted between 1/2/06 and 1/6/06

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
58565	WS Packaging Group Inc. (Wkrs)	Olyphant, PA	01/03/06	01/03/06
58566	Pentair Pool Products, Inc. (State)	Moorpark, CA	01/03/06	12/29/05
58567	Moldex Tool (Wkrs)	Meadville, PA	01/03/06	12/30/05
58568	ARC Automotive, Inc. (Comp)	Camden, AR	01/03/06	01/03/06
58569	OBG Distribution Company, LLC (State)	Celina, TN	01/04/06	01/03/06
58570	Sierra Manufacturing Group, LLC (Comp)	Pocola, OK	01/04/06	01/03/06
58571	Parlex Corporation (State)	Methuen, MA	01/04/06	01/04/06
58572	Colgate Palmolive Corp. (Wkrs)	Clarksville, IN	01/04/06	01/03/06
58573	Molex (Comp)	Auburn Hills, MI	01/04/06	12/21/05
58574	Foamex LP (Comp)	Compton, CA	01/04/06	01/04/06
58575	Lear Corporation (UAW)	Marshall, MI	01/04/06	01/03/06
58576	Chemical Products Corporation (Comp)	Cartersville, GA	01/04/06	12/12/05
58577	Dystar LP (Wkrs)	Charlotte, NC	01/04/06	12/09/05
58578	Bekaert Corporation (Comp)	Muskegon, MI	01/04/06	01/04/06
58579	Easthampton Dye Works, Inc. (Wkrs)	Easthampton, MA	01/05/06	01/04/06
58580	Dana Corporation (Wkrs)	Buena Vista, VA	01/05/06	01/04/06
58581	Bernhardt Furniture Company (State)	Lenoir, NC	01/05/06	01/04/06
58582	Esselte Corporation (Wkrs)	Union, MO	01/05/06	01/04/06
58583	Air Products and Chemicals, Inc. (Comp)	Pace, FL	01/05/06	01/05/06
58584	Vaughan Furniture Co., Inc. (Comp)	Galax, VA	01/05/06	01/05/06
58585	Goodyear Tire and Rubber Company (USW)	St. Marys, OH	01/05/06	01/05/06
58586	Norgren (Comp)	Littleton, CO	01/06/06	01/04/06
58587	Native Textiles, Inc. (Comp)	Queensbury, NY	01/06/06	01/05/06
58588	EiC Corporation (State)	Santa Clara, CA	01/06/06	01/03/06
58589	Cooper Standard Automotive (Comp)	Griffin, GA	01/06/06	01/04/06
58590	Groveton Paper Board, Inc. (Comp)	Groveton, NH	01/06/06	01/05/06
58591	Western Textile Products Co. (Comp)	Piedmont, SC	01/06/06	01/06/06
58592	Stratcor, Inc. (Comp)	Niagara Falls, NY	01/06/06	01/06/06

[FR Doc. E6–1142 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,301]

Xerox Corporation, Xerox Office Group, Wilsonville, OR; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Xerox Corporation, Xerox Office Group, Wilsonville, Oregon. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA–W–58,301; Xerox Corporation, Xerox Office Group, Wilsonville, Oregon (January 20, 2006).

Signed at Washington, DC this 20th day of January 2006.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E6–1139 Filed 1–27–06; 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: Application for Certificate to Employ Homeworker (WH–46), Piece Rate Measurements, and Homeworker Handbooks (WH–75). 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 31, 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 *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, fax, or E-mail).

SUPPLEMENTARY INFORMATION:

I. Background

Fair Labor Standards Act (FLSA) § 11(d) authorizes the Secretary of Labor to regulate, restrict, or prohibit industrial homework as necessary to prevent evasion of the minimum wage requirements of the Act. Restrictions exist on seven homework industries, (knitted outerwear, women's apparel, jewelry manufacturing, gloves and mittens, button and buckle manufacturing, handkerchief manufacturing, and embroideries). DOL permits individual industrial homework in these restricted industries only if a special homework certificate is in effect or in certain hardship cases. Homework has always been permitted under the FLSA in all other industries; provided, the employer maintains homeworker handbooks for such employees recording their hours of work and other required payroll information. Form WH–46, Application to Employ Homeworkers, provides the Wage Hour Division (WHD) with a means of identifying employers of homeworkers, and individual workers, in the restricted industries who may not be identified otherwise. The Piece Rate Measurement requires that employers record and retain documentation of the method used to establish pieces rates is necessary so that WHD can verify that rates were properly determined and will result in wage payments to homeworkers at a rate at least equal to the FLSA minimum wage for all hours worked in the work week. Form WH–75, Homeworker Handbook is used to insure that employers fulfill their obligation to obtain and record accurate hours worked information whenever they distribute homework to employees and collect it from them, homeworkers record the information as they perform the work. Individual homeworkers retain their own handbooks until completely filled-in and then return them to the employer. This information collection is currently approved for use through August 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 for the extension of this information collection in order to insure employees are paid in compliance with the Fair Labor Standards Act (FLSA).

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Application to Employ Homeworkers Piece Rate Measurements, Homeworker Handbooks.

OMB Number: 1215–0013.

Agency Number: WH–46 and WH–75.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Total Respondents (Recordkeeping and Reporting): 377,606.

Total Responses (Recordkeeping and Reporting): 1,208,195.

Time per Response: 30 minutes.

Frequency: On Occasion.

Estimated Total Burden Hours (Recordkeeping and Reporting): 614,241.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Title	Form No.	No. of respondents	No. of responses	Avg. time per response (minutes)	Burden hours
Reporting Burden:					
Application To Employ Homeworkers	WH–46	50	25	30	12.5
Homeworker Handbooks	WH–75	302,005	1,208,020	30	604,010
Recordkeeping Burden:					
Piece Rate Measurement		50	150	60.5	151.25
Homeworker Handbooks		75,501	1,208,020	.5	10,067
Total		377,606	1,208,195		614,241

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 25, 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. E6–1133 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 1218–0200(2006)]

Process Safety Management of Highly Hazardous Chemicals Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements specified by its Process Safety Management of Highly Hazardous Chemicals Standard (29 CFR 1910.119).

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted by March 31, 2006.

Facsimile and electronic transmission: Your comments must be received by March 31, 2006.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0200(2006), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., e.t.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov.* In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Theda Kenney at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The collections of information in the Standard are necessary for implementation of the requirements of the standard. The information is used by employers to assure that processes using highly hazardous chemicals with the potential of a catastrophic release are operated as safely as possible. The employer must thoroughly consider all facets of a process, as well as the involvement of employees in that process. Employers analyze processes so that they identify and control problems that could lead to a major release, fire, or explosion. The following sections describe who uses the information collected under each requirement, as well as how they use it.

(A) Employee Participation (paragraph (c)). Employers are required by paragraph (c)(1) to develop a written plan of action regarding the implementation of the employee participation required by this paragraph. Paragraph (c)(2) requires employers to consult with employees and their representatives on the conduct and development of process hazard analyses and on the development of the other elements of process safety management in the Standard. Under paragraph (c)(3) employers must provide access to process hazard analyses to employees and their representatives.

(B) Process Safety information (paragraph (d)). Paragraph (d) requires employers to complete a compilation of written process safety information prior to conducting a process hazard analysis. The compilation of written process

safety information, which includes information on the hazards of chemicals, the technology of the process, and the equipment is to enable the employer and employees involved in operating the process to identify and understand the hazards posed by processes involving highly hazardous chemicals.

(C) Process Hazard Analysis (paragraph (e)(1)). Paragraph (e)(1) requires the employer to perform an initial process hazard analysis on processes covered by the Standard. The evaluation must be appropriate to the complexity of the process and must identify, evaluate, and control the hazards involved in the process.

(D) Resolution of Hazards (paragraph (e)(5)). Paragraph (e)(5) requires documentation of the actions the employer takes to resolve the findings and recommendations of the team that performed the process hazard analysis, including a schedule for completing these actions. In addition, the employer is to communicate this information to affected operating, maintenance, and other employees whose work assignments are in the process.

(E) Updating, Revalidating, and Retaining the Process Hazard Analysis (paragraphs (e)(6) and (e) (7)). Paragraph (e)(6) requires that the initial process hazard analysis be updated and revalidated by a team at least every 5 years. Paragraph (e)(7) requires the employer to retain process hazard analyses for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e)(5).

(F) Operating Procedures (paragraphs (f)(1)–(f)(4)). Paragraph (f)(1) requires the employer to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information. Paragraph (f)(2) requires the employer to make the operating procedures readily accessible to employees who work in or maintain a process. Paragraph (f)(3) requires the employer to review the operating procedures as often as necessary to assure that they reflect current operating practice, and that the employer certify annually that these operating procedures are current and accurate. Paragraph (f)(4) requires the employer to develop and implement safe work practices that provide for the control of hazards during operations such as lockout/tagout; confined space entry; opening process equipment or piping; and control over entrance into a facility by maintenance, contractor, laboratory, or other support personnel. These safe practices apply to both employees and contractor employees.

(G) Training (Initial, Refresher, and Documentation) (paragraphs (g)(1)–(g)(3)). Paragraph (g)(1) requires employers to train employees before they become involved in operating a newly assigned process. The training shall emphasize specific safety and health hazards; emergency operations, including shutdown; and safe work practices applicable to the employee's job tasks. Paragraph (g)(2) requires that the employer provide refresher training at least every 3 years. Paragraph (g)(3) requires the employer to prepare a record that contains the name of employee, the date of training, and the means used to verify that the employee understood the training.

(H) Contractors (paragraphs (h)(2)(i)–(h)(2)(iv), (h)(2)(vi), (h)(3)(iii), and (h)(3)(v)). This paragraph imposes collection of information requirements on both employers and on contractors. Paragraph (h)(2)(i) requires employers, when selecting a contractor, to obtain and evaluate information regarding the contract employer's safety performance and programs. Paragraph (h)(2)(ii) requires that the employer inform contract employers of known potential fire, explosion, or toxic release hazards related to the contractor's work and the process. Paragraph (h)(2)(iii) requires that the employer explain to contract employers the applicable provisions of the emergency action plan required by paragraph (n) of 29 CFR 1910.119. Paragraph (h)(2)(iv) requires the employer to develop and implement safe work practices consistent with paragraph (f)(4) of this section, to control the entrance, presence and exit of contract employers and contract employees in covered process areas. Paragraph (h)(2)(vi) requires the employer to maintain a contract employee injury and illness log related to the contractor's work in process areas. Paragraph (h)(3)(iii) requires the contract employer to document: that contract employees have been trained to perform their work practices safely and are knowledgeable about the fire, explosion, and toxic hazards in the workplace; and the identity of the contract employee who received the training, the date of training, and the means used to verify that the employee understood the training. paragraph (h)(3)(v) requires the contractor to advise the employer of any unique hazard presented by the contract employer's work, or any hazards found by the contract employer's work.

(I) Written Procedures, Inspections, and Testing (paragraphs (j)(2) and (j)(4)(iv)). Paragraph (j)(2) requires the employer to establish written procedures to maintain the ongoing integrity of process equipment. Paragraph (j)(4)(iv) requires that employers document inspections and tests performed on process equipment. The documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.

(J) Hot Work Permit (paragraph (k)(2)). Paragraph (k)(2) requires the employer to provide the following information on permits issued for hot work operations conducted on or near a covered process: The date(s) authorized for hot work, and the identity of the object on which hot work is to be performed. The permit must be kept on file until completion of the hot work operations.

(K) Management of Change (paragraphs (l)(1), (l)(4), and (l)(5)). Paragraph (I)(1) requires the employer to establish and implement written procedures to manage changes (except for ''replacements in kind'') to process chemicals, technology, equipment, and procedures; and for changes to facilities that affect a covered process. Paragraph (1)(4) requires the employer to update the information in paragraph (d) of the Standard if a change in paragraph (1) results in a change to the process safety information. Similarly, paragraph (1)(5) requires the employer to update the information in paragraph (f) of the Standard if a change in paragraph (1) results in a change to the operating procedures.

(L) Incident Investigations (paragraphs (m)(4)–(m)(7)). Paragraph (m)(4) requires that a report be prepared at the conclusion of any incident investigation, and that the report include, at a minimum, the date of the incident; the date the investigation began; a description of the incident; the factors that contributed to the incident; and any recommendations resulting from the investigation. Paragraph (m)(5) specifies that the employer must document resolutions and corrective measures taken with regard to the findings and recommendations provided in an incident investigation report, while paragraph (m)(6) states that the employer must allow affected personnel (including contract employees), whose job tasks are relevant to the incident findings, to review the report. Paragraph (m)(7) requires that incident investigation reports be retained for 5 years.

(M) Emergency Planning and Response (paragraph (n)). Paragraph (n) requires the employer to establish and implement an emergency action plan in accordance with the provisions of 29 CFR 1910.38(a). In addition, the emergency action plan shall include procedures for handling small releases.

(N) Compliance Audits (paragraph (o)(1) and (o)(3)–(o)(5)). Under paragraph (o)(1), employers are required to certify that they have evaluated compliance with the provisions of this section at least every 3 years to ensure that the procedures and practices developed under the standard are adequate and are being followed. Paragraph (o)(3) requires that a report of the audit findings be developed, while paragraph (o)(4) states that the employer must promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that the deficiencies have been corrected. Paragraph (o)(5) requires that the 2 most recent reports be retained.

(O) Records Disclosure. Employers must disclose records required by the Standard to an OSHA compliance officer during an OSHA inspection.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting OMB to extend their approval of the collection of information requirements contained in the Process Safety Management Standard. The Agency is requesting a decrease in burden hours for the existing collection of information requirements from 50,980,689 to 47,832,349 (a total reduction of 3,148,340 hours). The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB.

Type of Review: Extension of currently approved information collection requirements.

Title: Process Safety Management of Highly Hazardous Chemicals (29 CFR 1910.119).

OMB Number: 1218–0200.

Affected Public: Business or other for-profits; Not-for-profit organizations; Federal Government; State, local or tribal government.

Number of Respondents: 37,970.

Frequency: On occasion.

Average Time per Response: Varies from three minutes to generate and maintain training certification records to 2,454.4 hours to establish and implement a management-of-change program.

Estimated Total Burden Hours: 47,832,349.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Officer at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the deliver of submissions by express delivery, hand delivery, and courier service.

All comments, submissions, and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov*. Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page. Since all submissions become public, private information such as social security number should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on January 25, 2006.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 06–844 Filed 1–27–06; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before March 16, 2006. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means (Note the new address for requesting schedules using e-mail): Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001. E-mail:

requestschedule@nara.gov. FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending (Note the New Address for Requesting Schedules Using E-Mail)

1. Department of the Air Force, Agency-wide (N1–AFU–05–4, 1 item, 1 temporary item). Environmental monitoring records and other documentation relating to exposure of employees to hazardous substances. This schedule revises the retention period for records previously approved for disposal.

2. Department of Health and Human Services, Food and Drug Administration (N1–88–05–1, 24 items, 21 temporary items). Internal advisory committee working group records, ombudsman case files and related finding aid, science forum conference materials and online abstracts, administrative materials and ad hoc reports relating to rare disease drugs, correspondence relating to the registration and financial review of regulated industries, and records relating to product recalls, including an electronic information system used to track recall activities. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of textual records documenting government assistance for rare disease drug development. Also proposed for permanent retention are data files and system documentation associated with an electronic information system used to track those records. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

3. Department of Homeland Security, U.S. Coast Guard (N1–26–05–10, 11 items, 11 temporary items). Inputs, outputs, master files, documentation, and electronic mail and word processing copies associated with an electronic information system used to manage and report on the operations, personnel, and equipment resources of the U.S. Coast Guard Auxiliary's flotillas, detachments, and divisions.

4. Department of Justice, Federal Bureau of Investigation (N1–65–05–3, 1 item, 1 temporary item). This schedule consolidates 19 data files in the National Crime Information Center into one item. This schedule also extends the retention period for recordkeeping copies of these files, which were previously approved for disposal.

5. Department of Justice, Federal Bureau of Investigation (N1–65–05–7, 13 items, 13 temporary items). Inputs, outputs, master files, documentation, and electronic mail and word processing copies associated with a Web site used to receive and track tips from the public and other government agencies relating to suspected criminal activity.

6. Department of Labor, Employee Benefits Security Administration (N1–317–02–1, 8 items, 6 temporary items). Inputs, outputs, master files, and electronic mail and word processing copies associated with an electronic information system used to manage annual financial reports relating to employee benefit plans. Proposed for permanent retention are the recordkeeping copies of the structured database master files and documentation.

7. Department of Labor, Employee Benefits Security Administration (N1–317–02–2, 7 items, 7 temporary items). Records of the Office of Regulations and Interpretations relating to interpreting and applying Title 1 of the Employee Retirement Income Security Act and the Federal Employees Retirement System Act. Included are such records as advisory opinion letters and information letters, technical assistance case files, and regulation files. Also included are electronic copies of records created using electronic mail and word processing.

8. Department of Transportation, Federal Aviation Administration (N1–237–05–3, 19 items, 17 temporary items). Records relating to the certification of aircraft types, approval of the design and production of aircraft parts, evaluation and investigation of aircraft manufacturing facilities, and safety recommendations. Included are enforcement investigative reports, safety recommendation case files, canceled aircraft type certificate case files, engineering parts manufacturer approval files, external certificate management evaluation files, production approval files, and engineering technical standard order files. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of domestic aircraft type certificate case files and domestic aircraft supplemental type certificate case files.

9. Department of Transportation, Federal Aviation Administration (N1–237–06–1, 13 items, 13 temporary items). Records relating to the

certification of airmen. Included are student pilot certification files, foreign license verification files, enforcement records, and inputs, outputs, master files, and documentation associated with an electronic information system used to collect and disseminate airman certification files. Also included are electronic copies of records created using electronic mail and word processing.

10. General Services Administration, Office of the Inspector General (N1–269–05–1, 10 items, 10 temporary items). Records of the Office of the Inspector General, including subject files, disclosure records, fraud matter case files, subpoena files, and legal advice and assistance records. Also included are electronic copies of records created using electronic mail and word processing.

11. Small Business Administration (N1–309–04–9, 7 items, 7 temporary items). Records relating to liquidation loans, loans to certified development and state development companies, and 7(a) business loans. Included are applications, loan documentation, and correspondence.

12. Small Business Administration, Investment Division (N1–309–05–7, 7 items, 3 temporary items). Inputs, ad hoc reports, and electronic mail and word processing copies associated with an electronic information system used by the Office of Capital Access to track portfolio investments made by small business investment companies. Proposed for permanent retention are master files, program statistical packages, annual reports, and system documentation.

13. Small Business Administration (N1–309–05–23, 264 items, 261 temporary items). Inputs, master files, outputs, documentation, and electronic mail and word processing copies associated with the Loan Accounting System, which consists of a series of subsystems used to control the loan accounting, portfolio management, and cash collection activities of the agency. Proposed for permanent retention are the loan accounting root database master files and system documentation.

Dated: January 24, 2006.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E6–1097 Filed 1–27–06; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a closed teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on February 13, 2006. The topic of discussion will be ''License Request for a Physician Seeking Authorized User Status for the Use of Y–90 Microspheres.'' NRC staff is seeking the ACMUI's recommendations on this issue.

DATES: The teleconference meeting will be held on Monday, February 13, 2006, from 2 p.m. to 4 p.m eastern standard time.

Public Participation: This meeting will be closed to public to protect the personal privacy information of the individual being discussed.

FOR FURTHER INFORMATION CONTACT: Mohammad Saba, telephone (301) 415–7608; e-mail *mss@nrc.gov* of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Conduct of the Meeting

Leon S. Malmud, M.D., will chair the meeting. Dr. Malmud will conduct the meeting in a manner that will facilitate the orderly conduct of business.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, U.S. Code of Federal Regulations, Part 7.

January 24, 2006.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E6–1109 Filed 1–27–06; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 6.6 and 213.103.

FOR FURTHER INFORMATION CONTACT: Quasette Crowner, Center for Leadership and Executive Resources Policy, Division for Strategic Human Resources Policy, 202–606–8046.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between December 1, 2005, and December 31, 2005.

Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter.

A consolidated listing of all authorities as of June 30 is published each year.

Schedule A

No Schedule A appointments were approved for December 2005.

Schedule B

No Schedule B appointments were approved for December 2005.

Schedule C

The following Schedule C appointments were approved during December 2005:

Section 213.3303 Executive Office of the President

Presidents Commission on White House Fellowships

WHGS00017 Education Director to the Director, President's Commission on White House Fellowships. Effective December 02, 2005.

WHGS00018 Special Assistant to the Director, President's Commission on White House Fellowships. Effective December 21, 2005.

Section 213.334 Department of State

DSGS61012 Senior Advisor to the Secretary of State. Effective December 01, 2005.

DSGS61017 Director for MEPI to the Assistant Secretary for Near Eastern and South Asian Affairs. Effective December 02, 2005.

DSGS61019 Senior Advisor to the Under Secretary for Global Affairs. Effective December 05, 2005.

DSGS61020 Staff Assistant to the Assistant Secretary for International Organization Affairs. Effective December 02, 2005.

Section 213.335 Department of the Treasury

DYGS00230 Public Affairs Specialist to the Director, Public Affairs. Effective December 16, 2005.

DYGS00441 Director of Outreach to the Deputy Assistant Secretary. Effective December 16, 2005.

DYGS01377 Special Assistant to the Chief of Staff. Effective December 29, 2005.

Section 213.336 Department of Defense

DDGS16902 Public Affairs Specialist to the Public Affairs Specialist. Effective December 21, 2005.

DDGS16908 Civilian Executive Assistant to the Chairman of the Joint Chiefs of Staff. Effective December 28, 2005.

DDGS16891 Special Assistant to the Under Secretary of Defense (Comptroller) and the Principal Deputy Under Secretary of Defense (Comptroller) to the Principal Deputy Under Secretary of Defense (Comptroller) and Deputy Under Secretary of Defense (Management Reform). Effective December 29, 2005.

DDGS16912 Research Assistant to the Deputy Assistant Secretary of Defense (Internal Communications). Effective December 30, 2005.

Section 213.337 Department of the Army

DWGS00065 Special Assistant to the Deputy Assistant Secretary of the Army for Privatization and Partnerships (I and E). Effective December 30, 2005.

DWGS00066 Confidential Assistant to the Special Assistant to the Secretary of Army for Business Transformation Initiatives. Effective December 30, 2005.

Section 213.3310 Department of Justice

DJGS00406 Senior Press Assistant to the Director, Office of Public Affairs. Effective December 06, 2005.

DJGS00105 Counsel to the Special Counsel. Effective December 09, 2005.

DJGS00201 Counselor to the Assistant Attorney General Criminal Division. Effective December 09, 2005.

DJGS00203 Counsel to the Assistant Attorney General Criminal Division. Effective December 09, 2005.

DJGS00348 Briefing Book Coordinator to the Chief of Staff. Effective December 09, 2005.

DJGS00186 Senior Counsel to the Deputy Attorney General. Effective December 13, 2005.

DJGS00042 Confidential Assistant to the Director, Office of Public Affairs. Effective December 16, 2005.

DJGS00051 Chief of Staff to the Administrator of Juvenile Justice and Delinquency Prevention. Effective December 16, 2005.

DJGS00338 Special Assistant to the Assistant Attorney General. Effective December 27, 2005.

Section 213.3311 Department of Homeland Security

DMGS00448 Operations and Special Projects Coordinator to the Deputy Secretary of the Department of Homeland Security. Effective December 02, 2005.

DMGS00449 Director of Legislative Affairs, Federal Emergency Management Agency to the Under Secretary for Emergency Preparedness and Response. Effective December 02, 2005.

DMGS00450 Confidential Assistant to the Director, National Capital Region Coordination. Effective December 09, 2005.

DMGS00451 Special Assistant to the Director, National Capital Region Coordination. Effective December 09, 2005.

DMGS00453 Special Assistant to the Assistant Commissioner for Legislative Affairs. Effective December 09, 2005.

DMGS00455 Director of Information Analysis and Operations to the Assistant Secretary for Legislative Affairs. Effective December 09, 2005.

DMGS00452 Attorney-Adviser to the General Counsel. Effective December 15, 2005.

DMGS00456 Scheduler and Protocol Coordinator to the Director of Scheduling and Advance. Effective December 16, 2005.

DMGS00458 Associate Executive Secretary for Internal Coordination to the Executive Secretary. Effective December 16, 2005.

DMGS00457 Deputy White House Liaison and Advisor to the Chief of Staff to the White House Liaison. Effective December 20, 2005.

Section 213.3312 Department of the Interior

DIGS01052 Special Assistant—External and Intergovernmental Affairs to the Director, External and Intergovernmental Affairs. Effective December 09, 2005.

DIGS79100 Special Assistant to the Director, United States Fish and Wildlife Service. Effective December 30, 2005.

Section 213.3313 Department of Agriculture

DAGS00836 Speech Writer to the Director of Communications. Effective December 13, 2005.

Section 213.3314 Department of Commerce

DCGS00425 Director of Public Affairs to the Under Secretary for International Trade. Effective December 01, 2005.

DCGS60291 Public Affairs Specialist to the Director of Public Affairs. Effective December 01, 2005.

DCGS00564 Confidential Assistant to the Director, Executive Secretariat. Effective December 13, 2005.

DCGS60471 Confidential Assistant to the Chief of Staff to the Deputy Secretary. Effective December 16, 2005.

DCGS00526 Confidential Assistant to the Director, Advocacy Center. Effective December 21, 2005.

DCGS00199 Legislative Affairs Specialist to the Deputy Assistant Secretary for Legislative and Intergovernmental Affairs. Effective December 27, 2005.

Section 213.3315 Department of Labor

DLGS00166 Staff Assistant to the Director of Operations. Effective December 02, 2005.

DLGS60122 Senior Intergovernmental Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective December 02, 2005.

DLGS60178 Staff Assistant to the Director of Operations. Effective December 02, 2005.

DLGS60272 Special Assistant to the Director, 21st Century Office and Deputy Assistant Secretary for Intergovernmental Affairs. Effective December 02, 2005.

DLGS60074 Special Assistant to the Assistant Secretary for Public Affairs. Effective December 09, 2005.

DLGS60204 Special Assistant to the Assistant Secretary for Veterans Employment and Training. Effective December 13, 2005.

DLGS60096 Chief of Staff to the Deputy Assistant Secretary for Labor-Management Programs. Effective December 21, 2005.

Section 213.3316 Department of Health and Human Services

DHGS60528 Confidential Assistant (Scheduling) to the Director of Scheduling. Effective December 09, 2005.

DHGS60027 Deputy Director for Scheduling to the Director of Scheduling. Effective December 16, 2005.

Section 213.3317 Department of Education

DBGS00487 Deputy Assistant Secretary (Senate) to the Assistant Secretary for Legislation and Congressional Affairs. Effective December 01, 2005.

DBGS00481 Special Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective December 02, 2005.

DBGS00488 Executive Assistant to the Assistant Secretary for Postsecondary Education. Effective December 02, 2005.

DBGS00489 Special Assistant to the Assistant Secretary for Postsecondary Education. Effective December 02, 2005.

DBGS00482 Executive Director to the Chief of Staff. Effective December 07, 2005.

DBGS00483 Special Assistant to the Director, International Affairs Office. Effective December 09, 2005.

DBGS00491 Confidential Assistant to the Assistant Secretary, Office of Communications and Outreach. Effective December 14, 2005.

DBGS00475 Confidential Assistant to the Director, White House Initiative on Tribal Colleges and Universities. Effective December 21, 2005.

DBGS00490 Deputy Assistant Secretary for Media Relations and Strategic Communications to the Assistant Secretary, Office of Communications and Outreach. Effective December 21, 2005.

DBGS00492 Deputy Assistant Secretary for Policy and Strategic Initiatives to the Assistant Secretary for Elementary and Secondary Education. Effective December 21, 2005.

Section 213.3318 Environmental Protection Agency

EPGS05007 Associate Director, Office of Executive Secretariat to the Chief of Staff. Effective December 20, 2005.

Section 213.3327 Department of Veterans Affairs

DVGS60055 Special Assistant to the Assistant Secretary for Congressional and Legislative Affairs. Effective December 30, 2005

Section 213.3331 Department of Energy

DEGS00500 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective December 01, 2005.

DEGS00494 Associate Deputy Director to the Associate Director. Effective December 02, 2005.

DEGS00496 Associate Deputy Assistant Secretary to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective December 02, 2005.

DEGS00501 Legislative Affairs Specialist to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective December 09, 2005.

DEGS00491 Deputy Assistant Secretary for Energy Policy to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective December 21, 2005.

DEGS00503 Speechwriter to the Director, Public Affairs. Effective December 21, 2005.

Section 213.3332 Small Business Administration

SBGS60559 Assistant Administrator for Congressional and Legislative Affairs to the Associate Administrator for Congressional and Legislative Affairs. Effective December 27, 2005.

Section 213.3357 National Credit Union Administration

CUOT01009 Senior Policy Advisor to a Member. Effective December 15, 2005.

Section 213.3379 Commodity Futures Trading Commission

CTGS60008 Executive Assistant to the Chairman. Effective December 09, 2005.

Section 213.3384 Department of Housing and Urban Development

DUGS60345 Special Project Officer to the Assistant Secretary for Housing, Federal Housing Commissioner. Effective December 09, 2005.

DUGS60340 Special Assistant to the Chief of Staff. Effective December 20, 2005.

Section 213.3391 Office of Personnel Management

PMGS00056 Special Assistant to the Director, Office of Communications and Public Liaison. Effective December 21, 2005.

Section 213.3394 Department of Transportation

DTGS60069 Director of Communications to the Administrator. Effective December 21, 2005.

Section 213.3397 Federal Housing Finance Board

FBOT00004 Counsel to the Chairman. Effective December 15, 2005.

Authority: U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218

Office of Personnel Management

Linda M. Springer,

Director.

[FR Doc. E6–1099 Filed 1–27–06; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Federal Register Citation of Previous Announcement: [71 FR 3906, January 24, 2006].

STATUS: Closed meeting.

PLACE: 100 F Street, NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, January 26, 2006 at 9 a.m.

CHANGE IN THE MEETING: Additional items.

The following items have been added to the 9 a.m. Closed Meeting scheduled for Thursday, January 26, 2006:

Institution and settlement of injunctive actions; and

Institution and settlement of an administrative proceeding of an enforcement nature.

Commissioner Atkins, as duty officer, voted to consider these items listed for the closed meeting in closed session and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: January 25, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. 06–878 Filed 1–26–06; 11:34 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53168; File No. SR–CBOE–2006–06]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Its Marketing Fee Program

January 23, 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 12, 2006, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the CBOE under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) 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 CBOE proposes to amend its Fees Schedule and its marketing fee program. Below is the text of the proposed rule change. Proposed new language is in *italics*; deletions are in [brackets].

CHICAGO BOARD OPTIONS EXCHANGE, INC.

FEES SCHEDULE

[December 26, 2005] *January 12, 2006*

1. No Change.
2. MARKETING FEE (6)(16) $.65
3.–4. No Change.

FOOTNOTES:

(1)–(5) No Change.

(6) Commencing on December 12, 2005, the Marketing Fee will be assessed only on transactions of Market-Makers, RMMs, e-DPMs, DPMs, and LMMs resulting from orders for less than 1,000 contracts (i) from payment accepting firms, or (ii) that have designated a ''Preferred Market-Maker'' under CBOE Rule 8.13 at the rate of $.65 per contract on all classes of equity options, options on HOLDRs, options on SPDRs, and options on DIA. The fee will not apply to Market-Maker-to-Market-Maker transactions or transactions resulting from P/A orders. This fee shall not apply to index options and options on ETFs (other than options on SPDRs and options on DIA). *A Preferred Market-Maker will only be given access to the marketing fee funds generated from a Preferred order if the Preferred Market-Maker has an appointment in the class in which the Preferred order is received and executed.* If less than 80% of the marketing fee funds are paid out by the DPM/LMM or Preferred Market-Maker in a given month, then the Exchange would refund such surplus at the end of the month on a pro rata basis based upon contributions made by the Market-Makers, RMMs, e-DPMs, DPMs and LMMs. However, if 80% or more of the accumulated funds in a given month are paid out by the DPM/LMM or Preferred Market-Maker, there will not be a rebate for that month and the funds will carry over and will be included in the pool of funds to be used by the DPM/LMM or Preferred Market-Maker the following month. At the end of each quarter, the Exchange would then refund any surplus, if any, on a pro rata basis based upon contributions made by the Market-Makers, RMMs, DPMs, e-DPMs and LMMs. CBOE's marketing fee program as described above will be in effect until June 2, 2006.

Remainder of Fees Schedule—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 CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 12, 2005, CBOE amended its marketing fee program in a number of respects.[5] CBOE states that, as amended, the fee is assessed upon DPMs, LMMs, e-DPMs, RMMs, and Market-Makers at the rate of $.65 per contract on transactions of Market-Makers, RMMs, e-DPMs, DPMs, and LMMs resulting from orders for less than 1,000 contracts (i) from payment accepting firms (''PAFs'') or (ii) that have designated a ''Preferred Market-Maker'' under CBOE Rule 8.13 (''Preferred orders''). CBOE notes that the fee does not apply to Market-Maker-to-Market-Maker transactions (which includes all transactions between any combination of DPMs, e-DPMs, RMMs, LMMs, and Market-Makers), or transactions of Market-Makers, RMMs, e-DPMs, DPMs, and LMMs resulting from inbound P/A orders. CBOE states that the marketing fee is assessed in all equity option classes and options on HOLDRs®, options on SPDRs®, and options on DIA.

With respect to the manner in which funds generated by the marketing fee will be allocated between the DPM or LMM and Preferred Market-Makers, CBOE states that it amended its marketing fee program to provide that:

- If a Market-Maker (including any DPM, e-DPM, LMM, and RMM) is designated as a Preferred Market-Maker on an order for less than 1,000 contracts, the Market-Maker will be given access to the marketing fee funds generated from the Preferred order, even if the Preferred Market-Maker did not participate in the execution of the Preferred order because the Market-Maker was not quoting at the NBBO at the time the Preferred order was received on CBOE; and
- The DPM or LMM, as applicable, will be given access to the marketing fee funds generated from all other orders for less than 1,000 contracts from PAFs in its appointed classes in a particular trading station.

CBOE now proposes to amend its marketing fee program to make clear that a Preferred Market-Maker would only be given access to the marketing fee funds generated from a Preferred order if the Preferred Market-Maker has an appointment in the class in which the Preferred order is received and executed. As before, to receive access to the funds, the Preferred Market-Maker would not be required to participate in the execution of the Preferred order if the Market-Maker was not quoting at the NBBO at the time the Preferred order was received on CBOE. However, the Preferred Market-Maker would have to have an appointment in the option class in order to receive access to the marketing fee funds. CBOE states that, if a Preferred Market-Maker does not have an appointment in the option class in which a Preferred order designating that Market-Maker as the ''Preferred Market-Maker'' is received and executed, then the funds generated from the order would be provided to the DPM or LMM. CBOE believes it is appropriate and reasonable to require that a Preferred Market-Maker have an appointment in an option class (and presumably be meeting the Market-Maker's obligations under CBOE's rules), in order to receive access to the marketing fee funds.

CBOE states that it is not amending its marketing fee program in any other respect.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 53016 (December 22, 2005), 70 FR 77209 (December 29, 2005) (SR–CBOE–2005–107).

of the Act,[6] in general, and furthers the objectives of Section 6(b)(4) of the Act,[7] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2)[9] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. 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 Number SR–CBOE–2006–06 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–2006–06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2006–06 and should be submitted on or before February 21, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Nancy M. Morris,

Secretary.

[FR Doc. E6–1089 Filed 1–27–06; 8:45 am]

BILLING CODE 8010–01–P

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53164; File No. SR–ISE–2005–50]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing of a Proposed Rule Change, and Amendment No. 1 Thereto, To Amend ISE Rule 803 To Provide for a Back-Up Primary Market Maker

January 20, 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 October 14, 2005, the International Securities Exchange, Inc. (''Exchange'' or ''ISE'') 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. On January 12, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend ISE Rule 803 to provide for a Back-Up Primary Market Maker and to correct an inconsistency in the Exchange's Rules. The text of the proposed rule change, as amended, is available on the ISE's Web site (*http://www.iseoptions.com*), 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 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 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 proposes to enhance the ISE System to allow Competitive Market Makers that are also Primary Market Maker members on the Exchange to voluntarily act as Back-Up Primary Market Makers when the appointed Primary Market Maker experiences technical difficulties that interrupt its participation in the market. According to the Exchange, the ISE System will automatically switch a Competitive Market Maker quoting in the options series to act as a Back-Up Primary Market Maker when the appointed Primary Market Maker stops quoting. The ISE believes that this will reduce

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1, which replaced the original filing in its entirety, made technical and clarifying changes to the proposed rule change.

the number of non-firm quotes or ''fast market'' states disseminated by the ISE and allow for virtually seamless trading even when a Primary Market Maker experiences difficulties that cause it to remove its quotes from the market.

Under the proposal, only Competitive Market Maker members that are also Primary Market Makers on the Exchange will be eligible to be designated as a Back-Up Primary Market Maker because these members already have systems built to assume all of the responsibilities of a Primary Market Maker on the Exchange, such as handling customer orders when the away market has a better price.[4] The ISE System will automatically switch back to the appointed Primary Market Maker when it re-establishes its quotes in the series, but the Back-Up Primary Market Maker will continue to be responsible for any outstanding unexecuted orders it is handling. A Back-Up Primary Market Maker assumes all of the responsibilities and privileges of a Primary Market Maker under the ISE Rules with respect to any series in which the appointed Primary Market Maker fails to have a quote in the ISE System.[5]

The Exchange also proposes to correct an inconsistency in its rules. In April 2004, the Exchange received approval of a rule change that allowed it to disseminate a quotation for less than ten contracts.[6] Because the options intermarket linkage plan and the Exchange's rules continued to require the Exchange to guarantee that the Firm Customer Quote Size (''FCQS'') and Firm Principal Quote Size (''FPQS'') would be at least 10 contracts, ISE Rule 803(c)(1) was amended to provide that the Primary Market Maker had the obligation to buy or sell the number of contracts necessary to provide an execution of at least 10 contracts to incoming linkage orders when the Exchange's disseminated market quotation was for less than 10 contracts.

In August 2004, the intermarket linkage plan was amended to provide that the 10 contract minimum FCQS and FPQS does not apply when the Exchange is disseminating a quotation of fewer than 10 contracts.[7] In October 2004, the Exchange, and all of the other options exchanges, received approval for changes to their linkage rules to implement this change to the intermarket linkage plan.[8] Accordingly, the Primary Market Maker no longer is required to guarantee a minimum of 10 contracts to an incoming linkage order when the Exchange's disseminated market quotation is for less than 10 contracts. However, the Exchange neglected to remove the language in ISE Rule 803(c)(1) at the time the changes to the linkage rules were approved, thereby creating an apparent inconsistency in the ISE Rules. The Exchange now proposes to delete the language in ISE Rule 803(c)(1) as a purely non-substantive clean-up to the ISE Rules.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(5) of the Act[10] in particular because it is 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 in that it enhances the Exchange's ability to disseminate firm quotes and removes an inconsistency from its rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The ISE does not believe that the proposed rule change, as amended, 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 Exchange consents, the Commission will:

(a) By order approve such proposed rule change, as amended, or

(b) Institute proceedings to determine whether the proposed rule change, as amended, 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, as amended, is consistent with the Act. Comments may be submitted by any of the following methods.

Electronic Comments

- Use the Commission's Internet comment form at *http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2005–50 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–ISE–2005–50. 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

[4] If there is more than one eligible member quoting in the series, the ISE System will automatically switch to the member with the largest offer in the series.

[5] A Competitive Market Maker does not become subject to the requirement in ISE Rule 804(e)(1) to enter continuous quotations in all of the series of all of the options classes to which it is appointed, as opposed to only 60% of the options classes under ISE Rule 804(e)(2), by acting as a Back-Up Primary Market Maker.

[6] *See* Exchange Act Release No. 49602 (April 22, 2004), 69 FR 23841 (April 30, 2004) (the ''Real Size Filing'').

[7] *See* Exchange Act Release No. 50211 (Aug. 18, 2004), 69 FR 52050 (Aug. 24, 2004).

[8] *See* Exchange Act Release Nos. 50562 (Oct. 19, 2004), 69 FR 62925 (Oct. 28, 2004) and 50587 (Oct. 25, 2004), 69 FR 63417 (Nov. 1, 2004).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

Number SR–ISE–2005–50 and should be submitted by February 21, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–1087 Filed 1–27–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53151; File No. SR–OCC–2005–21]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Allocations Processing

January 19, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 13, 2004, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. OCC filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[2] whereby the proposal was 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 proposed rule change adopts new Rule 405, Allocations, to govern the processing of post-trade allocation instructions for commodity contracts that are subject to the exclusive jurisdiction of the Commodity Futures Trading Commission (''CFTC'') that are submitted by clearing members through a new system OCC plans to install in January 2006. The rule change also makes conforming by-law and rule changes, including the addition of certain new definitions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC's new allocation system will permit the allocation of positions in securities options, security futures, commodity futures, and options on futures. In order to permit use of the allocation system, when installed, for commodity contracts cleared by OCC that are subject to the exclusive jurisdiction of the CFTC, OCC is filing the proposed rule change under section 19(b)(3)(A) for immediate effectiveness. However, new Rule 405 includes Interpretation and Policy .02 which states that the system may not be used for securities options or security futures until the Commission has issued an approval order with respect to Rule 405. OCC filed a separate proposed rule change under section 19(b)(2), File No. SR–OCC–2005–22, that would adopt Rule 405 for use in allocating positions in contracts subject to the Commission's jurisdiction.[4]

OCC plans to provide clearing members with a centralized system for processing allocation or ''give-up'' instructions across all exchanges for which OCC provides clearing services. Allocations are post-trade instructions entered by one clearing member (*i.e.*, an authorized ''executing'' or ''giving-up'' clearing member) that direct a transaction or position to the account of another clearing member (*i.e.*, the ''carrying'' or ''given-up'' clearing member). OCC's centralized system will enhance OCC's service offerings and will provide efficiencies to clearing members.

Post-trade allocations of securities options are currently processed through OCC's Clearing Member Trade Assignment (''CMTA'') functionality, which normally causes a transaction to automatically be moved into an account of the carrying clearing member so long as the executing and carrying clearing members have an effective CMTA arrangement registered with OCC for the exchange submitting the matching trade information for that transaction.[5] Once Rule 405 is approved by the Commission for purposes of allocating positions in securities options, clearing members will be able to elect either to continue to use the existing CMTA system or to use the new allocation system for securities options.

For most commodity futures cleared through OCC, post-trade allocations are currently processed through The Clearing Corporation's (''CCorp'') ''give-up'' system, which requires the given-up clearing member to affirmatively accept a transaction.[6] OCC's allocation system will enable clearing members to process futures ''give-ups'' without going through the CCorp system.

New Rule 405 will govern the processing of allocation instructions and will operate as follows. Transactions will first clear in the designated account of the giving-up clearing member. Instructions to allocate positions may be submitted either through an exchange's system for providing matching trade information to OCC or through OCC's clearing system, ENCORE. In either case, if the given-up and giving-up clearing members are parties to an allocation agreement that has been registered with OCC, OCC will automatically allocate the positions resulting from an allocation instruction to a designated account of the given-up clearing member without further action by the clearing members.[7] If the clearing members are not parties to a registered allocation agreement, OCC will not effect the allocation instruction until the given-up clearing member gives OCC notice of its affirmative acceptance of the allocated positions. (In contrast, the CMTA system does not allow for acceptance of allocated positions without a registered CMTA agreement.) If the given-up clearing member does not give OCC notice of such acceptance by an OCC-specified deadline, the allocation instruction will not be processed, and the positions will remain in the account of the giving-up clearing member, which will remain obligated on those positions.

A given-up clearing member will be responsible for appropriately allocated positions. Given-up positions are moved to the given-up clearing member's account at the premium price in the case of options or at the contract price in the case of futures at which the positions were established by the executing clearing member. Positions

[11] 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] The Commission has modified parts of these statements.

[4] If the Commission approves proposed rule change SR–OCC–2005–22, OCC would delete Interpretation and Policy .02.

[5] See OCC Rule 403.

[6] See OCC Rule 404.

[7] Unlike CMTAs, clearing members will not be required to register their allocation arrangement by exchange.

that are allocated on an intraday basis will not be reflected in position reports until the following business day. However, OCC will take those positions into account in processing any intraday settlements authorized by its By-laws and Rules, including intraday margin settlements. A given-up clearing member may enter an instruction to reverse an allocation that was accepted in error. If the given-up and giving-up clearing members are parties to a registered allocation agreement, the reversing instruction will be automatically processed. If the clearing members are not parties to a registered allocation agreement, the reversing instruction must be affirmatively accepted by the original giving-up clearing member.

Allocation instructions may be for a single position (*i.e.*, a position in a given series established at a single price) or for a group of positions (*i.e.*, positions in the same series established at different prices). Allocation instructions for grouped positions must be submitted through ENCORE. For single positions, the instruction must identify the contract quantity, series, and price as specified in the matching trade information. For grouped positions, the allocation instruction must provide the same information, but the price may be an average price if not prohibited under exchange rules and applicable law.[8] For the convenience of clearing members, OCC's system will produce a suggested average price for grouped allocations that clearing members may adopt for purposes of processing the instruction.

Registration of allocation agreements may be terminated either by mutual agreement or unilaterally. Mutually terminated registrations will be effected immediately in OCC's system. Unilaterally terminated registrations will be terminated in OCC's system effective as of 8 a.m. CST the business day after the termination notice is received by OCC and the other clearing member. These are the same standards currently applied to terminating CMTA arrangements under OCC Rule 403. Following termination of registration of an allocation agreement, an allocated position may be allocated to a given-up clearing member only upon its affirmative acceptance.

Other changes made to OCC's By-laws and Rules reflect the adoption of Rule 405, including the addition of Given-Up Clearing Member and Giving-Up Clearing Member as defined terms in Article I, section 1.

OCC believes that the proposed rule change is consistent with section 17A of the Act because it is designed to ensure that positions resulting from exchange transactions are carried in the appropriate clearing member account, which is the account of the clearing broker for the investor for whom such transactions were executed and thereby promotes the prompt and accurate clearance and settlement of transactions in derivative contracts, fosters cooperation and coordination with persons engaged in the clearance and settlement of such transactions, removes impediments to and perfects a mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, protects investors and the public interest. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would 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 were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(4)[10] thereunder because it effects a change in an existing service of a registered clearing agency that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible; and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

VI. 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–OCC–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–OCC–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 filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.optionsclearing.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–OCC–2005–21 and should

[8] Average pricing is permitted under the Commodity Exchange Act in certain circumstances. In those circumstances, a clearing member may instruct OCC to use the average price in clearing and settling the trades. Clearing members have requested that OCC provide functionality that would also permit positions in securities options and security futures to be allocated at an average price. Accordingly, OCC has developed its allocation system to accommodate the use of such prices for security options and futures, provided that such use does not violate exchange rules or applicable law.

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(4).

be submitted on or before February 21, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–1085 Filed 1–27–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53150; File No. SR–OCC–2005–22]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Allocations Processing

January 19, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 13, 2004, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. 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 proposed rule change would amend Rule 405, Allocations, so that it would apply to allocations of positions in contracts subject to the Commission's jurisdiction.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In January 2006 OCC plans to install a new system to process post-trade allocation instructions by clearing members. In order to accommodate the immediate use of the allocation system for commodity contracts cleared by OCC that are subject to the exclusive jurisdiction of the CFTC, OCC adopted Rule 405 by submitting File No. SR–OCC–2005–21 for immediate effectiveness pursuant to section 19(b)(3)(A) of the Act.[3] However, Interpretation and Policy .02 to Rule 405 provides that the system may not be used for securities options or security futures until the Commission issues an approval order with respect to Rule 405. OCC submitted the proposed rule change for purposes of adopting Rule 405 for use in allocating positions in contracts which are subject to the Commission's jurisdiction.[4] This rule change is being filed pursuant to section 19(b)(2) for approval by the Commission.

The new allocation system and Rule 405 provide clearing members with a centralized system for processing allocation or ''give-up'' instructions across all exchanges for which OCC provides clearing services. Allocations are post-trade instructions entered by one clearing member (*i.e.*, an authorized ''executing'' or ''giving-up'' clearing member) that direct a transaction or position to the account of another clearing member (*i.e.*, the ''carrying'' or ''given-up'' clearing member). OCC's centralized system will enhance OCC's service offerings and will provide efficiencies to clearing members.

Post-trade allocations of securities options are currently processed through OCC's Clearing Member Trade Assignment (''CMTA'') functionality, which normally causes a transaction to automatically be moved into an account of the carrying clearing member so long as the executing and carrying clearing members have an effective CMTA arrangement registered with OCC for the exchange submitting the matching trade information for that transaction.[5] Once Rule 405 is approved by the Commission for purposes of allocating positions in securities options, clearing members will be able to elect either to continue to use the existing CMTA system or to use the new allocation system for securities options.

For most commodity futures cleared through OCC, post-trade allocations are currently processed through The Clearing Corporation's (''CCorp'') ''give-up'' system, which requires the given-up clearing member to affirmatively accept a transaction.[6] OCC's allocation system will enable clearing members to process commodity futures ''give-ups'' without going through the CCorp system.

Rule 405 currently governs the processing of allocation instructions for contracts subject to the exclusive jurisdiction of the CFTC. As amended by the proposed rule change, Rule 405 would operate in the same fashion for contracts subject to the Commission's jurisdiction. Transactions will first clear in the designated account of the giving-up clearing member. Instructions to allocate positions may be submitted either through an exchange's system for providing matching trade information to OCC or through OCC's clearing system, ENCORE. In either case, if the given-up and giving-up clearing members are parties to an allocation agreement that has been registered with OCC, OCC will automatically allocate the positions resulting from an allocation instruction to a designated account of the given-up clearing member without further action by the clearing members.[7] If the clearing members are not parties to a registered allocation agreement, OCC will not effect the allocation instruction until the given-up clearing member gives OCC notice of its affirmative acceptance of the allocated positions. (In contrast, the CMTA system does not allow for acceptance of allocated positions without a registered CMTA agreement.) If the given-up clearing member does not give OCC notice of such acceptance by an OCC-specified deadline, the allocation instruction will not be processed, and the positions will remain in the account of the giving-up clearing member, which will remain obligated on those positions.

A given-up clearing member will be responsible for appropriately allocated positions. Given-up positions are moved to the given-up clearing member's account at the premium price in the case of options or at the contract price in the case of futures at which the positions were established by the executing clearing member. Positions that are allocated on an intraday basis

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] The notice of filing and immediate effectiveness of File No. SR–OCC–2005–21 will be published in the **Federal Register** at approximately the same time as the notice for this proposed rule change.

[4] OCC proposes to delete Interpretation and Policy .02 to Rule 405 in this filing.

[5] See OCC Rule 403.

[6] See OCC Rule 404.

[7] Unlike CMTAs, clearing members will not be required to register their allocation arrangement by exchange.

will not be reflected in position reports until the following business day. However, OCC will take those positions into account in processing any intraday settlements authorized by the By-laws and Rules, including intraday margin settlements. A given-up clearing member may enter an instruction to reverse an allocation that was accepted in error. If the given-up and giving-up clearing members are parties to a registered allocation agreement, the reversing instruction will be automatically processed. If the clearing members are not parties to a registered allocation agreement, the reversing instruction must be affirmatively accepted by the original giving-up clearing member.

Allocation instructions may be for a single position (*i.e.*, a position in a given series established at a single price) or for a group of positions (*i.e.*, positions in the same series established at different prices). Allocation instructions for grouped positions must be submitted through ENCORE. For single positions, the instruction must identify the contract quantity, series, and price as specified in the matching trade information. For grouped positions, the allocation instruction must provide the same information, but the price may be an average price if not prohibited under exchange rules and applicable law.[8] For the convenience of clearing members, OCC's system will produce a suggested average price for grouped allocations that clearing members may adopt for purposes of processing the instruction.

Registration of allocation agreements may be terminated either by mutual agreement or unilaterally. Mutually terminated registrations will be effected immediately in OCC's system. Unilaterally terminated registrations will be terminated in OCC's system effective as of 8 a.m. CST the business day after the termination notice is received by OCC and the other clearing member. These are the same standards currently applied to terminating CMTA arrangements under OCC Rule 403. Following termination of registration of an allocation agreement, an allocated position may be allocated to a given-up clearing member only upon its affirmative acceptance.

OCC believes that the proposed rule change is consistent with section 17A of the Act because it is designed to ensure that positions resulting from exchange transactions in derivative contracts are carried in the appropriate account by the clearing member which is the clearing broker for the investor for whom the transaction was executed, and thereby, promotes the prompt and accurate clearance and settlement of transactions in derivative contracts, fosters cooperation and coordination with persons engaged in the clearance and settlement of such transactions, removes impediments to and perfect a mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, protects investors and the public interest. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would 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 were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty five 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 ninety 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 rule change; or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

VI. 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–OCC–2005–22 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–OCC–2005–22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.optionsclearing.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–OCC–2005–22 and should be submitted on or before February 21, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Nancy M. Morris,

Secretary.

[FR Doc. E6–1086 Filed 1–27–06; 8:45 am]

BILLING CODE 8010–01–P

[8] Average pricing is permitted under the Commodity Exchange Act in certain circumstances. In those circumstances, a clearing member may instruct OCC to use the average price in clearing and settling the trades. Clearing members have requested that OCC provide functionality that would also permit positions in securities options and security futures to be allocated at an average price. Accordingly, OCC has developed its allocation system to accommodate the use of such prices for security options and futures, provided that such use does not violate exchange rules or applicable law.

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53165; File No. SR–PCX–2005–136]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Exchange Fees and Charges

January 20, 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 30, 2005, the Pacific Exchange, Inc. (''Exchange'' or ''PCX'') 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 PCX. On January 18, 2006, the PCX filed Amendment No. 1 to the proposed rule change.[3] The PCX has designated this proposal as establishing or changing a due, fee, or other charge imposed by a self-regulatory organization pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(2) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to amend its Schedule of Fees and Charges for option contracts. The text of the proposed rule change is available on the PCX Web site, (*http://www.archipelago.com*), at the PCX's principal office, 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 PCX 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 PCX 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 PCX charges transaction fees associated with all option contracts that are executed on the Exchange. Presently there are four categories of transaction fees included in the PCX Schedule of Rates and Charges: Customer, Firm, Broker/Dealer, and Market Maker. The current Firm transaction fee applies to OTP Firm[6] proprietary trades that have a customer of that firm on the contra side of the transaction. The Exchange offers this rate as an incentive to OTP Firms to direct their customer orders to PCX for execution. In the past, these transactions were brokered between an OTP Firm's proprietary trading account, which was an off-floor account, and the account of a customer of the same OTP Firm. Market Makers did not historically participate in these types of trades. With the changes in the structure of how OTP Firms conduct their business, many OTP Firms now have market making entities on the PCX. At present, the Exchange does not apply the Firm transaction fee to PCX Market Makers that transact with customers of that Market Maker's OTP Firm. The Exchange proposes to expand the application of the Firm transaction fee to PCX market maker accounts. In order to be consistent, the PCX proposes to apply the Firm transaction fee to all trades between an OTP Firm and a customer of the same OTP Firm, no matter what proprietary account the Firm uses to effect the trade. The Firm transaction fee will be assessed to market maker accounts in lieu of, not in addition to, the Market Maker fee presently charged. This will in effect offer a lower rate for market maker transactions when a Market Maker is trading with a customer of the Market Maker's OTP Firm. The Firm fee will apply only to accounts of Market Makers associated with OTP Holders or OTP Firms of the PCX.

Many OTP Firms operate as Market Makers on the PCX and, as such, trade with customers of their OTP Firm. By applying the Firm transaction fee to all transactions, including market maker accounts, involving an OTP Firm's customers, the PCX hopes to attract additional order flow, which in turn should create additional liquidity providing better markets for all trading participants. The Exchange intends to make the new fee effective as of January 3, 2006.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(4) of the Act[8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members. OTP Holders and OTP Firms are considered ''members'' of the Exchange under the Act.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(2) of Rule 19b–4 thereunder,[10] because it establishes or changes a due, fee, or other charge imposed by the Exchange. 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.[11]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the PCX made non-substantive changes to the text of the proposed rule change and made clarifying changes to the purpose section.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(2).

[6] An OTP Firm is defined in PCX Rule 1(r) as ''a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing who holds an OTP or upon whom an individual OTP Holder has conferred trading privileges on the Exchange's Trading Facilities * * *''

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] The effective date of the original proposed rule change is December 30, 2005, and the effective date of Amendment No. 1 is January 18, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on January 18, 2006, the date on which the PCX submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

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–PCX–2005–136 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–PCX–2005–136. 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 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 Number SR–PCX–2005–136 and should be submitted on or before February 21, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Nancy M. Morris,

Secretary.

[FR Doc. E6–1088 Filed 1–27–06; 8:45 am]

BILLING CODE 8010–01–P

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10222 and #10223]

Florida Disaster Number FL–00011

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 6.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Florida (FEMA–1609–DR), dated October 24, 2005.

Incident: Hurricane Wilma.

Incident Period: October 23, 2005 through November 18, 2005.

Effective Date: January 20, 2006.

Physical Loan Application Deadline Date: January 31, 2006.

EIDL Loan Application Deadline Date: July 24, 2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth , TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Florida, dated October 24, 2005, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to January 31, 2006.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6–1082 Filed 1–27–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Advisory Committee on Veterans Business Affairs Public Meeting

The U.S. Small Business Administration (SBA) Advisory Committee on Veterans Business Affairs, pursuant to the Veterans Entrepreneurship and Small Business Development Act of 1999 (Pub. L. 106–50), will host a public meeting on Tuesday, February 7, 2006 until Wednesday, February 8, 2006. The meeting will be held at the U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416. This meeting will start at 9 am until 5 pm, in the Administrator's Conference Room located on the 7th Floor, Suite 700.

Anyone wishing to attend must contact Cheryl Clark, Program Liaison, in the Office of Veterans Business Development, at (202) 205–6773, or e-mail *Cheryl.Clark@sba.gov.*

Matthew K. Becker,

Committee Management Officer.

[FR Doc. E6–1081 Filed 1–27–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of denial to waive the Nonmanufacturer Rule for Commercial Cooking Equipment.

SUMMARY: The U. S. Small Business Administration (SBA) is denying a request for a waiver of the Nonmanufacturer Rule for Commercial Cooking Equipment based on our recent discovery of a small business manufacturer for this class of products. Denying this waiver will require recipients of contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program to provide the products of small business manufacturers or processors on such contracts.

DATES: This notice of denial is effective February 14, 2006.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by fax at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly

referred to as the Nonmanufacturer Rule.

The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202 (c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months. The SBA defines ''class of products'' based on a six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA received a request on July 25, 2005 to waive the Nonmanufacturer Rule for Commercial Cooking Equipment. In response, on August 25, 2005, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Commercial Cooking Equipment.

SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to that August 25, 2005 notice, SBA received a comment from a small business manufacturer indicating that it has furnished this product to the Federal Government. Accordingly, based on the available information, SBA has determined that there is a small business manufacturer of this class of products, and, is therefore denying the class waiver of the Nonmanufacturer Rule for Commercial Cooking Equipment, NAICS 333319.

Dated: January 23, 2006.

Arthur Collins,

Deputy Associate Administrator, Office of Government Contracting.

[FR Doc. E6–1080 Filed 1–27–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5286]

Culturally Significant Objects Imported for Exhibition Determinations: ''Warriors of the Himalayas: Rediscovering the Arms and Armor of Tibet''

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Warriors of the Himalayas: Rediscovering the Arms and Armor of Tibet,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, NY, from on or about April 3, 2006, until on or about July 2, 2006, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

For Further Information Contact: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8049). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: January 23, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–1120 Filed 1–27–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5287]

Culturally Significant Objects Imported for Exhibition Determinations: ''Divine and Human: Women in Ancient Mexico and Peru''

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Divine and Human: Women in Ancient Mexico and Peru ,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners and custodians. I also determine that the exhibition or display of the exhibit objects at the National Museum of Women in the Arts, from on or about March 3, 2006, until on or about May 28, 2006, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

For Further Information Contact: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8048). The address is U.S. Department of State, SA–44, 301 4th Street, SW. Room 700, Washington, DC 20547–0001.

Dated: January 23, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary, for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–1130 Filed 1–27–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5285]

Culturally Significant Objects Imported for Exhibition Determinations: ''Impressionist Camera: Pictorial Photography of Europe 1888–1918''

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Impressionist Camera: Pictorial Photography of Europe 1888–1918,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners and custodians. I also determine that the exhibition or

display of the exhibit objects at Saint Louis Art Museum, from on or about February 19, 2006, until on or about May 14, 2006, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

For Further Information Contact: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8048). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: January 23, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–1119 Filed 1–27–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 25.856–2, Installation of Thermal/Acoustic Insulation for Burnthrough Protection

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular 25.856–2, ''Installation of Thermal/Acoustic Insulation for Burnthrough Protection.'' The advisory circular provides information and guidance regarding an acceptable means, but not the only means, of compliance with the portions of the airworthiness standards for transport category airplanes that deal with the installation of thermal/acoustic insulation.

DATES: AC 25.856–2 was issued by the FAA Transport Airplane Directorate in Renton, Washington, on January 17, 2006.

How To Obtain Copies: You can download a copy of advisory Circular 25.856–2 from the Internet at *http://www.airweb.faa.gov/rgl.* A paper copy will be available in approximately 6–8 weeks from the U.S. Department of Transportation, Subsequent Distribution Office, M–30, Ardmore East Business Center, 3341 Q 75th Avenue, Landover, MD 20795.

FOR FURTHER INFORMATION CONTACT: Kenna Sinclair, FAA Standardization Branch, ANM–113, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1556; e-mail *kenna.sinclair@faa.gov.*

Issued in Renton, Washington, on January 17, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–809 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Mecklenburg and Union Counties, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescinding of Notice of Intent and Draft Environmental Impact Statement for proposed U.S. 74 corridor improvements in Mecklenburg and Union Counties, NC.

SUMMARY: The FHWA is issuing this notice to advise the public that we are rescinding the notice of intent and the public notice to prepare an environmental impact statement (EIS) for a proposed highway project in Mecklenburg and Union Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Clarence W. Coleman, P.E., Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, Ste 410, Raleigh, North Carolina, 27601–1418, Telephone: (919) 856–4346.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), is rescinding the notice of intent to prepare an EIS for a proposed multi-lane, controlled access highway along the U.S. 74 corridor connecting I–485 in Mecklenburg County to U.S. 601 in Union County, North Carolina. On April 13, 2000, FHWA issued a notice of intent to prepare an EIS for this proposed project. A Draft EIS was released in November 2003 after resource agencies and the public provided input and comments as part of the project development process. The Draft EIS evaluated several alternatives, including: (1) No Build (2) Transportation Systems Management (TSM), (3) Transportation Demand Management (TSM), (4) Mass Transit, and (5) New Location Alternatives. A public hearing has not been held following the completion of the Draft EIS. Based on the comments received from various Federal and state agencies and the public and a recent decision to change the eastern terminus of the project form U.S. 601 to the proposed Monroe Bypass, the FHWA and NCDOT have agreed not to prepare a Final EIS for the proposed U.S. 74 improvements from I–485 to U.S. 601.

FHWA, NCDOT, and the North Carolina Turnpike Authority (NCTA), plan to prepare a new Draft EIS for the proposed project. A notice of intent to prepare the EIS will be issued subsequent to this rescinding notice. The new Draft EIS will include a toll alternative among the full range of alternatives that will be analyzed as well as a change in the location of the eastern terminus.

Comments or questions concerning the decision to not prepare Final EIS should be directed to NCDOT or FHWA at the address provided in the caption, **FOR FURTHER INFORMATION CONTACT**. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Clarence W. Coleman,

Operations Engineer, Raleigh, North Carolina.

[FR Doc. 06–812 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Pueblo, Otero, Bent, and Prowers Counties, CO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Tier 1 Environmental Impact Statement (EIS) for proposed transportation improvements in Pueblo County, Otero County, Bent County and Prowers County in the State of Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Horn, Senior Operations Engineer, FHWA, Colorado Division, 12300 West Dakota Ave., Suite 180, Lakewood, CO, 80228, Telephone: (720) 963–3017. Mr. Mike Perez, Project Manager, Colorado

Department of Transportation, Region 2, 905 Erie Avenue, P.O. Box 536, Pueblo, CO 81002, Telephone: (719) 546–5406.

SUPPLEMENTARY INFORMATION: The FHWA and the Colorado Department of Transportation (CDOT), will prepare a Tier 1 Environmental Impact Statement (EIS) for transportation improvements on U.S Highway 50 between Pueblo, Colorado, and the vicinity of the Kansas State line in southeastern Colorado.

U.S. is a coast-to-coast highway recognized by the state of Colorado as a vital link in the statewide transportation system. The U.S. 50 corridor is approximately 150 miles long and connects four counties and ten municipalities. The communities along this corridor have primarily agricultural based economies. The proposed improvements to this section of U.S. 50 are intended to improve safety as well as local, regional, and statewide mobility. The proposed improvements will also consider access management strategies.

The Tier 1 EIS will incorporate the results of a 2003 CDOT corridor planning study that culminated in a long-term community-developed vision for the U.S. 50 corridor. The vision called for a safer roadway, on or near the exiting U.S. 50, that maintains a reasonable traffic flow and speed for the movement of people and goods along and through the Lower Arkansas Valley while providing flexibility to accommodate future transportation needs. Since 2003, additional coordination with local agencies and the public has resulted in resolutions of support from all four counties and ten communities and execution of a Memorandum of Understanding with local representatives defining community roles and responsibilities in the development of the Tier 1 EIS. FHWA and CDOT have also consulted with 11 other Federal and state agencies that have agreed to participate throughout the development of the Tier 1 EIS. These agencies have formally adopted a Charter Agreement that establishes clear expectations, identifies roles and responsibilities, describes procedures that support collaborative problem-solving in a timely manner at key project milestones, and defines an issue resolution process. The corridor planning study and agency charter agreement will be made available for review during the public and agency scoping process described below.

The Tier 1 EIS will evaluate alternative corridor locations and improvements and the No-Action alternative based upon the purpose and need. Alternatives will be developed and analyzed through an extensive agency and community outreach process. Anticipated decisions to be made during the Tier 1 EIS include modal choice, selection of a preferred general corridor location for U.S. 50, evaluation of access management and corridor preservations strategies, and a plan for further action. The Tier 1 EIS will also identify segments of independent utility. Based on the decisions reached during the Tier 1 process, FHWA and CDOT may proceed with Tier 2 studies for specific projects within those segments.

The public, as well as Federal, state, and local agencies, will be invited to participate in project scoping to ensure that a full range of alternatives is considered and that all appropriate environmental issues and resources are evaluated. The scoping process will include opportunities to provide comments on the purpose and need for the project, potential alternatives, and social, economic and environmental issues of concern. Public scoping will be accomplished through public meetings and other community outreach opportunities at locations throughout the project corridor. The time and place for these meetings will be announced in the local media. It is anticipated that public and agency scoping will occur in early 2006.

Based upon input from the scoping process, FHWA will evaluate social, economic, and environmental impacts of the corridor alternatives and the No-Action alternative. It is expected that major issues to be evaluated include: water quality, historic and other cultural resources, economic impacts, and farmland issues. The Tier 1 EIS will be available for public and agency review and comment. Information concerning the availability of the EIS will be published.

To ensure that the ful range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the Colorado Department of Transportation at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 24, 2006.

David A. Nicol,

Division Administrator, Colorado Division, Federal Highway Administration, Lakewood, Colorado 80228.

[FR Doc. 06–822 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2006–23592]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2006–23592]

Applicant: CSX Transportation, Incorporated, Mr. N. Michael Choat, Chief Engineer, Communications and Signal, 4901 Belfort Road, Suite 130, Jacksonville, Florida 32256.

CSX Transportation, Incorporated seeks approval of the proposed discontinuance and removal of the interlocking signal system on the single main track, Lower Savannah River Bridge, milepost AK456.3, near Augusta, Georgia, on the Florence Division, Augusta Subdivision. The proposed changes consist of the removal of the interlocked signals at the bridge, all associated signal equipment, and the associated inoperative approach signals. The authority for movements will remain Main Track Yard Limits (Rule 193) with a maximum authorized of 15 mph.

The reason given for the proposed changes is that the bridge has been straight-railed, and was last opened in 1992.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401

(Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.dms.dot.gov*.

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on January 23, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–1084 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2006–23593

Applicant: Union Pacific Railroad Company, Mr. Doug W. Wills, Senior Director Operating Practices/Safety, 1400 Douglas Street, Mail Stop 1020, Omaha, Nebraska 68179–1020.

The Union Pacific Railroad Company (UP) seeks temporary relief from the requirements of part 236, section 236.566, of the Rules, Standard and Instructions, to the extent that UP be permitted to operate foreign non-equipped locomotives in detour movements, over UP automatic cab signal/automatic train stop territory, on the Portland Subdivision, between Crates, Oregon, milepost 81.6 and East Portland, milepost 0.6, a distance of approximately 81 miles, from February 14, 2006 through April 14, 2006. The detour movements will consist of four Burlington Northern and Sante Fe (BNSF) freight trains daily.

Applicant's justification for relief: BNSF has requested the detour arrangement to accommodate track improvements on one of their line.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received will be considered as far as practicable by the FRA before final action is taken. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on January 23, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–1083 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD 2005—22519]

Availability of a Finding of No Significant Impact

AGENCY: Department of Transportation, Maritime Administration.

ACTION: Notice of the availability of a finding of no significant impact and finding of no practicable alternative.

SUMMARY: The purpose of this Notice is to make available to the public the Finding of No Significant Impact (FONSI) derived from the Environmental Assessment (EA) regarding the Cherry Hill Material Extraction and Transport Project on Elmendorf Air Force Base. Included in the FONSI is a Finding of No Practicable Alternative that addresses wetland loss.

The objective of this Project is to extract and transport suitable fill material for the Port of Anchorage Intermodal Expansion (Expansion). The Expansion will improve and enhance the existing dock and terminal capability at the Port to facilitate the transportation of goods and people within the State of Alaska.

FOR FURTHER INFORMATION CONTACT: Daniel E. Yuska, Jr., Environmental Protection Specialist, Office of Environmental Activities, U.S. Maritime Administration, 400 7th Street, SW., Room 7209, Washington, DC 20590; telephone (202) 366–0714, fax (202) 366–6988.

SUPPLEMENTARY INFORMATION: The Maritime Administration, in cooperation with the Port of Anchorage, completed an EA that studied potential environmental effects associated with the extraction and transport of suitable fill material from the Cherry Hill Borrow Site on Elmendorf Air Force Base. The EA considered potential effects to the natural and human environment including: air quality; water quality; geology and soils; coastal resources; terrestrial resources; aquatic resources;

navigation; hazardous materials; cultural and historic resources; visual and aesthetic resources; and other topics associated with the proposed action. The FONSI is based on the analysis presented in the Cherry Hill Material Extraction and Transport EA.

The FONSI and the EA are available for review at Loussac Library in Anchorage or online at *http://www.portofanchorage.org* and *http://www.dms.dot.gov.*

Authority: 49 CFR 1.66.

By Order of the Maritime Administrator.

Dated: January 24, 2006.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–1077 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2005–22653, Notice 2]

Mercedes-Benz, U.S.A. LLC; Grant of Application for a Temporary Exemption From Federal Motor Vehicle Safety Standard No. 108

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of Application for a Temporary Exemption from S5.5.10 of Federal Motor Vehicle Safety Standard No. 108.

SUMMARY: This notice grants the Mercedes-Benz, U.S.A. LLC (''MBUSA'') application for a temporary exemption from the requirements of S5.5.10 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* In accordance with 49 CFR Part § 555.6(b), the basis for the grant is to facilitate the development and field evaluation of new motor vehicle safety feature providing a level of safety at least equal to that of the standard. Pursuant to § 555.6(b)(5), MBUSA is permitted to sell not more than 2,500 exempted vehicles in any twelve-month period of the exemption. Because the exemption period is 24 months, this grant affects up to a total of 5,000 vehicles.

DATES: The exemption from S5.5.10 of FMVSS No. 108 is effective from January 23, 2006 until January 23, 2008.

FOR FURTHER INFORMATION CONTACT: George Feygin in the Office of Chief Counsel, NCC–112 Room 5215, 400 7th Street, SW., Washington, DC 20590 (Phone: 202–366–2992; Fax: 202–366–3820; E-Mail: *George.Feygin@nhtsa.dot.gov*).

I. Background

MBUSA petitioned the agency on behalf of its parent corporation, DaimlerChrysler AG.[1] The petition seeks a temporary exemption from S5.5.10 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108. In short, S5.5.10 specifies that with certain exceptions not applicable to this petition, all lamps, including stop lamps must be wired to be steady-burning.[2] In order to develop and evaluate an innovative flashing brake signaling system in the United States, MBUSA sought a temporary exemption from the ''steady-burning'' requirement as it applies to stop lamps. This system is currently available in Europe on the S-class, CL-class, and SL-class Mercedes vehicles.

MBUSA stated that the system enhances the emergency braking signal by flashing three stop lamps required by FMVSS No. 108 during strong deceleration. In addition, after emergency braking, the flashing brake signaling system automatically activates the hazard warning lights of the stopped vehicle until it starts to move again or the lights are manually switched off. The petitioner stated that this signaling system reduces the following drivers' reaction time by attracting their attention, and also enhances visibility of the stopped vehicle, thus helping to reduce the incidence and severity of rear end collisions.

NHTSA previously denied petitioner's request to amend FMVSS No. 108 to allow flashing brake signaling systems. Among the reasons for the denial was the need for additional data on safety benefits of flashing brake lamps. The petitioner argued that granting this temporary exemption would allow them to provide the information NHTSA found lacking.

MBUSA requested a two-year exemption period. In accordance with the requirements of 49 CFR § 555.6(b)(5), MBUSA will not sell more than 2,500 exempted vehicles in any twelve-month period within the two-year exemption period. For additional details, please see the MBUSA petition at *http://dms.dot.gov/search/searchFormSimple.cfm*, Docket No. NHTSA–2005–22653. The following (Parts II–VI) summarizes MBUSA's petition in relevant part.

[1] For more information on MBUSA, go to *http://www.mbusa.com.*

[2] *See* S5.5.10 of 49 CFR 571.108. Turn signal lamps, hazard warning signal lamps, school bus warning lamps must be wired to flash. Headlamps and side marker lamps may be wired to flash for signaling purposes. Motorcycle headlamps may be wired to modulate.

II. Description of the New Motor Vehicle Safety Feature

The petitioner states that its flashing brake signaling system provides two innovative safety-enhancing features.

First, three stop lamps required by FMVSS No. 108 flash at a frequency of 5 Hz in the event of strong deceleration. This occurs if the velocity is >50 km/h (31 mph) and at least one of the following conditions is met:

1. Deceleration is >7 m/s^2; or
2. The brake assist function is active; or
3. The Electronic Stability Program (ESP) control unit detects a panic braking operation.

The petitioner states that the activation criteria ensures that the flashing brake signaling system is only activated when truly needed. Thus, the brake lights will flash only in severe braking situations, and will flash at a relatively high frequency that allows for fast recognition. Further, using the panic brake signal from the ESP control unit as a trigger would activate the system only when the achievable deceleration is substantially smaller than the demanded one. Thus, the stop lamps would not flash in routine situations.

Second, after emergency braking, the system automatically activates the hazard warning lights of the stopped vehicle until it starts to move again, or the lights are manually switched off.

III. Potential Benefits of the New Motor Vehicle Safety Feature

The petitioner states that the flashing brake signaling system provides important safety enhancements not found in a vehicle equipped with a traditional brake signaling system. First, the flashing system reduces the following driver's reaction time and encourages maximum deceleration of following vehicles. The petitioner expects especially strong benefits during adverse weather conditions and for inattentive drivers. Second, the activation of hazard warning lamps on the stopped vehicle also enhances vehicle recognition after it comes to a complete stop. The petitioner believes that together, these features will help to reduce rear end collisions and improve safety.

The petitioner acknowledged the agency's longstanding restriction on flashing stop lamps, in the interest of standardized, instantly recognizable lighting functions. However, MBUSA indicated that its system will be easily recognizable, and would not interfere with NHTSA's objectives since activation of the flashing brake signaling system would be infrequent.

IV. The Petitioner's Research and Testing

The petitioner stated that the development of the flashing brake signaling system is based on careful research and testing. The activation criteria for the flashing brake lights were established with the help of a driver behavior study. The petitioner further states that field studies have demonstrated that the brake light system can significantly reduce driver reaction times.

MBUSA used a driver braking behavior study to understand how often rapid deceleration braking occurs in the United States. The study followed 96 subjects using 15 Mercedes-Benz vehicles equipped with a driver behavior and vehicle dynamics recorder. The study indicated that one emergency braking maneuver occurred for every 2,291 miles driven. The study also suggested that, based on the criteria described in the previous section, only 23 out of 100,000 braking maneuvers would activate the flashing stop lamps. The petitioner concludes that the flashing brake light will occur rarely, which will help to avoid ''optical pollution'' and enhance the effectiveness of the brake light system.[3]

MBUSA sponsored additional field and driving simulator studies, which showed that ''appropriately designed flashing brake lights significantly reduce drivers'' reaction times and thus can reduce the incidence and severity of rear-end collisions.''[4] Specifically, the study compared reaction times in emergency braking situations among conventional brake lights, conventional brake lights combined with hazard warning lights, flashing brake lights with a flashing frequency of 4 Hz, and flashing brake lights with a flashing frequency of 7 Hz.

The petitioner states that the study showed that flashing brake lights reduce driver reaction time by an average of 0.2 seconds, which is a reduction sufficient to reduce meaningfully the number and/or severity of rear-end collisions. MBUSA argues that even greater reduction in reaction time would occur under real-world driving conditions, where drivers are less focused on the driving task and subject to more sources of distraction. The study also showed positive effects from the flashing brake light signal under adverse weather conditions and in distraction situations. Finally, the test subjects expressed a preference for flashing brake lights when compared to other brake light signals.

The petitioner states that the Japanese Ministry of Land, Infrastructure and Transportation conducted a study to evaluate the validity and operating conditions of two types of emergency brake light displays, one that flashes upon sudden braking, and one that enlarges the lighting area of the brake lamps. The study found that flashing brake lamps reduced following drivers' response time in the drivers' peripheral fields of vision. The study also showed that shorter flashing intervals are more effective. Finally, the study indicated that an emergency brake light display that enlarges the lighting area is not as effective as a flashing brake lamp.

V. How Will a Temporary Exemption Facilitate the Development and Field Evaluation of a New Motor Vehicle Safety Feature?

The petitioner stated that it intends to monitor the exempted vehicles and study the effectiveness of the flashing brake signaling system. First, MBUSA will gather information about rear-end collisions of vehicles equipped with the system. This information will be combined with the parallel results from the European fleet and, according to the petitioner, should prove to be valuable in evaluating the anticipated safety benefits of the new brake light system. Second, the test fleet should enable MBUSA to evaluate acceptance of the flashing stop lamps among the American public.

VI. Why Granting the Petition for Exemption Is in the Public Interest

As indicated above, the petitioner argued that granting the requested exemption from FMVSS No. 108 would enable them to continue developing and evaluating its innovative flashing brake signaling system, thus contributing substantially to ongoing efforts to consider the effectiveness of enhanced lighting systems in reducing rear-end crashes. MBUSA believes that the system will help to reduce significantly following driver reaction times, thus reducing rear end collisions.

The petitioner also noted that rear end collisions are a significant traffic safety concern,[5] particularly in dense traffic areas, and an important cause of rear end collisions is a following driver's failure to detect that a leading vehicle has performed an emergency braking action. MBUSA believes that an enhanced braking signal that alerts following drivers to urgent braking situations has the potential to significantly enhance safety.

VII. Comments Regarding the MBUSA Petition

NHTSA published a notice of receipt of the application on October 7, 2005, and afforded an opportunity for comment.[6] The agency received two comments, from Candlepower, Inc.[7] and Richard L. Van Iderstine.[8]

In his comments, Mr. Van Iderstine argued that NHTSA only recently denied a petition to amend S5.5.10 of FMVSS No. 108 in order to allow flashing brake signaling systems being considered in this document. In short, Mr. Van Iderstine asked what has changed since the denial of that petition.

In its comments, Candlepower argued that temporary exemptions should be granted ''only in extreme and unusual circumstances, *e.g.*, evidenced, demonstrable manufacturer hardship.'' It also argued that MBUSA's petition is ''tantamount to requesting permission to use American roads as a research laboratory, possibly because European regulations in force in most of the rest of the world are more restrictive regarding nonstandard lighting functions.'' Further, it argued that a novel, nonstandard signal, such as flashing stop lamp, would cause the observing driver involuntarily to pause and attempt to comprehend the signal. It also argued that unlike Europe where turn signals must be amber and not red, in U.S., a flashing stop signal could be mistaken for a turn signal. Finally, Candlepower cautioned that new lighting devices tend to spawn ''poor-quality, noncompliant, unsafe copies in the aftermarket.''

VIII. The Agency's Decision and Response to Public Comments

The petitioner has met the burden of showing that an exemption would make easier the field evaluation of a new motor vehicle safety feature providing, within the context of 49 CFR part 555, ''a safety level at least equal to that of the standard.'' This new safety device is the same as current stop lamps, except

[3] MBUSA submitted supporting documentation, including the driver behavior study, under the claim of confidentiality. NHTSA granted the confidentiality request in part and denied it in part. The time for MBUSA to seek reconosideration of our confidentiality determination has not elapsed. In accordance with our regular procedures, the supporting documentation has not been placed in the public docket.

[4] The study was conducted by Dr. Joerg Breuer and Thomas Unselt.

[5] NCSA 2004 Traffic Safety Facts show 1,334,000 rear collisions involvoing passenger cars and 1,060,000 rear collisions involving light trucks (*see* Tables 42 and 44 at: *http://www-nrd.nhtsa.dot.gov/pdf/nrd-30/NCSA/TSFAnn/TSF2004EE.pdf*).

[6] *See* 70 FR 58786.

[7] *See* Docket Nos. NHTSA–2005–22653–4.

[8] *See* Docket Nos. NHTSA–2005–22653–3.

that it flashes during emergency braking. We note, however, that some of the benefits associated with signal lamps relate to standardization. We have not made any determination as to whether it would be appropriate to permit flashing stop lamps more generally. Instead, the granting of this petition will help the agency gather additional information necessary to evaluate more fully the effects of flashing brake signaling systems on motor vehicle safety.

As required by § 555.6(b), MBUSA described the flashing brake signaling system and provided research, development, and testing documentation. This information included a detailed description of how a vehicle equipped with the MBUSA flashing brake signaling system differs from one that complies with the standard. MBUSA also explained how an exemption would facilitate their safety research efforts. Specifically, MBUSA will gather information about rear-end collisions of vehicles equipped with the system. This information will be combined with the parallel results from the European fleet in order to provide data upon which the agency may base its evaluation of potential safety benefits of flashing brake signals.

Based on the petitioner's driver behavior study and other supporting research, we tentatively conclude that the flashing brake signaling system provides the level of safety that is at least equal to that of systems that comply with FMVSS No. 108.

Finally, we believe that an exemption is in the public interest because the new field data obtained through this temporary exemption would enable the agency to make more informed decisions regarding the effect of flashing brake signaling systems on motor vehicle safety.

With respect to Mr. Van Iderstine's comments, we note that the agency decision is fully consistent with our previous decision not to amend FMVSS No. 108. Instead of a broad and permanent change in the long-standing policy regarding flashing stop lamps, this document grants a narrow temporary exemption to a discreet group of (at most) 5,000 vehicles. In denying the petition to amend FMVSS No. 108, we indicated that NHTSA has been conducting research related to signal enhancements at the Virginia Tech Transportation Institute, and also analyzing crash and ''close call'' data from a 100-car naturalistic driving study to determine the potential of enhanced rear signaling as a means to reduce rear crashes. Together with that information, we believe that the field data obtained through this temporary exemption would enable the agency to make more informed decisions regarding the effect of flashing brake signaling systems on motor vehicle safety. We also believe that more recent data on the effectiveness of flashing stop lamps (compared to NHTSA's 1981 large scale field study) would be beneficial.

With respect to Candlepower comments, we first note that the statutory temporary exemption provisions found in 49 U.S.C. 30113 provide for more than one basis for granting a temporary exemption and specifically contemplate limited temporary exemptions for the purposes of field evaluation of new motor vehicle safety features.[9] We also note that vehicles equipped with this safety feature are already being sold in Europe. Therefore, this petition is not an attempt to circumvent more restrictive European regulations, as suggested by Candlepower. Finally, we note that the statute authorizing the agency to grant temporary exemptions for the purposes of field evaluation of new motor vehicle safety features specifically contemplates their use on U.S. roads. As the petitioner indicated, considerable research has already been performed. However, to aid the agency in evaluating the potential safety benefits of brake lights that flash during extreme deceleration, it would be beneficial to obtain field data from a discreet group of motor vehicles. This temporary exemption, which would apply to up to 5,000 vehicles, affords the agency this opportunity.

Candlepower raised certain concerns regarding potential negative safety consequences of the brake flashing signaling system contemplated by the petitioner. However, Candlepower has not provided any data in support of their position.

In consideration of the foregoing, the agency is granting the MBUSA petition for a temporary exemption from the requirements of S5.5.10 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment* in order to facilitate the development and field evaluation of new motor vehicle safety feature providing a level of safety at least equal to that of the standard.

In accordance with 49 U.S.C. 30113(b)(3)(B)(ii), MBUSA is granted NHTSA Temporary Exemption No. EX 05–6, from Paragraph S5.5.10 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* The exemption will remain in effect until January 23, 2008.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on: January 23, 2006.

Jacqueline Glassman,

Deputy Administrator.

[FR Doc. E6–1079 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–59–P

[9] *See* 49 U.S.C. § 30113(b)(3)(B)(ii).

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition To Modify an Exemption of a Previously Approved Antitheft Device; General Motors Corporation

AGENCY: National Highway Traffic Safety Administration,Department of Transportation (DOT).

ACTION: Grant of a petition to modify an exemption from the Parts Marking Requirements of a previously approved antitheft device.

SUMMARY: On July 12, 2005, the National Highway Traffic Safety Administration (NHTSA) granted in full General Motors Corporation's (GM) petition to exempt the Chevrolet Cobalt vehicle line from the parts-marking requirements of the vehicle theft prevention standard (*See* 70 FR 40102). The exemption was granted because the agency determined that the antitheft device proposed to be placed on the line as standard equipment was likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. On August 24, 2005, GM petitioned the agency to amend the exemption currently granted for the Chevrolet Cobalt vehicle line. NHTSA is granting in full GM's petition to modify the exemption because it has determined that the modified antitheft device to be placed on the Chevrolet Cobalt line as standard equipment will also likely be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: On July 12, 2005, NHTSA published in the

Federal Register a notice granting in full the petition from GM for an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR 541) for the MY 2005 Chevrolet Cobalt vehicle line. The Chevrolet Cobalt is equipped with the Passlock III antitheft device (*See* 70 FR 40102).

This notice grants in full GM's August 24, 2005, petition to modify the exemption of the previously granted petition for the MY 2006 Chevrolet Cobalt. GM's August 24, 2005, submission is a complete petition, as required by 49 CFR Part 543.9(d), in that it meets the general requirements contained in 49 CFR Part 543.5 and the specific content requirements of 49 CFR Part 543.6. GM's petition provides a detailed description of the identity, design and location of the components of the antitheft system proposed for installation beginning with the 2006 model year.

The current antitheft device (Passlock III) installed on the Chevrolet Cobalt is a passively activated, transponder-based electronic immobilizer system. GM stated that its current device uses a standard ignition key to rotate a specially coded ignition switch. Before the vehicle can be operated, the electrical code in the ignition switch must be read and determined to match the value stored in the decoder module.

The electrical code in the ignition switch is provided by resistive elements enabled by the lock cylinder. When a key with the proper mechanical cut is inserted in the lock cylinder and rotated from ''RUN'' to ''Crank'', the resistive code will become readable by the decoder module. When the decoder module recognizes a valid code, fuel flow is enabled and the vehicle can be operated.

In its petition to modify its exemption, GM stated that it proposes to install its Chevrolet Cobalt vehicle line with its PASS-Key III+ antitheft device for MY 2006. The PASS-Key III+ device is designed to be active at all times without direct intervention by the vehicle operator. The antitheft device is fully armed immediately after the ignition has been turned off and the key removed and it will continue to provide protection against unauthorized starting and fueling of the vehicle engine.

Components of the modified antitheft device include a special ignition key and decoder module. Before the vehicle can be operated, the key's electrical code must be properly sensed and decoded by the PASS-Key III+ control module. The ignition key contains electronics molded into the key head. These electronics receive energy and data from the control module. Upon receipt of the data, the key will calculate a response to the data using secret information and an internal encryption algorithm, and transmit the response back to the vehicle. The controller module translates the radio frequency signal received from the key into a digital signal and compares the received response to an internally calculated value. If the values match, the key is recognized as valid, and vehicle starting is allowed.

GM stated that although its modified antitheft device provides protection against unauthorized starting and fueling of the vehicle, it does not provide any visible or audible indication of unauthorized entry by means of flashing vehicle lights or sounding of the horn. Since the system is fully operational once the vehicle has been turned off, specific visible or audible reminders beyond key removal reminders have not been provided.

Based on comparison of the reduction in the theft rates of GM vehicles using a passive theft deterrent device with an audible/visible alarm system to the reduction in theft rates for GM vehicle models equipped with a passive antitheft device without an alarm, GM finds that the lack of an alarm or attention attracting device does not compromise the theft deterrent performance of a system such as PASS-Key III+. The agency has previously agreed with the finding that the absence of a visible or audible alarm has not prevented these antitheft devices from being effective protection against theft.

In addressing the specific content requirements of 543.6, GM provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, GM conducted tests based on its own specified standards. GM also provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test. Additionally, GM stated that its proposed device is reliable and durable because the components are validated for a vehicle life of 10 years and 150,000 miles of performance. GM stated that for reliability/durability purposes, its key and key cylinders must also meet unique strength tests against attempts of mechanical overriding. The PASS-Key III+ device performs the same function as its predecessors, however it uses a higher level of electrical sophistication to provide a key, which is protected from electrical duplication.

GM compared its MY 2006 antitheft device with devices which NHTSA has already determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. To substantiate its beliefs as to the effectiveness of the new device, GM compared the MY 2006 modified device to its ''PASS-Key''-like systems. GM indicated that the theft rates, as reported by the Federal Bureau of Investigation's National Crime Information Center, are lower for GM models equipped with the ''PASS-Key''-like systems which have exemptions from the parts-marking requirements of 49 CFR Part 541, than the theft rates for earlier models with similar appearance and construction which were parts-marked. Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III systems on other GM models, and the advanced technology utilized by the modification, GM believes that the MY 2006 antitheft device will be more effective in deterring theft than the parts-marking requirements of 49 CFR Part 541. Additionally, GM stated that the PASS-Key III+ system has been designed to enhance the functionality and theft protection provided by GM's first, second, and third generation PASS-Key, PASS-Key II, and PASS-Key III systems.

On the basis of this comparison, GM stated that the antitheft device (PASS-Key III+) for model years 2006 and later will provide essentially the same functions and features as found on its MY 2005 Passlock III device and therefore, its modified device will provide at least the same level of theft prevention as parts-marking. GM believes that the antitheft device proposed for installation on its MY 2006 Chevrolet Cobalt vehicle line is likely to be as effective in reducing thefts as compliance with the parts-marking requirements of Part 541.

The agency has evaluated GM's MY 2006 petition to modify the exemption for the Chevrolet Cobalt vehicle line from the parts-marking requirements of 49 CFR Part 541, and has decided to grant it. It has determined that the PASS-Key III+ system is likely to be as effective as parts-marking in preventing and deterring theft of these vehicles, and therefore qualifies for an exemption under 49 CFR Part 543. The agency believes that the modified device will continue to provide four of the five types of performance listed in Section 543.6(b)(3): Promoting activation; preventing defeat or circumventing of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be

characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: January 23, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E6–1071 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Mercedes-Benz

AGENCY: National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of Mercedes-Benz USA, LLC., (MBUSA) in accordance with § 543.9(c)(2) of 49 CFR part 543, *Exemption from the Theft Prevention Standard,* for the E-Line Chassis vehicle line beginning with model year (MY) 2006. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated September 16, 2005, MBUSA requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the MY 2006 E-Line Chassis vehicle line. The petition requested exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for an entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one line of its vehicle lines per year. In its petition, MBUSA provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the E-Line Chassis vehicle line. MBUSA will install its passive, antitheft device as standard equipment beginning with MY 2006. Features of the antitheft device will include an electronic key and ignition lock, a passive immobilizer and a visible and audible alarm. MBUSA's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

MBUSA stated that the proposed device would utilize a transmitter key, an electronic ignition starter control unit and an engine control unit, which will work collectively to perform the immobilizer function. The immobilizer will prevent the engine from running unless a valid key is used. Immobilization is activated when the key is removed from the ignition switch, whether the doors are open or closed. Once activated, a valid, coded-key must be inserted into the ignition switch to disable immobilization and permit starting of the vehicle.

In addressing the specific content requirements of 543.6, MBUSA provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, MBUSA conducted tests based on its own specified standards. MBUSA also provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test.

MBUSA also compared the device proposed for its vehicle line with other devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. MBUSA stated that its proposed device is functionally equivalent to the systems used in previous vehicle lines which were deemed effective and granted exemptions from the parts-marking requirements of the theft prevention standard. Additionally, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which MBUSA proposes to install on the new line.

On the basis of this comparison, MBUSA has concluded that the antitheft device proposed for its E-Line Chassis vehicle line is no less effective than those devices in the lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by MBUSA, the agency believes that the antitheft device for the E-Line Chassis vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): Promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6 (a)(4) and (5), the agency finds that MBUSA has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information MBUSA provided about its device, much of which is confidential.

For the foregoing reasons, the agency hereby grants in full MBUSA's petition for exemption for the vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If MBUSA decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if MBUSA wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission

of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: January 23, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E6–1070 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Volkswagen

AGENCY: National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of Volkswagen of America, Inc. (VW) in accordance with § 543.9(c)(2) of 49 CFR Part 543, *Exemption from the Theft Prevention Standard*, for the Audi A4 vehicle line beginning with model year (MY) 2007. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. In a letter dated October 19, 2005, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated September 26, 2005, VW requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the MY 2007 Audi A4 vehicle line. The petition requested exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for an entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one line of its vehicle lines per year. In its petition, VW provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. VW will install its passive, antitheft device as standard equipment beginning with MY 2007. Features of the antitheft device will include the immobilizer control unit, the reading coil on the ignition lock, the engine control unit, a transponder-based ignition key, a remote key fob and a visable and audible alarm. VW's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

VW's proposed device incorporates an immobilizer feature, tow away protection and an audible and visual alarm system. VW stated that the device is switched on by turning the key in either of the front door locks to the lock position, or by locking the vehicle with the remote key fob. The A4's immobilizer prevents the vehicle from being operated by unauthorized persons. When the ignition key is turned to the ''on'' position, the key's transporter, the immobilizer control unit, and the engine control unit initiate a complex set of tests to determine if vehicle start-up should be enabled. If the tests fail, the vehicle cannot be started. Additionally, the audible alarm and emergency flashers are activated if any of the protected areas of the vehicle are violated. The protected areas include the doors, trunk or hatch, hood, activation of ignition lock voltage and tilt.

In addressing the specific content requirements of 543.6, VW provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, VW conducted tests based on its own specified standards. VW provided a detailed list of the tests conducted, including those for electrical and mechanical durability and believes that the device is reliable and durable since it complied with VW's specified requirements for each test.

VW also provided information on the theft rate history for previous MY vehicles installed with a similar device as that proposed. VW indicated that the theft rates for the Audi A4 vehicle line have been significantly below the median. NHTSA's theft rates for the A4 vehicle for model years 2000 through 2003 were 1.2433, 1.6561, 1.8970, and 0.8418, respectively.

On the basis of this comparison, VW has concluded that the proposed antitheft device is no less effective than those devices installed on lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by VW, the agency believes that the antitheft device for the A4 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541).

The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6 (a)(4) and (5), the agency finds that VW has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information VW provided about its device, much of which is confidential. For the foregoing reasons, the agency hereby grants in full VW's petition for exemption for the A4 vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the exemption is granted and a general description of the device is necessary in

order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Theft Prevention Standard. Therefore, although VW has been granted confidential treatment for most aspects of its petition, the agency notes certain information that may be published in the **Federal Register**. If VW decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if VW wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

We note that VW requested confidential treatment for the information and attachments it submitted in support of its petition. While the agency granted the petitioner's request for confidential treatment of most aspects of its petition, we have released the model year for which the exemption is granted. This information is necessary for the law enforcement efforts to combat motor vehicle theft. That is, law enforcement officials need to know whether a given motor vehicle line was subject or exempted from the parts-marking requirements for a given model year.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: January 23, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E6–1073 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34820]

Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) pursuant to a written trackage rights agreement entered into between BNSF and Union Pacific Railroad Company (UP) has agreed to grant temporary overhead trackage rights to UP over BNSF's line of railroad between Hobart Tower, CA (milepost 146.0), and Riverside, CA (milepost 9.8), a distance of approximately 57.7 miles.[1]

The transaction was scheduled to be consummated on January 16, 2006, but consummation could lawfully occur no earlier than January 17, 2006, the effective date of the exemption (7 days after the exemption was filed). The temporary trackage rights will expire on or about March 22, 2006. The purpose of the temporary trackage rights is to facilitate maintenance work on UP lines.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34820, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Gabriel S. Meyer, Assistant General Attorney, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: January 23, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 06–761 Filed 1–27–06; 8:45 am]

BILLING CODE 4915–01–P

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[1] Total mileage does not correspond to the milepost designations of the endpoints because the trackage rights involve BNSF subdivisions with non-contiguous mileposts.

Corrections

Federal Register
Vol. 71, No. 19
Monday, January 30, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]

Notice of Amended Final Results of Antidumping Duty Administrative Review; Certain Softwood Lumber Products From Canada

Correction

In notice document E5–653 beginning on page 3458 in the issue of Monday, January 23, 2006, make the following correction:

On page 3460, the table is corrected in part to read as follows:

Producer/exporter	Original weighted-average margin (percentage)	Amended weighted-average margin (percentage)
* * * * * * *		
Buchanan (and its affiliates Atikokan Forest Products Ltd., Long Lake Forest Products Inc., Nakina Forest Products Limited,[9] Buchanan Distribution Inc., Buchanan Forest Products Ltd., Great West Timber Ltd., Dubreuil Forest Products Ltd., Northern Sawmills Inc., McKenzie Forest Products Inc., Buchanan Northern Hardwoods Inc., Northern Wood, and Solid Wood Products Inc.)	2.86	2.76
Canfor[10] (and its affiliates Canfor Wood Products Marketing Ltd., Canadian Forest Products, Ltd., Bois Daaquam Inc. / Daaquam Lumber Inc., Lakeland Mills Ltd., The Pas Lumber Company Ltd. / Winton Sales, Howe Sound Pulp and Paper Limited Partnership, Winton Global Lumber Ltd., and Skeena Cellulose)	1.36	1.35
Tembec (and its affiliates Marks Lumber Ltd., Excel Forest Products, Les Industries Davidson Inc., Produits Forestiers Temrex Limited Partnership, Tembec Industries Inc., Spruce Falls Inc.)	4.02	4.02
* * * * * * *		

[FR Doc. Z6–653 Filed 1–27–06; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 141, and 142

[EPA–HQ–OW–2002–0039; FRL–8013–1]

RIN 2040–AD37

National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule

Correction

In rule document 06–4 beginning on page 654 in the issue of Thursday, January 5, 2006, make the following corrections:

1. On page 716, in Table IV.G–1, in the third column, in the fifth entry, ''No later than October 1, 2013[3]'' should read ''No later than October 1, 2012[3]''.

2. On the same page, in the same table, in the fourth column, in the fifth entry, ''No later than October 1, 2012[3]'' should read ''No later than October 1, 2013[3]''.

3. On the same page, in Table IV.G–2, in the first column, in the fourth line, ''Report notice intent'' should read ''Report notice of intent''.

4. On page 724, in Table IV.J–1, in footnote 8, in the first and second lines, ''enzyme glucuronidase'' should read ''enzyme βglucuronidase''.

[FR Doc. C6–4 Filed 1–27–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
January 30, 2006

Part II

Department of Housing and Urban Development

24 CFR Part 202
Revisions to FHA Credit Watch Termination Initiative; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 202

[Docket No. FR–4625–F–03]

RIN 2502–AH60

Revisions to FHA Credit Watch Termination Initiative

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: On December 17, 2004, HUD published an interim rule implementing certain regulations for the Federal Housing Administration (FHA) Credit Watch Termination Initiative. Under the initiative, FHA systematically reviews the early default and claim rates of mortgagees that have been approved to participate in the FHA single family mortgage insurance programs. Mortgagees with excessive default and claim rates are considered to be on Credit Watch status and, in cases of more severe performance deficiencies, HUD may terminate the mortgagee's loan origination approval authority. Credit Watch status constitutes a warning to a mortgagee that its default and claim rates are in excess of permissible levels and that failure to achieve improvement may lead to the termination of its origination approval agreement. The final rule follows publication of the December 17, 2004, interim rule, takes into consideration the public comments received on the interim rule, and makes no changes at this final rule stage.

DATES: *Effective Date:* March 1, 2006.

FOR FURTHER INFORMATION CONTACT: Phillip Murray, Director, Office of Lender Activities and Program Compliance, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room B–133, Washington, DC 20410–8000; telephone (202) 708–1515 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On April 1, 2003, HUD published a proposed rule (68 FR 15906) to amend the regulations for the Federal Housing Administration (FHA) Credit Watch Termination Initiative. Under the initiative, FHA systematically reviews the early default and claim rates of mortgagees that have been approved to participate in the FHA single family mortgage insurance programs. Mortgagees with excessive default and claim rates are considered to be on Credit Watch status and, in cases of more severe performance deficiencies, HUD may terminate the mortgagee's loan origination approval authority. Credit Watch status constitutes a warning to a mortgagee that its default and claim rates are in excess of permissible levels and that failure to achieve improvement may lead to the termination of its origination approval agreement. The termination of a mortgagee's origination approval agreement is separate and apart from any action taken by HUD's Mortgagee Review Board for violations of FHA requirements under 24 CFR part 25.

The regulations for the Credit Watch Termination Initiative are contained in 24 CFR 202.3.

The April 1, 2003, rule proposed various amendments to the regulations for the Credit Watch Termination Initiative. Specifically, the April 1, 2003, rule proposed to: (1) Establish a fully computerized Credit Watch status notification process through use of the FHA Neighborhood Watch Early Warning System; (2) remove the regulatory ''cap'' on the default and claim rate for placing a mortgagee on Credit Watch status; (3) prohibit a mortgagee that has received a notice of proposed termination from establishing a new branch in the lending area covered by the proposed termination; (4) provide that the default and claim thresholds underlying the Credit Watch Termination Initiative apply to both underwriting and originating mortgagees; (5) codify the definition of ''underserved area'' that is currently used under the Credit Watch Termination Initiative; (6) provide that the date of mortgage origination will be considered to be the date the loan transaction commences amortization, rather than the date of endorsement for FHA mortgage insurance; (7) specify the timeframes for the informal conference that may be requested by a mortgagee prior to termination; and (8) describe the procedures a terminated mortgagee must follow to have its origination approval agreement reinstated.

The proposed regulatory changes were designed to improve the Credit Watch Termination Initiative, thereby strengthening HUD's capacity to safeguard the FHA mortgage insurance fund. The preamble to the April 1, 2003, proposed rule provides additional details regarding the proposed regulatory changes to 24 CFR 202.3.

On December 17, 2004 (69 FR 75802), HUD published an interim rule that considered the comments received on the proposed rule and made effective the proposed changes to the Credit Watch program contained in the April 1, 2003, proposed rule. In response to the public comments requesting that HUD clarify the applicability of the Credit Watch Termination to underwriting mortgagees, HUD revised the rule to provide for separate regulatory language that specifically addresses underwriting mortgagees. The regulatory language did not alter the substance of the proposals, but rather provided greater clarity on how the performance of underwriting mortgagees would be subject to evaluation under the Credit Watch Termination Initiative. The regulatory provisions of the December 17, 2004, interim rule took effect on January 18, 2005. However, in order to provide for public comment on the regulatory provisions regarding underwriting mortgagees, HUD invited public comments on that aspect of the interim rule for a period of 60 days.

II. This Final Rule

This final rule follows publication of the December 17, 2004, interim rule and takes into consideration the public comments received on the interim rule. After careful consideration of the public comments on the new language concerning the applicability of the Credit Watch Termination Initiative to underwriting mortgagees, HUD has decided to adopt the December 17, 2004, rule as final without change.

III. Discussion of the Public Comments on the December 17, 2004, Interim Rule

The public comment period for the interim rule closed on February 15, 2005. HUD received three public comments. Comments were received from two mortgage lenders and a national association representing mortgage bankers. This section of the preamble presents a summary of the significant issues raised by the public commenters on the December 17, 2004, interim rule and HUD's responses to those issues.

Comment: Before HUD terminates underwriting authority, HUD should take into consideration the lender's overall national default/claim rate. One commenter wrote that nationwide lenders could be unfairly penalized by a termination action if a localized fraud scheme or unexpected local economic downturn increases a lender's default rate above HUD's termination threshold.

HUD Response. HUD's Credit Watch Termination Initiative focuses on a mortgagee's performance within a HUD field office jurisdiction. A mortgagee's default and claim rate within a HUD

field office jurisdiction is compared to the overall default and claim rate of the entire HUD field office jurisdiction. Before HUD terminates the underwriting authority, it will consider mitigating issues raised by a mortgagee during its informal conference and in its written response. HUD's evaluation of mortgagees on the basis of HUD field office jurisdiction coincides with the manner in which FHA approves mortgagees to operate. This method of evaluation recognizes that local market conditions and events may contribute to higher defaults and claims.

Comment: HUD should develop guidelines that take into account potential difficulties for underwriting mortgagees to comply due to shifting local averages. One commenter wrote that because a mortgagee's defaults are compared to the average rate in a local area, a lender could be terminated either due to a shift in the overall credit quality of a HUD local area, or by the gradual decline of a HUD local area's average default and claim rate, rather than due to the quality of the loans the lender is originating.

HUD Response. HUD believes that the compare ratio for all lenders within a HUD field office jurisdiction would be equally affected by a shift in the overall credit quality or by the gradual decline of a HUD field office area's average default and claim rate. Furthermore, once a lender is terminated, while it cannot originate new FHA-insured loans, the lender's previously insured and defaulted cases are still included in the universe that makes up the compare ratio. Lenders are subject to termination when their claim and default ratio indicate that they pose a greater risk to the FHA insurance fund than other lenders in the field office area. Additionally, the compare ratio for each round of Credit Watch Termination is based on a specific 24-month period. Therefore, based on a loan being insured and the beginning amortization date, loans are added and removed from the counts for each successive round of Credit Watch Termination. Finally, as mentioned in the interim rule's preamble, HUD will periodically review the normal rate to determine whether the thresholds should be adjusted to reflect overall improvement in the FHA portfolio.

Comment: HUD should provide adequate time and opportunity after the initial lender notification, yet prior to public notification of termination in the **Federal Register**, for the lender to be granted an informal conference with HUD to explain the reasons for the increased default/claims rate.

HUD Response. As provided in 24 CFR 202.3(c)(1)(ii) of the Credit Watch regulations, a mortgagee may request an informal conference after receiving a proposed termination letter. Mortgagees are provided the opportunity at the informal conference to fully explain the reasons for the mortgagee's increased defaults and claims. The regulation provides that HUD must receive a request for the informal conference no later than 30 calendar days after the receipt date of the proposed termination letter from HUD, and that the conference must be held no later than 60 days after the date of the proposed termination notice. HUD will not publish an announcement in the **Federal Register** that a mortgagee has had its origination approval agreement terminated until after the requested informal conference is held, after HUD has considered all relevant reasons and factors, and after HUD has upheld its decision to terminate a lender's approval agreement.

Comment: HUD should broaden and specify mitigation factors it will consider in making its termination decision. One commenter wrote that because of the severity of the penalty to the lender, the regulation should provide HUD with the ability to consider other mitigating factors in making its termination decision, such as: (1) The lender's overall risk management plan and performance; (2) prior proactive lender notification to HUD of fraud or other significant issues the lender has discovered; (3) prior action the lender has taken against a correspondent who has contributed to the high default rate, such as terminating the lender's relationship with the correspondent; and (4) prior action such as termination or other disciplinary action against the lender's employees responsible for a high default/claim rate.

Another commenter wrote that HUD should broaden and specify the factors that FHA will review in deciding not to terminate the direct endorsement approval of a mortgagee and communicate these circumstances to direct endorsement lenders. This commenter wrote that mortgagees have had little success in convincing FHA that particular circumstances justify the withdrawal of a termination notice. The commenter continued by writing that there are many factors beyond poor underwriting or lending in underserved areas that can cause a higher default rate from one lender to another. The commenter wrote that lenders specializing in a particular product or that service a particular borrower type may be at a disadvantage in the general FHA market in a given area due to the greater risk inherent in these products. Finally, the commenter wrote that if the FHA holds underwriting mortgagees accountable in the same manner as originating mortgagees, underwriting mortgagees may avoid doing business with certain originators based on product type and not on origination quality. The commenter wrote that lenders should be encouraged to adopt new, and potentially riskier, FHA products, and lenders should not be penalized for this.

HUD Response. HUD appreciates the comments and the suggested mitigation factors. However, HUD believes that the current regulations address the concerns raised by the commenters and that a regulatory change is therefore unnecessary. HUD will notify a mortgagee that its origination approval agreement will terminate if the mortgagee's default and claim rates are in excess of permissible levels. As mentioned above in this preamble, mortgagees that have received a proposed termination notice may request an informal conference at which the designated official will consider other relevant reasons and factors beyond the mortgagee's control that contributed to the mortgagee's high default and claim rate. Mortgagees will have the opportunity at the informal conference to present mitigating information, such as the actions identified by the commenters.

Comment: HUD should take action only against a lender's specific division responsible for the high default and claim rate. One commenter requested that HUD provide the flexibility to separately analyze a lender's retail and correspondent divisions. The commenter suggested that when it can be determined that the claim and default rate is attributable to only one division, HUD should take action only against the division responsible for the high rate of defaults and claims.

HUD Response. The current regulations already provide HUD with the flexibility to implement Credit Watch Termination actions against retail and correspondent divisions separately. Specifically, 24 CFR 202.3(c)(2) provides that HUD may ''review the insured mortgage performance of a mortgagee's branch offices individually and may terminate the authority of the branch or the authority of the mortgagee's overall operation.''

Comment: HUD should phase in the threshold for underwriting approval termination from 300 percent to 200 percent over a year or more. One commenter wrote that FHA should follow the same process it used in

originally introducing Credit Watch; that is, FHA should start with a compare ratio of 300 percent for a given time period and then, if concerns are addressed, the compare ratio threshold should be lowered quarterly by 25 percent to arrive at a 200 percent compare ratio. The commenter explained that gradual implementation is important because Credit Watch covers loans made over a two-year period, and lenders will thus be evaluated for loans that were underwritten prior to the need to consider the consequences of Credit Watch. The commenter wrote that the goal of Credit Watch is not to terminate a lender's underwriting authority, but rather to prompt lenders to change their policies where the compare ratios are far above the norm—and implementing the threshold gradually from 300 percent to 200 percent will allow lenders to do this.

HUD Response. At this time, HUD will not phase in Credit Watch thresholds. Should HUD decide to change and/or phase in the Credit Watch thresholds for underwriting mortgagees, it will announce this policy determination through Mortgagee Letter, **Federal Register** notice, or other means, as appropriate.

Comment: Originating lenders should not be held responsible for defaults of which it has no knowledge. One commenter wrote that mortgages are often sold and transferred to new servicers, and that once the transfer takes place, the originating company gets virtually no information with regard to payments until the servicer seeks to impose a penalty or ask for re-purchase of that loan.

HUD Response. As announced in Mortgagee Letter 00–20, dated June 2, 2000, the Neighborhood Watch Early Warning system provides lenders with loan performance data via the FHA Internet Connection. Mortgagees that have received a proposed termination notice may request an informal conference at which a designated official will consider other relevant reasons and factors beyond the mortgagee's control that contributed to the mortgagee's high default and claim rate. Mortgagees will have the opportunity at the informal conference to present mitigating information.

IV. Small Business Concerns Related to Credit Watch Termination Initiative

With respect to termination of the mortgagee's origination approval agreement, or taking other appropriate enforcement action against a mortgagee, HUD is cognizant that section 222 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) requires the Small Business and Agriculture Regulatory Enforcement Ombudsman to ''work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by this personnel.'' To implement this statutory provision, the Small Business Administration has requested that agencies include the following language on agency publications and notices that are provided to small business concerns at the time the enforcement action is undertaken. The language is as follows:

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of [insert agency name], you will find the necessary comment forms at *http://www.sba.gov.ombudsman* or call 1–888–REG–FAIR (1–888–734–3247).

In accordance with its notice describing HUD's actions on the implementation of SBREFA, which was published on May 21, 1998 (63 FR 28214), HUD will work with the Small Business Administration to provide small entities with information on the Fairness Boards and National Ombudsman program, at the time enforcement actions are taken, to ensure that small entities have the full means to comment on the enforcement activity conducted by HUD.

V. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). The docket file is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at (202) 708–3055.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule follows publication of a December 17, 2004, interim rule that made several amendments to HUD's regulations for the FHA Credit Watch Termination Initiative and solicited additional public comment on those provisions regarding underwriting mortgagees.

The final rule provides that the default and claim thresholds underlying the Credit Watch Termination Initiative apply to both underwriting and originating mortgagees. This amendment will ensure that the performance of all mortgagees involved in FHA-insured mortgage transactions is evaluated. To the extent that the change will have an economic impact on small underwriting mortgagees that are presently not covered by Credit Watch Termination, it will be as a result of actions taken by the mortgagees themselves—that is, failure to undertake the sound business practices necessary to maintain default and claim rates at an acceptable level.

The final rule also provides for a fully computerized Credit Watch notification process through use of the FHA Neighborhood Watch Early Warning System. This change will provide for a streamlined and more effective method of monitoring mortgagee performance and for notifying poor performing mortgagees that are in danger of having their origination approval agreements terminated by HUD. The change will not impose an undue burden on small entities, since it merely codifies a HUD policy that was previously announced through a Mortgagee Letter. Further, the majority of mortgagees (small and large) participating in the FHA mortgage insurance programs currently have access to the FHA Internet Connection that is used to provide such notification.

The rule also removes the regulatory cap on the Credit Watch default and claim rates, and provides that a mortgagee will be considered to be on Credit Watch Status if it has a default and claim rate on insured mortgages that exceeds 150 percent of the normal rate and its origination approval

agreement has not been terminated. This revision will not impose a significant economic impact on small entities, since the entities that will be affected by this change are poorly performing mortgagees that are already subject to termination of their origination approval agreements.

The rule also prohibits a mortgagee that has received a notice of proposed termination of its origination approval agreement from establishing a new branch in the lending area covered by the proposed termination. The mortgagees to which this change will be applicable are those that already have been notified by HUD that their default and claim rates exceed an acceptable standard in specified geographic areas and that they are at risk of having their FHA mortgage origination approvals terminated. The rule closes a loophole previously used by mortgagees to evade HUD's existing procedure for reviewing losses to the FHA mortgage insurance fund.

The final rule also provides that, for purposes of the Credit Watch Termination evaluation, the date of mortgage origination will be considered to be the date the loan transaction commences amortization, rather than the date of endorsement for FHA mortgage insurance. This change will not impose any economic burden on small mortgagees; rather, the change will improve the accuracy of Credit Watch Termination evaluations by conforming HUD's definition of the mortgage origination date to the beginning amortization date used to report defaults. Finally, the final rule will codify the existing definition of the term ''underserved area'' for purposes of Credit Watch Termination determinations. This amendment merely codifies existing policy and will, therefore, not impose any new economic burden on mortgagees.

Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This final rule will not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This final rule does not impose any Federal mandates on any state, local, or tribal government or the private sector within the meaning of UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Program number applicable to 24 CFR part 202 is 14.20.

List of Subjects in 24 CFR Part 202

Administrative practice and procedure, Home improvement, manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons stated in the preamble, the interim rule for part 202 of Title 24 of the Code of Federal Regulations, amending § 202.3(c)(2) and adding § 202.3(e), published on December 17, 2004, at 69 FR 75802, is promulgated as final, without change.

Dated: January 20, 2006.

Frank L. Davis,

General Deputy Assistant Secretary for Housing.

[FR Doc. 06–852 Filed 1–27–06; 8:45 am]

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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 30, 2006

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

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DEFENSE DEPARTMENT

Small and Disadvantaged Business Utilization Director; CFR part removed; published 1-30-06

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Air programs:
Ambient air quality standards, national—
8-hour ozone standard, Phase 2, etc.; implementation; published 11-29-05

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
California; published 11-30-05
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FEDERAL COMMUNICATIONS COMMISSION

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Georgia; published 1-4-06
Michigan; published 1-4-06
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HOMELAND SECURITY DEPARTMENT

Coast Guard

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Chicago Sanitary and Ship Canal, IL; published 1-27-06

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Low income housing:
Housing assistance payments (Section 8)—
Students of higher education; assisted housing eligibility; published 12-30-05

Practice and procedure:
Applications for grants and other financial assistance; electronic submission; published 12-29-05

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

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Service difficulty reports; withdrawn; published 12-29-05

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Thermal/acoustic insulation materials; improved flammability standards; published 12-30-05

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Anthropomorphic test devices:
Occupant crash protection—
Hybrid III six-year-old weighted child test dummy; published 12-30-05

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
Alternative method for determining tax book value of assets; allocation and apportionment of expenses; published 1-30-06

Procedure and administration:
Corporation and domestic; definitions clarification; published 1-30-06

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AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:
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COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
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Pacific Fishery Management Council; meetings; comments due by 2-8-06; published 11-21-05 [FR 05-22992]

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Required sources of supply; comments due by 2-7-06; published 12-9-05 [FR 05-23724]

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Metal cans; surface coating; comments due by 2-6-06; published 1-6-06 [FR 06-00068]

Air pollution; standards of performance for new stationary sources:
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Polymers; molecular weight limitations removed; comments due by 2-6-06; published 12-7-05 [FR 05-23667]

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Digital television distributed transmission system technologies; comments due by 2-6-06; published 12-7-05 [FR 05-23658]

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Federal Acquisition Regulation (FAR):
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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)

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136–149	(869–056–00159–2)	61.00	July 1, 2005
150–189	(869–056–00160–6)	50.00	July 1, 2005
190–259	(869–056–00161–4)	39.00	July 1, 2005
260–265	(869–056–00162–2)	50.00	July 1, 2005
266–299	(869–056–00163–1)	50.00	July 1, 2005
300–399	(869–056–00164–9)	42.00	July 1, 2005
400–424	(869–056–00165–7)	56.00	[8]July 1, 2005
425–699	(869–056–00166–5)	61.00	July 1, 2005
700–789	(869–056–00167–3)	61.00	July 1, 2005
790–End	(869–056–00168–1)	61.00	July 1, 2005
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–056–00169–0)	24.00	July 1, 2005
101	(869–056–00170–3)	21.00	July 1, 2005
102–200	(869–056–00171–1)	56.00	July 1, 2005
201–End	(869–056–00172–0)	24.00	July 1, 2005
42 Parts:			
1–399	(869–056–00173–8)	61.00	Oct. 1, 2005
400–429	(869–056–00174–6)	63.00	Oct. 1, 2005
430–End	(869–056–00175–4)	64.00	Oct. 1, 2005
43 Parts:			
1–999	(869–056–00176–2)	56.00	Oct. 1, 2005
*1000–end	(869–056–00177–1)	62.00	Oct. 1, 2005
44	(869–056–00178–9)	50.00	Oct. 1, 2005
45 Parts:			
1–199	(869–056–00179–7)	60.00	Oct. 1, 2005
200–499	(869–056–00180–1)	34.00	Oct. 1, 2005
500–1199	(869–056–00171–9)	56.00	Oct. 1, 2005
1200–End	(869–056–00182–7)	61.00	Oct. 1, 2005
46 Parts:			
1–40	(869–056–00183–5)	46.00	Oct. 1, 2005
41–69	(869–056–00184–3)	39.00	[9]Oct. 1, 2005
70–89	(869–056–00185–1)	14.00	[9]Oct. 1, 2005
90–139	(869–056–00186–0)	44.00	Oct. 1, 2005
140–155	(869–056–00187–8)	25.00	Oct. 1, 2005
156–165	(869–056–00188–6)	34.00	[9]Oct. 1, 2005
166–199	(869–056–00189–4)	46.00	Oct. 1, 2005
200–499	(869–056–00190–8)	40.00	Oct. 1, 2005
500–End	(869–056–00191–6)	25.00	Oct. 1, 2005
47 Parts:			
0–19	(869–056–00192–4)	61.00	Oct. 1, 2005
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40–69	(869–056–00194–1)	40.00	Oct. 1, 2005
70–79	(869–056–00195–9)	61.00	Oct. 1, 2005
80–End	(869–056–00196–7)	61.00	Oct. 1, 2005
48 Chapters:			
1 (Parts 1–51)	(869–056–00197–5)	63.00	Oct. 1, 2005
1 (Parts 52–99)	(869–056–00198–3)	49.00	Oct. 1, 2005
2 (Parts 201–299)	(869–056–00199–1)	50.00	Oct. 1, 2005
3–6	(869–056–00200–9)	34.00	Oct. 1, 2005
7–14	(869–056–00201–7)	56.00	Oct. 1, 2005
15–28	(869–056–00202–5)	47.00	Oct. 1, 2005

Title	Stock Number	Price	Revision Date
29–End	(869–056–00203–3)	47.00	Oct. 1, 2005
49 Parts:			
1–99	(869–056–00204–1)	60.00	Oct. 1, 2005
*100–185	(869–056–00205–0)	63.00	Oct. 1, 2005
186–199	(869–056–00206–8)	23.00	Oct. 1, 2005
*200–299	(869–056–00207–6)	32.00	Oct. 1, 2005
300–399	(869–056–00208–4)	32.00	Oct. 1, 2005
400–599	(869–056–00209–2)	64.00	Oct. 1, 2005
600–999	(869–056–00210–6)	19.00	Oct. 1, 2005
1000–1199	(869–056–00211–4)	28.00	Oct. 1, 2005
1200–End	(869–056–00212–2)	34.00	Oct. 1, 2005
50 Parts:			
1–16	(869–056–00213–1)	11.00	Oct. 1, 2005
*17.1–17.95(b)	(869–056–00214–9)	32.00	Oct. 1, 2005
*17.95(c)–end	(869–056–00215–7)	32.00	Oct. 1, 2005
17.96–17.99(h)	(869–056–00215–7)	61.00	Oct. 1, 2005
17.99(i)–end and 17.100–end	(869–056–00217–3)	47.00	Oct. 1, 2005
18–199	(869–056–00218–1)	50.00	Oct. 1, 2005
200–599	(869–056–00218–1)	45.00	Oct. 1, 2005
*600–End	(869–056–00219–0)	62.00	Oct. 1, 2005
CFR Index and Findings Aids	(869–056–00050–2)	62.00	Jan. 1, 2005
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Complete set (one-time mailing)		325.00	2004

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2004, through January 1, 2005. The CFR volume issued as of January 1, 2004 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2005. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2004, through April 1, 2005. The CFR volume issued as of April 1, 2004 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2004 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2003 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2004, through October 1, 2005. The CFR volume issued as of October 1, 2004 should be retained.