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# Contents

**Federal Register**

Vol. 71, No. 30

Tuesday, February 14, 2006

**Agricultural Marketing Service**
RULES
Pears grown in—
Oregon and Washington, 7673–7677

**Agriculture Department**
*See* Agricultural Marketing Service
*See* Forest Service
*See* Rural Business-Cooperative Service

**Alcohol and Tobacco Tax and Trade Bureau**
RULES
Tobacco products and cigarette papers and tubes; importation:
Release procedures; CFR correction, 7679

**Centers for Disease Control and Prevention**
NOTICES
Meetings:
National Institute for Occupational Safety and Health—National Occupational Research Agenda, 7778

**Coast Guard**
NOTICES
Environmental statements; availability, etc.:
Dominion Cove Point Liquefied Natural Gas Facility, Calvert County, MD; waterway suitability assessment, 7791–7792

**Commerce Department**
*See* International Trade Administration
*See* National Institute of Standards and Technology
*See* National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7724–7725

**Defense Department**
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities; proposals, submissions, and approvals, 7743

**Delaware River Basin Commission**
NOTICES
Meetings and hearings, 7744–7746

**Drug Enforcement Administration**
NOTICES
*Applications, hearings, determinations, etc.:*
Lonza Riverside, 7797–7798

**Education Department**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7746–7749

**Employment and Training Administration**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7798–7799

**Employment Standards Administration**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7799–7801

**Energy Department**
*See* Energy Efficiency and Renewable Energy Office
*See* Federal Energy Regulatory Commission
*See* Southwestern Power Administration

**Energy Efficiency and Renewable Energy Office**
NOTICES
Federal energy management program:
Premium energy efficient electric motors; Federal acquisition standards, 7749–7750

**Environmental Protection Agency**
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 7683–7688
Utah, 7679–7683
PROPOSED RULES
Hazardous waste management system:
Identification and listing; exclusion, 7704–7712
NOTICES
Air programs:
State implementation plans; adequacy status for transportation conformity purposes—Washington, 7776
Superfund; response and remedial actions, proposed settlements, etc.:
Davenport and Flagstaff Smelters Site, UT, 7776–7777

**Federal Aviation Administration**
PROPOSED RULES
Airworthiness directives:
Pilatus Aircraft Ltd., 7698–7701

**Federal Emergency Management Agency**
RULES
Flood elevation determinations:
Arkansas, 7693–7694
New Mexico and Texas, 7688–7690
Texas, 7692–7693
Various States, 7690–7692
PROPOSED RULES
Flood elevation determinations:
Illinois, 7714–7715
Kansas, 7712–7714
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7792–7793

**Federal Energy Regulatory Commission**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7750–7752
Environmental statements; availability, etc.:
AmerenUE, 7755–7756
Tennessee Gas Pipeline Co., 7756
Environmental statements; notice of intent:
Transwestern Pipeline Co., LLC, 7757–7760

Hydroelectric applications, 7760–7764
Meetings:
Virginia Hydrogeneration and Historical Society, L.C., et al.; Appomattox River fish passage; technical workshop, 7765
*Applications, hearings, determinations, etc.:*
Cheyenne Plains Gas Pipeline Co., LLC, 7752
Colorado Interstate Gas Co., 7753
Duke Energy Trading and Marketing, L.L.C., et al., 7753
Northern Border Pipeline Co., 7753–7754
Northern Natural Gas Co., 7754
Southwestern Power Administration, 7754
Unocal Keystone Gas Storage, LLC, 7754–7755
Williston Basin Interstate Pipeline Co., 7755

**Federal Reserve System**
**NOTICES**
Banks and bank holding companies:
Formations, acquisitions, and mergers, 7777
Meetings; Sunshine Act, 7777

**Fish and Wildlife Service**
**PROPOSED RULES**
Endangered and threatened species permit determinations, etc.
Douglas County pocket gopher, 7715–7720
**NOTICES**
Comprehensive conservation plans; availability, etc.:
Lost Trail National Wildlife Refuge, MT, 7794
Environmental statements; availability, etc.:
Cedar Island National Wildlife Refuge, NC; comprehensive conservation plan, 7794–7796
Incidental take permits—
Lake County, FL; sand skinks and bluetail mole skinks, 7796–7797

**Food and Drug Administration**
**NOTICES**
Meetings:
Emerging clostridial disease; public workshop, 7778–7779
Reports and guidance documents; availability, etc.:
Preventative and therapeutic vaccines for infectious disease indications; developmental toxicity studies, 7779–7780

**Forest Service**
**NOTICES**
Environmental statements; notice of intent:
Tahoe National Forest, CA, 7721–7723

**General Services Administration**
**NOTICES**
Agency information collection activities; proposals, submissions, and approvals, 7777–7778
Federal Acquisition Regulation (FAR):
Agency information collection activities; proposals, submissions, and approvals, 7743

**Health and Human Services Department**
*See* Centers for Disease Control and Prevention
*See* Food and Drug Administration
*See* National Institutes of Health

**Homeland Security Department**
*See* Coast Guard
*See* Federal Emergency Management Agency
**NOTICES**
Meetings:
Data Privacy and Integrity Advisory Committee, 7790–7791

**Housing and Urban Development Department**
**NOTICES**
Agency information collection activities; proposals, submissions, and approvals, 7793–7794
Low income housing:
Housing assistance payments (Section 8)—
Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program (2006 FY); fair market rents, 7832–7841

**Interior Department**
*See* Fish and Wildlife Service
*See* Land Management Bureau

**International Trade Administration**
**NOTICES**
Antidumping:
Persulfates from—
China, 7725–7727
Softwood lumber products from—
Canada, 7727–7735
Countervailing duties:
Stainless steel plate in coils from—
Italy, 7736–7737
Stainless steel sheet and strip in coils from—
Italy, 7737–7740
North American Free Trade Agreement (NAFTA); binational panel reviews:
Oil country tubular goods from—
Mexico, 7740

**Justice Department**
*See* Drug Enforcement Administration

**Labor Department**
*See* Employment and Training Administration
*See* Employment Standards Administration
**NOTICES**
Agency information collection activities; proposals, submissions, and approvals, 7798

**Land Management Bureau**
**NOTICES**
Meetings:
Resource Advisory Committees—
Salem, OR, 7797

**National Aeronautics and Space Administration**
**NOTICES**
Agency information collection activities; proposals, submissions, and approvals, 7801
Federal Acquisition Regulation (FAR):
Agency information collection activities; proposals, submissions, and approvals, 7743
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Oxyheal Health Group, Inc., 7801

**National Highway Traffic Safety Administration**
**NOTICES**
Agency information collection activities; proposals, submissions, and approvals, 7824

Motor vehicle theft prevention standards; exemption petitions, etc.:
Ford Motor Co., 7824–7825

**National Institute of Standards and Technology**
**NOTICES**
Meetings:
Federal employees and contractors; personal identity verification; workshop, 7740–7741

**National Institutes of Health**
**NOTICES**
Agency information collection activities; proposals, submissions, and approvals, 7780–7781
Inventions, Government-owned; availability for licensing, 7781–7782
Meetings:
National Cancer Institute, 7782–7783
National Heart, Lung, and Blood Institute, 7783
National Institute of Allergy and Infectious Diseases, 7786
National Institute of Diabetes and Digestive and Kidney Diseases, 7785–7786
National Institute of General Medical Sciences, 7784–7785
National Institute of Mental Health, 7784
Scientific Review Center, 7786–7790

**National Oceanic and Atmospheric Administration**
**NOTICES**
Meetings:
North Pacific Fishery Management Council, 7741–7742
Western Pacific Regional Fishery Management Council, 7742–7743

**National Science Foundation**
**NOTICES**
Meetings:
NSF-NASA-DOE—Astronomy and Astrophysics Advisory Committee, 7802

**Nuclear Regulatory Commission**
**NOTICES**
Meetings; Sunshine Act, 7803–7804
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 7804–7817
*Applications, hearings, determinations, etc.:*
Duke Energy Corp., 7802–7803

**Pipeline and Hazardous Materials Safety Administration**
**NOTICES**
Agency information collection activities; proposals, submissions, and approvals, 7825–7826

**Rural Business-Cooperative Service**
**NOTICES**
Agency information collection activities; proposals, submissions, and approvals, 7723–7724

**Saint Lawrence Seaway Development Corporation**
**PROPOSED RULES**
Seaway regulations and rules:
Tolls tariff, 7701–7704

**Securities and Exchange Commission**
**RULES**
Electronic Data Gathering, Analysis, and Retrieval System (EDGAR):
Technical amendment, 7678–7679
Securities:
Offering statement and newspaper prospectuses; CFR correction, 7677–7678
**NOTICES**
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 7817–7820
New York Stock Exchange, Inc., 7820–7823
*Applications, hearings, determinations, etc.:*
Tasty Baking Co., 7817

**Southwestern Power Administration**
**NOTICES**
Reports and guidance documents; availability, etc.:
Integrated system power rates, 7765–7776

**State Department**
**NOTICES**
Agency information collection activities; proposals, submissions, and approvals, 7823–7824

**Thrift Supervision Office**
**PROPOSED RULES**
Federal savings association bylaws; integrity of directors, 7695–7698

**Transportation Department**
*See* Federal Aviation Administration
*See* National Highway Traffic Safety Administration
*See* Pipeline and Hazardous Materials Safety Administration
*See* Saint Lawrence Seaway Development Corporation

**Treasury Department**
*See* Alcohol and Tobacco Tax and Trade Bureau
*See* Thrift Supervision Office

**Veterans Affairs Department**
**NOTICES**
Agency information collection activities; proposals, submissions, and approvals, 7826–7829
Meetings:
Rehabilitation Research and Development Service Scientific Merit Review Board, 7829
Women Veterans Advisory Committee, 7829–7830

---

**Separate Parts In This Issue**

**Part II**
Housing and Urban Development Department, 7832–7841

---

**Reader Aids**

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

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## CFR PARTS AFFECTED IN THIS ISSUE

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

**7 CFR**
927 ..... 7673

**12 CFR**
**Proposed Rules:**
544 ..... 7695
552 ..... 7695

**14 CFR**
**Proposed Rules:**
39 ..... 7698

**17 CFR**
230 ..... 7677
232 ..... 7678

**27 CFR**
41 ..... 7679

**33 CFR**
**Proposed Rules:**
402 ..... 7701

**40 CFR**
52 (2 documents) .... 7679, 7683
**Proposed Rules:**
261 ..... 7704

**44 CFR**
65 (3 documents) ... 7688, 7690, 7692
67 ..... 7693
**Proposed Rules:**
67 (2 documents) .... 7712, 7714

**50 CFR**
**Proposed Rules:**
17 ..... 7715

# Rules and Regulations

Federal Register
Vol. 71, No. 30
Tuesday, February 14, 2006

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

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 927

**[Docket No. FV05–927–01 FR]**

### Pears Grown in Oregon and Washington; Establishment of Continuing Assessment Rates and Modification of the Rules and Regulations

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes continuing assessment rates for the Fresh Pear Committee and the Processed Pear Committee (Committees) for the 2005–2006 fiscal period and subsequent fiscal periods. The Committees recommended the establishment of three base rates of assessment for any or all varieties or subvarieties of pears classified as ''summer/fall'', ''winter'', and ''other'' for fresh pears and pears for processing, respectively. This rule also modifies handling and reporting requirements in conformance with the amendments made to the marketing order for pears grown in Oregon and Washington on May 21, 2005, and to reflect current pear industry operating practices under the marketing order. The marketing order is locally administered by the Committees. Assessments upon pear handlers are used by the Committees to fund reasonable and necessary expenses of the program. The fiscal period began July 1 and ends June 30. The assessment rates will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** February 15, 2006.

**FOR FURTHER INFORMATION CONTACT:** Susan M. Hiller, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, Telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

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

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 927, as amended (7 CFR part 927), regulating the handling of pears grown in Oregon and Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Oregon and Washington pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable pears beginning on July 1, 2005, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule reflects a recent amendment to the marketing order for ''winter'' pears (Marketing Order No. 927) which incorporated the handling of ''summer/fall'' pears, previously regulated under Marketing Order No. 931, and extended coverage to pears for processing. This rule also establishes continuing assessment rates for the Fresh Pear Committee (FPC) and the Processed Pear Committee (PPC) for the 2005–2006 fiscal period and subsequent fiscal periods. The Committees recommended the establishment of three base rates of assessment for any or all varieties or subvarieties of pears classified as ''summer/fall'', ''winter'', and ''other'' for fresh pears and pears for processing, respectively.

The Oregon and Washington pear marketing order provides authority for the Committees, with the approval of USDA, to formulate annual budgets of expenses and collect assessments from handlers to administer the program. The members of the Committees include growers, handlers, and processors of Oregon and Washington pears. They are familiar with the needs of the Committees and with the costs for goods and services in their local area and are thus in a position to formulate appropriate budgets and assessment rates for the Committees. The assessment rates are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The FPC met on July 15, 2005, and unanimously recommended 2005–2006 expenditures of $8,987,218. In addition, the FPC unanimously recommended the following three base rates of assessment: (a) $0.366 per 44-pound net weight standard box or container equivalent for any or all varieties or subvarieties of fresh pears classified as ''summer/fall''; (b) $0.501 per 44-pound net weight standard box or container equivalent for any or all varieties or subvarieties of fresh pears classified as ''winter''; and

(c) $0.000 per 44-pound net weight standard box or container equivalent for any or all varieties or subvarieties of fresh pears classified as ''other''. This was the first public meeting of the newly formed FPC since the pear marketing order was amended on May 21, 2005 (70 FR 29388).

The FPC contracts with Pear Bureau Northwest under a management agreement. The major expenditures recommended by the FPC for the 2005–2006 fiscal period include $418,431 for shared expenses (salaries and benefits, insurance, office rent, equipment rental and maintenance, office supplies, telephone, postage, and similar expenses); $584,307 for production research and market development; $207,500 for program expenses (compliance and education, committee meetings, office equipment purchases, industry development, and computer programs); and $7,776,980 for paid advertising.

The recommended assessment rate for fresh ''summer/fall'' pears was derived by the FPC by allocating $0.300 for paid advertising, $0.031 for production research and market development, and $0.035 for administrative expenses. Similarly, the assessment rate for ''winter'' pears was derived by allocating $0.400 for paid advertising, $0.031 for production research and market development, and $0.070 for administrative expenses. The FPC recommended a $0.00 assessment rate for all ''other'' pears not included under the classification of ''summer/fall'' and ''winter'' pears. Fresh ''summer/fall'' pear shipments for 2005–2006 are estimated at 3,688,600 standard boxes, which should provide $1,350,028 in ''summer/fall'' pear assessment income. Fresh ''winter'' pear shipments for 2005–2006 are estimated at 15,160,000 standard boxes, which should provide $7,595,160 in ''winter'' pear assessment income. This results in a combined total assessment income of $8,945,188 for the 2005–2006 fiscal period.

Income derived from handler assessments ($8,945,188), interest and miscellaneous income ($41,000), and reserve funds ($431,546) should be adequate to cover budgeted expenses. Reserve funds, estimated at $430,516 at the end of the 2005–2006 fiscal period, will be kept within the maximum permitted by the order of approximately one fiscal period's expenses (§ 927.42).

The PPC met on July 22, 2005, and unanimously recommended 2005–2006 expenditures of $875,980. In addition, the PPC unanimously recommended the following three base rates of assessment: (a) $6.25 per ton for any or all varieties or subvarieties of pears for canning classified as ''summer/fall'', excluding pears for other methods of processing; (b) $0.00 per ton for any or all varieties or subvarieties of pears for processing classified as ''winter''; and (c) $0.00 per ton for any or all varieties or subvarieties of pears for processing classified as ''other''. The assessment for ''summer/fall'' pears applies only to pears for canning and excludes pears for other methods of processing as defined in § 927.15, which includes pears for concentrate, freezing, dehydrating, pressing, or in any other way to convert pears into a processed product. This was the first public meeting of the newly formed PPC since the pear marketing order was amended on May 21, 2005 (70 FR 29388).

The PPC contracts with the Washington State Fruit Commission under a management agreement. The major expenditures recommended by the PPC for the 2005–2006 fiscal period include $28,000 for contracted administrative services expenses; $700,000 for paid advertising; $140,000 for production research and market development; and $6,980 for committee expenses (audit, compliance and education, office supplies, telephone, and travel).

The recommended assessment rate for ''summer/fall'' pears was derived by the PPC for canning by allocating $5.00 for paid advertising, $1.00 for production research and market development, and $0.25 for administrative expenses. The PPC recommended a $0.00 assessment rate for both the ''winter'' and ''other'' classification of pears for processing. Shipments of ''summer/fall'' pears for canning for 2005–2006 are estimated at 140,000 tons, which should provide $875,000 in ''summer/fall'' pear assessment income.

Because this is the first time pears for processing will be regulated, there is no beginning reserve balance. Income derived from handler assessments ($875,000), along with interest income ($2,000) should be adequate to cover budgeted expenses. Reserve funds, estimated at $1,020 at the end of the 2005–2006 fiscal period, will be kept within the maximum permitted by the order of approximately one fiscal period's expenses (§ 927.42).

The assessment rates fixed by this final rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committees or other available information.

Although these assessment rates will be in effect for an indefinite period, the Committees will continue to meet prior to, or during, each fiscal period to recommend budgets of expenses and consider recommendations for modification of the assessment rates. The dates and times of meetings for the Committees are available from either the Committees or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committees' recommendations and other available information to determine whether modifications of the assessment rates are needed. Further rulemaking will be undertaken as necessary. The Committees' 2005–2006 budgets and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

As a result of amendments to the order on May 21, 2005 (70 FR 29388), the Committees also unanimously recommended conforming changes to the order's handling and reporting requirements to reflect the combination of two marketing orders into one and to reflect current pear industry operating practices. The conforming changes, which are no longer in effect in the order, include removing language regarding a marketing agreement from §§ 927.100, 927.101, 927.105, and 927.121; exemption certificates from §§ 927.110, 927.110a, 927.111, 927.112, 927.113, and 927.114; shipments to designated storages in § 927.122; and the reserve fund in § 927.142. In § 927.102, the list of varieties are removed since pears are defined in § 927.4, and California is removed since that state is no longer defined in § 927.10—production area. Further, conforming changes replace the name of the Winter Pear Control Committee with that of the FPC or the PPC where appropriate in §§ 927.105, 927.120, 927.123, and 927.316. Also, there are conforming changes in §§ 927.125 and 927.126, to the reports required under the order for the FPC and the PPC that were previously required under the Winter Pear Control Committee and the Northwest Fresh Bartlett Pear Marketing Committee.

**Final Regulatory Flexibility Analysis**

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the

Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,715 growers of pears in Oregon and Washington and approximately 51 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,000,000.

According to the *Noncitrus Fruits and Nuts 2004 Summary* issued in July 2005 by the National Agricultural Statistics Service, the total farm gate value of all pears grown in Oregon and Washington for 2004 was $210,409,000. Therefore, the 2004 average gross revenue for a pear grower in Oregon and Washington was $122,687. Based on records of the Committees and recent f.o.b. prices for pears, over 76 percent of the handlers ship less than $6,000,000 worth of pears on an annual basis. Thus, it can be concluded that the majority of growers and handlers of Oregon and Washington pears may be classified as small entities.

There are five processing plants in the production area, with one in Oregon and four in Washington. All five processors would be considered large entities under the SBA's definition of small businesses.

This rule establishes continuing assessment rates for the FPC and the PPC for the 2005–2006 fiscal period and subsequent fiscal periods. The Committees recommended the establishment of three base rates of assessment for any or all varieties or subvarieties of pears classified as ''summer/fall'', ''winter'', and ''other'' for fresh pears and pears for processing, respectively.

The FPC met on July 15, 2005, and unanimously recommended 2005–2006 expenditures of $8,987,218. In addition, the FPC unanimously recommended three base rates of assessment per 44-pound net weight standard box or container equivalent for any or all varieties or subvarieties of fresh pears classified as ''summer/fall'', ''winter'', and ''other'', as follows: $0.366, $0.501, and $0.000, respectively. Fresh ''summer/fall'' pear shipments for 2005–2006 are estimated at 3,688,600 standard boxes, which should provide $1,350,028 in ''summer/fall'' pear assessment income. Fresh ''winter'' pear shipments for 2005–2006 are estimated at 15,160,000 standard boxes, which should provide $7,595,160 in ''winter'' pear assessment income. This results in a combined total assessment income of $8,945,188 for the 2005–2006 fiscal period.

Income derived from handler assessments ($8,945,188), interest and miscellaneous income ($41,000), and reserve funds ($431,546) should be adequate to cover budgeted expenses. Reserve funds, estimated at $430,516 at the end of the 2005–2006 fiscal period, will be kept within the maximum permitted by the order of approximately one fiscal period's expenses (§ 927.42).

The PPC met on July 22, 2005, and unanimously recommended 2005–2006 expenditures of $875,980. In addition, the Committee unanimously recommended three base rates of assessment per ton for any or all varieties or subvarieties of pears for processing classified as ''summer/fall'', ''winter'', and ''other'', as follows: $6.25, $0.00, and $0.00, respectively. The ''summer/fall'' assessment applies only to pears for canning. Shipments of ''summer/fall'' pears for canning for 2005–2006 are estimated at 140,000 tons, which should provide $875,000 in ''summer/fall'' pear assessment income.

Because this is the first time pears for processing will be regulated, there is no beginning reserve balance. Income derived from handler assessments ($875,000), along with interest income ($2,000) should be adequate to cover budgeted expenses. Reserve funds, estimated at $1,020 at the end of the 2005–2006 fiscal period, will be kept within the maximum permitted by the order of approximately one fiscal period's expenses (§ 927.42).

Prior to arriving at these budgets, the FPC and the PPC considered information and proposals from the Pear Research Subcommittee, Pear Bureau Northwest, and the Pacific Northwest Canned Pear Service. Alternative expenditure levels were discussed regarding the relative value of research and promotion to the pear industry. The recommended assessment rate for fresh ''summer/fall'' pears was derived by the FPC by allocating $0.300 for paid advertising, $0.031 for production research and market development, and $0.035 for administrative expenses. Similarly, the assessment rate for ''winter'' pears was derived by allocating $0.400 for paid advertising, $0.031 for production research and market development, and $0.070 for administrative expenses. The FPC recommended a $0.00 assessment rate for all ''other'' pears not included under the classification of ''summer/fall'' or ''winter'' pears. The recommended assessment rate for ''summer/fall'' pears was derived by the PPC for canning by allocating $5.00 for paid advertising, $1.00 for production research and market development, and $0.25 for administrative expenses. The PPC recommended a $0.00 assessment rate for the ''winter'' pears for processing and all ''other'' pears for processing.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2005–2006 season could range between $256 and $356 per ton of pears. The highest estimated revenue would be the assessment on fresh market ''winter'' pears at $22.77 per ton. Therefore, the highest estimated assessment revenue for the 2005–2006 fiscal period as a percentage of total grower revenue could range between 6.4 and 8.9 percent.

As a result of amendments to the order on May 21, 2005 (70 FR 29388), the Committees also unanimously recommended conforming changes to the order's handling and reporting requirements to reflect the combination of two orders into one and to reflect current pear industry operating practices under the marketing order. The conforming changes include removing language regarding a marketing agreement, exemption certificates, shipments to designated storages, and the reserve fund. Further, conforming changes replace the name of the Winter Pear Control Committee with that of the FPC or the PPC, where appropriate. Also, there are conforming changes to the reports required under the order for the FPC and the PPC that were previously required under the Winter Pear Control Committee and the Northwest Fresh Bartlett Marketing Committee. These conforming changes will have a minimal impact on the small entities of growers and handlers in Oregon and Washington. There are no viable alternatives to these conforming changes.

In addition, while assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to growers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committees' meetings were widely publicized throughout the Oregon and Washington pear industry and all interested persons were invited to attend the meetings and participate in the Committees' deliberations on all issues. Like all committee meetings, the July 15, 2005, and the July 22, 2005, meetings were public meetings and all entities, both large and small, were able

to express views on these issues. Finally, as mentioned below, interested persons were invited to submit information on the regulatory and informational impacts of these actions on small businesses.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Oregon and Washington pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A proposed rule concerning this action was published in the **Federal Register** on December 9, 2005 (70 FR 73167). Copies of the proposed rule were made available by the staff of the Committees to all producers, handlers, and interested persons. In addition, the rule was made available through the internet by USDA and the Office of **Federal Register**. A 30 day comment period ending January 9, 2006, was provided for interested persons to respond to the proposal. No comments were received.

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

After consideration of all relevant material presented, including the information and recommendation submitted by the Committees and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2005–2006 fiscal period began on July 1, 2005, and the marketing order requires that the rates of assessment for each fiscal period apply to all assessable pears handled during such fiscal period; (2) The Committees need to have sufficient funds to pay for the expenses which are incurred on a continuous basis; (3) handlers are aware of these actions which were unanimously recommended by the Committees at public meetings and are similar to other assessment rate actions issued in past years; (4) any conforming changes to the handling and reporting requirements made as result of this rule should be implemented as quickly as possible to assure program continuity; and (5) a 30-day comment period was provided for in the proposed rule.

**List of Subjects in 7 CFR Part 927**

Marketing agreements, Pears, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 927 is amended as follows:

## PART 927—PEARS GROWN IN OREGON AND WASHINGTON

■ 1. The authority citation for 7 CFR part 927 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Subpart—Control Committee Rules and Regulations is revised to read as follows:

## Subpart—Rules and Regulations

### § 927.100 [Amended]

■ 3. In § 927.100, the words ''agreement and'' are removed.

### § 927.101 [Removed and reserved]

■ 4. Section 927.101 is removed and reserved.

■ 5. Section 927.102 is revised to read as follows:

### § 927.102 Order.

*Order* means Marketing Order No. 927, as amended (§§ 927.1 to 927.81), regulating the handling of pears grown in the States of Oregon and Washington.

■ 6. Section 927.105 is revised to read as follows:

### § 927.105 Communications.

Unless otherwise prescribed in this subpart or in the order, or required by the Fresh Pear Committee or the Processed Pear Committee, all reports, applications, submittals, requests, inspection certificates, and communications in connection with the order shall be forwarded to: Fresh Pear Committee, 4382 SE International Way, Suite A, Milwaukie OR 97222–4635 and or the Processed Pear Committee, 105 South 18th Street, Suite 205, Yakima WA 98901.

### §§ 927.110, 927.110a, 927.111, 927.112, 927.113, and 927.114 [Removed]

■ 7. The undesignated center heading ''Exemption Certificates'', and §§ 927.110, 927.110a, 927.111, 927.112, 927.113, and 927.114 are removed.

### § 927.120 [Amended]

■ 8. In § 927.120, the words ''Control Committee'' are removed and the words ''Fresh Pear Committee'' are added in their place.

### § 927.121 [Amended]

■ 9. In § 927.121, the words ''marketing agreement and'' are removed.

### § 927.122 [Removed and Reserved]

■ 10. Section 927.122 is removed and reserved.

### § 927.123 [Amended]

■ 11. In § 927.123, the words ''Control Committee'' are removed and the words ''Fresh Pear Committee or Processed Pear Committee'' are added in their place.

■ 12. Section 927.125 is revised to read as follows:

### § 927.125 Fresh pear reports.

(a) Each handler shall furnish to the Fresh Pear Committee, as of every other Friday or at such other times established by the Fresh Pear Committee, a ''Handler's Statement of Fresh Pear Shipments'' containing the following information:

(1) The quantity of each variety or subvariety of fresh pears shipped by that handler during the preceding two weeks;

(2) The assessment payment due and enclosed;

(3) The date of each shipment;

(4) The ultimate destination by city and state or city and country;

(5) The name and address of such handler; and

(6) Other information as may be requested by the Fresh Pear Committee.

(b) Each handler shall furnish to the Fresh Pear Committee, each Friday during the shipping season or at such other times established by the Fresh Pear Committee, a ''Handler's Packout Report'' containing the following information:

(1) The projected total quantity of the packout of each variety or subvariety;

(2) The quantity to date of the packout of each variety or subvariety;

(3) The quantity of each variety or subvariety loose in storage;

(4) The quantity of the packout in controlled atmosphere (C.A.) storage and the quantity in C.A. storage which is sold;

(5) The quantity of each variety or subvariety shipped;

(6) The name and address of such handler; and

(7) Other information as may be requested by the Fresh Pear Committee.

(c) Each handler shall furnish to the Fresh Pear Committee, upon request, the

''Pear Size and Grade Storage Report'' containing the quantity of specific grades and sizes of fresh pears in regular and C.A. storage by variety or subvariety, and such other information as may be requested from the Fresh Pear Committee for the time period specified.

(d) Each handler who has shipped less than 2,500 44-pound net weight standard boxes or container equivalents of fresh pears during any reporting period of the shipping season may, in lieu of reporting as provided in (a) and (b) of this section, report as follows:

(1) At completion of harvest, on the next reporting date, furnish to the Fresh Pear Committee a ''Handlers Packout Report';

(2) After unreported shipments total 2,500 44-pound net weight standard boxes or container equivalents of fresh pears, furnish to the Fresh Pear Committee a ''Handler's Statement of Fresh Pear Shipments'' and a ''Handler's Packout Report'' on the next reporting date;

(3) After completion of all shipments from regular storage (i.e. non-C.A. storage), furnish to the Fresh Pear Committee a ''Handler's Statement of Fresh Pear Shipments'' and a ''Handler's Packout Report'' on the next reporting date;

(4) At mid-season for C.A. storage, at a date established by the Fresh Pear Committee, furnish to the Fresh Pear Committee a ''Handler's Statement of Fresh Pear Shipments'', and a ''Handler's Packout Report'; and

(5) At the completion of all seasonal pear shipments, furnish to the Fresh Pear Committee a ''Handler's Statement of Fresh Pear Shipments'' and a ''Handler's Packout Report'', on the next reporting date. Each of these reports shall be marked ''final report'' and include an explanation of the actual shipments versus the original estimate, if different.

(e) Each handler shall specify on each bill of lading covering each shipment, the variety or subvariety and quantity of all pears included in that shipment.

■ 13. A new § 927.126 is added to read as follows:

**§ 927.126 Processed pear reports.**

(a) Each handler shall furnish to the Processed Pear Committee annually on a date established by the Processed Pear Committee the ''Processed Pear Assessment Report'' containing the following information:

(1) The name of the processor(s) or firm(s) to whom pears were sold;

(2) The quantity of each variety or subvariety of pears shipped by that handler;

(3) The crop year covered in the report;

(4) The assessment payment due and enclosed;

(5) The name and address of such handler; and

(6) Other information as may be requested by the Processed Pear Committee.

(b) Each handler shall specify on each bill of lading covering each shipment, the variety or subvariety and quantity of all pears included in that shipment.

**§ 927.142 [Removed and Reserved]**

■ 14. Section 927.142 is removed and reserved.

■ 15. Section 927.236 is revised to read as follows:

**§ 927.236 Fresh pear assessment rate.**

On and after July 1, 2005, the following base rates of assessment for fresh pears are established for the Fresh Pear Committee:

(a) $0.366 per 44-pound net weight standard box or container equivalent for any or all varieties or subvarieties of fresh pears classified as ''summer/fall'';

(b) $0.501 per 44-pound net weight standard box or container equivalent for any or all varieties or subvarieties of fresh pears classified as ''winter''; and

(c) $0.000 per 44-pound net weight standard box or container equivalent for any or all varieties or subvarieties of fresh pears classified as ''other''.

■ 16. A new § 927.237 is added to read as follows:

**§ 927.237 Processed pear assessment rate.**

On and after July 1, 2005, the following base rates of assessment for pears for processing are established for the Processed Pear Committee:

(a) $6.25 per ton for any or all varieties or subvarieties of pears for canning classified as ''summer/fall'', excluding pears for other methods of processing;

(b) $0.00 per ton for any or all varieties or subvarieties of pears for processing classified as ''winter''; and

(c) $0.00 per ton for any or all varieties or subvarieties of pears for processing classified as ''other''.

■ 17. Section 927.316 is revised to read as follows:

**§ 927.316 Handling regulation.**

During the period August 15 through November 1, no person shall handle any fresh Beurre D'Anjou variety of pears for shipments to North America (Continental United States, Mexico, or Canada), unless such pears meet the following requirements:

(a) Fresh Beurre D'Anjou variety of pears shall have a certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core/pulp temperature of such pears has been lowered to 35 degrees Fahrenheit or less and any such pears have an average pressure test of 14 pounds or less. The handler shall submit, or cause to be submitted, a copy of the certificate issued on the shipment to the Fresh Pear Committee.

(b) Each handler may ship on any one conveyance 8,800 pounds or less of fresh Beurre D'Anjou variety of pears without regard to the quality and inspection requirements in paragraph (a) of this section.

Dated: February 8, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 06–1319 Filed 2–13–06; 8:45 am]

BILLING CODE 3410–02–P

## SECURITIES AND EXCHANGE COMMISSION

## 17 CFR Part 230

## General Rules and Regulations, Securities Act of 1933

*CFR Correction*

In Title 17 of the Code of Federal Regulations, parts 200 to 239, revised as of April 1, 2005, on page 584, in § 230.252, paragraph (h)(1) is corrected by revising the second and third sentences, and on page 653, § 230.494 is reinstated to read as follows:

**§ 230.252 Offering statement.**

* * * * *

(h) * * * Seven copies of every amendment shall be filed with the Commission's main office in Washington, D.C. Subsequent amendments to an offering shall recommence the time period for qualification.

* * * * *

**§ 230.494 Newspaper prospectuses.**

(a) This section shall apply only to newspaper prospectuses relating to securities, as to which a registration statement has become effective, issued by a foreign national government with which the United States maintains diplomatic relations. The term *newspaper prospectus* means an advertisement of securities in newspapers, magazines or other periodicals which are admitted to the mails as second-class matter and which are not distributed by the advertiser. The term does not include reprints, reproductions or detached copies of

such advertisements. A newspaper prospectus shall not be deemed a prospectus meeting the requirements of section 10 for the purpose of section 2(10)(a) or 5(b)(2) of the Act.

(b) All information included in a newspaper prospectus may be expressed in such condensed or summarized form as may be necessary in the light of the circumstances under which newspaper prospectuses are authorized to be used. The information need not follow the order in which the information is set forth in the registration statement or in the full prospectus. No information need be set forth in tabular form.

(c) The following statement shall be set forth at the head of every newspaper prospectus in conspicuous print:

These securities, though registered, have not been approved or disapproved by the Securities and Exchange Commission, which does not pass on the merits of any registered securities.

(d) There shall be set forth at the foot of every newspaper prospectus in conspicuous print a statement to the following effect:

Further information, particularly financial information, is contained in the registration statement filed with the Commission and in a more complete prospectus which must be furnished to each purchaser and is obtainable from the following persons:
(Insert names.)

(e) If the registrant or any of the underwriters knows or has reasonable grounds to believe that it is intended to stablize the price of any security to facilitate the offering of the registered security, there shall be placed in the newspaper prospectus, in capital letters, the statement required by Item 502(d) of Regulation S–K (§ 229.502(d) of this chapter) to be included in the full prospectus.

(f) A newspaper prospectus shall contain the information specified in paragraphs (f) (1) to (9) of this section. All other information and documents contained in the registration statement may be omitted. The following information shall be included:

(1) The name of the borrowing government;

(2) A brief description of the securities to be offered;

(3) The price at which it is proposed to offer the security to the public in the United States;

(4) The purpose and approximate amounts to be devoted to such purposes, so far as determinable, for which the security to be offered is to supply funds; and if funds for such purposes are to be raised in part from other sources, the amounts and the sources thereof:

(5) A brief statement as to the amount of funded and floating debt outstanding and to be created, excluding intergovernmental debt;

(6) A condensed or summarized statement of receipt and expenditures for the last three fiscal years for which data are available;

(7) A condensed or summarized statement of the balance of international payments for the last three fiscal years for which data are available;

(8) If the issuer or its predecessor has defaulted on the principal or interest of any external debt, excluding intergovernmental debt, during the last twenty years, the date, amount and circumstances of such default and the general effect of any succeeding arrangement;

(9) Underwriting discounts and commissions per unit and in the aggregate.

(g) A newspaper prospectus may also include, in condensed, summarized or graphic form, additional information the substance of which is contained in the registration statement. A newspaper prospectus shall not contain any information the substance of which is not set forth in the registration statement.

(h) All information included in a newspaper prospectus shall be set forth in type at least as large as seven-point modern type: *Provided, however,* That such information shall not be so arranged as to be misleading or obscure the information required to be included in such a prospectus.

(i) Five copies of every proposed newspaper prospectus, in the size and form in which it is intended to be published shall be filed with the Commission at least three business days before definitive copies thereof are submitted to the newspaper, magazine or other periodical for publication. Within seven days after publication, five additional copies shall be filed in the exact form in which it was published and shall be accompanied by a statement of the date and manner of its publication.

(Interprets or applies sec. 7, 48 Stat. 78, as amended; 15 U.S.C. 77g; secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85, secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3–5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 81 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78n, 78o(d), 78w(a))

[16 FR 8820 Aug. 31, 1951, as amended at 19 FR 6729, Oct. 20, 1954; 48 FR 19875, May 3, 1983]

[FR Doc. 06–55507 Filed 2–13–06; 8:45 am]

BILLING CODE 1505–01–D

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 232

**[Release Nos. 33–8590A; 34–52052A; 35–28002A; 39–2437A; IC–26990A; File No. S7–16–04]**

**RIN 3235–AH79**

### Rulemaking for EDGAR System

**AGENCY:** Securities and Exchange Commission.

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

**SUMMARY:** The Securities and Exchange Commission published a document in the **Federal Register** on July 27, 2005 (70 FR 43558) expanding the information that we require certain investment company filers to submit to us electronically through our Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system. That document contained an incorrect instruction to § 232.101(b). This document corrects § 232.101(b).

**DATES:** *Effective Date:* February 8, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ruth Armfield Sanders, Senior Special Counsel, Division of Investment Management, at (202) 551–6989.

**SUPPLEMENTARY INFORMATION:** The Commission is making a technical correction to § 232.101 by adding paragraph (b)(9).

**List of Subjects in 17 CFR Part 232**

Administrative practice and procedure, Confidential business information, Reporting and recordkeeping requirements, Securities.

■ For the reasons set forth in the preamble, 17 CFR part 232 is amended as follows:

## PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 1. The authority citation for Part 232 continues to read in part as follows:

**Authority:** 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80a–30, 80a–37, and 7201 *et seq.*; and 18 U.S.C. 1350.

* * * * *

■ 2. Amend § 232.101 by:
■ a. Removing the word ''and'' at the end of paragraph (b)(7);
■ b. Removing the period at the end of paragraph (b)(8) and in its place adding ''; and''; and
■ c. Adding paragraph (b)(9).
The addition reads as follows.

**§ 232.101 Mandated electronic submissions and exceptions.**

* * * * *

(b) * * *

(9) Documents filed with the Commission pursuant to section 33 of the Investment Company Act (15 U.S.C. 80a–32).

* * * * *

Dated: February 8, 2006.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 06–1322 Filed 2–13–06; 8:45 am]

BILLING CODE 8010–01–P

## DEPARTMENT OF THE TREASURY

## Alcohol and Tobacco Tax and Trade Bureau

## 27 CFR Part 41

## Importation of Tobacco Products and Cigarette Papers and Tubes

*CFR Correction*

In Title 27 of the Code of Federal Regulations, parts 1 to 399, revised as of April 1, 2005, on page 894, in § 41.86, paragraph (d), in the last sentence remove ''ATF'' and add in its place ''TTB,'' and on page 902, in § 41.126, last sentence, remove ''regional director (compliance)'' and add in its place ''appropriate TTB officer.''

[FR Doc. 06–55506 Filed 2–13–06; 8:45 am]

BILLING CODE 1505–01–D

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R08–OAR–2005–UT–0001; FRL–8027–4]**

## Approval and Promulgation of Air Quality Implementation Plans; Utah; Rule Recodification

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve State Implementation Plan (SIP) revisions submitted by the Governor of Utah on September 20, 1999 and February 5, 2001. The September 20, 1999 submittal revises the numbering and format of the Utah Administrative Code (UAC) rules within Utah's SIP. The February 5, 2001 submittal restores a paragraph that was inadvertently deleted from Utah's rules when the State submitted their SIP submittal dated September 20, 1999 that renumbered the UAC rules. The intended effect of this action is to make these provisions federally enforceable. In addition, the approval of Utah's SIP revision dated September 20, 1999 supersedes and replaces previous SIP revisions submitted by Utah on October 26, 2000, September 7, 1999, two SIP revisions submitted February 6, 1996, and one submitted on January 27, 1995. Some of the provisions of the rules submitted in Utah's SIP revisions will be addressed at a later date by more recent SIP actions that have been submitted which supersede and replace the earlier SIP submittal actions. EPA will be removing Utah's Asbestos Work Practices, Contractor Certification, AHERA Accreditation and AHERA Implementation rule R307–1–8 and Eligibility of Pollution Control Expenditures for Sales Tax Exemption rule R307–1–6 from Utah's federally enforceable SIP because these rules are not generally related to attainment of the National Ambient Air Quality Standards (NAAQS) and are therefore not required to be in Utah's SIP. Finally, EPA will be removing Utah's National Emission Standards for Hazardous Air Pollutants (NESHAPS) rule R307–1–4.12. Utah has delegation of authority for NESHAPs in 40 CFR part 61 (49 FR 36368), pursuant to 110(k)(6) of the Act, therefore we are removing the existing language (R307–1–4.12) that was approved into Utah's current SIP because it is no longer required to be in the SIP. This action is being taken under section 110 of the Clean Air Act.

**DATES:** *Effective Date:* This rule is effective on March 16, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2005–UT–0001. All documents in the docket are listed in the Regional Materials in EDOCKET (RME) index at *http://docket.epa.gov/rmepub/.* On November 28, 2005, RME, EPA's electronic public docket and comment system, was replaced by an enhanced federal-wide electronic docket management and comment system located at *http://www.regulations.gov.* Therefore, you will be redirected to that site to access the docket EPA–R08–OAR–2005–UT–0001. Although listed in the index, some information is not publicly available, i.e., 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 in Regional Materials in EDOCKET or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Catherine Roberts, EPA, Region 8, 999 18th Street, Ste. 300 (8P–AR), Denver, CO, 80202–2466, (303) 312–6025, *roberts.catherine@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever ''we'', ''us'', or ''our'' are used, we mean the Environmental Protection Agency (EPA).

**Table of Contents**

I. General Information
II. Summary of Final Action
III. Summary of Public Comments and EPA's Response
IV. Statutory and Executive Order Review

### I. General Information

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 *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

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

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

### II. Summary of Final Action

On October 13, 2005 EPA published a notice of proposed rulemaking (NPR) for the State of Utah (70 FR 59681). The NPR proposed approval of the recodification of the UAC rules that had previously been approved into Utah's SIP, removed from Utah's SIP rule language that is obsolete or is generally not related to attainment of the NAAQS and is therefore not appropriate to be in Utah's SIP and arranged rules to allow for a more coherent SIP structure. The formal SIP revisions were submitted by

the State of Utah on February 5, 2001, October 26, 2000, September 20, 1999, September 7, 1999, two SIP revisions submitted February 6, 2001 and one submitted January 27, 1995. A summary of these SIP submittals follows.

The September 20, 1999 submittal revises the numbering and format of the UAC rules within Utah's SIP. The renumbering and reformatting of the UAC rules within Utah's SIP provides for a more consistent numbering system and a coherent structure allowing provisions to be located more easily within Utah's rules. Some provisions of the rules submitted in Utah's SIP revision dated September 20, 1999 will be addressed at a later date. The following identifies the renumbered rule sections we are approving as replacing the prior numbered rule sections: R307–101–1 and 2 with the exception of the definitions for ''actual emissions,'' ''major modification,'' ''part 70 source,'' ''significant,'' and ''volatile organic compound'' effective September 15, 1998; R307–102–1 through R307–102–6 effective September 15, 1998 and R307–102–1(2) effective August 3, 2000; R307–105–1 and R307–105–2 effective September 15, 1998, R307–107–1 through R307–107–6 effective September 15, 1998; R307–110–1 through R307–110–9, R307–110–11, R307–110–13 through R307–110–15, R307–110–18, R307–110–20 through R307–110–28, R307–110–30, and R307–110–32 effective September 15, 1998; R307–115 effective September 15, 1998; R307–130–1 through R307–130–4 effective September 15, 1998; R307–165–1 through R307–165–4 effective September 15, 1998; R307–201–1 through R307–201–3 effective September 15, 1998; R307–202–1 through R307–202–6 effective September 15, 1998; R307–203–1 through R307–203–3 effective September 15, 1998; R307–206–1 through R307–206–5 effective September 15, 1998; R307–301–1, R307–301–2, and R307–301–4 through R307–301–14 effective November 12, 1998; R307–302–1, R307–302–2 and R307–302–4 effective September 15, 1998; R307–305–1 through R307–305–7 effective September 15, 1998; R307–307–1 through R307–307–3 effective September 15, 1998; R307–325–1 through R307–325–4 effective September 15, 1998; R307–326–1 through R307–326–7 effective September 15, 1998; R307–327–1 through R307–327–3 effective September 15, 1998; R307–328–1 through R307–328–5 effective September 15, 1998; R307–335–1 through R307–335–4 effective September 15, 1998; R307–340–1 through R307–340–13 effective September 15, 1998; R307–341–1 through R307–341–3 effective September 15, 1998; R307–342–1 through R307–342–7 effective September 15, 1998; R307–401–9 and R307–401–10(1) effective September 15, 1998; R307–403–1 through R307–403–9 effective September 15, 1998; R307–405–1 through R307–405–8 effective September 15, 1998; R307–406–1 through R307–406–6 effective September 15, 1998; R307–413–7 effective September 15, 1998; and R307–414–1 through R307–414–3 effective September 15, 1998. These rules have only been renumbered, contain non-substantive changes to the rule that do not affect the meaning of the rule and/or have been modified to move definitions that have already been approved into the SIP to specific rule sections in which the definitions apply.

We are not acting to approve Utah's SIP submittal dated September 7, 1999 that deletes rule R307–150–1 (existing rule number R307–1–2.2) and rule R307–150–2 (existing rule number R307–1–3.1.7) because the renumbering of these rules have never been approved into the SIP and have since been superseded and replaced by Utah's SIP submittal dated February 5, 2001 and October 9, 1998. Rule R307–150–1 is restored to its appropriate rule section in Utah's SIP submittal dated February 5, 2001 which we are acting to approve in this action. Rule R307–150–2 will be addressed at a later date when EPA addresses Utah's SIP submittal dated October 9, 1998.

We are not acting to approve Utah's SIP submittal dated February 6, 1996 that pertains to Utah's rule R307–2 and portions of Utah's SIP submittal dated February 6, 1996 that pertains to rule R307–1–4. These SIP submittals and portions thereof are superseded and replaced by Utah's September 20, 1999 SIP submittal that is being approved in this action.

We are approving a portion of Utah's SIP submittal dated January 27, 1995 that pertains to Utah's rules R307–1–2.3.2, R307–1–3.1.4, and R307–1–3.2.3. Utah's rule R307–1–2.3.2 (renumbered to R307–102–4(1)) adds a reference to Utah's Code to clarify where to find further information regarding Utah's variance rule. Utah's rule R307–1–3.2.3 deletes provisions for special testing because the provisions are obsolete. We will not be addressing Utah's rule R307–1–3.1.4 or R307–1–3.2.3 in this notice. R307–1–3.1.4 will be addressed at a later date when EPA addresses Utah's SIP submittal dated October 9, 1998 and rule R307–1–3.2.3 will be addressed at a later date when EPA addresses Utah's PM10 maintenance plan for Utah and Salt Lake County.

We are approving the removal of Utah's asbestos rule R307–1–8 and rule R307–1–6 pertaining to Utah's eligibility of pollution control expenditures for sales tax exemption from Utah's federally enforceable SIP because these rules are not generally related to attainment of the NAAQS and are therefore not appropriate to be in Utah's SIP. We are also not acting on Utah's SIP submittal dated October 26, 2000 because the SIP pertains to changes being made to Utah's asbestos rule R307–1–8 that we are removing from Utah's SIP in this action. We are also approving the removal of Utah's rule R307–1–4.12 titled ''National Emission Standards for Hazardous Air Pollutants''. Utah has delegation of authority for NESHAPs in 40 CFR part 61 (49 FR 36368), pursuant to 110(k)(6) of the Act, therefore we are removing the existing language (R307–1–4.12) that was approved into Utah's current SIP because it is no longer required to be in the SIP.

EPA is not acting to approve the follow rules or portions of these rule for reasons stated under section III.B of the NPR (70 FR 59681): R307–121, R307–122, R307–135, R307–214, R307–215, R307–220, R307–221, R307–320, R307–332, R307–410, R307–415, and R307–417.

Finally, EPA is not acting on the following rules because they have been superseded and replaced by other Utah SIP submittals as explained in the NPR (70 FR 59681): Utah's SIP submittal dated February 16, 1996 titled ''Expansion of R307–2'' that recodified and expanded Utah's R307–2; portions of Utah's SIP submittal dated February 6, 1996 that recodifies Utah's Emission Standards rule(s) that pertain to subsections: R307–1–4.9 and R307–1–4.12; Utah's SIP submittal dated February 6, 1996 that recodifies Utah's Emission Standards rule R307–1–4 that pertains to changes made in subsection R307–1–4.6; Utah's SIP submittal dated September 20, 1999 that pertain to rule sections R307–110–10, R307–110–12, R307–110–16, R307–110–17, R307–110–19, R307–110–29, R307–110–31, R307–110–33, R307–110–34, R307–110–35; Utah's SIP submittal dated September 20, 1999 that recodifies Utah's Continuous Emission Monitoring Systems rule R307–170; Utah's SIP submittal dated January 27, 1995 pertaining to rule R307–1–3.1.4 and rule R307–1–3.2.3: Utah's SIP submittal dated February 6, 1996 that recodifies Utah's Emission Standards rule R307–1–4 that pertains to changes made in

subsection R307–1–4.5; Utah's SIP submittal dated September 20, 1999 that recodifies Utah's rules includes rules R307–150 and rule R307–155; Utah's SIP submittal dated September 20, 1999 that recodifies Utah's rules includes rules R307–302–2(4) and R307–302–3; Utah's SIP submittal dated September 20, 1999 that pertain to the renumbering of rules R307–401–1 through R307–401–8, R307–401–10(2) and R307–401–11; and Utah's SIP submittal dated September 20, 1999 that pertain to the renumbering of rules R307–413–1 through R307–413–6, R307–413–8 and R308–413–9. Additional information regarding EPA's action on the above rules can be found within the NPR that published on October 13, 2005 (70 FR 59681).

## III. Summary of Public Comments and EPA's Response

*Comment:* A comment received stated that certain sections of Utah's rule R307–110 had been previously approved by EPA and was not accurately reflected in the NPR under category 3, number 4. Specifically, Utah's rule section R307–110–12 was previously approved by EPA on August 1, 2005 (70 FR 44055) and again on September 14, 2005 (70 FR 54267). Section R307–110–31 was previously approved by EPA on October 9, 2002 (67 FR 62981). Section R307–110–34 was previously approved by EPA on September 12, 2002 (67 FR 57744). Finally section R307–110–35 was previously approved by EPA on September 14, 2005 (70 FR 54267).

*Response:* The commenter is correct. However, as stated in the NPR (70 FR 59681), EPA does not intend to act on the Recodification of these specific rule sections in this action. Therefore, the corrections raised by the commenter are not relevant to this action and thus do not affect our approval.

*Comment:* A comment received expressed concern that EPA intended to retain rule R307–2–18 within the SIP because EPA had yet to act on Utah's SIP submittal dated February 6, 1996 that would adopt rule R307–110–29 which EPA stated in the NPR would replace R307–2–18. This is incorrect. Rule R307–2–18 has never been related to rule R307–110–29 that pertains to the diesel inspection and maintenance (I/M) SIP and has already been recodified with EPA's approval of R307–110–31. Therefore, EPA should not retain the old rule number R307–2–18.

*Response:* The commenter is correct. Rule R307–2–18 has been superseded and replaced by EPA's approval of Utah's rule R307–110–31 (67 FR 62891) therefore, EPA will not be retaining the old rule number R307–2–18 in this action and R307–110–29 will be acted on when EPA acts on Utah's February 6, 1996 SIP as stated in the NPR (70 FR 59681).

*Comment:* A comment received stated that rule R307–110–35 is listed twice within category 3, number 4 of the NPR (70 FR 59681) as a rule EPA will not be acting on because it has already been approved and is also listed as one that will be acted on at a later date.

*Response:* The commenter is correct. However, as stated in the NPR (70 FR 59681), EPA does not intend to act on this specific rule section in this action. Therefore, the correction raised by the commenter is not relevant to this action and thus does not affect our approval.

*Comment:* A comment received stated that under the NPR (70 FR 59681) category 3, number 8, where it states that rule sections R307–150–2 and R307–155 will be acted on at a later date when EPA takes action on an October 9, 1998 SIP submittal is incorrect because the October 9, 1998 SIP submittal has now been superseded by a December 12, 2003 SIP submittal.

*Response:* The commenter is correct. However, as stated in the NPR (70 FR 59681), EPA does not intend to act on these specific rule sections in this action. Therefore, the correction raised by the commenter is not relevant to this action and thus does not affect our approval.

## IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule

cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 17, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

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

Dated: January 19, 2006.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

■ 40 CFR parts 52, chapter I, title 40 are amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart TT—Utah

■ 2. Section 52.2320 is amended by adding paragraph (c)(59) to read as follows:

### § 52.2320 Identification of plan.

* * * * *

(c) * * *

(59) On February 5, 2001, October 26, 2000, September 20, 1999, September 7, 1999, two State Implementation Plan (SIP) revisions submitted February 6, 1996 and one on January 27, 1995, the State of Utah submitted SIP revisions that recodifies Utah's rules that had previously been approved into Utah's SIP; removed from Utah's SIP language that is obsolete or is generally not related to attainment of the National Ambient Air Quality Standards (NAAQS) and is therefore not appropriate to be in Utah's SIP; and arranged rules to allow for a more coherent SIP structure.

(i) Incorporation by Reference.

(A) Utah Administrative Code (UAC) rule sections: R307–101–1 and 2 with the exception of the definitions for ''actual emissions,'' ''major modification,'' ''part 70 source,'' ''significant,'' and ''volatile organic compound'' effective September 15, 1998; R307–102–1 through R307–102–6 effective September 15, 1998 and R307–102–1(2) effective August 3, 2000; R307–105–1 and R307–105–2 effective September 15, 1998, R307–107–1 through R307–107–6 effective September 15, 1998; R307–110–1 through R307–110–9, R307–110–11, R307–110–13 through R307–110–15, R307–110–18, R307–110–20 through R307–110–28, R307–110–30, and R307–110–32 effective September 15, 1998; R307–115–1 effective September 15, 1998; R307–130–1 through R307–130–4 effective September 15, 1998; R307–165–1 through R307–165–4 effective September 15, 1998; R307–201–1 through R307–201–3 effective September 15, 1998; R307–202–1 through R307–202–6 effective September 15, 1998; R307–203–1 through R307–203–3 effective September 15, 1998; R307–206–1 through R307–206–5 effective September 15, 1998; R307–301–1, R307–301–2, and R307–301–4 through R307–301–14 effective November 12, 1998; R307–302–1, R307–302–2 and R307–302–4 effective September 15, 1998; R307–305–1 through R307–305–7 effective September 15, 1998; R307–307–1 through R307–307–3 effective September 15, 1998; R307–325–1 through R307–325–4 effective September 15, 1998; R307–326–1 through R307–326–7 effective September 15, 1998; R307–327–1 through R307–327–3 effective September 15, 1998; R307–328–1 through R307–328–5 effective September 15, 1998; R307–335–1 through R307–335–4 effective September 15, 1998; R307–340–1 through R307–340–13 effective September 15, 1998; R307–341–1 through R307–341–3 effective September 15, 1998; R307–342–1 through R307–342–7 effective September 15, 1998; R307–401–9 and R307–401–10(1) effective September 15, 1998; R307–403–1 through R307–403–9 effective September 15, 1998; R307–405–1 through R307–405–8 effective September 15, 1998; R307–406–1 through R307–406–6 effective September 15, 1998; R307–413–7 effective September 15, 1998; and R307–414–1 through R307–414–3 effective September 15, 1998.

(ii) Additional Material.

(A) Outline for Utah's Rules Reorganization effective September 15, 1998.

(B) July 6, 2000 letter from Richard Long, EPA Region VIII to Ursula Kramer, Director, Utah Division of Environmental Quality requesting Utah to withdraw Utah SIP submittals dated April 30, 1998, October 9, 1998, and April 19, 2000.

(C) October 6, 2000 letter from Richard Long, EPA Region VIII to Rick Sprott, Acting Director, Utah Division of Air Quality (UDAQ) notifying UDAQ of an October 6, 1995 EPA memorandum (included with the October 6, 2000 letter) stating that Clean Air Act section 172(c)(9) pertaining to contingency measures requirements would not apply to PM10 nonattainment areas that had attained the standard with at least 3 years of clean air quality and as long as the area continued to attain the standard.

(D) October 16, 2000 letter from Michael Leavitt, Governor of Utah to William Yellowtail, Regional Administrator, EPA Region VIII requesting the withdraw of Utah's SIP submittals dated April 30, 1998, October 9, 1998, and April 19, 2000.

(E) April 2, 2002 letter from Richard Long, EPA Region VIII to Rick Sprott, Director, Utah Division of Air Quality informing UDAQ of our intent to not act on Utah's SIP submittal dated October 26, 2000 and our intent to remove existing asbestos rule language (R701–1–8) from Utah's federally approved SIP.

(F) April 7, 2005 letter from Rick Sprott, Director, Utah Division of Air Quality agreeing with EPA on the exclusion of Utah rules R307–1–6, R307–121, R307–122, R307–135, R307–214, R307–215, R307–220, R307–221, R307–320, R307–332, R307–415, R307–417, and R307–1–8 from Utah's federally approved SIP.

■ 3. Section 52.2352 is amended by redesignating the existing paragraph as paragraph (a) and adding paragraph (b), (c) and (d) to read as follows:

### § 52.2352 Change to approved plan.

* * * * *

(b) Utah Administrative Code (UAC) rule R307–1–8, Asbestos Work Practices, Contractor Certification, AHERA Accreditation and AHERA Implementation, is removed from Utah's approved State Implementation Plan (SIP). This rule language pertains to the regulation of asbestos and is generally not related to attainment of the National Ambient Air Quality Standards (NAAQS) and therefore it is not appropriate to be in Utah's SIP.

(c) Utah Administrative Code (UAC) rule R307–1–4.12, National Emission Standards for Hazardous Air Pollutants (NESHAPs), is removed from Utah's approved State Implementation Plan (SIP). Utah has delegation of authority for NESHAPs in 40 CFR part 61 (49 FR 36368), pursuant to 110(k)(6) of the Act.

(d) Utah Administrative Code (UAC) rule R307–1–6, Eligibility of Pollution Control Expenditures for Sales Tax Exemption, is removed from Utah's approved State Implementation Plan (SIP). This rule language pertains to State Sales Tax Exemptions for Pollution Control Expenditures and is not generally related to attainment of the National Ambient Air Quality Standards (NAAQS) and is therefore not appropriate to be in Utah's SIP.

[FR Doc. 06–1310 Filed 2–13–06; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2006–0033; FRL–8029–4]

## Revisions to the California State Implementation Plan; San Joaquin Valley Unified Air Pollution Control District

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the San Joaquin Valley Unified Air Pollution Control District's portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on March 30, 2005, and concern particulate matter emissions from agricultural operations. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on March 16, 2006.

**ADDRESSES:** EPA has established docket number EPA–R09–OAR–2006–0033 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hardcopy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hardcopy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Andrew Steckel, EPA Region IX, (415)947–4115, *steckel.andrew@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

### I. Proposed Action

On March 30, 2005 (70 FR 16207), EPA proposed to approve San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4550, Conservation Management Practices, and its associated List of Conservation Management Practices (CMP List), into the California SIP. Rule 4550 and the CMP List were adopted by the SJVUAPCD on May 20, 2004, and readopted without change on August 19, 2004. We proposed to approve Rule 4550 and the CMP List because we determined that they complied with the relevant CAA requirements. A more detailed discussion of SJVUAPCD particulate matter attainment planning, the CAA requirements for serious nonattainment areas, and how the CMP program complies with these requirements is provided in our proposed rule and technical support document (TSD).

### II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties:

1. Vanessa Stewart, Earthjustice; letter dated April 29, 2005.[1]

2. San Joaquin Valley agricultural groups: California Cotton Ginners and Growers Associations, California Citrus Mutual, California Grape and Tree Fruit League, Fresno County Farm Bureau, Nisei Farmers League; letter dated April 29, 2005.

EPA appreciates the time and effort expended by the commenters in reviewing the proposed rule and providing comments. We have summarized the significant comments and provided our responses below.

*Comment 1:* Earthjustice comments that the San Joaquin Valley (SJV or the Valley) is subject to the requirements of CAA section 188(e), including most stringent measures (MSM). Earthjustice states that nonattainment areas like the Valley ''receiving additional time to attain the NAAQS'' must demonstrate that ''the plan for that area includes the most stringent measures (MSM) that are included in the implementation plan for any State or are achieved in practice in any state, and can feasibly be implemented in the area.'' Addendum at 42010.[2] The Valley, having submitted a PM–10 Plan with an attainment deadline almost a decade later than that authorized by the Act, is subject to the requirements of CAA section 188(e), including the MSM requirement.

*Response:* In our final rule approving the 2003 SJV PM–10 Plan, we determined that section 188(e), including its MSM requirement, does not apply to the SJV PM–10 nonattainment area. Instead we concluded that, having failed to attain its serious area deadline of December 31, 2001, the area falls within the scope of section 189(d) which does not contain an MSM requirement. 69 FR 30006, 30022 (May 26, 2004). Earthjustice appropriately raised the issue of the applicability of section 188(e) in its comments on EPA's proposed approval of the 2003 Plan. Earthjustice, representing Latino Issues Forum, Medical Advocates for Healthy Air and Sierra Club, subsequently challenged EPA's final approval in the U.S. Court of Appeals for the Ninth Circuit, raising this issue among others.[3] On September 6, 2005, the Ninth Circuit upheld EPA's interpretation of the statute. *Association of Irritated Residents et al.* v. *U.S.E.P.A. et al.*, 2005 U.S. App. LEXIS 19213 (9th Cir. 2005).

*Comment 2:* Earthjustice comments that the CMP program must provide for MSM. Earthjustice states that the CMP program does not demonstrate that it implements MSM, nor has EPA evaluated it under this standard. MSM evaluations are distinct from best available control measure (BACM) evaluations and may identify control measures that would not have been considered under a BACM evaluation. For example, EPA has concluded that the de minimis level for BACM ''depends on whether requiring the application of BACM for such sources

[1] Paul Cort, Earthjustice, submitted an additional letter dated December 2, 2005, in which he seeks to supplement Ms. Stewart's comment letter. By letter dated December 20, 2005, David Crow, SJVUAPCD, responded to Mr. Cort's letter. The comment period for the proposed rule closed on April 29, 2005. Mr. Cort's letter and Mr. Crow's response are therefore over seven months late and EPA is not considering them in this final action.

[2] ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).

[3] The Association of Irritated Residents also petitioned for review of EPA's final action and the cases were consolidated.

would make the difference between attainment and nonattainment by the serious area deadline'' whereas the de minimis levels for MSM should be determined by ''whether MSM controls on the de minimis sources would result in more expeditious attainment.'' Under a MSM evaluation, the de minimis levels and size-based exemptions need to be reconsidered.

*Response:* See response to comment #1. Because of our position, affirmed by the Ninth Circuit in *Association of Irritated Residents,* that CAA section 188(e) does not apply to the SJV PM–10 nonattainment area, we do not address the comments below to the extent that they address MSM.

*Comment 3:* Earthjustice comments that the least effective measures are not BACM or MSM and requiring the selection of only one CMP per category does not provide for maximum possible emissions reductions. Operators are allowed to select the least effective (lowest control efficiency) practice in each category. A practice does not meet MSM or BACM when a demonstrably more effective measure is available and feasible. Many CMPs with unusually low control efficiencies will be the most popular. Operators should be required to implement the most effective measure from each category, or a combination of measures that would be equivalent to the most effective measure, or demonstrate why such control efficiency is not feasible. In the past, EPA has approved fugitive dust control programs, such as SJVUAPCD Rule 8081 applicable to off-field agricultural sources (68 FR 8831; February 26, 2003), that permit flexibility in control options, yet these programs require a minimum control efficiency. If the CMP program required operators to adopt practices with minimum control efficiencies, the program would be more effective.

The CMP program contemplates that growers will select one CMP from five source categories and Concentrated Animal Feeding Operations (CAFOs) from three. Thus even if a category contained more than one available and feasible control measure for any given source, the program would still only require the operator to include one control measure from each category, a limitation which is impermissible.

*Response:* As we observed in our final approval of the 2003 SJV PM–10 Plan, flexibility is needed in any program controlling agricultural sources. 69 FR 30006, 30015. Agricultural activities and emissions can be dependent on a wide range of factors, such as crop type, herd size, equipment type, soil type, economic circumstances, and facility size. Elements that are often beyond the control of the grower, such as weather and market conditions, can change quickly and affect the ability of growers to absorb the costs of controls. There is also a limited amount of scientific information concerning the cost effectiveness of the available and known control measures for agricultural operations.

As a result of the above conditions, allowing owners/operators of on-field agricultural sources the discretion to choose from a range of specified options is particularly important. Although the measures on the CMP List are generally considered technologically feasible control requirements, it is simply not practical to require the implementation of every CMP or specified group of CMPs. We cannot, for example, assume that all CMPs are available to all sources. It may be that the measure with the highest estimated control efficiency is not feasible for particular sources due to source-specific conditions. Thus, while some CMP options may have lesser control efficiencies than others, the CMP List gives growers and producers a variety of CMPs to choose from in order to tailor PM–10 controls to their individual circumstances without causing an unnecessary and unreasonable economic burden. For these reasons it would not be practical to require each farmer or the District to justify why the CMP with the highest control efficiency is infeasible for any individual operation. Furthermore, given the rudimentary state of knowledge, requiring a specific CMP or a group of CMPs that yield a particular emission level cannot be technically justified.

The format of the CMP rule has become the standard model for fugitive dust rules generally and rules governing agricultural operations specifically. This format has developed over time because of the need to impose effective but reasonable and feasible controls on a large number of similar but distinct sources. See, *e.g.*, EPA's approval of Maricopa County Environmental Services Department (MCESD) Rule 310 as meeting CAA reasonably available control measure (RACM) and BACM requirements (62 FR 41856, August 4, 1997); South Coast Air Quality Management District (SCAQMD) Rule 403 (providing for alternative compliance mechanisms for the control of fugitive dust from earthmoving, disturbed surface areas, unpaved roads etc.); and SCAQMD Rule 1186 (requiring owners/operators of certain unpaved roads the option to pave, chemically stabilize, or install signage, speed bumps or maintain roadways to inhibit speeds greater than 15 mph). EPA approved these SCAQMD rules as meeting the RACM and/or BACM requirements of the CAA on December 9, 1998 (63 FR 67784).

The regulatory approach selected by the SJVUAPCD specifically for the control of PM–10 emissions from agricultural operations is similar to those adopted and implemented by the SCAQMD for the South Coast Air Basin and by the Arizona Department of Environmental Quality for the Phoenix (Maricopa County) PM–10 nonattainment area. See, *e.g.*, discussion of the South Coast and Phoenix approaches at 66 FR 50252, 50268–50271 (October 2, 2001) and 67 FR 48730 (July 25, 2002).

Finally, with regard to both comments, *i.e.*, that the least effective measures will be chosen which are not BACM and that operators must be required to implement more than one CMP, the decision of the Ninth Circuit Court of Appeals in *Vigil* v. *Leavitt*, 366 F.3d 1025 (9th Cir. 2004) is instructive. In upholding EPA's approval of a similar program for the Phoenix serious PM–10 nonatttainment area, the Court observed:

> Petitioners do not challenge any particular practice adopted as BACM. [footnote omitted] Rather, petitioners contend that there is no reason why Arizona could not require farmers to implement more than one control measure in each category. Petitioners point out that because, in one sense, Arizona has already found these measures to be ''feasible,'' more than one measure must be implemented. As a matter of theory, petitioners are, of course, correct. Intuitively, it seems obvious to say that if one measure per category is good, two or more would be better. Petitioners' argument proves too much, however. By petitioners' logic, if two are better than one, three are better than two, and so forth. We have little doubt that if Arizona required all of these measures, it would achieve greater reductions than under its present plan.

*Id.* at 1034–1035.

The Court further observed that:

> Petitioners' argument would be compelling if the Act required a state to reduce its emissions to the maximum extent possible, regardless of cost. EPA, however, has concluded that ''best available control measures'' means the maximum degree of emissions reduction of PM–10 and PM–10 precursors from a source * * * which is determined on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, to be achievable for such source through application of production processes and available methods, systems, and techniques for control of each such pollutant. Addendum, 59 FR at 42010.

*Id.* at 1035.

The Court then proceeded to review the process by which the list of

agricultural control measures (known as ''best management practices'') for the Phoenix area was selected and Arizona's rationale for requiring the implementation of only one such practice per source category. The process and rationale in the case of the San Joaquin Valley are virtually identical. See ''Technical Support Document for EPA's Proposed Rulemaking for the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District Rule 4550, Conservation Management Practices, and List of Conservation Management Practices,'' EPA, March 8, 2005.

The SJVUAPCD intends to monitor the effectiveness of the CMPs and adjust the program, if needed, in the future. Based on the conclusions reached by SJVUAPCD and the AgTech Committee and our evaluation of comparable programs in other serious PM–10 nonattainment areas regarding technological feasibility and economic effects, we believe that Rule 4550 and the CMP List provide the maximum degree of PM–10 emission reductions achievable from agricultural sources in the SJV and, therefore, meet the CAA's BACM requirement.

*Comment 4:* Earthjustice comments that the Valley must adopt every available measure without delay. The Valley has failed both to meet its December 31, 2001, attainment deadline and to demonstrate attainment by the Act's latest possible extended deadline of December 31, 2006. Under these circumstances, the Valley must adopt every available measure to control PM–10 without delay. *Delaney* v. *EPA,* 898 F.2d 687, 691 (9th Cir. 1990). Thus, unless the Air District can demonstrate that a given control measure is infeasible, it must require implementation of that measure. The Air District's desire to provide flexibility in regulating agricultural sources of PM–10 cannot trump its obligation to require implementation of all available control measures to control agricultural fugitive dust.

*Response:* In our final rule approving the 2003 SJV PM–10 Plan, we approved a December 31, 2010, attainment deadline for the SJV PM–10 nonattainment area. In so doing, we explained that after a serious PM–10 nonattainment area such as the SJV fails to meet its attainment deadline (either December 31, 2001 under section 188(c)(2) or an extended deadline under section 188(e)), the provisions of section 189(d) apply. Because section 189(d) requires the submittal of an attainment demonstration but does not contain an attainment deadline, EPA looked to sections 179(d)(3) and 172(a)(2) to determine the outer bounds of that deadline. 69 FR 30006, 30023.

In contrast, *Delaney* concerned a provision of the CAA as amended in 1977 in which Congress had not provided a back-up deadline for an explicitly absolute deadline. Earthjustice appropriately raised the issue of the applicable attainment deadline for the area in its comments on EPA's proposed approval of the 2003 Plan. Earthjustice subsequently challenged EPA's final approval in the U.S. Court of Appeals for the Ninth Circuit, raising, among other things, its belief that *Delaney* compels the SJV to attain the PM–10 standards as soon as possible with all available measures. As stated above, the Ninth Circuit upheld EPA's statutory interpretation in its opinion in *Association of Irritated Residents.*

*Comment 5:* Earthjustice comments that the 100-acre threshold for agricultural operations and size-based exemptions for animal feeding operations are not justified. These exemptions are not consistent with the definition of ''significant source'' in the CAA or as applied by EPA. A source's significance is based on its contribution to an area's violation of national ambient air quality standards (NAAQS) and not on its size. Similarly, a source category may avoid implementing BACM under the de minimis exception only if the ''State demonstrates conclusively that, because of the small contribution of the source category's emissions to the attainment problem'' the imposition of BACM would not contribute significantly to the achievement of NAAQS. Therefore, the Plan must provide BACM for all agricultural sources.

Furthermore, even if size-based exemptions were permissible, the Plan fails to demonstrate that it is not technically or economically feasible to apply the requirements to sources smaller than 100 acres. If practical considerations are the primary reason for the exemptions, then the Plan should adopt other mechanisms, such as a phased implementation schedule, rather than a flat out size-based exemption.

*Response:* As mentioned by the commenter, agricultural operations in the aggregate are a significant source [4] of PM–10 and PM–10 precursors in the Valley. Therefore, agricultural operations would be a source category for which BACM is required. However, our applicable guidance for evaluating the economic feasibility of potential BACM provides that ''[s]tates should not restrict their analysis to simple acceptance/rejection decisions based on whether full application of a measure to all sources in a particular category is feasible. Rather, a State should consider implementing a control measure on a more limited basis, *e.g.,* for a percentage of the sources in a category if it is determined that 100 percent implementation of the measure is infeasible.'' Addendum at 42014. This is the approach that SJVUAPCD took when it considered the exemptions for Rule 4550.

SJVUAPCD's staff report associated with Rule 4550 (dated August 19, 2004) provides analyses of various CMPs and assessments of costs, feasibility, and impacts associated with them. SJVUAPCD also considered farm census data, economic impacts, and per farm emissions in selecting the 100-acre threshold for cropland. As explained in the staff report, agricultural activities in the SJV are significantly more diverse and of a different scale than activities in the South Coast Air Basin or Maricopa County, where analogous rules apply to operations over 10 acres. Rule 4550 (with its 100-acre exemption level) will apply to approximately 91 percent of all irrigated farmland in the SJV. An economic analysis of smaller farms in this region indicates that the farms exempted by Rule 4550 due to the 100-acre threshold earn, on average, $63,000 in sales. It was determined that these farms would have less income and capital available to invest in equipment or systems to meet many of the CMP requirements in Rule 4550, and would therefore be disadvantaged in selection of CMPs. SJVUAPCD also estimated emissions from 100-acre farms to determine the emission impact of an exemption. SJVUAPCD staff analyzed different commodities and determined that PM–10 emissions would be quite low for smaller farms, less than 1 ton per year. Therefore, SJVUAPCD concluded that the 100-acre exemption was appropriate for the SJV.

SJVUAPCD used a similar approach for the size-based exemptions for animal feeding operations. Rule 4550 is expected to apply to 73% of dairy cows, 94% of feedlot cattle, and nearly all poultry operations. It was also determined that any sites qualifying for the size-based cut-offs would have emissions no greater than 1 ton per year.

As discussed in the Addendum, energy and environmental impacts of control measures and the cost of control should be considered in determining

[4] We note that the Clean Air Act does not define the term ''significant source.'' Rather it is a concept that EPA developed in guidance interpreting the Act's RACM/BACM requirements. 57 FR 13498, 13540 (April 16, 1992); Addendum at 42011.

BACM. Economic feasibility considers the cost of reducing emissions and costs incurred by similar sources. Addendum at 42012–42013. The SJVUAPCD's analyses have also determined that application of BACM at the small operations that are subject to Rule 4550's exemptions would produce an insignificant regulatory benefit. As a result, EPA believes that the exemption of these smaller operations is considered reasonable and consistent with general procedures for making BACM determinations.

*Comment 6:* Earthjustice comments that the CMP program must require MSM and BACM for agricultural windblown dust. The CMP program combines windblown dust with agricultural burning. As written, the CMP program enables operators to avoid implementing controls on windblown dust by merely complying with already existing agricultural burning rules. Windblown dust should be established as a stand-alone category in the CMP program, rather than being included as part of the ''Other'' category.

*Response:* As mentioned in the staff report for Rule 4550, the SJVUAPCD evaluated control measures in all other serious nonattainment areas for consideration in the SJV and has included similar measures in Regulation VIII and the CMP Program. Additionally, during development of the SJV 2003 PM–10 Plan, the SJVUAPCD used data from various monitoring networks to evaluate episodes for exceedance days at PM–10 monitors in the SJV. The SJVUAPCD's meteorological analysis of wind speed associated with measured PM–10 exceedances found that exceedances largely occurred during periods of low winds and stagnant conditions in the fall and winter. Wind speeds are highest during the spring when PM–10 levels are at their lowest. Only five PM–10 exceedance days spanning a 13-year period were identified as associated with strong winds. As a result, the SJVUAPCD concluded that, unlike other arid western PM–10 serious nonattainment areas, the SJV does not have a regular and repeated windblown dust problem. Therefore it was not necessary to establish windblown dust as a stand-alone category. Nevertheless, the PM–10 Plan does recognize that windblown dust can occur from agricultural disturbed surfaces by including windblown measures in the ''Other'' category in the agricultural CMP program. SJV 2003 PM–10 Plan, pages 2–4 through 2–6.

*Comment 7:* Earthjustice comments that Rule 4550 fails to set forth criteria by which the Air Pollution Control Officer (APCO) will implement the CMP Program. Rule 4550 grants the APCO undue authority to weaken the Handbook, grant exemptions, approve new CMPs, or alter the control categories in the Handbook without public input or SIP revision. The CMP rule fails to provide any criteria for the APCO to exempt an operation from the CMP requirements. The rule also fails to identify the criteria that the APCO will use to evaluate and approve new CMPs. The Plan should explicitly commit to: (1) Make the CMP plans available for public review to the degree that Title V or any other operating permit is available; (2) contain a mechanism to ensure that citizens will be able to verify that growers subject to the rule are participating and that CMP plans are being implemented; and (3) ensure that adjustments to rule applicability thresholds are subject to public review.

*Response:* The CMP Handbook is designed as a tool to assist sources in complying with the requirements of Rule 4550 and the CMP List. It provides instructions and descriptions of CMPs to assist growers in completing CMP applications. The CMP Handbook itself does not contain regulatory requirements. If the APCO were to alter the content of the CMP Handbook, it would not alter the requirements of Rule 4550. Any changes to Rule 4550 would need to be adopted through the SJVUAPCD's public rulemaking process before going into effect.[5] Even if the CMP Handbook were eliminated, growers would still be required to comply with the requirements of Rule 4550.

Rule 4550 does not allow the APCO to grant exemptions from the CMP program. Section 6.2 states that if no feasible CMP can be identified from one category, then an owner/operator may select a substitute CMP from another CMP category. Rule 4550 does specify criteria for the APCO when evaluating new or alternative CMP requirements. Section 6.2 states that to obtain approval of a CMP that is not on the CMP List, the owner/operator must demonstrate that the new CMP achieves PM–10 emission reductions that are at least equivalent to other appropriate CMPs on the CMP List. The APCO is required to perform an independent analysis to evaluate the PM–10 emission reductions. CMPs that are not shown to achieve equivalent reductions will be disapproved.

EPA's general policy regarding director's discretion is stated in 52 FR 45109 (November 24, 1987). Provisions allowing for a degree of APCO discretion may be considered appropriate if explicit and replicable procedures within the rule tightly define how the discretion will be exercised to assure equivalent emission reductions.[6] SJVUAPCD will maintain a list of any new CMPs that are approved. It is expected that the CMP List will be periodically updated into the SIP. The CMP plans and the CMP List are publicly available documents. The District has authority to enforce the requirements of this rule. Citizens may verify compliance by growers without any further rule changes. Any adjustments to rule applicability thresholds will need to be done through a public rule development process, and proposed rule amendments will then be subject to public review and comment.

*Comment 8:* Earthjustice claims that the emission reductions estimated to be achieved by the Ag CMP program, 33.8 tons per day, are inaccurate and inflated because the estimate double counts emission reductions already being achieved from practices already in common use by growers. According to Earthjustice, the failure to incorporate into the Plan's demonstrations (5% and attainment) an estimate of what percentage of practices have already been adopted has one of two results: Either the current emissions inventory relied upon in the Ag CMP calculations is highly overstated or the emissions reductions estimates are highly overstated. In either case, Earthjustice believes the validity of the 5% and attainment demonstrations in the Plan is undermined. To support its contentions, Earthjustice provides examples of what it considers to be overstatements of emission reduction estimates due to the failure to account for already adopted practices and recent updates to the emissions inventory.

*Response:* In reviewing this rule as fulfilling the commitments in the approved 2003 SJV PM–10 Plan, we address two issues. First, we must determine whether or not the rule, as adopted, meets the CAA section 189(b)(1)(B) requirement for BACM in terms of the stringency of controls applied to agricultural PM–10 sources. Our proposed action on Rule 4550 and our responses to comments above set

[5] Moreover, once approved by EPA into the SIP, Rule 4550 will be federally enforceable and, under CAA section 110(l), any revision to it cannot be approved by the Agency if it would interfere with any applicable requirement concerning attainment, reasonable further progress or any other applicable requirement of the Act.

[6] ''Guidance Document for Correcting Common VOC and Other Rule Deficiencies (a.k.a. The Little Bluebook)'', U.S. EPA Region IX, originally issued April 1991, revised August 21, 2001.

out our rationale for concluding that the adopted rule does comply with the BACM requirement in its level of stringency.

Second, we may look to the emission reductions projected to be achieved by the adopted rule compared to the 2003 SJV PM–10 Plan's commitment to achieve specific emission reductions from the rule as needed to meet plan requirements, such as the 5% obligation of CAA section 189(d) and the attainment demonstration requirements of CAA sections 189(d) and 179(d)(3). This second level of analysis frequently raises complex issues, such as the accuracy of fugitive dust emission factors associated with particular activities, that are typically addressed in the context of plans and plan amendments. These issues were made available for public comment during EPA's proposed approval of the 2003 SJV PM–10 Plan.

We believe the District's efforts to quantify emission reductions from Rule 4550 fall within established norms. With respect to the baseline emission inventory we approved as part of the 2003 SJV PM–10 Plan, the District developed it using emission factors based on field tests performed in the 1990s with standard available equipment (Rule 4550 staff report, Appendix A–13).[7] While the District used a combination of methods such as sampling, source tests, field measurements, and emission factor calculations, along with best available data, to develop the inventory, the District recognized the need to better characterize emissions as well as the effectiveness of controls (2003 PM–10 Plan, Appendix, H–2). Moreover, it was understood that some agricultural sites may have been employing practices not required by regulation at that time, and that these existing practices may not have been accounted for in the emission inventory. Rule 4550 makes these practices mandatory and federally enforceable, allowing the District to take credit for the emission reductions (Rule 4550 staff report, Appendix, A–6).

Emission reduction estimates are also circumscribed by available data, which in this case was limited (Rule 4550 staff report, Appendix B). Because it is highly impractical to directly measure emissions from every activity and source, emission factors are not currently available for every CMP. Therefore, emission reduction estimates are often dependent on generally available emission factors for particular operations. Here, the District identified major groupings and used available information to quantify the emissions reductions achievable from the CMP Program. Furthermore, because of the flexible nature of the CMP Program, it was not possible in advance of implementation to anticipate which specific practices would be chosen by each individual owner or producer.

Section 8.0 of Rule 4550, however, contains a backstop provision that states that if, by December 31, 2005, the CMP program has not achieved the PM–10 emission reduction commitment for the PM–10 Reasonable Further Progress Plan due in 2006,[8] then the SJVUAPCD shall take actions necessary to meet the reduction target for the CMP program. Those actions may include changing the exemption thresholds, increasing the total number of CMPs required, or other revisions to the program.

The District recently released the ''Conservation Management Practices Program Report for 2005,'' January 19, 2005, addressing Rule 4550's backstop provision. The report concluded that the CMP program as implemented is reducing PM–10 emissions from agricultural sources by at least 35.3 tpd. In reaching this conclusion, the District used new and updated information primarily from the CMP applications submitted by growers, *e.g.*, the actual CMPs selected and the acreage to which they are to be applied.[9]

*Comment #9:* The San Joaquin Valley agricultural groups support EPA's proposed approval of Rule 4550 into the California SIP. Rule 4550 is the most comprehensive and effective regulation to address agricultural air quality in the nation and, as such, should be approved by EPA and adopted into the SIP. No other program adopted in the country to control fugitive $PM_{10}$ emissions from agriculture requires submittal of the actual CMP Plan for each location. No other adopted program will be able to so extensively quantify the emissions reductions generated by the program as the Valley's.

*Response:* No response needed.

## III. EPA Action

No comments were submitted that change our assessment that the submitted rule complies with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving Rule 4550 and the CMP List into the California SIP.

## IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the

[7] Because of the complexity of compiling emission inventories, it is common to rely on studies a decade or more old such as done here. For example, the current inventory estimates for residential wood burning stoves in most of California are based on 1990 census data of how many homes burn wood for heating, and estimates for non-farm unpaved road dust are based on a 1993 Caltrans study. See *http://www.arb.ca.gov/app/emsinv/*. See also EPA's AP–42 (*http://www.epa.gov/ttn/chief/ap42/ch04/index.html*), which provides emission factors used nationally for generating emission estimates and cites to many studies from the 1980s and 1990s.

[8] SJVUAPCD must demonstrate that adequate emission reductions are achieved to meet progress requirements every three years. 59 FR 42016 (August 16, 1994).

[9] In addition, the District intends to undertake research to further refine emission factors as is routinely done to improve inputs to emission inventories (see Rule 4550 staff report, Appendix, A–6).

Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 17, 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: January 24, 2006.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(334)(i)(B) to read as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(334) * * *

(i) * * *

(B) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4550 and the List of Conservation Management Practices, adopted on May 20, 2004, re-adopted on August 19, 2004.

* * * * *

[FR Doc. 06–1311 Filed 2–13–06; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HOMELAND SECURITY

## Federal Emergency Management Agency

## 44 CFR Part 65

## Changes in Flood Elevation Determinations

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

**ACTION:** Final rule.

**SUMMARY:** Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

**DATES:** The effective dates for these modified BFEs are indicated on the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

**ADDRESSES:** The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in BFEs are in accordance with 44 CFR 65.4.

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

*Regulatory Flexibility Act.* The Mitigation Division Director certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*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.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 65**

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

## PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues 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.

### § 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

| State and county | Location | Dates and names of newspaper where notice was published | Chief executive officer of community | Effective date of modification | Community No. |
|---|---|---|---|---|---|
| New Mexico: Dona Ana, (Case No. 04–06–857P), (FEMA Docket No. P–7644). | City of Las Cruces. | May 4, 2005, May 11, 2005, *Las Cruces Sun News*. | The Honorable William Mattiace, Mayor, City of Las Cruces, Post Office Box 20000, Las Cruces, New Mexico 88004. | April 21, 2005 ..... | 355332 |
| Texas: | | | | | |
| Denton, (Case No. 04–06–1465P), (FEMA Docket No. P–7644). | Town of Bartonville. | May 9, 2005, May 16, 2005, *Denton Record Chronicle*. | The Honorable Ron Robertson, Mayor, Town of Bartonville, 1941 East Jeter Road, Bartonville, Texas 76226. | April 22, 2005 ..... | 481501 |
| Dallas, (Case No. 04–06–673P), (FEMA Docket No. P–7644). | City of Dallas ... | May 5, 2005, May 12, 2005, *Dallas Morning News*. | The Honorable Laura Miller, Mayor, City of Dallas, Dallas City Hall, 1500 Marilla Street, Room 5EN, Dallas, Texas 75201–6390. | August 11, 2005 ..... | 480171 |
| Denton, (Case No. 04–06–1465P), (FEMA Docket No. P–7644). | Unincorporated Areas. | May 9, 2005, May 16, 2005, *Denton Record Chronicle*. | The Honorable Mary Horn, Judge, Denton County, 110 West Hickory Street, 2nd Floor, Denton, Texas 76201. | April 22, 2005 ..... | 480774 |
| Fort Bend, (Case No. 04–06–380P), (FEMA Docket No. P–7644). | Unincorporated Areas. | May 4, 2005, May 11, 2005, *Fort Bend Star*. | The Honorable Robert E. Hebert, Judge, Fort Bend County, 301 Jackson Street, Richmond, Texas 77469. | August 10, 2005 ..... | 480228 |
| Collin, (Case No. 04–06–673P), (FEMA Docket No. P–7644). | City of Plano ... | May 5, 2005, May 12, 2005, *Plano Star Courier*. | The Honorable Pat Evans, Mayor, City of Plano, Post Office Box 860358, Plano, Texas 75086. | August 11, 2005 ..... | 480140 |
| Fort Bend, (Case No. 04–06–380P), (FEMA Docket No. P–7644). | Willow Fork Drainage District. | May 4, 2005, May 11, 2005, *The Katy Times*. | The Honorable Larry J. Mueller, Willow Fork Drainage District, c/o Allen, Boone & Humphries, LLP, 3200 Southwest Freeway, 26th Floor, Houston, Texas 77027. | August 10, 2005 ..... | 481603 |

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: January 9, 2006.

**David I. Maurstad,**

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

[FR Doc. 06–1343 Filed 2–13–06; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

## Federal Emergency Management Agency

## 44 CFR Part 65

## Changes in Flood Elevation Determinations

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

**ACTION:** Final rule.

**SUMMARY:** Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

**EFFECTIVE DATES:** The effective dates for these modified BFEs are indicated on the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

**ADDRESSES:** The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in BFEs are in accordance with 44 CFR 65.4.

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

*Regulatory Flexibility Act.* The Mitigation Division Director certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*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.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

### List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR Part 65 is amended to read as follows:

## PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues 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.

### § 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

| State and county | Location | Dates and names of newspaper where notice was published | Chief executive officer of community | Effective date of modification | Community No. |
|---|---|---|---|---|---|
| Arkansas: Lonoke, Case No. 04–06–2140P, FEMA Docket No. P–7646. | City of Cabot ... | July 20, 2005, July 27, 2005, *Cabot Star-Herald*. | The Hon. Mickey Staumbaugh, Mayor, City of Cabot, Post Office Box 1113, Cabot, Arkansas 72076. | October 25, 2005 ..... | 050309 |
| Illinois: | | | | | |
| Will, Case No. 04–05–4087–P, FEMA Docket No. P–7646. | City of Lockport | July 6, 2005, July 13, 2005, *The Herald News*. | The Honorable Tim Murphy, Mayor, City of Lockport, 222 East 9th Street, Lockport, Illinois 60441. | June 21, 2005 ..... | 170703 |

| State and county | Location | Dates and names of newspaper where notice was published | Chief executive officer of community | Effective date of modification | Community No. |
|---|---|---|---|---|---|
| Cook, Case No. 04–05–2894P, (FEMA Docket No. P–7646). | Village of Orland Park. | June 23, 2005, June 30, 2005, *The Orland Park Star*. | The Hon. Daniel McLaughlin, Mayor, Village of Orland Park, 14700 Ravinia Avenue, Orland Park, Illinois 60462. | September 29, 2005 | 170140 |
| Cook, Case No. 04–05–2894P, FEMA Docket No. P–7646. | Village of Tinley Park. | June 23, 2005, June 30, 2005, *The Tinley Park Star*. | The Hon. Edward J. Zabrocki, Mayor, Village of Tinley Park, 16250 South Oak Park Avenue, Tinley Park, Illinois 60477. | September 29, 2005 | 170169 |
| Kansas: Sedgwick, Case No. 04–07–526P, FEMA Docket No. P–7646. | City of Wichita | June 23, 2005, June 30, 2005, *The Wichita Eagle*. | The Honorable Carlos Mayans, Mayor, City of Wichita, 455 North Main, 1st Floor, Wichita, Kansas 67202. | September 29, 2005 | 200328 |
| Minnesota: | | | | | |
| Anoka, Case No. 04–05–3553P, FEMA Docket No. P–7644. | City of Andover | May 13, 2005, May 20, 2005, *Anoka County Union*. | The Honorable Mike Gamache, Mayor, City of Andover, 1685 Crosstown Boulevard, NW., Andover, Minnesota 55304. | August 19, 2005 ..... | 270689 |
| Anoka, Case No. 04–05–3553P, FEMA Docket No. P–7644. | City of Oak Grove. | May 13, 2005, May 20, 2005, *Anoka County Union*. | The Honorable Oscar Olson, Mayor, City of Oak Grove, 22200 Poppy Street, NW., Anoka, Minnesota 55303. | August 19, 2005 ..... | 270031 |
| Scott, Case No. 04–05–0763P, FEMA Docket No. P–7644. | City of Savage | May 14, 2005, May 21, 2005, *The Savage Pacer*. | The Hon. Thomas M. Brennan, Mayor, City of Savage, 6000 McColl Drive, Savage, Minnesota 55378–2464. | August 20, 2005 ..... | 270433 |
| New Mexico: | | | | | |
| Bernalillo, Case No. 04–06–1742P, FEMA Docket No. P–7646. | City of Albuquerque. | July 7, 2005, July 14, 2005, *Albuquerque Journal*. | The Honorable Martin Chavez, Mayor, City of Albuquerque, City/County Building, 11th Floor, One Civic Plaza NW., Albuquerque, New Mexico 87102. | October 13, 2005 ..... | 350002 |
| Bernalillo, Case No. 04–06–1742P, FEMA Docket No. P–7646. | Unincorporated Areas. | July 7, 2005, July 14, 2005, *Albuquerque Journal*. | The Honorable Tom Rutherford, Chairman, Bernalillo County, One Civic Plaza NW., Albuquerque, New Mexico 87102. | October 13, 2005 ..... | 350001 |
| Oklahoma: | | | | | |
| Tulsa, Case No. 04–06–1611P, FEMA Docket No. P–7466. | City of Broken Arrow. | July 7, 2005, July 14, 2005, *Broken Arrow Ledger*. | The Honorable Richard Carter, Mayor, City of Broken Arrow, 220 South First Street, Broken Arrow, Oklahoma 74013. | October 13, 2005 ..... | 400236 |
| Tulsa, Case No. 04–06–1461P, FEMA Docket No. P–7646. | City of Broken Arrow. | July 7, 2005, July 14, 2005, *Broken Arrow Ledger*. | The Honorable Richard Carter, Mayor, City of Broken Arrow, 220 South First Street, Broken Arrow, Oklahoma 74013. | October 13, 2005 ..... | 400236 |
| Texas: | | | | | |
| Bexar, Comal and Kendall, Case No. 04–06–395P, FEMA Docket No. P–7646. | City of Fair Oaks Ranch. | July 22, 2005, July 29, 2005, *The Boerne Star Hill Country Recorder*. | The Honorable E. L. Gaubatz, Mayor, City of Fair Oaks Ranch, 7286 Deitz Elkhorn, Fair Oaks Ranch, Texas 78015. | July 5, 2005 ..... | 481644 |
| Collin, Case No. 04–06–1201P, FEMA Docket No. P–7646. | City of Frisco ... | July 22, 2005, July 29, 2005, *The Frisco Enterprise*. | The Honorable Mike Simpson, Mayor, City of Frisco, City Hall 6891 Main Street, Frisco, Texas 75034. | October 28, 2005 ..... | 480134 |
| Bexar, Case No. 04–06–1738P, FEMA Docket No. P–7644. | City of San Antonio. | May 24, 2005, May 31, 2005, *San Antonio Express News*. | The Honorable Ed Garza, Mayor, City of San Antonio, Post Office Box 839966, San Antonio, Texas 78283–3966. | August 30, 2005 ..... | 480045 |

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: January 9, 2006.

**David I. Maurstad,**

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

[FR Doc. 06–1342 Filed 2–13–06; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

## Federal Emergency Management Agency

## 44 CFR Part 65

**[Docket No. FEMA–P–7648]**

## Changes in Flood Elevation Determinations

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

**ACTION:** Interim rule.

**SUMMARY:** This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

**DATES:** These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Mitigation Division Director reconsider the changes. The modified BFEs may be changed during the 90-day period.

**ADDRESSES:** The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

**SUPPLEMENTARY INFORMATION:** The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in BFEs are in accordance with 44 CFR 65.4.

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

*Regulatory Flexibility Act.* The Mitigation Division Director certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*Regulatory Classification.* This interim 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.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

### List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

## PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues 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.

### § 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

| State and county | Location | Dates and name of newspaper where notice was published | Chief executive officer of community | Effective date of modification | Community No. |
|---|---|---|---|---|---|
| Texas: Tom Green, Case No.: 04–06–1908P. | City of San Angelo. | August 23, 2005, August 30, 2005, *San Angelo Standard Times.* | The Honorable J. W. Lown, Mayor, City of San Angelo, Post Office Box 1751, San Angelo, Texas 76902–1751. | November 29, 2005 ... | 480623 |

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: January 4, 2006.

**David I. Maurstad,**

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

[FR Doc. 06–1341 Filed 2–13–06; 8:45 am]

BILLING CODE 9110–12–P

## DEPARTMENT OF HOMELAND SECURITY

## Federal Emergency Management Agency

## 44 CFR Part 67

## Final Flood Elevation Determinations

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

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual-chance) Flood Elevations and modified Base Flood Elevations (BFEs) are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** *Effective Date:* The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

**ADDRESSES:** The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes the final determinations listed below for the BFEs and modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and 44 CFR part 67.

The Federal Emergency Management Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

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

*Regulatory Flexibility Act.* The Mitigation Division Director certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*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.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

### List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended to read as follows:

## PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues 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.

### § 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

| Source of flooding and location of referenced elevation | ♦ Elevation in feet (NAVD) modified | Communities affected |
|---|---|---|
| Bayou Two Prairie: | | |
| Approximately 1,330 feet downstream of State Highway 13 | 215 | City of Carlisle. |
| Approximately 2,750 feet downstream of U.S. Highway 70 | 217 | |
| Candlewood Drain: | | |
| Approximately 880 feet downstream of Kerr Station Road | 271 | City of Cabot, Lonoke County, (Unincorporated Areas). |
| Approximately 4,120 feet upstream of Kerr Station Road | 295 | |
| Fourmile Creek: | | |
| Approximately 50 feet downstream of State Highway 321 | 243 | City of Austin. |
| Approximately 3,250 feet upstream of State Highway 321 | 246 | |
| Fourmile Creek: | | |
| Approximately 1,250 feet downstream of U.S. Highway 67/167 | 251 | City of Cabot. |
| Approximately 50 feet downstream of U.S. Highway 67/167 | 252 | |
| Hudson Branch: | | |
| Approximately 1,000 feet upstream of the confluence with Hudson Branch Creek | 257 | City of Cabot. |
| Approximately 800 feet upstream of North Polk Street | 270 | |
| Hudson Branch Creek: | | |

| Source of flooding and location of referenced elevation | ♦ Elevation in feet (NAVD) modified | Communities affected |
|---|---|---|
| Approximately 950 feet upstream of Union Pacific Railroad | 241 | Creek City of Austin, Lonoke County, (Unincorporated Areas). |
| Approximately 3,050 feet upstream of State Highway 321/East Main Street | 248 | |
| Magness Creek: | | |
| At the confluence with Fourmile Creek | 234 | City of Cabot, Lonoke County, (Unincorporated Areas). |
| Approximately 1,950 feet upstream of Bailey Road | 282 | |
| White Oak Branch: | | |
| Approximately 320 feet downstream of State Highway 321/Bill Foster Memorial Highway | 262 | City of Cabot, Lonoke County, (Unincorporated Areas). |
| Approximately 4,860 feet upstream of Grayhawk Road | 287 | |

**Addresses**

**City of Austin, Lonoke County, Arkansas.**

Maps are available for inspection at 202 Hendricks, Austin, Arkansas.

**City of Cabot, Lonoke County, Arkansas.**

Maps are available for inspection at 101 North 2nd Street, Cabot, Arkansas.

**City of Carlisle, Lonoke County, Arkansas.**

Maps are available for inspection at 122 West Main Street, Carlisle, Arkansas.

**Lonoke County (Unincorporated Areas), Arkansas.**

Maps are available for inspection at Lonoke County Courthouse, 200 North Center Street, Lonoke, Arkansas.

♦ North American Vertical Datum of 1988.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: February 2, 2006.

**David I. Maurstad,**

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

[FR Doc. 06–1345 Filed 2–13–06; 8:45 am]

BILLING CODE 9110–12–P

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 THE TREASURY

### Office of Thrift Supervision

### 12 CFR Parts 544 and 552

**[No. 2006–05]**

**RIN 1550–AC00**

## Federal Savings Association Bylaws; Integrity of Directors

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Office of Thrift Supervision (OTS) is proposing to change its regulations concerning corporate governance to add a preapproved bylaw that federally chartered savings associations and mutual holding companies (collectively, federal savings associations) may adopt. The bylaw would preclude persons who, among other things, are under indictment for or have been convicted of certain crimes involving dishonesty or breach of trust, or have been subject to certain cease and desist orders entered by any of the banking agencies, from being members of the federal savings association's Board of Directors. The proposal would also permit federal savings associations to adopt bylaws that bar such persons from nominating individuals for membership on the federal savings association's Board of Directors. The proposal is intended to permit federal savings associations to protect their businesses from the adverse effects that are likely to result when the reputation of their board members is not conducive to maintaining the public's trust.

**DATES:** Your comments must be received by April 17, 2006.

**ADDRESSES:** You may submit comments, identified by No. 2006–05, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *regs.comments@ots.treas.gov*. Please include No. 2006–05 in the subject line of the message, and include your name and telephone number in the message.
- Fax: (202) 906–6518.
- Mail: Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: No. 2006–05.
- Hand Delivery/Courier: Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Regulation Comments, Chief Counsel's Office, Attention: No. 2006–05.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to the OTS Internet site at *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1,* including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1.* In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

**FOR FURTHER INFORMATION CONTACT:** Aaron B. Kahn, Assistant Chief Counsel, Business Transactions Division, (202) 906–6263; or Donald W. Dwyer, Director, Applications, Examinations and Supervision—Operations, (202) 906–6414, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:**

### I. General

Congress has repeatedly emphasized the importance of ensuring that the people who control savings associations have the requisite character and integrity. When it created the federal savings and loan regulatory system, Congress directed the federal regulatory agency to adopt the best practices then existing in the savings and loan industry. One such practice was ensuring that directors of savings associations were persons of good judgment and character who had the respect and confidence of the community served by their respective institution. *See* Joseph H. Sundheim, *Law of Building and Loan Associations*, § 71 (3d ed. 1933).

In 1966, Congress also addressed the integrity of management of savings associations. At that time Congress gave the banking agencies authority to prevent individuals who had engaged in certain conduct from being affiliated with insured depository institutions, including savings associations.[1] In the 1966 legislation, Congress found certain conduct so egregious that it authorized the regulatory agencies to debar perpetrators from the industry, but Congress did not determine whether everyone else was qualified to sit on the boards of savings associations or whether individual savings associations could establish minimum requirements for service as a director that might prevent other persons from sitting on their respective boards of directors.

In addition, Congress' attention to the management of savings associations is evident in, among other acts: (i) The Change in Bank Control Act, which allows the applicable federal banking agency to disapprove a proposed acquisition if, among other things, the competence, experience, and integrity of any of the acquiror's proposed management personnel might jeopardize the financial stability of the institution or prejudice the interests of the

[1] *See* Financial Institutions Supervisory Act of 1966 (FISA), Pub. L. 89–695, 80 Stat. 1028, 1030–32, 1039–40, 1049–50. Among other things, FISA amended section 8 of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. 1818, to provide for the removal and prohibition of persons a banking agency finds to have committed certain acts involving personal dishonesty or willful or continuing disregard for the safety or soundness of an insured depository institution and has either received financial gain, injured the institution or prejudiced the interests of its depositors. Similarly, section 19 of the FDIA, 12 U.S.C. 1829, prohibits persons who have been convicted of any criminal offense involving dishonesty or a breach of trust from controlling or participating in the conduct of the affairs of any insured depository institutions without the prior consent of the Federal Deposit Insurance Corporation.

directors of an acquiror and the savings associations involved in connection with agency review of managerial resources.[3]

Congress again recognized the need to ensure integrity in the banking industry when it enacted the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Pub. L. 101–73, 103 Stat. 183. In FIRREA, Congress required certain financial institutions to provide prior notice to their federal regulator of any new board members and authorized the regulator to disapprove a board member if he or she lacked the requisite character or integrity to advance the interests of the depositors of the institution.[4]

On March 15, 2001, OTS published a rule amending its corporate governance rules for federally chartered savings associations to create a class of preapproved optional bylaw provisions that those savings associations could adopt without prior OTS review. 66 FR 15017. In addition, OTS promulgated a preapproved optional bylaw dealing with the qualifications of directors. The bylaw was intended to make it easier for federal savings associations to protect their businesses from the adverse effects that are likely to result when the reputation of its board members does not maintain the public's trust.

Recently, a number of federal savings associations have requested permission to adopt bylaws similar to the preapproved bylaw but also containing additional restrictions. On March 17, 2005, OTS approved an application by a federal savings association to adopt a bylaw amendment containing additional restrictions (OTS Order No. 2005–13). Rather than continue to deal with each request individually, OTS has determined to reconsider the optional bylaw and determine if changes are warranted. Proceeding by rulemaking will afford an opportunity for those interested in submitting comments to do

[2] 12 U.S.C. 1817(j)(7)(D).

[3] 12 U.S.C. 1467a(e)(1)(B), (e)(2).

[4] Section 914 of FIRREA (12 U.S.C. 1831i) provides for a banking agency to disapprove a proposed director ''if the competence, experience, character, or integrity of the [proposed director] indicates that it would not be in the best interests of the depositors of the depository institution or in the best interests of the public to permit the individual to be [so] employed. * * *'' In 1996, Congress changed the categories of institutions subject to this requirement. *See* Section 2209 of the Economic Growth and Regulatory Paperwork Reduction Act, Pub. L. 104–208, 110 Stat. 3009–409.

dishonesty, breach of fiduciary duty, or willful violation of financial regulatory law. Under the proposed preapproved bylaw provisions, a person would not be qualified if the person: (i) Is under indictment for, or has been convicted of, a criminal offense involving dishonesty or breach of trust and the penalty for the offense could be imprisonment for more than one year; (ii) has been subject to a banking agency final cease and desist order for conduct involving dishonesty or breach of trust; or (iii) has been found, either by a regulatory agency whose decision is final and not subject to appeal or by a court, to have breached a fiduciary duty under circumstances involving personal profit; committed a willful violation of any law, rule, or regulation governing banking, securities, commodities, or insurance; or committed a willful violation of a final cease and desist order issued by a banking, securities, commodities, or insurance regulatory agency.

The preapproved optional bylaw that OTS adopted in 2001 differs from the terms of the preapproved optional bylaw provisions now being proposed by OTS in certain respects. First, while both bylaw provisions would disqualify someone who has been subject to a banking agency cease and desist order because the person was found to have engaged in conduct involving dishonesty or breach of trust and that order is final and not subject to appeal, the bylaws do not contain the same disqualification time periods. The existing preapproved optional bylaw provides for a ten-year period of disqualification. In the proposed optional bylaw provisions, the period of disqualification is indefinite. However, under the proposed preapproved bylaw provisions, OTS would consider any specific time period of disqualification chosen by an adopting institution or holding company to also be preapproved.

Second, the existing preapproved optional bylaw does not foreclose a disqualified person from nominating other persons to serve on the board. In contrast, the proposed optional bylaw provisions allow a bylaw to prohibit a person who is disqualified from serving as a director from nominating others to serve as directors. However, otherwise qualified persons who are nominated by

[5] If OTS adopts the current proposal, the preapproved optional bylaw adopted in 2001 will be deleted.

effective, the proposed optional bylaw provision allows an institution to preclude entities owned or controlled by an ineligible person from using their share ownership to nominate directors.

If OTS adopts the proposal, a federal savings association could adopt a bylaw containing either some or all of the preapproved bylaw provisions and could limit the period for the restrictions contained in the proposed bylaw to whatever period the institution deemed appropriate. However, federal savings associations that wish to adopt a bylaw containing additional director qualifications beyond those in the preapproved bylaw provisions would continue to be required to obtain prior approval from OTS.

The proposed regulation does not bar anyone from the industry. Rather, like the existing preapproved bylaw, it permits individual federal savings associations to voluntarily adopt bylaws that set qualifications for board membership only for their respective institutions. Federal savings associations that adopt the preapproved bylaw provisions or less restrictive provisions would not have to provide prior notice to OTS, but would have to file notice of the adoption of the bylaw within 30 days after adopting the bylaw.

OTS believes that the proposed regulation would enhance the ability of federal savings associations to assure themselves that persons who are subject to adverse actions concerning their fiduciary integrity or compliance with financial regulatory laws do not become board members or obtain board membership for their representatives. The proposed provisions, like the existing preapproved bylaw provisions, permit the setting of standards for the integrity of prospective board members and are derived in part from the existing standards contained in § 563.39(b)(1) for terminating savings association officers for cause. Because that provision deals with the integrity of officials who are supervised by the board of directors, it appears reasonable to hold the board members to at least a comparable standard of integrity.

It is important that the directors of savings associations be persons of good character and integrity. They oversee management and have the ultimate responsibility for the operations of the savings association. In addition, directors of savings associations commonly assist their institutions in attracting and retaining business. Their

to be able to trust the institution that holds their money. Moreover, people may be wary of contracting with an institution that they do not trust. Thus, a director who has an exemplary reputation may be a valuable asset to the association. Conversely, a director whose reputation is tainted, for example because a court has found he or she personally profited from a breach of his or her fiduciary duties, may injure an institution simply by being a member of the board. The proposed regulation enhances the ability of federal savings associations to limit board membership to persons of good character and integrity.

In addition, OTS is concerned that an institution may suffer reputational risk if the representatives of a disreputable person are elected to the institution's board of directors. It is reasonable to assume that when such a person seeks to have others elected to a board of directors, that person has chosen nominees who he or she believes will pursue the same objectives as their sponsor. Thus, their election may well engender the same reaction from the public as would the election of their sponsor, the disreputable person. Given these concerns, OTS proposes to permit federal savings associations to prohibit disqualified persons from nominating others for positions on the board of directors.

Also, to prevent evasion of that prohibition, OTS proposes to permit federal savings associations to prohibit nominations from entities that are owned or controlled by disqualified persons. For example, under the proposed preapproved bylaw, a trust that holds shares could be prohibited from nominating someone to be a director if the trustee or principal beneficiary of the trust was disqualified under the preapproved bylaw.

However, persons should not be kept off boards of directors if they are not merely representatives of a disqualified person. Therefore, the proposed preapproved bylaw does not prohibit a person's service if that person is nominated by more than one shareholder and at least one of the nominating shareholders is someone who the proposed bylaw would not prohibit from serving as a director.

When OTS adopted the existing preapproved bylaw it noted that a trade association had commented that such bylaw should not be expanded to prevent ineligible persons from At that time, OTS stated that, ''[i]n the absence of any reasoned support for a broader provision, OTS will not expand the wording of the preapproved bylaw to encompass nominees of persons covered by the terms of the bylaw.'' 66 FR 15019 (Mar. 15, 2001). OTS agrees that the primary focus should be on the integrity of the individual directors. However, as discussed above, it appears to OTS that there is reasoned support for the broader provision. Moreover, OTS would not require institutions to adopt the nominee provision to obtain the benefit of having the bylaw preapproved. Thus, an institution that adopted a bylaw that was essentially the same as the proposed preapproved bylaw except that it did not include the nominee clause would still be able to make the bylaw effective by simply notifying OTS of the bylaw's adoption. In OTS's view, individual federal savings associations should, in the first instance, make the judgment as to the extent of reputational risk presented by permitting nominees of disqualified persons to serve on the institution's board of directors.

## II. Request for Comments

### *A. Solicitation of Comments on the Proposed Amendments*

OTS requests comment on all aspects of this proposal.

In particular, OTS is interested in comments addressing the proposal to permit federal savings associations to disqualify individuals who have been subject to certain cease and desist orders indefinitely rather than for a maximum of ten years. Is this change beneficial?

In addition, the proposed provision governing cease and desist orders is limited to orders issued by a banking agency. Should this provision be expanded to cover cease and desist orders issued by regulatory agencies with jurisdiction over other financial businesses? Should it cover regulatory agencies with jurisdiction over non-financial businesses?

OTS is also interested in receiving comments on the added provision barring disqualified persons from nominating individuals to serve on the board of directors. Is this provision desirable? Are OTS's concerns about reputational risks engendered by allowing disqualified persons to nominate others for the board of directors valid? Are there any disadvantages to permitting federal the reputation of the adopting federal savings association. Are OTS's concerns about the reputational risks posed by persons who have engaged in dishonest conduct valid? Is the proposed optional bylaw an effective comprehensive means of reducing risk to reputation? Are there other methods or means of addressing that risk that are less restrictive?

### *B. Solicitation of Comments Regarding the Use of Plain Language*

Section 722 of the Gramm-Leach-Bliley Act requires federal banking agencies to use ''plain language'' in all proposed and final rules published after January 1, 2000. OTS invites comments on how to make this proposed rule easier to understand. For example:

(1) Have we organized the material to suit your needs? If not, how could the material be better organized?

(2) Do we clearly state the parameters of the preapproved bylaw in the rule? If not, how could the rule be more clearly stated?

(3) Does the rule contain technical language or jargon that is not clear? If so, what language requires clarification?

(4) Would a different format make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?

## III. Regulatory Findings

### *A. Paperwork Reduction Act*

OTS has determined that this proposed rule does not involve any additional collection of information from that previously approved under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### *B. Executive Order 12866*

The Director of OTS has determined that this proposed rule does not constitute a ''significant regulatory action'' for purposes of Executive Order 12866. Because no savings association is required to take any action by this proposal and because any federal savings association could have requested permission to impose qualifications for membership on its Board of Directors comparable to those contained in the proposal, OTS has concluded that the proposal will not have significant effects on the thrift industry.

### *C. Regulatory Flexibility Act*

Pursuant to section 605(b) of the Regulatory Flexibility Act, OTS certifies

including small federal savings associations, by permitting them to adopt certain bylaws without providing prior notice to OTS. The rule does not require any savings association to modify its bylaws and all federal savings associations currently can request permission to adopt such bylaws, if they choose to do so. Accordingly, a regulatory flexibility analysis is not required.

*D. Unfunded Mandates Reform Act Of 1995*

OTS has determined that this proposed rule will not result in expenditures by state, local and tribal governments, or by the private sector, of $100 million or more in any one year. Therefore, OTS has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered. The proposal simply gives federal savings associations the option to adopt a bylaw without having to first request permission from OTS.

**List of Subjects**

*12 CFR Part 544*

Reporting and recordkeeping requirements, Savings associations.

*12 CFR Part 552*

Reporting and recordkeeping requirements, Savings associations. Securities.

**Authority and Issuance**

For the reasons set out in the preamble, parts 544 and 552 of Chapter V of title 12 of the Code of Federal Regulations are proposed to be amended as follows:

## PART 544—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—CHARTER AND BYLAWS

1. The authority citation for part 544 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

2. Amend § 544.5 by adding a new paragraph (c)(1)(iv) to read as follows:

### § 544.5 Federal mutual savings association bylaws.

* * * * *

(c) * * *

(1) * * *

(iv) For purposes of this paragraph (c), bylaw provisions that use the following language or provide less restrictive adoption:

A person is not qualified to serve as a director if he or she: 1—is under indictment for, or has ever been convicted of, a criminal offense involving dishonesty or breach of trust and the penalty for such offense could be imprisonment for more than one year; 2—is a person against whom a banking agency has issued a cease and desist order for conduct involving dishonesty or breach of trust and that order is final and not subject to appeal; or 3—has been found either by a regulatory agency whose decision is final and not subject to appeal or by a court to have breached a fiduciary duty involving personal profit or committed a willful violation of any law, rule or regulation governing banking, securities, commodities or insurance, or any final cease and desist order issued by a banking, securities, commodities or insurance regulatory agency.

A person who under this provision is not qualified to serve as a director, and any entity that is owned or controlled by such person, is not permitted to nominate anyone to serve as a director.

* * * * *

## PART 552—FEDERAL STOCK ASSOCIATIONS—INCORPORATION, ORGANIZATION, AND CONVERSION

3. The authority citation for part 552 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

4. Amend § 552.5 by adding a new paragraph (b)(1)(iv) to read as follows:

### § 552.5 Bylaws.

* * * * *

(b) * * *

(1) * * *

(iv) For purposes of this paragraph (b), bylaw provisions that use the following language or provide less restrictive qualifications for directors or the ability to nominate directors than provided in the following language are effective upon adoption provided, such bylaws are filed with OTS within 30 days after adoption:

A person is not qualified to serve as a director if he or she: 1—is under indictment for, or has ever been convicted of, a criminal offense involving dishonesty or breach of trust and the penalty for such offense could be imprisonment for more than one year; 2—is a person against whom a banking agency has issued a cease and desist order for conduct involving dishonesty or breach of trust and that order is final and not subject to appeal; or 3—has been found either by a regulatory agency whose decision is final and not subject to appeal or by a court to have breached a fiduciary duty involving personal profit or committed a willful violation of any law, rule or regulation governing banking, securities, commodities or insurance, or any final cease and desist order issued by a banking, securities, commodities or insurance regulatory agency.

A person who under this provision is not qualified to serve as a director, and any entity that is owned or controlled by such person, is not permitted to nominate anyone to serve as a director.

* * * * *

Dated: February 7, 2006.

By the Office of Thrift Supervision.

**John M. Reich,**

*Director.*

[FR Doc. E6–2003 Filed 2–13–06; 8:45 am]

BILLING CODE 6720–01–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2004–19220; Directorate Identifier 2004–CE–27–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes equipped with certain crew seat bucket assemblies with and without a backrest recline system. This proposed AD would require you to replace the backrest tubes on these crew seat bucket assemblies at a specified time and adds a life limit for these backrest tubes. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. We are issuing this proposed AD to prevent cracks in the backrest tubes of certain crew seat bucket assemblies, which could result in failure of the seat system. This failure could lead to the pilot and co-pilot's reduced ability to control the airplane. This failure could also affect the proper function of the seat restrain system in the case of an emergency landing.

**DATES:** We must receive comments on this proposed AD by March 16, 2006.

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

site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- Fax: 1–202–493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Pilatus Aircraft Ltd., Customer Support Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6208; facsimile: +41 41 619 7311; or Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040 for the service information identified in this proposed AD.

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

*How do I comment on this proposed AD?* 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 the docket number, ''FAA–2004–19220; Directorate Identifier 2004–CE–27–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of the DOT docket Web site, anyone can find and read the comments received into any of our dockets, including the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

## Examining the Dockets

*Where can I go to view the docket information?* You may examine the docket that contains the proposal, any comments received and any final disposition on the Internet at *http://dms.dot.gov,* or in person at the DOT Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES.** Comments will be available in the AD docket shortly after the Docket Management Facility receives them.

## Discussion

*What events have caused this proposed AD?* The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, notified FAA that an unsafe condition may exist on all Pilatus Models PC–12 and PC–12/45 airplanes equipped with certain crew seat bucket assemblies with and without a backrest recline system. The FOCA reports that during a regular maintenance inspection, the seat bucket assembly tubes on a crew seat with a recline system had failed.

Fatigue on the left-hand (LH) and right-hand (RH) seat bucket assembly tubes at the location of the energy device pins caused the seat bucket assembly tubes to fail. The lower tubes were attached but the upper tubes were completely detached.

Pilatus conducted further investigation to determine if additional crew seat bucket assembly backrest tubes have fatigue cracks.

Thirty-one of the affected airplanes were inspected. Six pilot and two co-pilot seats were found with partial fatigue cracks. None had completely failed. The cracks were found on the backrest tubes of the crew seat bucket assemblies with the recline feature.

The result of the inspections led to the establishment of a life limit for the backrest tubes on certain crew seat bucket assemblies with and without a backrest recline system.

*What is the potential impact if FAA took no action?* If not prevented, cracks in the backrest tubes of the seat bucket assembly could cause the seat system to fail. This failure could lead to the pilot

*Is there service information that applies to this subject?* Pilatus has issued Pilatus PC12 Maintenance Manual Temporary Revision No. 04–13, dated June 15, 2005.

*What are the provisions of this service information?* The maintenance manual temporary revision establishes a life limit for the backrest tubes on crew seat bucket assemblies with and without a recline system.

*What action did the FOCA take?* The FOCA classified this maintenance manual temporary revision as mandatory and issued Swiss AD Number HB–2005–470, Effective Date: December 30, 2005, to ensure the continued airworthiness of these airplanes in Switzerland.

*Did the FOCA inform the United States under the bilateral airworthiness agreement?* These Pilatus Models PC–12 and PC–12/45 airplanes are manufactured in Switzerland and are type-certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Under this bilateral airworthiness agreement, the FOCA has kept us informed of the situation described above.

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

*What has FAA decided?* We have examined the FOCA's findings, 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.

Since the unsafe condition described previously is likely to exist or develop on other Pilatus Models PC–12 and PC–12/45 airplanes of the same type design that are registered in the United States, we are proposing AD action to prevent cracks in the backrest tubes of certain crew seat bucket assemblies, which could result in failure of the seat system. This failure could lead to the pilot and co-pilot's reduced ability to control the airplane. This failure could also affect the proper function of the seat restrain system in the case of an emergency landing.

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

*Why have we determined AD action is necessary and what would this*

require you to replace the backrest tubes on certain crew seat bucket assemblies

*How many airplanes would this proposed AD impact?* We estimate that

following costs to accomplish this proposed replacement:

| Labor cost | Parts cost | Total cost per seat bucket assembly | Total cost on U.S. operators |
|---|---|---|---|
| 3 work hours × $65 per hour = $195 per seat bucket assembly. | $600 per seat bucket assembly. 2 seats on each airplane. | $195 + $600 = $795 per seat bucket assembly. | $795 per seat bucket assembly × 2 per airplane = $1,590. $1,590 × 260 = $413,400. |

## Authority for This Rulemaking

*What authority does FAA have for issuing this rulemaking action?* 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

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

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

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

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

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the 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 Federal Aviation Administrator amends § 39.13 by adding the following new airworthiness directive (AD):

**Pilatus Aircraft LTD.:** Docket No. FAA–2004–19220; Directorate Identifier 2004–CE–27–AD.

**When Is the Last Date I Can Submit Comments on This Proposed AD?**

(a) The Federal Aviation Administration (FAA) must receive comments on this proposed AD action by March 16, 2006.

**What Other ADs Are Affected by This Action?**

(b) None.

**What Airplanes Are Affected by This AD?**

(c) This AD affects all Models PC–12 and PC–12/45 airplanes that are equipped with the following crew seat bucket assemblies and are certificated in any category:

(1) *Crew seats with a recline system, part numbers (P/N):* 959.30.01.111, 959.30.01.112, 959.30.01.121, and 959.30.01.122.

(2) *Crew seats without recline system, P/Ns:* 959.30.01.131, 959.30.01.132, 959.30.01.133, and 959.30.01.134.

**What Is the Unsafe Condition Presented in This AD?**

(d) This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified in this AD are intended to prevent cracks in the backrest tubes of certain crew seat bucket assemblies, which could result in failure of the seat system. This failure could lead to the pilot and co-pilot's reduced ability to control the airplane. This failure could also affect the proper function of the seat restrain system in the case of an emergency landing.

**What Must I Do To Address This Problem?**

(e) To address this problem, you must do the following:

| Actions | Compliance | Procedures |
|---|---|---|
| (1) For crew seat bucket assemblies with a recline system, part numbers (P/N) 959.30.01.111, 959.30.01.112, 959.30.01.121, and 959.30.01.122 (or FAA-approved equivalent P/Ns), replace the backrest tubes. | Initially replace upon the accumulation of 5,000 hours time-in-service (TIS) or within the next 100 hours TIS after the effective date of this AD, whichever occurs later. Thereafter, replace the backrest tubes upon the accumulation of 5,000 hours TIS (the life limit established in this AD). | As specified in Pilatus PC12 Maintenance Manual Temporary Revision No. 04–13, dated June 15, 2005. Replace following the procedures in the applicable component maintenance manual. (CMM) |

| | | |
|---|---|---|
| 959.30.01.134 (or FAA-approved equivalent P/Ns), replace the backrest tubes. | AD, whichever occurs later. Thereafter, replace the backrest tubes upon the accumulation of 10,000 hours TIS (the life limit established in this AD). | procedures in the CMM. |
| (3) Do not install:<br>(i) Any crew seat bucket assembly with a recline system, P/N 959.30.01.111, 959.30.01.112, 959.30.01.121, and 959.30.01.122 (or FAA-approved equivalent P/Ns), with unknown hours TIS or which has accumulated 5,000 or more hours TIS; or<br>(ii) Any crew seat bucket assembly without a recline system, P/N 959.30.01.131, 959.30.01.132, 959.30.01.133, and 959.30.01.134 (or FAA-approved equivalent P/Ns), with unknown hours TIS or which has accumulated 10,000 or more hours TIS. | As of the effective date of this AD. The life limits specified in paragraphs (e)(1) and (e)(2) of this AD apply to all parts installed as spares. | Not Applicable. |
| (4) 14 CFR 21.303 allows for replacement parts through parts manufacturer approval (PMA). The phrase ''or FAA-approved equivalent part number'' in this AD is intended to signify those parts that are PMA parts approved through identicality to the design of the part under the type certificate and replacement parts to correct the unsafe condition under PMA (other than identicality). If parts are installed that are identical to the unsafe parts, then the corrective actions of the AD affect these parts also. In addition, equivalent replacement parts to correct the unsafe condition under PMA (other than identicality) may also be installed provided they meet current airworthiness standards, which include those actions cited in this AD. | Not Applicable ..... | Not Applicable. |
| (5) You must contact the type certificate holder any time a modification or repair is done that affects the parts listed in paragraphs (e)(1), (e)(2), and (e)(3) of this AD to determine the effect, if any, the modification or repair may have on the life limits established in this AD. | As of the effective date of this AD ..... | Not Applicable. |

**Note:** Return all replaced backrest tubes to Pilatus Aircraft Ltd., Structural Analysis Group ECE, Ch-6371 Stans, Switzerland. Include the following information: crew seat P/N and serial number, aircraft manufacturer serial number, aircraft flying hours, number of flights, and replacement date of the replaced backrest tubes.

**May I Request an Alternative Method of Compliance?**

(f) The Manager, Standards Office, Small Airplane Directorate, FAA, has the authority to approve alternative methods of compliance for this AD, if requested using the procedures found in 14 CFR 39.19. For information on any already approved alternative methods of compliance or for information pertaining to this AD, contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

**Is There Other Information That Relates to This Subject?**

(g) Swiss AD Number HB–2005–470, Effective Date: December 30, 2005, also addresses the subject of this AD.

**May I Get Copies of the Documents Referenced in This AD?**

(h) To get copies of the documents referenced in this AD, contact Pilatus Aircraft Ltd., Customer Support Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6208; facsimile: +41 41 619 7311; or Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http://dms.dot.gov.* The docket number is Docket No. FAA–2004–19220; Directorate Identifier 2004–CE–27–AD.

Issued in Kansas City, Missouri, on February 7, 2006.

**Steven W. Thompson,**

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

[FR Doc. E6–2020 Filed 2–13–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Saint Lawrence Seaway Development Corporation

## 33 CFR Part 402

**[Docket No. SLSDC 2006–23839]**

**RIN 2135–AA23**

## Tariff of Tolls

**AGENCY:** Saint Lawrence Seaway Development Corporation, DOT.

**ACTION:** Notice of proposed rulemaking.

and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is revising its regulations to reflect the fees and charges levied by the SLSMC in Canada starting in the 2006 navigation season, which are effective only in Canada. An amendment to increase the minimum charge per lock for those vessels that are not pleasure craft or subject in Canada to tolls under items 1 and 2 of the Tariff for full or partial transit of the Seaway will apply in the U.S. (See **SUPPLEMENTARY INFORMATION**.)

**DATES:** Any party wishing to present views on the proposed amendment may file comments with the Corporation on or before March 16, 2006.

**ADDRESSES:** You may submit comments [identified by DOT DMS Docket Number SLSDC 2005–20518] by any of the following methods:

- Web Site: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- 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.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. 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 *Regulatory Notices*.

*Docket:* For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5

Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–0091.

**SUPPLEMENTARY INFORMATION:** The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls (Schedule of Fees and Charges in Canada) in their respective jurisdictions.

The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is proposing to revise 33 CFR 402.8, ''Schedule of Tolls'', to reflect the fees and charges levied by the SLSMC in Canada beginning in the 2006 navigation season. Additionally, the SLSDC is proposing to revise 33 CFR 402.3 and 33 CFR 402.4 to provide interpretations of two charges for vessels carrying new cargo on the Welland Canal and the MLO Section of the Seaway. With one exception, the changes affect the tolls for commercial vessels and are applicable only in Canada. The collection of tolls by the SLSDC on commercial vessels transiting the U.S. locks is waived by law (33 U.S.C. 988a(a)). Accordingly, no notice or comment is necessary on these amendments.

The SLSDC is proposing to amend 33 CFR 402.8, ''Schedule of Tolls'', to increase the minimum charge per vessel per lock for full or partial transit of the Seaway from $20.00 to $20.40. This charge is for vessels that are not pleasure craft or subject in Canada to the tolls under items 1 and 2 of the Tariff. This increase is due to higher operating costs at the locks.

*Regulatory Notices: Privacy Act:* 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*.

### Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United

### Regulatory Flexibility Act Determination

I certify this proposed regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

### Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et reg.) because it is not a major Federal action significantly affecting the quality of the human environment.

### Federalism

The Corporation has analyzed this proposed rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

### Unfunded Mandates

The Corporation has analyzed this proposed rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

### Paperwork Reduction Act

This proposed regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

### List of Subjects in 33 CFR Part 402

Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend 33 CFR part 402, Tariff of Tolls, as follows:

## PART 402—TARIFF OF TOLLS

1. The authority citation for part 402 continues to read as follows:

**Authority:** 33 U.S.C. 983(a), 984(a)(4) and 988, as amended; 49 CFR 1.52.

**§ 402.3 Interpretation.**

* * * * *

(k) *New cargo—MLO Section* means either containerized cargo or cargo which has not moved through the MLO Section in an average annual amount, over the navigation seasons 2001–2002–2003, greater than 10,000 metric tons.

(l) *New cargo—Welland Canal* means either containerized cargo or cargo which has not moved through the Welland Canal in an average annual amount, over the navigation seasons 2001–2002–2003, greater than 10,000 metric tons.

(m) *Passenger* means a person being transported through the Seaway who has a paid fare for passage.

(o) *Seaway* includes all facilities and services authorized under Public Law 358, 83rd Congress, May 13, 1954, enacted by the Congress of the United States, as amended, (33 U.S.C. 981, *et seq.*) and the meaning ascribed to it under the Canada Marine Act.

(p) *Vessel* (''ship'' in Canada) means every type of craft used as a means of transportation on water, except a vessel owned or employed by the Manager or the Corporation.

3. Section 402.4 is amended by adding paragraphs (d) through (f) to read as follows:

**§ 402.4 Tolls.**

* * * * *

seasons 2006 and 2007.

(e) For a transit to be accepted under the New Cargo—Welland Canal or the New Cargo—MLO Section, more than 50% of the cargo carried on that transit for each section must qualify as new cargo.

(f) Barges transiting the Welland Canal together as one unit pulled by the same tug or tugs shall, for the purpose of calculating lockage fees, be deemed to be a combination unit and will pay lockage fees as a single barge.

4. Section 402.8 is revised to read as follows:

**§ 402.8 Schedule of tolls.**

| Column 1<br>Item—Description of charges | Column 2<br>Rate ($) Montreal to or from Lake Ontario<br>(5 locks) | Column 3<br>Rate ($) Welland Canal—Lake Ontario to or from Lake Erie<br>(8 locks) |
|---|---|---|
| 1. Subject to item 3, for complete transit of the Seaway, a composite toll, comprising: | | |
| (1) A charge per gross registered ton of the ship, applicable whether the ship is wholly or partially laden, or is in ballast, and the gross registered tonnage being calculated according to prescribed rules for measurement or under the International Convention on Tonnage Measurement of Ships, 1969, as amended from time to time. | 0.0947 | 0.1537. |
| (2) A charge per metric ton of cargo as certified on the ship's manifest or other document, as follows: | | |
| (a) Bulk cargo | 0.9816 | 0.6504. |
| (b) General cargo | 2.3651 | 1.0408. |
| (c) Steel slab | 2.1405 | 0.7451. |
| (d) Containerized cargo | 0.9816 | 0.6504. |
| (e) Government aid cargo | N/A | N/A. |
| (f) Grain | 0.6030 | 0.6504. |
| (g) Coal | 0.5795 | 0.6504. |
| (3) A charge per passenger per lock | 1.3954 | 1.3954. |
| (4) A charge per lock for transit of the Welland Canal in either direction by cargo ships: | | |
| (a) Loaded | N/A | 519.40. |
| (b) In ballast | N/A | 383.75. |
| 2. Subject to item 3, for partial transit of the Seaway | 20 per cent per lock of the applicable charge under items 1(1) and (2) plus the applicable charge under items 1(3) and (4). | 13 per cent per lock of the applicable charge under items 1(1) and (2) plus the applicable charge under items 1(3) and (4). |
| 3. Minimum charge per ship per lock transited for full or partial transit of the Seaway. | 20.40 | 20.40. |
| 4. A rebate applicable to the rates of item 1 to 3 | N/A | N/A. |
| 5. A charge per pleasure craft per lock transited for full or partial transit of the Seaway, including applicable federal taxes [1]. | 20.00 | 20.00. |
| 6. Subject to item 3, in lieu of item 1(4), for vessel carrying new cargo on the Welland Canal or returning ballast after carrying new cargo on the Welland Canal, a charge per gross registered ton of the ship, the gross registered tonnage being calculated according to item 1(1): | | |
| (a) Loaded | N/A | 0.1530. |
| (b) In ballast | N/A | 0.1122. |

| | | |
|---|---|---|
| 7. Subject to item 3, in lieu of item 1(1), for vessel carrying new cargo on the MLO section or returning ballast after carrying new cargo on the MLO Section, a charge per gross registered ton of the ship, the gross registered tonnage being calculated according to item 1(1): | 0.0000 | N/A. |

[1] The applicable charge at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) for pleasure craft is $25 U.S., or $30 Canadian per lock. The applicable charge under item 3 at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) will be collected in U.S. dollars. The other amounts are in Canadian dollars and are for the Canadian Share of tolls. The collection of the U.S. portion of tolls for commercial vessels is waived by law (33 U.S.C. 988a(a)).

Issued at Washington, DC, on February 2, 2006.

Saint Lawrence Seaway Development Corporation.

**Albert S. Jacquez,**

*Administrator.*

[FR Doc. E6–2045 Filed 2–13–06; 8:45 am]

**BILLING CODE 4910–61–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 261

**[SW FRL–8031–5]**

## Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

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

**ACTION:** Proposed rule and request for comment.

**SUMMARY:** EPA is proposing to grant a petition submitted by Bayer Material Science LLC (Bayer) to exclude (or delist) a certain solid waste generated by its Baytown, Texas, facility from the lists of hazardous wastes.

EPA used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment.

EPA bases its proposed decision to grant the petition on an evaluation of waste-specific information provided by the petitioner. This proposed decision, if finalized, would exclude the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

If finalized, EPA would conclude that Bayer's petitioned waste, spent carbon, is non-hazardous. The spent carbon from the facility's waste water treatment plant, before treatment, would be listed under the hazardous waste codes K027, K104, K111, and K112. Long- and short-term threats to human health and the environment from the spent carbon as generated are minimized.

**DATES:** EPA will accept comments until March 16, 2006. EPA will stamp comments received after the close of the comment period as late. These late comments may not be considered in formulating a final decision. Your requests for a hearing must reach EPA by March 1, 2006. The request must contain the information prescribed in 40 CFR 260.20(d) (hereinafter all CFR cites refer to 40 CFR unless otherwise stated).

**ADDRESSES:** Please send three copies of your comments. You should send two copies to the Chief, Corrective Action and Waste Minimization Section (6PD–C), Multimedia Planning and Permitting Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202. You should send a third copy to the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, TX 78712. Identify your comments at the top with this regulatory docket number: R6–TXDEL–FY06–Bayer-Spent Carbon. You may submit your comments electronically to Michelle Peace at *peace.michelle@epa.gov*. You may also submit your comments through *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

You should address requests for a hearing to Ben Banipal, Chief, Corrective Action and Waste Minimization Section (6PD–C), Multimedia Planning and Permitting Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202.

**FOR FURTHER INFORMATION CONTACT:** Michelle Peace (214) 665–7430.

**SUPPLEMENTARY INFORMATION:** The information in this section is organized as follows:

I. Overview Information
- A. What action is EPA proposing?
- B. Why is EPA proposing to approve this delisting?
- C. How will Bayer manage the waste if it is delisted?
- D. When would the proposed delisting exclusion be finalized?
- E. How would this action affect states?

II. Background
- A. What is the history of the delisting program?
- B. What is a delisting petition, and what does it require of a petitioner?
- C. What factors must EPA consider in deciding whether to grant a delisting petition?

III. EPA's Evaluation of the Waste Information and Data
- A. What waste did Bayer petition EPA to delist?
- B. Who is Bayer and what process do they use to generate the petition waste?
- C. What information did Bayer submit to support this petition?
- D. What were the results of Bayer's analysis?
- E. How did EPA evaluate the risk of delisting this waste?
- F. What did EPA conclude about Bayer's analysis?
- G. What other factors did EPA consider in its evaluation?
- H. What is EPA's evaluation of this delisting petition?

IV. Next Steps
- A. With what conditions must the petitioner comply?
- B. What happens, if Bayer violates the terms and conditions?

V. Public Comments
- A. How may I as an interested party submit comments?
- B. How may I review the docket or obtain copies of the proposed exclusion?

VI. Statutory and Executive Order Reviews

### I. Overview Information

*A. What action is EPA proposing?*

EPA is proposing to grant the delisting petition submitted by Bayer to have its spent carbon (K027, K104, K111, and K112 listed hazardous waste) excluded, or delisted, from the definition of a hazardous waste.

*B. Why is EPA proposing to approve this delisting?*

Bayer's petition requests a delisting for the spent carbon derived from the treatment of hazardous waste water listed as K027, K104, K111, and K112 be delisted. Bayer does not believe that the petitioned waste meets the criteria for which EPA listed it. Bayer also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of this petition included

6921(f), and 40 CFR 260.22 (d)(1)–(4). In making the initial delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in §§ 261.11(a)(2) and (a)(3). Based on this review, EPA agrees with the petitioner that the waste is non-hazardous with respect to the original listing criteria. If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition. EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. EPA believes that the petitioned waste does not meet the listing criteria and thus should not be a listed waste. EPA's proposed decision to delist waste from the facility is based on the information submitted in support of this rule, including descriptions of the waste and analytical data from the Bayer, Baytown, Texas facility.

*C. How will Bayer manage the waste if it is delisted?*

Bayer will dispose of the spent carbon in a Subtitle D landfill.

*D. When would the proposed delisting exclusion be finalized?*

RCRA section 3001(f) specifically requires EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, EPA will not grant the exclusion unless and until it addresses all timely public comments (including those at public hearings, if any) on this proposal.

RCRA section 3010(b)(1), at 42 U.S.C. 6930(b)(1), allows rules to become effective in less than six months after EPA addresses public comments when the regulated facility does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes. effective date would impose unnecessary hardship and expense on this petitioner. These reasons also provide good cause for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, 5 U.S.C. 553(d).

*E. How would this action affect the states?*

Because EPA is issuing this exclusion under the Federal RCRA delisting program, only states subject to Federal RCRA delisting provisions would be affected. This would exclude states which have received authorization from EPA to make their own delisting decisions.

EPA allows the states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA, 42 U.S.C. 6929. These more stringent requirements may include a provision that prohibits a Federally issued exclusion from taking effect in the state. Because a dual system (that is, both Federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, EPA urges petitioners to contact the state regulatory authority to establish the status of their wastes under the state law. Delisting petitions approved by EPA Administrator under 40 CFR 260.22 are effective in the State of Texas only after the final rule has been published in the **Federal Register**.

## II. Background

*A. What is the history of the delisting program?*

EPA published an amended list of hazardous wastes from nonspecific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA. EPA has amended this list several times and published it in §§ 261.31 and 261.32. EPA lists these wastes as hazardous because: (1) They typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of part 261 (that is, ignitability, corrosivity, reactivity, and toxicity) or (2) they meet the criteria for listing contained in § 261.11(a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these regulations generally is hazardous, a specific waste from an individual delisting, which allows persons to prove that EPA should not regulate a specific waste from a particular generating facility as a hazardous waste.

*B. What is a delisting petition, and what does it require of a petitioner?*

A delisting petition is a request from a facility to EPA or an authorized State to exclude wastes from the list of hazardous wastes. The facility petitions EPA because it does not believe the wastes should be hazardous under RCRA regulations.

In a delisting petition, the petitioner must show that wastes generated at a particular facility do not meet any of the criteria for which the waste was listed. The criteria for which EPA lists a waste are in part 261 and further explained in the background documents for the listed waste.

In addition, under § 260.22, a petitioner must prove that the waste does not exhibit any of the hazardous waste characteristics and present sufficient information for EPA to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. See part 261 and the background documents for the listed waste.

Generators remain obligated under RCRA to confirm whether their waste remains non-hazardous based on the hazardous waste characteristics even if EPA has ''delisted'' the waste.

*C. What factors must EPA consider in deciding whether to grant a delisting petition?*

Besides considering the criteria in § 260.22(a) and section 3001(f) of RCRA, 42 U.S.C. 6921(f), and in the background documents for the listed wastes, EPA must consider any factors (including additional constituents) other than those for which EPA listed the waste, if a reasonable basis exists to determine that these additional factors could cause the waste to be hazardous.

EPA must also consider as hazardous waste mixtures containing listed hazardous wastes and wastes derived from treating, storing, or disposing of listed hazardous waste. *See* § 261.3(a)(2)(iii) and (iv) and (c)(2)(i), called the ''mixture'' and ''derived-from'' rules, respectively. These wastes are also eligible for exclusion and remain hazardous wastes until excluded. *See* 66 FR 27266 (May 16, 2001).

Bayer petitioned EPA on September 26, 2003, to exclude from the lists of hazardous waste contained in §§ 261.31 and 261.32, the spent carbon from its waste water treatment plant. This petition also included a request to delist the Clarifier Outlet Wastewater. This waste stream was subsequently removed from the petition. The spent carbon waste stream is generated from the Bayer facility located in Baytown, Texas. The spent carbon is listed under EPA Hazardous Waste Nos. K027, K104, K111, and K112, because it is derived from the treatment of listed waste water which is treated at the facility's waste water treatment plant. Specifically, in its petition, Bayer requested that EPA grant an exclusion for 7,728 cubic yards per calendar year of spent carbon resulting from the treatment of waste waters from the manufacturing processes at its facility.

*B. Who is Bayer and what process do they use to generate the petition waste?*

Bayer produces plastics, coatings, polyurethanes, and industrial chemicals. Bayer is the first facility in the United States to employ Tower Biology, an onsite waste water treatment plant (the plant) process that uses bacteria to treat waste above ground to protect ground water resources. The waste waters treated at the plant are generated by the various manufacturing operations at the Baytown facility. Influent waste waters enter the plant via clarifier, the waste water is placed in a tank that feeds the waste water to a denitrification reactor prior to treatment in the biological oxidation towers. Following biological treatment, the waste water is run through a secondary clarifier. Waste water from the clarifier is sent to an activated carbon absorption system. Upon exiting the carbon absorption system, the waste water is fed to a series of filters. After filtration, the treated waste water is placed in an outfall tank for subsequent discharge under Bayer's TPDES discharge permit.

Influent waste waters that enter the plant via the ''brine waste water header'' are placed in dedicated brine tanks and a brine carbon absorption system. After filtration, the brine waste water is commingled in the outfall tank with the treated normal waste water prior to being discharged in accordance with the Bayer TPDES discharge permit.

Bayer intends to dispose of the delisted spent carbon at a Subtitle D Landfill. Treatment of the waste waters, which result from the manufacturing process generates the spent carbon that is classified as K027, K104, K111, and K112 listed hazardous wastes pursuant to 40 CFR 261.31. The 40 CFR part 261, appendix VII hazardous constituents which are the basis for listing K027, K104, K111, and K112 hazardous wastes are: Toluene diisocyanate, aniline, benzene, diphenylamine, nitrobenzene, phenylenediamine, 2,4-dinitrotoluene,

To support its petition, Bayer submitted:

(1) Analytical results of the toxicity characteristic leaching procedure and total constituent analysis for volatile and semivolatile organics, pesticides, herbicides, dioxins/furans, PCBs and metals for six spent carbon samples;

(2) Analytical results from multiple pH leaching of metals; and

(3) Descriptions of the waste water treatment process and carbon regeneration process.

*D. What were the results of Bayer's analysis?*

EPA believes that the descriptions of Bayer's waste, and the analytical data submitted in support of the petition show that the spent carbon is non-hazardous. Analytical data from Bayer's spent carbon samples were used in the Delisting Risk Assessment Software. The data summaries for detected constituents are presented in Table 1. EPA has reviewed the sampling procedures used by Bayer and has determined that they satisfy EPA's criteria for collecting representative samples of the variations in constituent concentrations in the spent carbon. The data submitted in support of the petition show that constituents in Bayer's wastes are presently below health-based risk levels used in the delisting decision-making. EPA believes that Bayer has successfully demonstrated that the spent carbon is non-hazardous.

TABLE 1.—MAXIMUM TCLP AND TOTAL CONSTITUENT CONCENTRATIONS OF THE SPENT CARBON AND CORRESPONDING DELISTING LIMITS [1]

| Chemical name | Waste stream total concentration (mg/kg) | Waste stream TCLP concentration (mg/l) | Delisting concentration (mg/kg) |
|---|---|---|---|
| Acetophenone | 3.0E–04 | 1.60E+00 | 8.71E+01 |
| Aniline | 2.56E–03 | 1.20E–01 | 2.82E+00 |
| Antimony | 7.10E–03 | 1.90E–02 | 2.51E–01 |
| Arsenic | 8.20E–03 | 1.72E–02 | 3.85E–01 |
| Aldrin | 8.50E–03 | <2.00E–05 | 4.82E–05 |
| Barium | 4.42E+01 | 2.43E–01 | 8.93E+00 |
| Benzene | 5.00E–03 | <5.00E–02 | 5.54E–01 |
| Benzyl Alcohol | 2.4E–01 | <4.00E–04 | 2.61E+02 |
| Beryllium | 1.0E+00 | 5.00E–02 | 9.53E–01 |
| Bis(2-ethylhexyl)phthalate | 7.90E–02 | <2.00E–04 | 3.42E–01 |
| Butylbenzylphthalate | 2.50E–02 | 1.25E–03 | 3.54E+00 |
| Cadmium | <4.50E–04 | <2.30E–01 | 6.87E–01 |
| Chloroform | 2.00E–02 | <5.00E–02 | 2.97E–01 |
| Chromium | 1.50E+01 | 2.30E–03 | 5.00E+00 |
| Cobalt | 4.10E+00 | 2.05E–01 | 2.75E+00 |
| Copper | 6.58E+01 | 3.29E+00 | 1.28E+02 |
| Cyanide | 4.33E+01 | 4.18E–003 | 1.65E+00 |
| Di-n-butyl phthalate | 5.60E–02 | 2.00E–03 | 2.02E+00 |
| Di-n-octyl phthalate | 3.70E–02 | <1.5E–04 | 4.27E–03 |

| Chemical name | concentration (mg/kg) | centration (mg/l) | concentration (mg/kg) |
|---|---|---|---|
| Dinitrotoluene, 2,4- | 1.20E+00 | <1.5 E–04 | 2.49E–02 |
| Dioxane, 1,4- | 1.60E+00 | <4.6E+00 | 1.46E+01 |
| Dinitrotoluene, 2,6- | 1.70E+00 | <1.0E–04 | 2.49E–02 |
| Diphenylamine | 1.00E–01 | <1.50E–04 | 1.43E+00 |
| Kepone | <4.15E–01 | <2.20E–04 | 3.73E–04 |
| Lead | 4.10E–01 | 2.60E–03 | 5.0E+00 |
| Mercury | <3.4E+00 | <2.60E–02 | 2.94E–02 |
| 2-Nitrophenol | 3.40E+00 | <1.50E–04 | 8.79E+01 |
| N-Nitrodiphenylamine | <1.0E–04 | 2.30E–01 | 3.28E+00 |
| Nickel | 1.70E+02 | 3.18E–01 | 3.45E+00 |
| Phenol | 4.10E–02 | <1.00E–04 | 5.22E+01 |
| Selenium | 1.20E+00 | 1.76E–02 | 2.66E–01 |
| Tin | 1.90E+00 | 9.50E–02 | 2.75E+01 |
| Toluene diisocyanate | <1.0 E–02 | <1.0E–02 | 1.0E–02 |
| 2,4 toluenediamine | <2.0 E–02 | <4.0E–03 | 5.02E–03 |
| Vanadium | 1.17E+01 | 5.85E–01 | 2.58E+00 |
| Zinc | 8.64E+01 | 4.32E+00 | 3.42E+01 |

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.
< # Denotes that the constituent was below the detection limit.

*E. How did EPA evaluate the risk of delisting this waste?*

The worst case scenario for management of the spent carbon was modeled for disposal in a landfill. EPA used such information gathered to identify plausible exposure routes (*i.e.*, ground water, surface water, soil, air) for hazardous constituents present in the spent carbon. EPA determined that disposal in a Subtitle D landfill is the most reasonable, worst-case disposal scenario for Bayer's spent carbon. EPA applied the DRAS described in 65 FR 58015 (September 27, 2000) and 65 FR 75637 (December 4, 2000), to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned waste after disposal and determined the potential impact of the disposal of Bayer's petitioned waste on human health and the environment. In assessing potential risks to ground water, EPA used the maximum estimated waste volumes and the maximum reported extract concentrations as inputs to the DRAS program to estimate the constituent concentrations in the ground water at a hypothetical receptor well down gradient from the disposal site. Using the risk level (carcinogenic risk of $10^{-5}$ and non-cancer hazard index of 0.1), the DRAS program can back-calculate the acceptable receptor well concentrations (referred to as compliance-point concentrations) using standard risk assessment algorithms and Agency health-based numbers. Using the maximum compliance-point concentrations and EPA Composite Model for Leachate Migration with Transformation Products (EPACMTP) fate and transport modeling factors, the DRAS further back-calculates the maximum permissible waste constituent concentrations not expected to exceed the compliance-point concentrations in ground water.

EPA believes that the EPACMTP fate and transport model represents a reasonable worst-case scenario for possible ground water contamination resulting from disposal of the petitioned waste in a landfill, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C. The use of some reasonable worst-case scenarios resulted in conservative values for the compliance-point concentrations and ensured that the waste, once removed from hazardous waste regulation, will not pose a significant threat to human health and/or the environment. The DRAS also uses the maximum estimated waste volumes and the maximum reported total concentrations to predict possible risks associated with releases of waste constituents through surface pathways (*e.g.*, volatilization or wind-blown particulate from the landfill). As in the above ground water analyses, the DRAS uses the risk level, the health-based data and standard risk assessment and exposure algorithms to predict maximum compliance-point concentrations of waste constituents at a hypothetical point of exposure. Using fate and transport equations, the DRAS uses the maximum compliance-point concentrations and back-calculates the maximum allowable waste constituent concentrations (or ''delisting levels'').

In most cases, because a delisted waste is no longer subject to hazardous waste control, EPA is generally unable to predict, and does not presently control, how a petitioner will manage a waste after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors when applying the fate and transport model. EPA does control the type of unit where the waste is disposed.

EPA also considers the applicability of ground water monitoring data during the evaluation of delisting petitions. In this case, Bayer has never directly disposed of this material in a solid waste landfill, so no representative data exists. Therefore, EPA has determined that it would be unnecessary to request ground water monitoring data.

EPA believes that the descriptions of Bayer's spent carbon and analytical characterization which illustrate the presence of toxic constituents at lower concentrations in these waste streams provide a reasonable basis to conclude that the likelihood of migration of hazardous constituents from the petitioned waste will be substantially reduced so that short-term and long-term threats to human health and the environment are minimized.

The DRAS results, which calculated the maximum allowable concentration of chemical constituents in the spent carbon are presented in Table 1. Based

present or formed as reaction products or by products in Bayer's waste.

*F. What sid EPA conclude about Bayer's analysis?*

EPA concluded, after reviewing Bayer's processes that no other hazardous constituents of concern, other than those for which Bayer tested, are likely to be present or formed as reaction products or by-products in Bayer's wastes. In addition, on the basis of explanations and analytical data provided by Bayer, pursuant to § 260.22, EPA concludes that the petitioned waste, spent carbon, does not exhibit any of the characteristics of ignitability, corrosivity, reactivity, or toxicity. *See* §§ 261.21, 261.22, 261.23, and 261.24 respectively.

*G. What other factors did EPA consider in its evaluation?*

During the evaluation of this petition, in addition to the potential impacts to the ground water, EPA also considered the potential impact of the petitioned waste via non-ground water exposure routes (*i.e.*, air emissions and surface runoff) for the spent carbon. With regard to airborne dispersion in particular, EPA believes that exposure to airborne contaminants from the petitioned waste is unlikely. No appreciable air releases are likely from the spent carbon under any likely disposal conditions. EPA evaluated the potential hazards resulting from the unlikely scenario of airborne exposure to hazardous constituents released from the waste water in an open landfill. The results of this worst-case analysis indicated that there is no substantial present or potential hazard to human health and the environment from airborne exposure to constituents from the spent carbon.

*H. What is EPA's evaluation of this delisting petition?*

The descriptions by Bayer of the hazardous waste process and analytical characterization, with the proposed verification testing requirements (as discussed later in this action), provide a reasonable basis for EPA to grant the petition. The data submitted in support of the petition show that constituents in the waste are below the maximum allowable concentrations (*See* Table 1). EPA believes that the spent carbon generated by Bayer contains hazardous constituents at levels which will present minimal short-term and long-term carbon. EPA believes that the data submitted in support of the petition show the Bayer's spent carbon to be non-hazardous.

EPA has reviewed the sampling procedures used by Bayer and has determined they satisfy EPA's criteria for collecting representative samples of variable constituent concentrations in the spent carbon. The data submitted in support of the petition show that constituents in Bayer's wastes are presently below the compliance-point concentrations used in the delisting decision-making process and would not pose a substantial hazard to the environment and the public. EPA believes that Bayer has successfully demonstrated that the spent carbon is non-hazardous.

EPA, therefore, proposes to grant an exclusion to Bayer for the spent carbon described in its September 2003 petition. EPA's decision to exclude this waste is based on analysis performed on samples taken of the spent carbon.

If EPA finalizes the proposed rule, EPA will no longer regulate 7,728 cubic yards/year of spent carbon from Bayer's Baytown facility under parts 262 through 268 and the permitting standards of part 270.

## IV. Next Steps

*A. With what conditions must the petitioner comply?*

The petitioner, Bayer, must comply with the requirements in 40 CFR part 261, appendix IX, Table 2 as amended by this action. The text below gives the rationale and details of those requirements.

(1) Delisting Levels

This paragraph provides the levels of constituent concentrations for which Bayer must test in the spent carbon, below which these wastes would be considered non-hazardous.

EPA selected the set of inorganic and organic constituents specified in paragraph (1) and listed in 40 CFR part 261, appendix IX, Table 2, based on information in the petition. EPA compiled the inorganic and organic constituents list from descriptions of the manufacturing process used by Bayer, previous test data provided for the waste, and the respective health-based levels used in delisting decision-making. These delisting levels correspond to the allowable levels measured in the leachable concentrations of the spent carbon.

for two consecutive quarterly sampling events. For example, if Bayer is issued a final exclusion in August, the first quarter samples are due in November and the second quarter samples are due in February. If EPA deems that both the first and second quarter samples (a total of four) meet all the delisting limits, classification of the waste as non-hazardous can begin in March. If constituent levels in any sample taken by Bayer exceed any of the delisting levels set in paragraph (1), Bayer must: (i) notify EPA in accordance with paragraph (6), and; (ii) manage and dispose of the spent carbon as hazardous waste generated under Subtitle C of RCRA.

(3) Verification Testing Requirements

Bayer must complete a verification testing program on the spent carbon to assure that the wastes do not exceed the maximum levels specified in paragraph (1). If EPA determines that the data collected under this paragraph does not support the data provided in the petition, the exclusion will not cover the tested waste. This verification program operates on two levels.

The first part of the quarterly verification testing program consists of testing a batch of spent carbon for specified indicator parameters as described in paragraph (1). Each quarterly sampling event will consist of at least two samples of the spent carbon. Levels of constituents measured in the samples of the spent carbon that do not exceed the levels set forth in paragraph (1) can be considered non-hazardous after two consecutive quarters of sampling data meet the levels listed in paragraph (1).

The second part of the verification testing program is the annual testing of two representative composite samples of the spent carbon for all constituents specified in paragraph (1).

If Bayer demonstrates for two consecutive quarters complete attainment of all specified limits, then Bayer may request approval of EPA to reduce the frequency of testing to annually. If, after review of performance of the treatment system, EPA finds that annual testing is adequately protective of human health and the environment, then EPA may authorize Bayer to reduce the quarterly comprehensive sampling frequency to an annual basis. If the annual testing of the wastes does not meet the delisting levels in paragraph (1), Bayer must notify EPA according to

sampling results that support the rationale that the delisting exclusion should not be withdrawn.

The exclusion is effective upon publication in the **Federal Register** but the change in waste classification as ''non-hazardous'' cannot begin until two consecutive quarters of verification sampling comply with the levels specified in paragraph (1). The waste classification as ''non-hazardous'' is also not authorized, if Bayer fails to perform the quarterly and yearly testing as specified herein. Should Bayer fail to conduct the quarterly/yearly testing as specified herein, then disposal of spent carbon as delisted waste may not occur in the following quarter(s)/year(s) until Bayer obtains the written approval of EPA.

(4) Changes in Operating Conditions

Paragraph (4) would allow Bayer the flexibility of modifying its processes (for example, changes in equipment or change in operating conditions) to improve its treatment processes. However, Bayer must prove the effectiveness of the modified process and request approval from EPA. Bayer must manage wastes generated during the new process demonstration as hazardous waste through verification sampling within 30 days of start-up.

(5) Data Submittals

To provide appropriate documentation that the Bayer facility is correctly managing the spent carbon, Bayer must compile, summarize, and keep delisting records on-site for a minimum of five years. It should keep all analytical data obtained pursuant to paragraph (3), including quality control information, for five years. Paragraph (5) requires that Bayer furnish these data upon request for inspection by any employee or representative of EPA or the State of Texas.

If the proposed exclusion is made final, then it will apply only to 7,728 cubic yards per calendar year of spent carbon generated at the Bayer facility after successful verification testing.

EPA would require Bayer to submit additional verification data under any of the following circumstances:

(a) If Bayer significantly alters the manufacturing process treatment system except as described in paragraph (4).

(b) If Bayer uses any new manufacturing or production process(es), or significantly changes the

Bayer must submit a modification to the petition complete with full sampling and analysis for circumstances where the waste volume changes and/or additional waste codes are added to the waste stream. EPA will publish an amendment to the exclusion if the changes are acceptable.

Bayer must manage waste volumes greater than 7,728 cubic yards of spent carbon as hazardous waste until EPA grants a revised exclusion. When this exclusion becomes final, the management by Bayer of the spent carbon covered in this petition would be relieved from Subtitle C jurisdiction. Bayer may not classify the waste as non-hazardous until the revised exclusion is finalized.

(6) Reopener

The purpose of paragraph (6) is to require Bayer to disclose new or different information related to a condition at the facility or disposal of the waste, if it is pertinent to the delisting. Bayer must also use this procedure if the waste sample in the annual testing fails to meet the levels found in paragraph (1). This provision will allow EPA to reevaluate the exclusion, if a source provides new or additional information to EPA. EPA will evaluate the information on which it based the decision to see if it is still correct or if circumstances have changed so that the information is no longer correct or would cause EPA to deny the petition, if presented.

This provision expressly requires Bayer to report differing site conditions or assumptions used in the petition in addition to failure to meet the annual testing conditions within 10 days of discovery. If EPA discovers such information itself or from a third party, it can act on it as appropriate. The language being proposed is similar to those provisions found in RCRA regulations governing no-migration petitions at § 268.6.

It is EPA's position that it has the authority under RCRA and the Administrative Procedures Act (APA), 5 U.S.C. 551 (1978) *et seq.*, to reopen a delisting decision. EPA may reopen a delisting decision when it receives new information that calls into question the assumptions underlying the delisting.

EPA believes a clear statement of its authority in delisting is merited in light of EPA's experience. See the **Federal Register** notice regarding Reynolds Metals Company at 62 FR 37694 (July

conducting the TCLP, leading EPA to repeal the delisting. If an immediate threat to human health and the environment presents itself, EPA will continue to address these situations on a case-by-case basis. Where necessary, EPA will make a good cause finding to justify emergency rulemaking. *See* APA section 553 (b)(3)(B).

*B. What happens, if Bayer violates the terms and conditions?*

If Bayer violates the terms and conditions established in the exclusion, EPA will start procedures to withdraw the exclusion. Where there is an immediate threat to human health and the environment, EPA will evaluate the need for enforcement activities on a case-by-case basis. EPA expects Bayer to conduct the appropriate waste analysis and comply with the criteria explained above in paragraph (1) of the exclusion.

**V. Public Comments**

*A. How may I as an interested party submit comments?*

EPA is requesting public comments on this proposed decision. Please send three copies of your comments. Send two copies to the Chief, Corrective Action and Waste Minimization Section, Multimedia Permitting and Planning Division, U. S. Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202. Send a third copy to the Industrial Hazardous Waste Permits Division, Technical Evaluation Team, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, TX 78711–3087. Identify your comments at the top with this regulatory docket number: R6–TXDEL–FY06–Bayer-Spent Carbon. You may submit your comments electronically to Michelle Peace at *peace.michelle@epa.gov.*

*B. How may I review the docket or obtain copies of the proposed exclusion?*

You may review the RCRA regulatory docket for this proposed rule at the U. S. Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, TX 75202. It is available for viewing in EPA Freedom of Information Act Review Room from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages and at

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA. Because this rule will affect only a particular facility, this proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism,'' (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. Similarly, because this rule will affect only a particular facility, this proposed rule does not have tribal implications, as specified in Executive Order 13175, ''Consultation and 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the DRAS program, which considers health and safety risks to infants and children, to calculate the maximum allowable concentrations for this rule. 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. This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply. As required by section 3 of Executive Order 12988, ''Civil Justice Reform,'' (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. 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 section 801 the following types of rules (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) 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.

**List of Subjects in 40 CFR Part 261**

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

**Authority:** Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: February 3, 2006.

**William Rhea,**

*Acting Director, Multimedia Planning and Permitting Division.*

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

## PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

**Authority:** 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 2 of Appendix IX of Part 261 add the following waste stream in alphabetical order by facility to read as follows:

**Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22**

TABLE 2.—WASTE EXCLUDED FROM SPECIFIC SOURCES

| Facility | Address | Waste Description |
|---|---|---|
| * | * | * * * * * |
| Bayer Material Science ..... | Baytown, TX ..... | Spent Carbon (EPA Hazardous Waste Numbers K027, K104, K111, and K112) generated at a maximum rate of 7,728 cubic yards per calendar year after [publication date of the final rule].<br>For the exclusion to be valid, Bayer must implement a verification testing program that meets the following Paragraphs:<br>(1) Delisting Levels: All concentrations for those constituents must not exceed the maximum allowable concentrations in mg/l specified in this paragraph.<br>Spent Carbon Leachable Concentrations (mg/l): Antimony–0.251; Arsenic–0.385, Barium–8.93; Beryllium–0.953; Cadmium–0.687; Chromium–5.0; Cobalt–2.75; Copper–128.0; Cyanide–1.65; Lead–5.0; Mercury–0.0294; Nickel–3.45; Selenium–0.266 ; Tin–2.75; Vanadium–2.58; Zinc–34.2; Aldrin–0.0000482; Acetophenone–87.1; Aniline–2.82; Benzene—0.554; Bis(2-ethylhexyl)phthalate–0.342; Benzyl alcohol–261; Butylbenzylphthalate–3.54; Chloroform–0.297; Di-n-octyl phthalate–0.00427; 2,4-Dinitrotoluene–0.0249; 2,6-Dinitrotoluene–0.0249 Diphenylamine-1.43; 1,4-Dioxane–14.6; Di-n-butyl phthalate–2.02; Kepone–0.000373; 2-Nitrophenol–87.9; N-Nitrodiphenylamine–3.28; Phenol–52.2; 2,4-Toluenediamine-0.00502; Toluene diisocyanate–0.001.<br>(2) Waste Holding and Handling:<br>(A) Waste classification as non-hazardous can not begin until compliance with the limits set in paragraph (1) for spent carbon has occurred for two consecutive quarterly sampling events. |

paragraph (1) for the spent carbon, Bayer must do the following:

(i) Notify EPA in accordance with paragraph (6) and

(ii) Manage and dispose the spent carbon as hazardous waste generated under Subtitle C of RCRA.

(3) Testing Requirements:

Upon this exclusion becoming final, Bayer may perform quarterly analytical testing by sampling and analyzing the spent carbon as follows:

(A) Quarterly Testing:

(i) Collect two representative composite samples of the spent carbon at quarterly intervals after EPA grants the final exclusion. The first composite samples may be taken at any time after EPA grants the final approval. Sampling should be performed in accordance with the sampling plan approved by EPA in support of the exclusion.

(ii) Analyze the samples for all constituents listed in paragraph (1). Any composite sample taken that exceeds the delisting levels listed in paragraph (1) for the spent carbon must be disposed as hazardous waste in accordance with the applicable hazardous waste requirements.

(iii) Within thirty (30) days after taking its first quarterly sample, Bayer will report its first quarterly analytical test data to EPA. If levels of constituents measured in the samples of the spent carbon do not exceed the levels set forth in paragraph (1) of this exclusion for two consecutive quarters, Bayer can manage and dispose the non-hazardous spent carbon according to all applicable solid waste regulations.

(B) Annual Testing:

(i) If Bayer completes the quarterly testing specified in paragraph (3) above and no sample contains a constituent at a level which exceeds the limits set forth in paragraph (1), Bayer may begin annual testing as follows: Bayer must test two representative composite samples of the spent carbon for all constituents listed in paragraph (1) at least once per calendar year.

(ii) The samples for the annual testing shall be a representative composite sample according to appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW–846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. As applicable, the SW–846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B. Methods must meet Performance Based Measurement System Criteria in which the Data Quality Objectives are to demonstrate that samples of the Bayer spent carbon are representative for all constituents listed in paragraph (1).

(iii) The samples for the annual testing taken for the second and subsequent annual testing events shall be taken within the same calendar month as the first annual sample taken.

(iv) The annual testing report should include the total amount of waste in cubic yards disposed during the calendar year.

(4) Changes in Operating Conditions: If Bayer significantly changes the process described in its petition or starts any processes that generate(s) the waste that may or could affect the composition or type of waste generated (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), it must notify EPA in writing and it may no longer handle the wastes generated from the new process as non-hazardous until the wastes meet the delisting levels set in paragraph (1) and it has received written approval to do so from EPA.

Bayer must submit a modification to the petition complete with full sampling and analysis for circumstances where the waste volume changes and/or additional waste codes are added to the waste stream.

(5) Data Submittals:

Bayer must submit the information described below. If Bayer fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in paragraph (6). Bayer must:

(A) Submit the data obtained through paragraph 3 to the Chief, Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division, U. S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, Texas, 75202, within the time specified. All supporting data can be submitted on CD-ROM or some comparable electronic media.

(B) Compile records of analytical data from paragraph (3), summarized, and maintained on-site for a minimum of five years.

(C) Furnish these records and data when either EPA or the State of Texas requests them for inspection.

(D) Send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted:

''Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.

(their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

If any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.''

(6) Reopener

(A) If, anytime after disposal of the delisted waste Bayer possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or ground water monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Division Director in granting the petition, then the facility must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data.

(B) If either the quarterly or annual testing of the waste does not meet the delisting requirements in paragraph 1, Bayer must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data.

(C) If Bayer fails to submit the information described in paragraphs (5),(6)(A) or (6)(B) or if any other information is received from any source, the Division Director will make a preliminary determination as to whether the reported information requires EPA action to protect human health and/or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.

(D) If the Division Director determines that the reported information requires action by EPA, the Division Director will notify the facility in writing of the actions the Division Director believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed EPA action is not necessary. The facility shall have 10 days from the date of the Division Director's notice to present such information.

(E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Division Director will issue a final written determination describing EPA actions that are necessary to protect human health and/or the environment. Any required action described in the Division Director's determination shall become effective immediately, unless the Division Director provides otherwise.

* * * * * * *

[FR Doc. 06–1398 Filed 2–13–06; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### 44 CFR Part 67

**[Docket No. FEMA–P–7913]**

### Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director has resolved any appeals resulting from this notification.

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also

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

*Regulatory Flexibility Act.* The Mitigation Division Director certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

1. The authority citation for part 67 continues 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.

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

| Source of flooding and location of referenced elevation | ◆ Elevation in feet (NAVD) | | Communities affected |
|---|---|---|---|
| | Existing | Modified | |
| Bull Creek: | | | |
| Approximately 480 feet upstream of the confluence with the Marais des Cygnea River. | None | 837 | City of Paola, Miami County, (Unincorporated Areas). |
| Approximately 11,250 feet upstream of the confluence of Ten Mile Creek | None | 874 | |
| Hickory Creek: | | | |
| At the confluence with Bull Creek | 859 | 857 | City of Paola, Miami County, (Unincorporated Areas). |
| Approximately 185 feet downstream of South East Street | None | 867 | |
| Marais Des Cygnes River: | | | |
| At the confluence of Pottawatomie Creek | None | 858 | City of Osawatomie, Miami County, (Unincorporated Areas). |
| Approximately 6,800 feet upstream of Eighth Street | None | 863 | |
| Middle Creek: | | | |
| At the southern county boundary | None | 823 | Miami County, (Unincorporated Areas). |
| Approximately 2,880 feet upstream of Jingo Road | None | 946 | |
| M.K.T. Tributary to Bull Creek: | | | |
| At the confluence with Bull Creek | 868 | 864 | City of Paola, Miami County, (Unincorporated Areas). |
| Approximately 40 feet downstream of the Union Pacific Railroad | 868 | 867 | |
| North Wea Creek: | | | |
| At the confluence with South Wea Creek | None | 889 | Miami County, (Unincorporated Areas). |
| At West 215th Street | None | 1,073 | |
| Pottawatomie Creek: | | | |
| At the confluence with Marais Des Cygnes River | None | 859 | City of Osawatomie, Miami County, (Unincorporated Areas). |
| Approximately 4,920 feet upstream of the confluence with Marais Des Cygnes River. | None | 859 | |
| South Wea Creek: | | | |
| At the confluence with Bull Creek | None | 854 | City of Louisburg, City of Paola, Miami County, (Unincorporated Areas). |
| At Metcalf Road | None | 983 | |
| Sweetwater Creek: | | | |
| At the confluence with Ten Mile Creek | None | 921 | Miami County, (Unincorporated Areas). |
| At West 215th Street | None | 987 | |
| Ten Mile Creek: | | | |
| At the confluence with Bull Creek | None | 871 | Miami County, (Unincorporated Areas). |
| At West 215th Street | None | 1,048 | |
| Tributary to Hickory Creek: | | | |

| | | | |
|---|---|---|---|
| At the confluence with Hickory Creek | 859 | 857 | City of Paola. |
| Approximately 30 feet downstream of East Osage Street | 859 | 858 | |

**ADDRESSES**

**City of Louisburg, Miami County, Kansas.**

Maps are available for inspection at City Hall, 5 South Peoria, Suite 102, Louisburg, Kansas.
Send comments to The Honorable Arlene Thompson, Mayor, City of Louisburg, City Hall, 5 South Peoria, Suite 102, Louisburg, Kansas 66071.

**City of Osawatomie, Miami County, Kansas.**

Maps are available for inspection at City Hall, 439 Main Street, Osawatomie, Kansas.
Send comments to The Honorable Tom Speck, Mayor, City of Osawatomie, 439 Main Street, Osawatomie, Kansas 66064.

**City of Paola, Miami County, Kansas.**

Maps are available for inspection at City Hall, 19 East Peoria, Paola, Kansas.
Send comments to The Honorable Artie Stuteville, Mayor, City of Paola, City Hall, 19 East Peoria, Paola, Kansas 66071.

**Unincorporated Areas of Miami County, Kansas.**

Maps are available for inspection at Miami County Administration Building, 201 South Pearl Street, Suite 201, Paola, Kansas.
Send comments to The Honorable Art Godfrey, Chairman, Miami County Board of Commissioners, Miami County Administration Building, 201 South Pearl Street, Suite 200, Paola, Kansas 66071.

◆ North American Vertical Datum of 1988.

| Source of flooding and location of referenced elevation | ♦ Elevation in feet (NAVD) | | Communities affected |
|---|---|---|---|
| | Existing | Modified | |
| Middle Fork Salt River: | | | |
| Approximately 3,200 feet downstream of Florida Street | None | 646 | Monroe County, (Unincorporated Areas). City of Paris. |
| Approximately 4,640 feet upstream of State Highway 15 | None | 654 | |
| Payne Branch: | | | |
| At the confluence with Middle Fork Salt River, approximately 1,400 feet downstream of Caldwell Street. | None | 647 | City of Paris. |
| Approximately 1,510 feet upstream of Hickory Street | None | 694 | |
| West Fork Payne Branch: | | | |
| At the confluence with Payne Branch, approximately 600 feet downstream of Combs Street. | None | 663 | City of Paris. |
| Approximately 1,540 feet upstream of Combs Street | None | 693 | |

**ADDRESSES**

**Unincorporated area of Monroe County, Missouri.**

Maps are available for inspection at the Community Map Repository, Monroe County Courthouse, 300 North Main Street, Paris, Missouri.
Send comments to Mr. Donald Simpson, Presiding Commissioner, Monroe County Courthouse, 300 North Main Street, Paris, Missouri 65275–1399.

**City of Paris, Monroe County, Missouri.**

Maps are available for inspection at the Community Map Repository, City of Paris, 124 West Caldwell Street, Paris, Missouri.
Send comments to The Honorable Russell Peterson, Mayor, City of Paris, 124 West Caldwell Street, Paris, Missouri 65275–1397.

♦ North American Vertical Datum of 1988.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: February 2, 2006.

**David I. Maurstad,**

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

[FR Doc. 06–1344 Filed 2–13–06; 8:45 am]

BILLING CODE 9110–12–P

## DEPARTMENT OF HOMELAND SECURITY

## Federal Emergency Management Agency

## 44 CFR Part 67

**[Docket No. FEMA–P–7905]**

## Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second

at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director has resolved any appeals resulting from this notification.

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

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

*Regulatory Flexibility Act.* The Mitigation Division Director certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*Regulatory Classification.* This proposed rule is not a significant

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

## PART 67—[AMENDED]

1. The authority citation for Part 67 continues 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.

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

| State | City/town/county | Source of flooding | Location | # Depth in feet above ground ♦Elevation in feet ♦(NAVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| IL | Dwight (Village) Grundy and Livingston Counties. | Gooseberry Creek | Just upstream of East Livingston Road | ♦620 | ♦619 |
| | | | Approximately 1,750 feet upstream of South Washington Street. | None | ♦636 |

Maps are available for inspection at the Public Service Complex, 209 South Prairie Avenue, Dwight, Illinois.
Send comments to Mr. Kevin McNamara, Village Administrator, Village of Dwight, 209 South Prairie Avenue, Dwight, Illinois 60420.

♦North American Vertical Datum of 1988.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: January 4, 2006.

**David I. Maurstad,**

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

[FR Doc. E6–2016 Filed 2–13–06; 8:45 am]

BILLING CODE 9110–12–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Petition To List the Douglas County Pocket Gopher as Threatened or Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Douglas County pocket gopher (*Thomomys talpoides macrotis*) as threatened or endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition does not present substantial scientific or commercial information indicating that listing the Douglas County pocket gopher may be warranted. This finding is based on our determination that the Douglas County pocket gopher is more widespread than indicated in the petition, that substantially more sites are currently occupied, and that many of these occupied sites are protected from development by being part of county-administered open space, Lowry Military Reservation lands, or various

submit to us new information concerning the status of or threats to the Douglas County pocket gopher at any time.

**DATES:** The finding announced in this document was made on February 14, 2006.

**ADDRESSES:** The complete file for this finding is available for public inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, 134 Union Boulevard, Suite 645, Lakewood, Colorado 80228. Submit new information, materials, comments or questions regarding the status of or threats to this taxon at the above address.

**FOR FURTHER INFORMATION CONTACT:** Bob Dach, U.S. Fish and Wildlife Service, Region 6 (*see* **ADDRESSES**) (telephone 303–236–4264; facsimile 303–236–0027).

**SUPPLEMENTARY INFORMATION:**

## Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that we make a finding as to whether the Petitioners (Center for Native Ecosystems [CNE], Forest Guardians, Michael C. McGowan, and Jacob Smith) presented substantial scientific or commercial information indicating that listing the Douglas County pocket gopher as threatened or endangered may be warranted. Our regulations require that we make this finding, to the maximum extent practicable, within 90 days of our receipt of the petition and then promptly publish it in the **Federal Register**. Although this notice has been delayed, it represents our 90-day finding.

This 90-day finding is not intended to determine whether the Douglas County pocket gopher should be listed. It is only intended to determine whether substantial scientific or commercial information indicates that listing may be appropriate. ''Substantial scientific or commercial information'' is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)(1)). If we find that substantial scientific or commercial information exists, we are required to promptly commence a status review of the species. The status review would ultimately lead to a listing determination.

In accordance with the Act's requirement that we use the best information regarding the genetic distinctness of the Douglas County pocket gopher. Also, although we did not conduct research or subject the petition to rigorous critical review, we did consider additional information in our files concerning more recent field observations. In total, the information available to us indicates that the Douglas County pocket gopher is more widespread than indicated in the petition, substantially more sites are currently occupied, and many of these occupied sites are protected from development by being part of county-administered open space, Lowry Military Reservation lands, or various State-owned lands in Douglas, Arapahoe, and Elbert Counties, Colorado.

## Previous Federal Action

On March 27, 2003, we received a formal petition from the CNE, Forest Guardians, Michael C. McGowan, and Jacob Smith to list the Douglas County pocket gopher as a threatened or endangered species pursuant to section 4 of the Act and to designate critical habitat. The petition cited threats from rapid commercial and residential development, exotic species, herbicide use, modifications to natural water runoff patterns, predation, lack of regulatory mechanisms, poisoning, and environmental and genetic stochasticity. The petition also requested an emergency rule based on immediate threats from development.

In a letter dated May 20, 2003, we denied emergency listing because, after reviewing available data and risks to the subspecies, we determined that there was not a significant and immediate risk to its continued existence. On May 5, 2003, and April 1, 2004, the Petitioners sent notices of intent to sue for our failure to make 90-day and 12-month findings, respectively, and on February 2, 2005, we received a Complaint for Declaratory and Injunctive Relief. In light of these legal actions, we discussed various options with the plaintiffs and agreed to submit a completed 90-day finding to the **Federal Register** by February 3, 2006.

## Species Information

The pocket gopher is a fossorial (adapted to digging) rodent measuring 225–230 millimeters (8.9–9 inches). It is 1 of 58 northern pocket gopher (*Thomomys talpoides*) subspecies, 9 of which are located within Colorado (Hall other rodents. Adult pocket gophers are solitary, territorial, and have very small home ranges. The northern pocket gopher is short-lived, with a maximum lifespan of approximately 5 years.

## Distribution and Population Status

The northern pocket gopher has the widest distribution of all pocket gophers—from Manitoba to Colorado, and from the Cascade and Sierra Nevada mountain ranges eastward to Minnesota. Disjunct populations occur in Arizona, New Mexico, and Utah. Local populations are separated by unsuitable habitat, usually attributed to soil type, and by major geographic barriers (Culver and Mitton, *in litt.*, 2004). The northern pocket gopher inhabits a variety of habitat types, including deep, tractable soils, heavily compacted soils, and shallow gravels (CNE *et al.* 2003). The Douglas County pocket gopher in particular seems able to tolerate a variety of soil types, utilizing areas not preferred by adjacent northern pocket gopher subspecies.

Douglas County pocket gopher life history characteristics (including their strong territoriality and solitary nature) and their discontinuous distributions (based on local habitat characteristics) lead to small population sizes. The historic distribution of the Douglas County pocket gopher is limited to parts of southwestern Arapaho, northern Douglas, and northwestern Elbert Counties in Colorado (CNE *et al.* 2003). The Petitioners identified five sites where the Douglas County pocket gopher had recently been known to occur, all in Douglas County. Their petition was based largely on threats to these remaining colonies.

The petition estimated the current global population of the Douglas County pocket gopher at 501 to 1,000 individuals or ''unknown, but thought to be small.'' This estimate was taken from the Colorado Division of Wildlife (CDOW) Vertebrate Ranking System—a proactive tool to help identify potential wildlife conservation needs in the State. However, the Vertebrate Ranking System is not intended to provide accurate population estimates of individual species or subspecies (Gary Skiba, CDOW, *pers. comm.*, 2003). Although CDOW is aware of potential conservation concerns, they emphasize that population size is ''unknown'' (Skiba 2003).

Field studies conducted by the Colorado Natural Heritage Program

the known range of the gopher to the east and south of the type locality (Jeremy Siemers, CNHP, *pers. comm.* April 4, 2003). Although these populations have not been positively identified to the subspecific level, they were within or near the Douglas County pocket gopher's range as delimited by Armstrong (1972) (Siemers 2003). In addition, field observations conducted in 2003 by the Service, CDOW, Douglas County, David Armstrong (mammalogist, University of Colorado), and Chris Pague (The Nature Conservancy) identified Douglas County pocket gopher spoil mounds, soil casts, and eskers in an additional 36 locations, at least six of which are currently protected as open space, are on State park lands, or are currently being held in trust (that is, Lowry Military Reservation) (Elliott Sutta, Service, in litt., May 20, 2003). The location and soil type of these colonies supports their assignment to *Thomomys talpoides macrotis*. The 2003 observations were very limited in duration and scope, indicating that a more thorough analysis of the gopher's range is necessary to fully understand its current distribution. No other subspecies of pocket gopher has been reported in the area of these additional colony sites. Based on the proximity of these additional locations to known Douglas County pocket gopher populations, as well as the distance from other pocket gopher subspecies populations, there is no reason to believe these additional colonies may be other than *Thomomys talpoides macrotis*. The best available scientific and commercial information suggests that there are at least 41 more colonies than identified in the petition.

**Classification**

The taxonomy of the northern pocket gopher has not been revised since 1915, and only recently have genetic data been collected to evaluate the phylogenetic relationships among the subspecies (Culver and Mitton, *in litt.* 2004). *Thomomys talpoides macrotis* was named by F.W. Miller in 1930 and characterized by its larger body and paler, more grayish color (when compared to adjacent populations of *T. t. rostralis* and *T. t. retrorsus*). Existing taxonomy, based on pelage color and morphology alone, suggests that variation between subspecies of northern pocket gophers is often less than variation seen within a single subspecies (Culver and Mitton, *in litt.*, Culver and Mitton (in litt., 2004) that the available information brings into question the species' current subspecific taxonomy.

The Petitioners provided some information regarding the Douglas County pocket gopher's subspecific status, but their justification relied largely on its existing, widely accepted taxonomy as described by Miller (1930) and the lack of compelling evidence to suggest otherwise. However, a recent mitochondrial DNA analysis found no diagnostic differences among the three contiguous subspecies of the northern pocket gopher in the Douglas County area (*Thomomys talpoides macrotis, T. t. rostralis*, and *T. t. retrorsus*) (Culver and Mitton 2005 *in litt.*, 2004). Although this study calls into question the species' current taxonomy, we consider the findings preliminary given certain methodology limitations (*for example*, limited number of specimens sampled [115], small amount of genome sampled [305 basepairs], reliance on museum specimens [including skin and liver tissue]). Also, the study has not been peer-reviewed and published.

**Discussion**

In the following discussion, we respond to each of the major assertions made in the petition, organized by the Act's listing factors. According to section 4(a)(1) of the Act and its implementing regulations (50 CFR 424), a species may be added to the Federal list of endangered and threatened species due to one or more of the following five factors—(1) The present or threatened destruction, modification or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; and (5) other natural or manmade factors affecting its continued existence. The Petitioners provided information regarding these 5 factors, but they only addressed 5 of 46 known sites (that is, there was no information provided on 41 sites and no information provided in the petition, or readily available in our files, to assume that the threats identified in the petition are consistent throughout the Douglas County pocket gopher's range).

Fundamental to the threats discussion is the need for substantial scientific or commercial information indicating that a reduction in range and/or population size has been, or is likely, occurring. We threat to this species. Although the Douglas County pocket gopher has a comparatively small range (with respect to other northern pocket gopher subspecies), there is no indication that its geographic range is becoming smaller. When comparing field studies and observations from 2002 and 2003 with its historic range, range size may be stable—although as indicated above, a more thorough analysis of the gopher's geographic range is necessary to fully understand its current distribution. We do not have information concerning historical or current population abundance at any sites to address the question of whether the overall population has experienced a decline.

*A. Present or Threatened Destruction, Modification or Curtailment of the Species' Habitat or Range*

Information Provided in the Petition

The petition stated that the limited range and small population size of the Douglas County pocket gopher makes it vulnerable to disturbance; rapid commercial and residential development are resulting in habitat loss and fragmentation; habitat is being degraded from exotic species and herbicide use; and modifications to natural water runoff patterns are altering soil moisture content and limiting habitat availability (related to both site-specific development and climate change). The Petitioners further state that Douglas County pocket gophers are currently limited to five sites in Douglas County, Colorado—the Willow Creek, Lincoln Avenue, McArthur Ranch, Newlin Gulch, and Grandview Estates sites (CNE *et al.* 2003). These sites were surveyed in 1993 and 1994 by CNHP, and subsequently visited in January 2003 (CNE *et al.* 2003).

In 1993, the Willow Creek site was heavily disturbed and fragmented by Interstate C–470 and County Line Road, ephemeral streams and ravines had been cut off, streams had been channelized, bike paths had been built through the site, and there were many exotic plant species (CNE *et al.* 2003). By 2003, colonies north of C–470 had been lost to construction of a strip mall and car dealerships, and habitat to the south had been severely fragmented from other development (that is, the land had been graded and seeded with nonnative grasses) (CNE *et al.* 2003). Although some gopher habitat remained, the Petitioners stated that it was currently

recreational disturbances from the adjacent bike path (CNE *et al.* 2003).

The Lincoln Avenue site is located approximately 2 miles (3 kilometers) south of the Willow Creek site and could possibly have been part of the Willow Creek colony (CNE *et al.* 2003). In 1993 and 1994, the Lincoln Avenue site showed signs of two gopher concentrations, although by 2003 one concentration had been completely lost to development and the other had been severely isolated. Threats to this site included development, fragmentation, rodenticides, herbicides (associated with a neighboring golf course), other pesticides, loss of native forage, altered hydrology, and recreational disturbance (CNE *et al.* 2003).

In 1993, the McArthur Ranch site had abundant signs of Douglas County pocket gopher use, but by 2003 all areas previously described by CNHP had been developed, were undergoing development, or had been reserved for future housing, schools, and recreational facilities (CNE *et al.* 2003). The petition stated that threats to this site included loss of native forage, fragmentation, road disturbance, and development.

The Newlin Gulch site was largely open prairie used for cattle grazing in 1994 (when CNE last observed the site). Four groups of mounds, each likely representing one or two individual Douglas County pocket gophers, were reported in the area (CNE *et al.* 2003). The land has since been sold to the Parker Water and Sanitation District, where a 205,622,616-hectoliter (16,670-acre-foot) reservoir is under construction with a planned expansion of 670,154,574 hectoliters (54,330 acre-feet). At least one set of mounds observed in 1994 would be destroyed from this development (CNE *et al.* 2003). The petition stated that threats to this site also included changes in hydrology, disturbance associated with the construction and maintenance of the reservoir, disturbance associated with recreational opportunities around the reservoir, habitat fragmentation, noxious weeds, and soil removal.

The Grandview Estates site consisted largely of disturbed grasslands where only sporadic gopher mounds had been observed. There has been no development on this site, but the area has been zoned for commercial development (CNE *et al.* 2003). Therefore, the petition identified gopher. Douglas County pocket gopher concentrations at three of the five sites reviewed in the petition had already been destroyed, and development of the Rueter-Hess Project and commercial development proposed for Grandview Estates threatened the remaining two sites. In addition, the petition identified habitat fragmentation (leading to inbreeding and loss of gene flow) and degradation (noxious weeds and an increase in fire frequency) as significant threats for the remaining isolated colonies. The Petitioners included some information on the effects of herbicides and suggested that disruptions in natural runoff patterns may alter soil moisture content.

Evaluation of Information in the Petition Regarding Factor A

The petition presented compelling information regarding habitat loss as a result of commercial and residential development, and specific colonies have undoubtedly been lost. We found this discussion undeniable for those sites completely covered by concrete and asphalt, where they may have been lost due to the construction of recreational facilities (for example, baseball diamonds, football or soccer fields, golf courses), or covered by water (as may be for the Reuter-Hess Project). However, we were unable to conclude that these threats were common throughout a significant portion of the pocket gopher's range or a significant factor at the subspecific level based upon the new information we have about additional occupied sites. We did not find substantial scientific or commercial information indicating that bike path construction posed a risk to the subspecies. Also, the petition presented information indicating that certain sites had been heavily impacted by exotic plant species. However, it also identified pocket gopher populations occurring within these disturbed areas, and it did not include information demonstrating an effect on the pocket gopher.

The petition also provided information regarding the effects of herbicide applications on pocket gophers in general but did not provide substantial scientific or commercial information regarding the actual use of herbicides on Douglas County pocket gopher habitats (that is, although the petition stated that herbicides were bad for pocket gophers, it did not provide substantial scientific or commercial With respect to runoff patterns and soil moisture content, the petition recognized the lack of available information regarding potential effects to the Douglas County pocket gopher and provided no substantial scientific or commercial information to support possible effects from flooding in urban areas caused by disrupted runoff patterns. No information was presented to demonstrate, for example, possible effects from urban runoff on any pocket gopher species, which are generally adapted to avoiding seasonal runoff (Chapman and Feldhamer 1982). Although not provided in the petition, information enabling review of local hydrology, frequency of high water events, or effects on specific colonies (for example, proximity of pocket gopher colonies to streambanks or number of locations potentially affected) may help to support this claim.

*B. Overutilization for Commercial, Recreational, Scientific, or Education Purposes*

Information Provided in the Petition

Regarding Listing Factor B, the petition restated commercial and residential development as threats and stated that pocket gophers were killed for agricultural purposes, and destroyed to make way for recreational facilities (for example, baseball fields, bike paths, golf courses). The Petitioners provided information to show that pocket gophers were widely regarded as agricultural pests and that a division under the U.S. Department of Agriculture manufactured and disseminated toxicants to control pocket gopher populations in areas used for agriculture and silviculture. The petition stated that these toxicants were available to area landowners and managers.

Evaluation of Information in the Petition Regarding Factor B

Commercial and residential development, including baseball fields, bike paths, and golf courses was considered under Listing Factor A, above, and as stated, there was not substantial scientific or commercial information presented to warrant further status review. In addition, the petition did not provide substantial scientific or commercial information to indicate that poisoning is a threat to the subspecies—only that pocket gopher control has occurred and that toxicants are readily available. Control is largely related to

gopher colonies by State, city, or local officials or suggestions that eradication programs are under way in certain areas.

The petition did not present any information indicating that the Douglas County pocket gopher is being overutilized (pursuant to the intent of this listing factor) and we are not aware of any organized use of the subspecies for commercial, recreational, scientific, or educational purposes (that is, they are not a game species, provide no commercial value, are not prone to target shooting, and we have no information to suggest that scientific or educational collections are widespread).

*C. Disease or Predation*

Information Provided in the Petition

Predation has not been documented as limiting Douglas County pocket gopher numbers or range (CNE *et al.* 2003). However, the petition suggested that population growth may modify traditional predator-prey relationships with a deleterious effect to Douglas County pocket gophers. The Petitioners suggested that construction would lead to additional raptor perches, referencing a Bureau of Land Management Environmental Impact Statement (EIS) for oil and gas development in the Powder River basin, Wyoming, and that residential development would increase predation from domestic dogs and cats. The petition also suggested that coyote control would lead to an increase in smaller predator populations (such as bobcats, badgers, foxes, and skunks) that could have an increased effect on Douglas County pocket gophers.

Evaluation of Information in the Petition Regarding Factor C

The petition did not provide substantial scientific or commercial information that would allow an objective review of its hypotheses. We are unaware of any studies that demonstrate an increase in raptor densities corresponding to increased residential and commercial construction in urban areas, and information contained in the referenced EIS is largely inapplicable given the substantially different ecosystems being discussed (that is, large expanses of open prairie with intermittent raptor perches versus urban development and the associated negative effects to raptor colonization and use). No information was provided to assess the likelihood or potential magnitude of the effects from would enable an assessment of the impact of these factors across the pocket gopher's range. Disease was not identified as a potential threat in the petition.

*D. Inadequacy of Existing Regulatory Mechanisms*

Information Provided in the Petition

The petition stated that there are no specific regulatory mechanisms in place to protect the Douglas County pocket gopher and that only one site, Willow Creek, is being managed as open space. Even at the Willow Creek site, the South Suburban Parks and Recreation District is not actively managing for pocket gophers, but focuses their efforts on recreational use (CNE *et al.* 2003).

Evaluation of Information in the Petition Regarding Factor D

Recent surveys have identified at least six additional pocket gopher sites that are either managed as open space, on State park lands, or currently being held in trust (that is, Lowry Military Reservation). It is not clear from the information presented in the petition or readily available to us, what threats may be pertinent to these populations, or if specific regulatory protections are needed.

*E. Other Natural or Manmade Factors Affecting the Species' Continued Existence*

Information Provided in the Petition

The petition identified global climate change, demographic, environmental and genetic stochasticity, stress, and population growth as threats under this listing factor. Regarding climate change, the petition stated that human-caused climate change may lead to increases in the frequency and intensity of drought and flooding and stated that winter and spring precipitation in Colorado may increase by as much as 70 percent. These changes would affect Douglas County pocket gophers by increasing soil moisture content.

Regarding demographic stochasticity, the petition stated that the extremely short lifespan of the Douglas County pocket gopher, its vulnerability upon dispersal, and its relatively low rate of reproduction all exacerbate its susceptibility to extinction, given its very small population size (CNE *et al.* 2003). Because all five of the populations identified in the petition are threatened by development, the petition, generally include fire, disease, resource availability, and predation—factors more pertinent to smaller geographic distributions (less important to population size because entire populations are usually affected). The petition specifically stated that drought, excessive levels of water in snow pack, and atypical snow melts contribute to declines in Douglas County pocket gophers. The Petitioners also identified inbreeding depression and a resulting loss of fitness as potential genetic stochastic events.

The petition also stated that many of the factors previously discussed could lead to increased stress levels, subsequently leading to reduced reproduction and survival rates, and the petition provided various census data demonstrating high levels of population growth in Arapahoe and Douglas Counties.

Evaluation of Information in the Petition Regarding Factor E

The Petitioners discussed the effects of climate change on survival and recruitment, but presented information largely inapplicable to the Douglas County pocket gopher. It was not clear based on the information presented in the petition how climate change has affected the pocket gopher's habitat. Climate change has been linked to a number of conservation issues and observed changes in animal populations and ranges. However, direct evidence that climate change is the cause of these alterations is often lacking (McCarty 2001). To our knowledge, specific analysis regarding potential effects of climate change on the Douglas County pocket gopher has not been conducted. The information provided in the petition is speculative in nature and does not provide substantial scientific or commercial information of threats to the pocket gopher from climate change.

Stochastic, or random, changes in a wild population's demography or genetics can threaten its persistence (Pimm *et al.* 1988). A stochastic demographic change, such as a skewed age or sex ratio (such as a sudden loss of adult females) could negatively affect reproduction, especially in small populations (that is, Allee effects; Allee 1931). Northern pocket gophers are subject to intermittent fluctuations in population size (Chapman and Feldhamer 1982), and the impacts could be more pronounced in the Douglas County pocket gopher given its

factors necessary for such stochastic events are present (decreasing population densities, decreasing reproduction rates, unreliable sources of immigration). Information related to these metrics is vital for determining whether demographic or genetic stochastic events are likely to occur given threats to the subspecies. In all cases, the Petitioners supported their claims with 2 fundamental assertions, that there are less than 5 remaining colonies of Douglas County pocket gophers and that the subspecies' population size is between 501 and 1,000 individuals and declining. As we have noted previously, there appear to be many more colonies than those identified in the petition and there has not been substantial scientific or commercial information provided to support estimates of the subspecies population size or status. Because information pertaining to the 41 colonies not recognized in the petition was unavailable to us, we could not conclude that ''all of the remaining populations are threatened by development'' as stated in the petition. In addition, the Petitioners presented no information to support their claims that environmental stochasticity presents a threat to pocket gophers; there was no information provided to demonstrate that fire would be more likely to occur as a result of development, disease is not considered a threat to this subspecies, and there was not substantial scientific or commercial information presented to support weather fluctuations or predation as threats.

The Petitioners relied on the fact that the Douglas County pocket gopher was only known from five sites to show that stochastic events threaten the species. The petition did not provide substantial scientific or commercial information to demonstrate that a reduction in reproduction and survival had occurred, was occurring, or was a threat at the subspecific level. This information could be used to support the claim that stress was a significant threat. Also, we do believe that development could pose a long-term threat to this species, but there was not substantial scientific or commercial information indicating that development would be a threat across the Douglas County pocket gopher's range in the foreseeable future.

Summary

The Petitioners presented information on potential threats that could be affecting the Douglas County pocket gopher. However, there was insufficient information presented to determine whether these threats were substantially occurring or what degree of impact they may be having at the subspecific level, largely because the Petitioners' assessment was limited to only five populations. Also, there was insufficient information demonstrating a declining range or population trend. Most limiting was a necessary consideration of how the potential threats recognized by the Petitioners applied to the 41 additional sites identified through field observations and studies in 2002 and 2003. Based on the limited information presented in the petition and readily available in our files, we were unable to extrapolate the Petitioners' claims to those populations.

Finding

On the basis of our review, we find that the petition does not present substantial scientific or commercial information, that substantially more sites are currently occupied, and that many of these occupied sites are protected from development by being part of county-administered open space, Lowry Military Reservation lands, or various State-owned lands in Douglas, Arapahoe, and Elbert Counties, Colorado. Therefore, we will not initiate a status review in response to this petition. However, we will continue to monitor the taxon's population status and trends, potential threats, and ongoing management actions that might be important with regard to the conservation of the Douglas County pocket gopher across its range. We encourage interested parties to continue to gather data that will assist with these conservation efforts. New information should be submitted to U.S. Fish and Wildlife Service (*see* **ADDRESSES**).

## References Cited

A complete list of all references cited herein is available, upon request, from the U.S. Fish and Wildlife Service (*see* **ADDRESSES**).

## Author

The primary author of this notice is Bob Dach, Region 6 Office, U.S. Fish and Wildlife Service (*see* **ADDRESSES**).

## Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 3, 2006.

**Marshall P. Jones,**

*Deputy Director, Fish and Wildlife Service.*

[FR Doc. 06–1288 Filed 2–13–06; 8:45 am]

**BILLING CODE 4310–55–P**

# Notices

Federal Register
Vol. 71, No. 30
Tuesday, February 14, 2006

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

## DEPARTMENT OF AGRICULTURE

### Tahoe National Forest; Yuba River Ranger District; California; South Yuba Canal Maintenance Project

**AGENCY:** Forest Service, USDA.

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

**SUMMARY:** The USDA Forest Service, Tahoe National Forest, Yuba River Ranger District, gives notice of the Agency's intent to prepare an Environmental Impact Statement (EIS) to remove hazardous trees located within approximately 150 feet of either side of the centerline of the South Yuba Canal, within the public lands of the Tahoe National Forest.

**DATES:** Comments concerning the scope of the analysis must be received by 30 days from the date of publication of this notice in the **Federal Register**. The Draft Environmental Impact Statement (DEIS) is expected to be completed in April of 2006, and the Final Environmental Impact Statement (FEIS) is expected to be completed in July of 2006.

**ADDRESSES:** Send written comments to Dennis Stevens, USDA Forest Service, Yuba River Ranger District, 15924 Highway 49, Camptonville, CA 95922, office hours 8 a.m. to 4:30 p.m., Monday-Friday; telephone 530 478–6253; FAX 530 288–0727; e-mail: *comments-pacificsouthwest-tahoe-downieville@fs.fed.us*.

**FOR FURTHER INFORMATION CONTACT:** Dennis Stevens or Patrick Farrell at the above address and phone number.

**SUPPLEMENTARY INFORMATION:** Pacific Gas and Electric Company's (PG&E) South Yuba Canal System is part of the Drum-Spaulding Hydro System (License 2310), currently issued by the Federal Energy Regulatory Commission (FERC) through the year 2013. The South Yuba Canal System operates primarily for the delivery of domestic and agricultural water use within the communities of Nevada City and Grass Valley, California. Additionally, the water delivered through the system is used to generate electricity for the people of Northern California from the Spaulding No. 2 and Deer Creek Powerhouses. The South Yuba Canal System is approximately nineteen miles long and traverses both private and National Forest Lands. Approximately 11.6 miles of the system are located within the Yuba River Ranger District of the Tahoe National Forest.

The Nevada Irrigation District (NID) utilizes PG&E's South Yuba Canal to import water into the Deer Creek watershed where it becomes the primary water supply for NID's Cascade Canal System. Approximately 97 percent of the water used in the Cascade Canal System originates from water diverted from the South Yuba Canal. The remaining three percent comes from natural flow within the Deer Creek drainage. Currently, over 30,000 people are served by this canal system. Along with the residential and agricultural use, water is also provided to fire stations, county and city hydrant systems, schools, the Sierra Nevada Memorial Hospital, and the USFS/CDF Emergency Command Center/Air-Attack Base.

The Cascade Canal system supplies raw water to three of the District's treatment plants in the areas surrounding Grass Valley and Nevada City. There are 10,420 service connections for domestic water from these treatment plants. There are also 1,450 service connections for agricultural and domestic customers that are served directly from the Cascade Canal system.

A list of routine canal maintenance work is identified by PG&E, and except for emergencies, all work is scheduled for completion during an annual outage. During this annual outage, the canal system is dewatered. This allows for the entire system to be inspected in order to plan for future work. Flume sections are checked for wood integrity, open ditch sections are checked for deterioration and hazard trees are identified.

The yearly outage occurs during the month of April, and is scheduled at that time because it causes the least disruption to water deliveries while providing a weather window to complete the work. The annual outage is typically two weeks long, commencing around the first of April and ending by the second week of the month. During this period all major routine work to the canal system as well as annual maintenance to Spaulding No. 2 and Deer Creek Powerhouses must be accomplished.

#### Purpose and Need for Action

The Hydrological Division of the Pacific Gas and Electric Company requested the Tahoe National Forest consider a project proposal that would remove trees on public land that currently threaten, or may threaten within the foreseeable future (five to ten years), the structural integrity of the South Yuba Canal. PG&E structural engineers believe that a preventive maintenance strategy is needed at this time due to the following conditions:

- The winter of 2004–2005 caused significant maintenance problems for PG&E due to tree windthrow and breakage along the canal. Damage and repairs resulted in a disruption of flow and threatened the supply of water to consumers.
- Currently, there are numerous trees within falling distance of the canal that, due to their physical condition and location, pose a threat to the canal and its associated facilities.
- The winter storms of 2005–2006 have already resulted in structural damage along the canal. Blown-over, unstable trees and snapped tree-tops from nearby trees were the primary cause of damage to the canal.
- The population residing within the local Sierra Nevada foothill communities has more than doubled in the past 35 years and the number of people currently living within the PG&E and NID service area is forecasted to triple by 2040.
- Millions of visitors continue to travel to western Nevada County to enjoy aquatic recreational pursuits. Annual increases in local residents and tourist visitor-days continue to strain the capability of the current water supply infrastructure to meet customer demands.
- If the current annual maintenance strategy of clearing only trees after they have caused damage continues, the results will be continued breeches along the canal, continued disruptions in water deliveries, and escalating maintenance costs that inevitably must be passed along to consumers.

Because of the large number and various types of clientele served by the South Yuba Canal System, there is a critical need to develop a long-range (5–10 years) protection strategy that will better ensure the integrity of the primary facility for delivering water to western Nevada County residents. During the last three decades, Nevada County has experienced a steady growth in population. This population expansion has lead to a greater demand in maintaining a reliable water system. Interruption of flow compromises both PG&E and NID's ability to provide dependable service.

The greatest threat to maintaining uninterrupted flows to the South Yuba Canal is the stands of mixed conifers and hardwoods that grow within an approximate one hundred fifty foot strip on either side of the canal's centerline. Due to limited accessibility and the difficulty of removing these trees from close proximity to the canal, many trees that currently pose a hazard to the canal have not been harvested during past ground-based logging activities. Numerous trees within falling distance of the canal show signs of stress, disease, instability and damage. Many of these trees are presently growing directly into the canal berm and have grown large enough to cause cracking within the concrete linings. The root structures continue growing and create pathways for water to leak through the berm, providing a mechanism for future canal failure.

Additionally, damage to the canal's infrastructure occurs when trees located along the canal uproot, break-off or breech the flume during storms or high wind events. When a tree falls into a wooden flume it will often cause major damage that results in complete structural failure. If a tree falls into an open ditch section, it usually will not completely destroy the berm. However, the limbs and debris will dam the water in the canal, potentially creating an ''over-topping'' situation. This situation can lead to a berm washout depending upon the flows and the length of time the situation exists. These types of incidents are often discovered by PG&E's system operators monitoring the alarm stations.

Therefore, the primary goal of this proposal is to develop a protection strategy along the South Yuba Canal that will reduce the annual amount of damage to the canal's infrastructure that routinely results in interrupted flows due to uprooting and breakage from trees located along the canal. The intent is to provide a preventative, longer-term (5–10 years) approach to lessen the amount and intensity of damage to the canal.

**Proposed Action**

The proposed action is to remove hazardous trees located within approximately 150 feet of either side of the centerline of the South Yuba Canal, within the public lands of the Tahoe National Forest. Trees within falling distance of the canal, canal maintenance structures or canal electronic monitoring equipment that exhibit the following characteristics will be evaluated for removal:

- Dead/dying trees.
- Trees and dead tops of sufficient length to pose a threat of breakage.
- Trees with significant signs of rot or decay.
- Severely forked trees whose tops, boles or large limbs encroach upon the canal.
- Trees weakened by insects and disease.
- Trees where the root system is sufficiently exposed to indicate instability.
- Trees where the root system is currently penetrating, or will likely penetrate the berm or fill of the canal, thus jeopardizing structural integrity.
- Trees having a decisive lean towards the canal, canal maintenance structures or canal electronic equipment.

The project area extends along both sides of an estimated 11.6 miles of canal located on public lands within the Tahoe National Forest. Currently, it is estimated that maintenance tree removal would involve a ground based harvest system on approximately 20 percent of the project area, while the remaining 80 percent would require an aerial harvest system.

Only trees that currently threaten, or would likely threaten the structural integrity of the canal system over the next 5–10 years, will be assessed for risk, be designated, and removed under this proposal.

The project area includes portions of several California spotted owl and northern goshawk Protected Activity Centers (PACs). While the project will be designed to minimize impacts to these species, removal of certain hazard trees (specifically those that could cause structural damage to the canal through felling activities) can only be done during the annual dewatering period in April. In order to implement this project, the responsible official may not be able to fully implement Standard and guideline No. 75 for the California spotted owl and No. 76 for the northern goshawk, which require a limited operating period for vegetation treatments within approximately ¼ mile of nest sites during the breeding season, from March 1 through August 31 for the California spotted owl and February 15 through September 15 for the northern goshawk (USDAS Forest Service, Sierra Nevada Forest Plan amendment Final Supplemental Environmental Impact Statement Record of Decision, 2004, p. 60). In order for this project to comply with existing laws and regulations, it would necessitate a non-significant amendment to the Tahoe National Forest Land Management Plan (TNFLMP), to lift the requirement to apply Standard and Guideline Nos. 75 and 76, for implementation of this project.

**Responsible Official**

The responsible Official for this decision is the forest Supervisor of the Tahoe National Forest, Steven T. Eubanks; Tahoe National Forest Supervisors Office, 631 Coyote Street, Nevada City, CA 95959. As the responsible official, he will document the decision and reasons for the decision in the Record of Decision (ROD), which will be published along with the FEIS.

**Nature of Decision To Be Made**

The decision to be made is whether to implement the proposed action as described above, to vary the location or design of the project to meet the purpose and need while addressing issues raised in public scoping, or to take no action at this time.

**Scoping Process**

Public participation is viewed as an integral part of the environmental analysis. The Forest Service will be seeking points of dispute, disagreement or debate from Federal, State, and local governmental agencies as well as from individuals or organizations that may be potentially interested or affected by the proposed action. A scoping letter will be mailed to persons who have expressed interest in the proposed action based on notifications in the Tahoe National Forest Quarterly Schedule of Proposed actions and by notification through a published legal notice in Grass Valley's *The Union* (the newspaper of record for this project), Grass Valley, California. In addition, adjacent land owners will be mailed scoping letters.

**Comment Requested**

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. Comments submitted during the scoping process should be in

writing or e-mail, and should be specific to the proposed action. The comments should describe as clearly and completely as possible any points of dispute, debate or disagreement the commenter has with the proposal. Once scoping letters are received, the District shall identify all potential issues, eliminate non-significant issues or those covered by another environmental analysis, identify significant issues to analyze in depth, develop additional alternatives to address those significant issues, and identify potential environmental effects of the proposed action as well as all fully analyzed alternatives.

**Early Notice of Importance of Public Participation in Subsequent Environmental Review**

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

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

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

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

Dated: February 7, 2006.

**Steven T. Eubanks,**

*Forest Supervisor.*

[FR Doc. 06–1346 Filed 2–13–06; 8:45 am]

BILLING CODE 3410–11–M

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## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

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

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

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request an extension for a currently approved information collection in support of the program for 7 CFR part 4279.

**DATES:** Comments on this notice must be received by April 17, 2006 to be assured of consideration.

**FOR FURTHER INFORMATION CONTACT:** Brenda Griffin, Loan Specialist, Business and Industry Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3224, 1400 Independence Ave., SW., Washington, DC 20250–3224. Telephone: (202) 720–6802. The TDD number is (800) 877–8339 or (202) 708–9300.

**SUPPLEMENTARY INFORMATION:**

*Title:* Guaranteed Loanmaking—Business and Industry Loans.

*OMB Number:* 0570–0018.

*Expiration Date of Approval:* June 30, 2006.

*Type of Request:* Extension of a Currently Approved Information Collection.

*Abstract:* The Business and Industry (B&I) Guaranteed Loan Program was legislated in 1972 under Section 310B of the Consolidated Farm and Rural Development Act, as amended. The purpose of the program is to improve, develop, or finance businesses, industries, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved through bolstering the existing private credit structure through the guaranteeing of quality loans made by lending institutions, thereby providing lasting community benefits.

*Estimate of Burden:* Public reporting for this collection of information is estimated to average 30 minutes to 12 hours per response.

*Respondents:* Business or other for-profit; State, local or tribal; Lenders, accountants, attorneys.

*Estimated Number of Respondents:* 1,037.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Number of Responses:* 1,037.

*Estimated Total Annual Burden on Respondents:* 1,494.

Copies of this information collection can be obtained from Renita Bolden, Regulations and Paperwork Management Branch, Support Services Division at (202) 692–0035.

**Comments**

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of RBS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Renita Bolden, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250. 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.

Dated: February 8, 2006.

**Jackie J. Gleason,**

*Acting Administrator, Rural Business-Cooperative Service.*

[FR Doc. E6–2061 Filed 2–13–06; 8:45 am]

**BILLING CODE 3410–XY–P**

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

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

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

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request an extension for a currently approved information collection in support of the program for Business and Industry Guaranteed Loans.

**DATES:** Comments on this notice must be received by April 17, 2006 to be assured of consideration.

**FOR FURTHER INFORMATION CONTACT:** David Lewis, Business and Industry Loan Servicing Branch, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3224, 1400 Independence Avenue, SW., Washington, DC 20250–3224, telephone (202) 690–0797, or by e-mail to *david.lewis@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Business and Industry Guaranteed Loan Servicing.

*OMB Number:* 0570–0016.

*Expiration Date of Approval:* June 30, 2006.

*Type of Request:* Extension of Paperwork Burden.

### Abstract

The Business and Industry (B&I) program was legislated in 1972 under section 310B of the Consolidated Farm and Rural Development Act, as amended. The purpose of the Business and Industry Guaranteed Loan Program is to improve, develop, or finance business, industry, and employment and to improve the economic and environmental climate in rural communities. This purpose is achieved by bolstering the existing private credit structure through the guarantee of quality loans which will provide lasting community benefits. The lender is responsible for servicing the entire loan and will remain mortgagee and secured party of record notwithstanding the fact that another party may hold a portion of the loan. The B&I servicing regulations are designed to provide regulatory requirements for the lender to adequately service these loans.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average .81 hours per response.

*Respondents:* 3,450.

*Estimated Number of Respondents:* 3,450.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Number of Responses:* 20,840.

*Estimated Total Annual Burden on Respondents:* 16,910.

Copies of this information collection can be obtained from Renita Bolden, Regulations and Paperwork Management Branch, at (202) 692–0035.

### Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of RBS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Renita Bolden, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250.

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.

Dated: February 8, 2006.

**Jackie J. Gleason,**

*Acting Administrator, Rural Business-Cooperative Service.*

[FR Doc. E6–2063 Filed 2–13–06; 8:45 am]

**BILLING CODE 3410–XY–P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* U.S. Census Bureau.

*Title:* 2007 Economic Census Classification Report for Construction, Manufacturing, and Mining Sectors.

*Form Number(s):* NC–99026.

*Agency Approval Number:* None.

*Type of Request:* New collection.

*Burden:* 4,167 hours.

*Number of Respondents:* 50,000.

*Avg Hours per Response:* 5 minutes.

*Needs and Uses:* Accurate and reliable industry codes are critical to the U. S. Census Bureau's economic statistical programs. In order to provide detailed industry data for the 2007 Economic Census and the Business Register, the basic sampling frame for many of our current surveys, unclassified and partially classified businesses must be assigned correct North American Industry Classification System (NAICS) codes. Only when correct NAICS codes are assigned to establishments can the Census Bureau be assured that data are tabulated in the correct detailed industry and ultimately disseminated accurately.

The NC–99026 questionnaire will be sent to a sample of partially classified single-unit construction, manufacturing, and mining establishments in 2006, the year prior to the census. It is extremely important to obtain a correct industry classification for construction establishments to ensure the sample frame that is drawn for the economic census is accurate. For many of the manufacturing and mining establishments, this is the only form that they receive for the economic census. During the 2007 Economic Census, the NC–99026 questionnaire will be used to collect information from partially classified single-unit manufacturing and mining establishments that were not sampled in 2006.

Establishments that are only partially classified could be misclassified in the economic census without a complete NAICS code. This refile operation will determine a complete and reliable classification in order to ensure the establishment is tabulated in the correct detailed industry for the 2007 Economic Census. Although the Bureau of Labor Statistics (BLS) provides industry codes for establishments that they have classified in their universe but which are unclassified in the Business Register, detailed industry classification would still be missing for the remaining units. If these establishments are not mailed as part of the economic census,

economic data for these cases could be lost.

The economic census is the primary source of facts about the structure and functioning of the Nation's economy featuring industry and geographic detail. Economic census statistics and their derivatives serve as part of the framework for the national accounts and provide essential information for government, business, and the general public. The Federal government uses census information as an important part of the framework for the national income and product accounts, input-output tables, economic indexes, and other composite measures that serve as the factual basis for economic policy-making, planning, and program administration. Further, the census provides sampling frames and benchmarks for current surveys of business which track short-term economic trends, serve as economic indicators, and contribute critical source data for current estimates of gross domestic product. State and local governments rely on the economic census as a unique source of small geographic area economic statistics for use in policy-making, planning, and program administration. Finally, industry, business, academia, and the general public use information from the economic census for evaluating markets; preparing business plans and making business decisions; conducting economic research, including forecasting and modeling; and establishing benchmarks for their own sample surveys.

The failure to collect this information would result in less reliable source data and benchmarks reflecting today's economy for the national accounts, input-output tables, and other measures of economic activity. This would lead to a substantial degradation in the quality of these important statistics.

The NC–99026 form will be used to update the classification codes in the Business Register. Classification information obtained from these establishments will also be included in the Census Bureau's County Business Patterns (CBP) publications. CBP publications provide annual data on establishment counts, employment, and payroll for all sectors of the economy at national, state, and county levels.

*Affected Public:* Business or other for-profit, Not-for-profit institutions.

*Frequency:* Every 5 years.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* Title 13 U.S.C., sections 131 and 224.

*OMB Desk Officer:* Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202–395–7245) or e-mail (*susan_schechter@omb.eop.gov*).

Dated: February 9, 2006.

**Madeleine Clayton,**

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

[FR Doc. E6–2056 Filed 2–13–06; 8:45 am]

BILLING CODE 3510–07–P

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–847]**

### Persulfates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review

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

**SUMMARY:** On August 10, 2005, the Department of Commerce (''the Department'') published the preliminary results of the antidumping duty administrative review of persulfates from the People's Republic of China (''the PRC''). This review covers one exporter of the subject merchandise, Shanghai AJ Import and Export Corporation (''Shanghai AJ''). The period of review (''POR'') is July 1, 2003, through June 30, 2004. We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made certain changes to our calculations. The final weighted-average dumping margin for this review is listed in the ''Final Results of Review'' section below.

**EFFECTIVE DATE:** February 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** Tisha Loeper-Viti or Frances Veith, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–7425 and (202) 482–4295, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 7, 1997, the Department published in the **Federal Register** the antidumping duty order on persulfates from the PRC. *See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Persulfates From the People's Republic of China*, 62 FR 36259 (July 7, 1997). On July 1, 2004, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on persulfates from the PRC for the period July 1, 2003, through June 30, 2004. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 69 FR 39903 (July 1, 2004). On July 30, 2004, FMC Corporation (FMC), a domestic producer, requested an administrative review of Shanghai AJ. No other interested party submitted a request for a review. On September 22, 2004, the Department published in the **Federal Register** a notice of the initiation of the administrative review of the order on persulfates from the PRC for the period July 1, 2003, through June 30, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 56745 (September 22, 2004).

On March 25, 2005, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of this review to August 1, 2005. *See Notice of Extension of Time Limit for the Preliminary Results of the 2003–2004 Antidumping Duty Administrative Review: Persulfates From the People's Republic of China*, 70 FR 15293 (March 25, 2005). The Department published the preliminary results on August 10, 2005. *See Persulfates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 46476 (August 10, 2005) (''*Preliminary Results*'').

We invited parties to comment on the preliminary results of review. *See Preliminary Results*, 70 FR at 46480. On September 23, 2005, the Department received case briefs from FMC and Shanghai AJ. On September 30, 2005, the Department received rebuttal briefs from FMC and Shanghai AJ. The Department conducted a public hearing on October 7, 2005, at the main Commerce building. On January 12, 2006, we issued a memorandum to all interested parties requesting comments regarding a change in the Department's calculated regression-based wage rate. *See* January 12, 2006, Memorandum from Tisha Loeper-Viti to the File Re:

2003–2004 Administrative Review of the Antidumping Duty Order on Persulfates from the People's Republic of China (PRC): Expected PRC Wage Rate 2003 Income Data. No parties provided comments. On February 2, 2006, we issued a letter to all interested parties requesting comments regarding changes to the Department's calculation of surrogate financial ratios. *See* February 2, 2006, letter from Wendy J. Frankel to All Interested Parties Re: 2003–2004 Administrative Review of the Antidumping Duty Order on Persulfates from the People's Republic of China Calculation of Surrogate Financial Ratios. We received comments from FMC on February 3, 2006. Shanghai AJ did not comment on this issue. The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (''the Act'').

**Scope of the Order**

The products covered by this order are persulfates, including ammonium, potassium, and sodium persulfates. The chemical formula for these persulfates are, respectively, $(NH_4)_2S_2O_8$, $K_2S_2O_8$, and $Na_2S_2O_8$. Potassium persulfates are currently classifiable under subheading 2833.40.10 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Sodium persulfates are classifiable under HTSUS subheading 2833.40.20. Ammonium and other persulfates are classifiable under HTSUS subheadings 2833.40.50 and 2833.40.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

**Separate Rates**

Shanghai AJ has requested a separate, company-specific antidumping duty rate. In our preliminary results, we found that Shanghai AJ had met the criteria for the application of a separate antidumping duty rate. See *Preliminary Results*, 70 FR at 46478. We have not received any other information since the preliminary results which would warrant reconsideration of our separate-rates determination with respect to this company. Therefore, we have assigned an individual dumping margin to Shanghai AJ for this administrative review.

**Analysis of Comments Received**

All issues raised in the case briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum (''Decision Memo'') from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated February 6, 2006, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. The Decision Memo is a public document which is on file in the Central Records Unit in Room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memo are identical in content.

**Changes From the Preliminary Results**

For purposes of the final results, we have made certain changes in the margin calculation for Shanghai AJ. For a discussion of these changes, see the ''Margin Calculations'' section of the Decision Memo.

**Final Results of Review**

As a result of our review, we determine that the following weighted-average percentage margin exists for persulfates from the PRC for the period July 1, 2003, through June 30, 2004:

| Manufacturer/exporter | Margin (percent) |
|---|---|
| Shanghai AJ Import and Export Corporation .... | 36.53 |

**Assessment Rates**

The Department shall determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to that importer (or customer) and dividing this amount by the total value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis* and the respondent has reported reliable entered values, we applied the assessment rate to the entered value of the importer's/customer's entries during the review period. Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis* and we do not have entered values, we calculated a per-unit assessment rate by aggregating the dumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

**Cash Deposit Requirements**

The following deposit requirements will be effective for all shipments of persulfates from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a) of the Act: (1) for Shanghai AJ, the cash-deposit rate will be 36.53 percent; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash-deposit rate for all other PRC exporters will be 119.02 percent, the PRC-wide rate established in the less-than-fair-value investigation; and (4) the cash-deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**Notification to Interested Parties**

This notice also serves as the final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 6, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

## Appendix

### Comments and Responses

*Comment 1:* Whether to Use Financial Data from Indian Peroxide Producers to Derive Surrogate Financial Ratios
*Comment 2:* Whether to Include Financial Data from Gujarat Alkalies and Chemicals Co., Ltd. to Derive Surrogate Financial Ratios
*Comment 3:* Whether to Include Employee Benefits in Overhead Calculation

*Comment 4:* Surrogate Labor Rate
*Comment 5:* Surrogate Value for Water
*Comment 6:* Surrogate Value for Electricity

*Comment 7:* Surrogate Value for Caustic Soda
*Comment 8:* Whether the Department Should Apply Total Adverse Facts Available

*Comment 9:* Whether the Department Should Disregard as Untimely Certain Record Information
*Comment 10:* Whether the Department Should Reopen the Record to New Factual Information
*Comment 11:* Application of Adverse Facts Available in Preliminary Results Margin Program

[FR Doc. E6–2088 Filed 2–13–06; 8:45 am]

BILLING CODE 3510–DS–S

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–122–838]**

### Notice of Second Amended Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products From Canada

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

**EFFECTIVE DATE:** February 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** Constance Handley or Salim Bhabhrawala, at (202) 482–0631 or (202) 482–1784, respectively; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:** On December 12, 2005, the Department of Commerce (the Department) determined that certain softwood lumber products from Canada are being sold in the United States at less than fair value, as provided in section 751(a) of the Tariff Act of 1930, as amended (the Act). *See Notice of Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 70 FR 73437 (December 12, 2005) (Final Results). On January 23, 2006, the Department published its amended final results. *See Notice of Amended Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products from Canada* 71 FR 3458.[1] On January 25, 2006, The Maritime Lumber Bureau and certain of its individual members [2] (collectively, the Maritimes) filed a timely ministerial error allegation pursuant to 19 CFR 351.224(c)(2). The petitioner [3] did not rebut this allegation.

### Scope of the Order

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;
(2) coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;
(3) other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and
(4) coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger–jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection (CBP) purposes, the written description of the merchandise under investigation is dispositive. Preliminary scope exclusions and clarifications were published in three separate **Federal Register** notices.

Softwood lumber products excluded from the scope:

- trusses and truss kits, properly classified under HTSUS 4418.90
- I-joist beams
- assembled box spring frames
- pallets and pallet kits, properly classified under HTSUS 4415.20
- garage doors
- edge–glued wood, properly classified under HTSUS 4421.90.97.40 (formerly HTSUS 4421.90.98.40)
- properly classified complete door frames
- properly classified complete window frames
- properly classified furniture

Softwood lumber products excluded from the scope only if they meet certain requirements:

- *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.97.40 (formerly HTSUS 4421.90.98.40).
- *Box-spring frame kits*: if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of

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[1] In the published amended final results, some of the margins were mis-stated due to a **Federal Register** formatting problem. The **Federal Register** published a correction on January 30, 2006. *See Notice of Amended Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products from Canada: Correction* 71 FR 4968 (January 30, 2006).

[2] *See* letter from the Maritimes Lumber Bureau to the Department, dated January 25, 2006, at Exhibit A for a list of companies included in the allegation.

[3] The petitioner in this case is the Coalition for Fair Lumber Imports Executive Committee. We note that during the review, submissions have been made interchangeably by the petitioner itself and by the Coalition for Fair Lumber Imports, a domestic interested party. For ease of reference, we will use the term ''petitioner'' to refer to submissions by either, although we recognize that the Coalition for Fair Lumber Imports is not the actual petitioner.

wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1'' in actual thickness or 83'' in length.

- *Radius-cut box-spring-frame components*, not exceeding 1'' in actual thickness or 83'' in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.
- *Fence pickets* requiring no further processing and properly classified under HTSUS 4421.90.70, 1'' or less in actual thickness, up to 8'' wide, 6' or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring 3/4 inch or more.
- *U.S. origin lumber* shipped to Canada for minor processing and imported into the United States, is excluded from the scope of this order if the following conditions are met: 1) the processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and (2) the importer establishes to CBP's satisfaction that the lumber is of U.S. origin.[4]
- *Softwood lumber products contained in single family home packages or kits*,[5] regardless of tariff classification, are excluded from the scope of the orders if the following criteria are met:

1. The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint;
2. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, subfloor, sheathing, beams, posts, connectors and, if included in purchase contract, decking, trim, drywall and roof shingles specified in the plan, design or blueprint;
3. Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;
4. The whole package must be imported under a single consolidated entry when permitted by CBP, whether or not on a single or multiple trucks, rail cars or other vehicles, which shall be on the same day except when the home is over 2,000 square feet;
5. The following documentation must be included with the entry documents:

- a copy of the appropriate home design, plan, or blueprint matching the entry;
- a purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;
- a listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered;
- in the case of multiple shipments on the same contract, all items listed immediately above which are included in the present shipment shall be identified as well.

We have determined that the excluded products listed above are outside the scope of this order provided the specified conditions are met. Lumber products that CBP may classify as stringers, radius cut box–spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this order and may be classified under HTSUS subheadings 4418.90.40.90, 4421.90.70.40, and 4421.90.98.40. Due to changes in the 2002 HTSUS whereby subheading 4418.90.40.90 and 4421.90.98.40 were changed to 4418.90.45.90 and 4421.90.97.40, respectively, we are adding these subheadings as well.

In addition, this scope language has been further clarified to now specify that all softwood lumber products entered from Canada claiming non-subject status based on U.S. country of origin will be treated as non-subject U.S.-origin merchandise under the antidumping and countervailing duty orders, provided that these softwood lumber products meet the following condition: upon entry, the importer, exporter, Canadian processor and/or original U.S. producer establish to CBP's satisfaction that the softwood lumber entered and documented as U.S.-origin softwood lumber was first produced in the United States as a lumber product satisfying the physical parameters of the softwood lumber scope.[6] The presumption of non-subject status can, however, be rebutted by evidence demonstrating that the merchandise was substantially transformed in Canada.

**Amended Final Results**

In accordance with section 751(h) of the Act, we have determined that a ministerial error was made in our *Final Results* assessment rate calculation for the Maritimes. This error did not affect any of the published cash deposit rates. For a detailed discussion of the ministerial error allegation and the Department's analysis, see Memorandum to Stephen J. Claeys, *Antidumping Duty Administrative Review of Certain Softwood Lumber Products from Canada*, regarding Ministerial Error Allegation, dated February 7, 2006, which is on file in the Central Records Unit (''CRU''), room B–099 of the main Department building.

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the amended final results of the antidumping duty administrative review of lumber from Canada to correct this ministerial error.

The weighted-average dumping margins for the period May 1, 2003, through April 30, 2004, which have not changed since the amended final, are listed below:

| Producer/Exporter | Original Weighted–Average Margin (Percentage) | Amended Weighted–Average Margin (Percentage) |
|---|---|---|
| Abitibi (and its affiliates Abitibi Consolidated Company of Canada.[7] Produits Forestiers Petit Paris Inc., | 2.52 | 2.52 |

[4] For further clarification pertaining to this exclusion, see the additional language concluding the scope description below.

[5] To ensure administrability, we clarified the language of this exclusion to require an importer certification and to permit single or multiple entries on multiple days, as well as instructing importers to retain and make available for inspection specific documentation in support of each entry.

[6] *See* the scope clarification message (3034202), dated February 3, 2003, to CBP, regarding treatment of U.S.-origin lumber on file in the Central Records Unit, Room B–099 of the main Commerce Building.

| Producer/Exporter | Original Weighted–Average Margin (Percentage) | Amended Weighted–Average Margin (Percentage) |
|---|---|---|
| Produits Forestiers La Tuque Inc. | | |
| Produits Forestiers Sagenay Inc. | | |
| and Societe En Commandite Scierie Opticiwan) | | |
| Buchanan | 2.86 | 2.76 |
| (and its affiliates Atikokan Forest Products Ltd. | | |
| Long Lake Forest Products Inc. | | |
| Nakina Forest Products Limited.[8] | | |
| 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. ) | | |
| Canfor[9] | 1.36 | 1.35 |
| (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) | | |
| Tembec | 4.02 | 4.02 |
| (and its affiliates Marks Lumber Ltd., Excel Forest Products | | |
| Les Industries Davidson Inc. | | |
| Produits Forestiers Temrex Limited Partnership | | |
| Tembec Industries Inc., Spruce Falls Inc.) | | |
| Tolko | 3.09 | 3.09 |
| (and its affiliates Gilbert Smith Forest Products Ltd. | | |
| Compwood Products Ltd., and Pinnacle Wood Products Ltd. ) | | |
| Weldwood | 0.61 | 0.61 |
| West Fraser | 0.51 | 0.51 |
| (and its affiliates West Fraser Forest Products Inc. | | |
| and Seehta Forest Products Ltd.) | | |
| Weyerhaeuser*4.434.43*. | | |
| (and its affiliate Weyerhaeuser Saskatchewan Ltd.) | | |
| REVIEW–SPECIFIC AVERAGE RATE APPLICABLE TO THE FOLLOWING COMPANIES:[10]. | | |
| 2 by 4 Lumber Sales Ltd.. | | |
| 605666 BC Ltd.. | | |
| 9027–7971 Quebec Inc. (Scierie Marcel Dumont). | | |
| 9098–5573 Quebec Inc. (K.C.B. International). | | |
| A. L. Stuckless & Sons Limited. | | |
| AJ Forest Products Ltd.. | | |
| Alexandre Cote Ltee.. | | |
| Allmac Lumber Sales Ltd.. | | |
| Allmar International. | | |
| Alpa Lumber Mills Inc.. | | |
| American Bayridge Corporation. | | |
| Apex Forest Products, Inc.. | | |
| Apollo Forest Products Limited. | | |
| Aquila Cedar Products Ltd.. | | |
| Arbutus Manufacturing Limited. | | |
| Ardew Wood Products, Ltd.. | | |
| Armand Duhamel & Fils Inc.. | | |
| Ashley Colter (1961) Limited. | | |
| Aspen Planers Ltd.. | | |
| Atco Lumber. | | |
| Atlantic Pressure Treating Ltd.. | | |
| Atlantic Warehousing Limited/Atlantic Warehousing Ltd.. | | |
| Atlas Lumber (Alberta) Ltd.0. | | |
| AWL Forest Products. | | |
| B & L Forest Products Ltd.. | | |
| Bakerview Forest Products Inc.. | | |
| Bardeaux et Cedres St–Honore Inc. (Bardeaux et Cedres). | | |
| Barrett Lumber Company/Barrett Lumber Company Limited. | | |
| Barrette–Chapais Ltee.. | | |
| Barry Maedel Woods & Timber. | | |
| Bathurst Lumber (Division of UPM–Kymmene Miramichi Inc.). | | |
| Beaubois Coaticook Inc.. | | |
| Blackville Lumber (Division of UPM–Kymmene Miramichi Inc.). | | |
| Blanchette et Blanchette Inc.. | | |
| Bloomfield Lumber Limited. | | |
| Bois Cobodex (1995) Inc.. | | |
| Bois De L'Est F.B. Inc.. | | |

| Producer/Exporter | Original Weighted–Average Margin (Percentage) | Amended Weighted–Average Margin (Percentage) |
|---|---|---|
| Bois Granval G.D.S. Inc.. | | |
| Bois Kheops Inc.. | | |
| Bois Marsoui G.D.S. Inc.. | | |
| Bois Neos Inc.. | | |
| Bois Nor Que Wood Inc.. | | |
| Boisaco Inc.. | | |
| Boscus Canada Inc.. | | |
| Boucher Forest Products Ltd.. | | |
| Bowater Canadian Forest Products Inc.. | | |
| Bowater Incorporated. | | |
| Bridgeside Forest Industries, Ltd.. | | |
| Bridgeside Higa Forest Industries Ltd.. | | |
| Brittania Lumber Company Limited. | | |
| Brouwer Excavating Ltd.. | | |
| Brunswick Valley Lumber/Brunswick Valley Lumber Inc.. | | |
| Buchanan Lumber. | | |
| Busque & Laflamme Inc.. | | |
| BW Creative Wood. | | |
| Byrnexco Inc.. | | |
| C. E. Harrison & Son Ltd./C. E. Harrison & Son Limited. | | |
| Caledon Log Homes (FEWO). | | |
| Caledonia Forest Products Ltd.. | | |
| Cambie Cedar Products Ltd.. | | |
| Canadian Lumber Company Ltd.. | | |
| Cando Contracting Ltd.. | | |
| Canex International Lumber Sales Ltd.. | | |
| CanWel Building Materials Ltd.. | | |
| CanWel Distribution Ltd.. | | |
| Canyon Lumber Company Ltd.. | | |
| Cape Cod Wood Siding Inc.. | | |
| Cardinal Lumber Manufacturing & Sales Inc.. | | |
| Careau Bois Inc.. | | |
| Carrier & Begin Inc. | | |
| Carrier Forest Products Ltd.. | | |
| Carrier Lumber Ltd.. | | |
| Carson Lake Lumber. | | |
| Cattermole Timber. | | |
| CDS Lumber Products. | | |
| Cedarland Forest Products Ltd.. | | |
| Cedrico Lumber Inc. (Bois d'Oeuvre Cedrico Inc.). | | |
| Central Cedar Ltd.. | | |
| Centurion Lumber Manufacturing (1983) Ltd.. | | |
| Chaleur Sawmills. | | |
| Chasyn Wood Technologies Inc.. | | |
| Cheminis Lumber Inc.. | | |
| Cheslatta Forest Products Ltd.. | | |
| Chisholm's (Roslin) Ltd.. | | |
| Choicewood Products Inc.. | | |
| City Lumber Sales and Services Limited. | | |
| Clair Industrial Dev. Corp. Ltd./Clair Industrial Development Corp. Ltd.. | | |
| Clermond Hamel Ltee.. | | |
| Coast Clear Wood Ltd.. | | |
| Colonial Fence Mfg. Ltd.. | | |
| Columbia Mills Ltd.. | | |
| Comeau Lumber Limited. | | |
| Commonwealth Plywood Company Ltd. dba Bois Clo–Val (formerly Bois Clo–Val Inc.), W.C. Edwards Lumber (formerly The W.C. Edwards Co., Ltd.) and Les Enterprises Atlas (formerly Les Enterprises Atlas (1985) Inc.). | | |
| Cooper Creek Cedar Ltd.. | | |
| Cottles Island Lumber Co. Ltd.. | | |
| Cowichan Lumber Ltd.. | | |
| Crystal Forest Industries Ltd.. | | |
| Curley Cedar Post & Rail. | | |
| Cushman Lumber Company Inc.. | | |
| D. S. McFall Holdings Ltd.. | | |
| Dakeryn Industries Ltd.. | | |
| Deep Cove Lumber. | | |
| Delco Forest Products/Delco Forest Products Ltd.. | | |
| Delta Cedar Products. | | |
| Devlin Timber Company (1992) Limited. | | |
| Devon Lumber Co. Ltd.. | | |
| Doman Forest Products Limited. | | |
| Doman Industries Limited. | | |

| Producer/Exporter | Original Weighted–Average Margin (Percentage) | Amended Weighted–Average Margin (Percentage) |
|---|---|---|
| Doman Western Lumber Ltd.. | | |
| Domexport Inc.. | | |
| Domtar Inc.. | | |
| Downie Timber Ltd.. | | |
| Dunkley Lumber Ltd.. | | |
| E. Tremblay Et. Fils Ltee.. | | |
| Eacan Timber Canada Ltd.. | | |
| Eacan Timber Limited/Eacan Timber Ltd.. | | |
| Eacan Timber USA Ltd.. | | |
| East Fraser Fiber Co. Ltd.. | | |
| Eastwood Forest Products Inc.. | | |
| Ed Bobocel Lumber 1993 Ltd.. | | |
| Edwin Blaikie Lumber Ltd.. | | |
| Elmira Wood Products Limited. | | |
| Elmsdale Lumber Company Ltd./Elmsdale Lumber Co., Ltd.. | | |
| ER Probyn Export Ltd.. | | |
| Errington Cedar Products. | | |
| Evergreen Empire Mills Incorporated. | | |
| EW Marketing. | | |
| F.L. Bodogh Lumber Co. Ltd.. | | |
| Falcon Lumber Limited. | | |
| Faulkner Wood Specialties Limited. | | |
| Federated Co–operatives Limited. | | |
| Fenclo Ltee.. | | |
| Finmac Lumber Limited. | | |
| Fontaine Inc. (dba J. A. Fontaine et fils Incorporee), Bois Fontaine Inc.. Gestion Natanis Inc., and Les Placements Jean–Paul Fontaine Ltee.[11] | | |
| Forex Log & Lumber. | | |
| Forstex Industries Inc.. | | |
| Forwest Wood Specialties Inc.. | | |
| Fraser Pacific Forest Products Inc.. | | |
| Fraser Pacific Lumber Company. | | |
| Fraser Papers Inc.. | | |
| Fraser Pulp Chips Ltd.. | | |
| Frasierview Cedar Products Ltd.. | | |
| Frontier Mills Inc.. | | |
| G.D.S. Valoribois Inc.. | | |
| Galloway Lumber Co. Ltd.. | | |
| Gerard Crete & Fils Inc.. | | |
| Gestofor Inc.. | | |
| Gogama Forest Products. | | |
| Goldwood Industries Ltd.. | | |
| Gorman Bros. Lumber Ltd.. | | |
| Great Lakes MSR Lumber Ltd.. | | |
| Greenwood Forest Products. | | |
| Groupe Lebel. | | |
| H. A. Fawcett & Son Limited. | | |
| H. J. Crabbe & Sons Ltd.. | | |
| Haida Forest Products Ltd.. | | |
| Hainesville Sawmill Ltd.. | | |
| Harrison's Home Building Centers. | | |
| Harry Freeman & Son Ltd./Harry Freeman & Son Limited. | | |
| Hefler Forest Products Ltd.. | | |
| Hi–Knoll Cedar Inc.. | | |
| Hilmoe Forest Products Ltd.. | | |
| Hoeg Brothers Lumber Ltd.. | | |
| Holdright Lumber Products Ltd.. | | |
| Hudson Mitchell & Sons Lumber Inc.. | | |
| Hughes Lumber Specialties Inc.. | | |
| Hyak Specialty Wood Products Ltd.. | | |
| Industrial Wood Specialties. | | |
| Industries G.D.S. Inc.. | | |
| Industries Perron Inc.. | | |
| Interior Joinery Ltd.. | | |
| International Forest Products Ltd.. | | |
| Isidore Roy Limited. | | |
| Ivor Forest Products Ltd.. | | |
| J & G Logworks. | | |
| J. A. Turner & Sons (1987) Limited. | | |
| J.D. Irving, Ltd.. | | |
| J.S. Jones Timber Ltd.. | | |
| Jackpine Engineered Wood Products. | | |
| Jackpine Forest Products Ltd.. | | |

| Producer/Exporter | Original Weighted–Average Margin (Percentage) | Amended Weighted–Average Margin (Percentage) |
|---|---|---|
| Jackpine Group of Companies. | | |
| Jamestown Lumber Company Limited/Jamestown Lumber Company Ltd.. | | |
| Jasco Forest Products Ltd.. | | |
| Jeffery Hanson. | | |
| Julimar Lumber Co. Limited. | | |
| Kenora Forest Products Ltd.. | | |
| Kent Trusses Ltd.. | | |
| Kenwood Lumber Ltd.. | | |
| Kispiox Forest Products. | | |
| Kitwanga Lumber Co. Ltd.. | | |
| Kruger, Inc.. | | |
| La Crete Sawmills Ltd.. | | |
| Lakeburn Lumber Limited. | | |
| Lamco Forest Products. | | |
| Landmark Structural Lumber. | | |
| Landmark Truss & Lumber Inc.. | | |
| Langely Timber Company Ltd.. | | |
| Langevin Forest Products, Inc.. | | |
| Lattes Waska Laths Inc.. | | |
| Lawsons Lumber Company Ltd.. | | |
| Lecours Lumber Co. Limited. | | |
| Ledwidge Lumber Co., Ltd.. | | |
| Leggett & Platt (B.C.) Ltd.. | | |
| Leggett & Platt Inc.. | | |
| Leggett & Platt Ltd.. | | |
| Les Bois d'Oeuvre Beaudoin & Gauthier Inc.. | | |
| Les Bois S &P Grondin Inc.. | | |
| Les Chantiers Chibougamau Ltee. | | |
| Les Produits Forestiers D. G. Ltee.. | | |
| Les Produits Forestiers Dube Inc.. | | |
| Les Produits Forestiers F.B.M. Inc.. | | |
| Les Produits Forestiers Maxibois Inc.. | | |
| Les Produits Forestiers Miradas Inc.(Miradas Forest Products Inc.). | | |
| Les Scieries Du Lac St–Jean Inc.. | | |
| Les Scieries Jocelyn Lavoie Inc.. | | |
| Leslie Forest Products Ltd.. | | |
| Lignum Ltd.. | | |
| Lindsay Lumber Ltd.. | | |
| Liskeard Lumber Limited. | | |
| Littles Lumber Ltd.. | | |
| Lonestar Lumber Inc.. | | |
| Louisiana Pacific Corporation. | | |
| Lousiana Malakwa. | | |
| LP Canada Ltd.. | | |
| LP Engineered Wood Products Ltd.. | | |
| Lulumco Inc.. | | |
| Lyle Forest Products Ltd.. | | |
| M & G Higgins Lumber Ltd.. | | |
| M. L. Wilkins & Son Ltd.. | | |
| MacTara Limited. | | |
| Maibec Industries Inc. (Industries Maibec Inc.). | | |
| Manitou Forest Products Ltd.. | | |
| Maple Creek Saw Mills Inc.. | | |
| Marcel Lauzon Inc.. | | |
| Marine Way. | | |
| Marwood Inc.. | | |
| Marwood Ltd.. | | |
| Materiaux Blanchet Inc.. | | |
| Max Meilleur et Fils Ltee.. | | |
| McCorquindale Holdings Ltd.. | | |
| McNutt Lumber Company Ltd.. | | |
| Mercury Manufacturing Inc.. | | |
| Meunier Lumber Company Ltd.. | | |
| MF Bernard Inc.. | | |
| Mid America Lumber. | | |
| ≤Mid Valley Lumber Specialties Ltd.. | | |
| Midway Lumber Mills Ltd.. | | |
| Mill & Timber Products Ltd.. | | |
| Millar Western Forest Products Ltd.. | | |
| Millco Wood Products Ltd.. | | |
| Miramichi Lumber Products. | | |
| Mobilier Rustique (Beauce) Inc.. | | |
| Monterra Lumber Mills Limited. | | |

| Producer/Exporter | Original Weighted–Average Margin (Percentage) | Amended Weighted–Average Margin (Percentage) |
|---|---|---|
| Mountain View Specialty Reload Inc.. | | |
| Murray A Reeves Forestry Limited. | | |
| Murray Bros. Lumber Company Limited. | | |
| N. F. Douglas Lumber Limited/N. F. Douglas Lumber Ltd.. | | |
| Nechako Lumber Co., Ltd.. | | |
| Newcastle Lumber Co. Inc.. | | |
| Nexfor Inc.. | | |
| Nexfor Norbord. | | |
| Nicholson and Cates Limited. | | |
| Nickel Lake Lumber. | | |
| Norbord Industries Inc.. | | |
| Norbord Juniper and Norbord's sawmills at La Sarre Senneterre Quebec. | | |
| NorSask Forest Products Inc.. | | |
| North American Forest Products/North American Forest Products Ltd.. | | |
| North American Forest Products Ltd. (Division Belanger). | | |
| North Atlantic Lumber Inc.. | | |
| North Enderby Distribution Ltd. (N.E. Distribution). | | |
| North Enderby Timber Ltd.. | | |
| North Mitchell Lumber Co. Ltd., Saran Cedar. | | |
| North Shore Timber Ltd.. | | |
| North Star Wholesale Lumber Ltd.. | | |
| Northchip Ltd.. | | |
| Northland Forest Products Ltd.. | | |
| Olav Haavaldsrud Timber Company Limited. | | |
| Olympic Industries Inc.. | | |
| Optibois Inc.. | | |
| P.A. Lumber & Planning Limited. | | |
| Pacific Lumber Company. | | |
| Pacific Lumber Remanufacturing Inc.. | | |
| Pacific Northern Rail Contractors Corp.. | | |
| Pacific Specialty Wood Products Ltd. (formerly Clearwood Industries Ltd.). | | |
| Pacific Wood Specialties. | | |
| Pallan Timber Products Ltd.. | | |
| Palliser Lumber Sales Ltd.. | | |
| Pan West Wood Products Ltd.. | | |
| Paragon Ventures Ltd. (Vernon Kiln and Millwork, Ltd. and 582912 BC, Ltd.). | | |
| Parallel Wood Products Ltd.. | | |
| Pastway Planing Limited. | | |
| Pat Power Forest Products Corporation. | | |
| Patrick Lumber Company. | | |
| Paul Vallee Inc.. | | |
| Peak Forest Products Ltd.. | | |
| Pharlap Forest Products Inc.. | | |
| Pheonix Forest Products Inc.. | | |
| Pleasant Valley Remanufacturing Ltd.. | | |
| Pope & Talbot Inc./Pope & Talbot Ltd.. | | |
| Porcupine Wood Products Ltd.. | | |
| Portbec Forest Products Ltd. (Les Produits Forestiers Portbec Ltee.). | | |
| Portelance Lumber Capreol Ltd.. | | |
| Power Wood Corp.. | | |
| Precibois Inc.. | | |
| Preparabois (2003) Inc.. | | |
| Prime Lumber Limited. | | |
| Pro Lumber Inc.. | | |
| P. Proulx Forest Products Inc. (aka Proulx, Proulx Forest Products Inc. and Produits Forestiers P. Proulx Inc.). | | |
| Produits Forestiers Arbec Inc.[12]. | | |
| Promobois G.D.S. Inc.. | | |
| R. Fryer Forest Products Limited. | | |
| Raintree Forest Products Inc.. | | |
| Raintree Lumber Specialties Ltd.. | | |
| Ramco Lumber Ltd.. | | |
| Redtree Cedar Products Ltd.. | | |
| Redwood Value Added Products Inc.. | | |
| Rembos Inc.. | | |
| Rene Bernard Inc.. | | |
| Ridgewood Forest Products Ltd./Ridgewood Forest Products Limited. | | |
| Rielly Industrial Lumber Inc.. | | |
| Riverside Forest Products Limited. | | |
| Rocam Lumber Inc. (Bois Rocam Inc.). | | |
| Rojac Cedar Products Inc.. | | |
| Rojac Enterprises Inc.. | | |
| Roland Boulanger & Cie Ltee.. | | |

| Producer/Exporter | Original Weighted–Average Margin (Percentage) | Amended Weighted–Average Margin (Percentage) |
|---|---|---|
| Russell White Lumber Limited. | | |
| Sauder Moldings, Inc. (Ferndale). | | |
| Sauder Industries Limited. | | |
| Scierie A&M St–Pierre Inc.. | | |
| Scierie Adrien Arseneault Ltee.. | | |
| Scierie Alexandre Lemay & Fils Inc.. | | |
| Scierie Chaleur/Scierie Chaleur Associes. | | |
| Scierie Dion et Fils Inc.. | | |
| Scierie Gallichan Inc.. | | |
| Scierie Gauthier Ltee.. | | |
| Scierie La Patrie, Inc.. | | |
| Scierie Landrienne Inc.. | | |
| Scierie Lapointe & Roy Ltee.. | | |
| Scierie Leduc, Division of Stadacona Inc.. | | |
| Scierie Nord–Sud Inc. (North–South Sawmill Inc.). | | |
| Scierie P.S.E. Inc.. | | |
| Scierie St. Elzear Inc.. | | |
| Scierie Tech Inc.. | | |
| Scieries du Lac St. Jean Inc.. | | |
| Selkirk Specialty Wood Ltd.. | | |
| Sexton Lumber/Sexton Lumber Co. Limited. | | |
| Seycove Forest Products Limited. | | |
| Seymour Creek Cedar Products Ltd.. | | |
| Shawood Lumber Inc.. | | |
| Sigurdson Bros. Logging Company Ltd./Sigurdson Brothers Logging Company Ltd.. | | |
| Silvermere Forest Products Inc.. | | |
| Sinclar Enterprises Ltd.*. | | |
| South Beach Trading Inc.. | | |
| South River Planing Mills Inc.. | | |
| South–East Forest Products Ltd.. | | |
| Spray Lake Sawmills (1980) Ltd.. | | |
| Spruce Forest Products Ltd.. | | |
| Spruce Products Ltd.. | | |
| St. Anthony Lathing Ltd.. | | |
| Stag Timber. | | |
| Stuart Lake Lumber Co. Ltd.. | | |
| Stuart Lake Marketing Inc./Stuart Lake Marketing Corporation. | | |
| Sunbury Cedar Sales Ltd.. | | |
| Suncoast Lumber & Milling. | | |
| Sundance Forest Industries. | | |
| SWP Industries Inc.. | | |
| Sylvanex Lumber Products Inc.. | | |
| Tall Tree Lumber Company. | | |
| Tarpin Lumber Incorporated. | | |
| Taylor Lumber Company Ltd.. | | |
| Teal Cedar Products Ltd.. | | |
| Teal–Jones Group. | | |
| Teeda Corp.. | | |
| Terminal Forest Products Ltd.. | | |
| T.F. Specialty Sawmill. | | |
| TFL Forest Ltd./TimberWest Forest Corp./Timber West Forest Company. | | |
| Timber Ridge Forest Products. | | |
| TimberWorld Forest Products Inc.. | | |
| T'loh Forest Products Limited. | | |
| Top Quality Lumber Ltd.. | | |
| T. P. Downey & Sons Ltd.. | | |
| Treeline Wood Products Ltd.. | | |
| Triad Forest Products. | | |
| Twin Rivers Cedar Products Ltd.. | | |
| Tyee Timber Products Ltd.. | | |
| Uneeda Wood Products. | | |
| Uniforet Inc.. | | |
| Uniforet Scierie–Pate. | | |
| Vancouver Specialty Cedar Products/Vancouver Specialty Cedar Products Ltd.. | | |
| Vanderhoof Specialty Wood Products. | | |
| Vandermeer Forest Products (Canada) Ltd.. | | |
| Vanderwell Contractors (1971) Ltd.. | | |
| Vanport Canada, Co.. | | |
| Vernon Kiln and Millwork, Ltd.. | | |
| Visscher Lumber Inc.. | | |
| W. C. Edwards Lumber. | | |

| Producer/Exporter | Original Weighted–Average Margin (Percentage) | Amended Weighted–Average Margin (Percentage) |
|---|---|---|
| W. I. Woodtone Industries Inc.. | | |
| Welco Lumber Corporation. | | |
| Wentworth Lumber Ltd.. | | |
| Werenham Forest Products. | | |
| West Bay Forest Products & Manufacturing Ltd./West Bay Forest Products and Manufacturing Ltd./West Bay Forest Products & Mfg. Ltd.. | | |
| West Can Rail Ltd.. | | |
| West Chilcotin Forest Products Ltd.. | | |
| West Hastings Lumber Products. | | |
| Western Forest Products Inc.[13]. | | |
| WFP Forest Products Limited. | | |
| WFP Lumber Sales Limited. | | |
| WFP Western Lumber Ltd.. | | |
| Weston Forest Corp.. | | |
| West–Wood Industries/West–Wood Industries Ltd.. | | |
| White Spruce Forst Products Ltd.. | | |
| Wilfrid Paquet & Fils Ltee.. | | |
| Wilkerson Forest Products Ltd.. | | |
| Williams Brothers Limited/Williams Brothers Ltd.. | | |
| Winnipeg Forest Products, Inc.. | | |
| Woodko Enterprises, Ltd.. | | |
| Woodland Forest Products Ltd.. | | |
| Woodline Forest Products Ltd.. | | |
| Woodtone Industries Inc.. | | |
| Woodwise Lumber Ltd.. | | |
| Wynndel Box & Lumber Co. Ltd.. | | |
| Zelensky Bros. Forest Products | 2.11 | 2.10 |

[7] Abitibi Consolidated Company of Canada was inadvertently omitted for the final results.

[8] We note that Nakina Forest Products Limited is a division of Long Lake Forest Products, Inc., an affiliate of Buchanan Lumber Sales.

[9] Canfor's weighted-average margin is based upon a weighted-average of Canfor's and Slocan's respective cash deposit rates prior to the merger. *See* Memorandum from Salim Bhabhrawala, International Trade Compliance Analyst to The File, Re: Analysis Memorandum For Canfor Corporation (December 5, 2005). We also note that, during the POR, Sinclar Enterprises Ltd. (Sinclar) acted as an affiliated reseller for Lakeland, an affiliate of Canfor. In this review, we reviewed the sales of Canfor and its affiliates; therefore, Canfor's weighted-average margin applies to all sales of subject merchandise produced by any member of the Canfor Group and sold by Sinclar. As Sinclar also separately requested a review, any sales of subject merchandise produced by another manufacturer and sold by Sinclar will receive the ''Review-Specific Average'' rate. Finally, we note that Canadian Forest Products, Ltd. is a wholly owned subsidiary of Canfor and will receive Canfor's weighted-average margin.

[10] In the *Preliminary Results*, we listed companies on the review-specific rate list that did not request a review or have a review requested on them for the current review. Therefore, we have removed the following companies from the review specific-rate list for the final results: AFA Forest Products Inc., Associated Cedar Products, Ivis Wood Products, Lazy S Lumber, Mary's River Lumber, New West Lumber Ltd., Quadra Wood Products Ltd., Schols Cedar Products, Standard Building Products Ltd., Still Creek Forest Products Ltd., Taiga Forest Products, Western Cleanwood Preservers Ltd. and Western Wood Preservers Ltd. All of the above companies participated in the 1st Administrative Review and will continue to receive the review-specific average rate (3.78%) from that review.

[11] In the *Preliminary Results*, we incorrectly listed Les Placements Jean-Paul Fontaine Ltee. as Paul Fontaine Ltee. and also as Les Placements Jean-Paul Fontaine Ltee. To correct this error we have removed Paul Fontaine Ltee. from the review-specific average rate list.

[12] On October 13, 2005, we found that Produits Forestiers Arbec Inc. was the successor-in-interest to Unforet Inc. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada*, 70 FR 59721 (October 13, 2005). We inadvertently omitted the new name in the final results and are including it here.

[13] On August 19, 2005, we found that Western Forest Products Inc. and its subsidiaries, WFP Products Limited, WFP Western Lumber Ltd., and WFP Lumber Sales Limited, were the successors-in-interest to Doman Industries Limited, Doman Forest Products Limited, and Doman Western Lumber Ltd. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada*, 70 FR 48673 (August 19, 2005). We inadvertently omitted the new names in the final results and are including them here.

## Cash Deposit Rates

Furthermore, the following deposit requirements will be effective upon publication of the amended final results of this administrative review for all shipments of certain softwood lumber products from Canada entered, or 0withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a) of the Act: 1) for companies covered by this review, the cash deposit rate will be the rate listed above; 2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, a prior review, or the original less–than-fair–value investigation, but the producer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other producers or exporters will be 11.54 percent, the ''All Others'' rate calculated in the Department's recent determination under section 129 of the Uruguay Round Agreements Act. *See Notice of Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Softwood Lumber Products from Canada*, 70 FR 22636 (May 2, 2005). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

## Assessment Rates

In accordance with section 19 CFR 356.8(a), the Department will issue appropriate assessment instructions directly to CBP on or after 41 days following the publication of these amended final results of review.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1), 751(h) and 771(i)(1) of the Act.

Dated: February 8, 2006.

**David M. Spooner,**

*Assistant Secretaryfor Import Administration.*

[FR Doc. E6–2090 Filed 2–13–06; 8:45 am]

BILLING CODE 3510–DS–S

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–475–823]**

### Stainless Steel Plate in Coils from Italy: Preliminary Results of Countervailing Duty Changed Circumstances Review and Intent to Revoke Order

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

**SUMMARY:** On January 4, 2006, in response to a request by domestic producers of the subject merchandise, the Department of Commerce (''the Department'') published a notice of initiation of a changed circumstances review of the countervailing duty order on stainless steel plate in coils, as described below. *See Stainless Steel Plate in Coils from Italy: Initiation of Countervailing Duty Changed Circumstances Review and Notice of Consideration of Revocation of Order*, 71 FR 328 (January 4, 2006) (''*Initiation Notice*'').

In the *Initiation Notice*, we invited interested parties to comment on the Department's initiation and the proposed revocation of the countervailing duty order on stainless steel plate in coils from Italy. We did not receive any comments. Absent any comments, we preliminarily conclude that producers accounting for substantially all of the production of the domestic like product to which this order pertains lack interest in the relief provided by the order. Therefore, we preliminarily revoke this order, in whole, with respect to products entered, or withdrawn from warehouse, for consumption on or after September 4, 1998, *i.e.*, the publication date of the Department's preliminary determination in the underlying investigation, because domestic parties have expressed no interest in the continuation of the order. *See Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Stainless Steel Plate in Coils from Italy*, 63 FR 47246 (September 4, 1998) (''*Preliminary Determination*''). Unless the Department receives opposition from domestic producers whose production totals more than 15 percent of the domestic like product, the Department will revoke the order on stainless steel plate in coils in the final results of this review.

**EFFECTIVE DATE:** February 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** Brandon Farlander or Audrey R. Twyman, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0182 and (202) 482–3534, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On May 11, 1999, the Department of Commerce (the ''Department'') published a countervailing duty order on stainless steel plate in coils (''SSPC'') from Italy. *See Notice of Amended Final Determinations: Stainless Steel Plate in Coils from Belgium and South Africa; and Notice of Countervailing Duty Orders: Stainless Steel Plate in Coils from Belgium, Italy and South Africa*, 64 FR 25288 (May 11, 1999). The order was amended on March 11, 2003. *See Notice of Amended Countervailing Duty Orders; Certain Stainless Steel Plate in Coils from Belgium, Italy, and South Africa*, 68 FR 11524 (March 11, 2003). The amended order was corrected on April 24, 2003. *See Certain Stainless Steel Plate in Coils from Belgium, Italy, and South Africa; Notice of Correction to the Amended Countervailing Duty Orders*, 68 FR 20115 (April 24, 2003).

On December 2, 2005, the Department received a request from Allegheny Ludlum Corporation and AK Steel Corporation, some of the petitioners in the original investigation (''petitioners''), that the Department initiate a changed circumstances review for purposes of revoking the countervailing duty (''CVD'') order. Also, it is the petitioners' understanding that, upon revocation of the CVD order, the Department will fully refund any countervailing duties deposited pursuant to the order on unliquidated entries. The petitioners state that they are no longer interested in maintaining the countervailing duty order or in the imposition of CVD duties on the subject merchandise.

On January 4, 2006, the Department published a notice of initiation of a changed circumstances review of the countervailing duty order on SSPC from Italy. *See Initiation Notice*. In the *Initiation Notice*, we indicated interested parties could submit comments for consideration in the Department's preliminary results not later than 14 days after publication of the initiation of the review, and submit responses to those comments not later than 5 days following the submission of comments. No comments were received.

#### Scope of the Order

The product covered by this order is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat–rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold–rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order are the following: (1) plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise subject to this order is dispositive.

#### Preliminary Results of Review and Intent to Revoke in Whole

Pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.222(g), the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives the Department the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the continuation of the order. Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed

circumstances review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that (i) producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or (ii) if other changed circumstances sufficient to warrant revocation exist. The Department has interpreted ''substantially all'' production normally to mean at least 85 percent of domestic production of the like product. *See Certain Tin Mill Products From Japan: Final Results of Changed Circumstances Review*, 66 FR 52109 (October 12, 2001).

As noted above and in the *Initiation Notice*, the petitioners requested this changed circumstances review on the basis that they are no longer interested in maintaining the countervailing duty order or in the imposition of CVD duties on the subject merchandise. Because the Department did not receive any comments during the comment period opposing this changed circumstances review, we preliminarily conclude that producers accounting for substantially all of the production of the domestic like product, to which this order pertains, lack interest in the relief provided by the order. In accordance with 19 CFR 351.222(g), the Department preliminarily determines that there is a reasonable basis to believe that changed circumstances exist and that it is sufficient to warrant revocation of the order. Therefore, the Department is preliminarily revoking the order on SSPC from Italy, in whole. Unless the Department receives opposition within the time limit set forth below from domestic producers whose production totals more than 15 percent of the domestic like product, the Department will revoke the order on SSPC in its final results of this review.

If, as a result of this review, we revoke the order, we intend to instruct U.S. Customs and Border Protection (''CBP'') to liquidate without regard to applicable countervailing duties and refund any estimated countervailing duties collected on all unliquidated entries of the merchandise subject to the order, as described above in the ''Scope of the Order'' section, entered, or withdrawn from warehouse, for consumption on or after September 4, 1998, *i.e.*, the publication date of the Department's *Preliminary Determination* in the underlying investigation. We will also instruct CBP to pay interest on such refunds with respect to the subject merchandise entered, or withdrawn from warehouse, for consumption on or after May 11, 1999, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated countervailing duties on the subject merchandise will continue unless, and until, we publish a final determination to revoke in whole.

**Public Comment**

Interested parties may submit case briefs not later than 14 days after the date of publication of this notice. *See* 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, which must be limited to issues raised in such case briefs, may be filed not later than 19 days after the date of publication of this notice. *See* 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Any interested party may request a hearing within 14 days of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, may be held 22 days after the date of publication of this notice, or the first working day thereafter, as practicable.

Consistent with section 351.216(e) of the Department's regulations, we will issue the final results of this changed circumstances review not later than 270 days after the date on which this review was initiated.

This notice is published in accordance with sections 751(b)(1) and 771(i)(1) of the Act and sections 351.216 and 351.222 of the Department's regulations.

Dated: February 8, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E6–2093 Filed 2–13–06; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–475–825]**

### Stainless Steel Sheet and Strip in Coils from Italy: Preliminary Results of Countervailing Duty Changed Circumstances Review and Intent to Revoke Order

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

**SUMMARY:** On January 4, 2006, in response to a request by domestic producers of the subject merchandise, the Department of Commerce (''the Department'') published a notice of initiation of a changed circumstances review of the countervailing duty order on stainless steel plate in coils, as described below. *See Stainless Steel Sheet and Strip in Coils from Italy: Initiation of Countervailing Duty Changed Circumstances Review and Notice of Consideration of Revocation of Order*, 71 FR 329 (January 4, 2006) (''*Initiation Notice*'').

In the *Initiation Notice*, we invited interested parties to comment on the Department's initiation and the proposed revocation of the countervailing duty order on stainless steel sheet and strip in coils from Italy. We did not receive any comments. Absent any comments, we preliminarily conclude that producers accounting for substantially all of the production of the domestic like product to which this order pertains lack interest in the relief provided by the order. Therefore, we preliminarily revoke this order, in whole, with respect to products entered, or withdrawn from warehouse, for consumption on or after November 17, 1998, *i.e.*, the publication date of the Department's preliminary determination in the underlying investigation, because domestic parties have expressed no interest in the continuation of the order. *See Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Stainless Steel Sheet and Strip in Coils from Italy*, 63 FR 63900 (November 17, 1998) (''*Preliminary Determination*''). Unless the Department receives opposition from domestic producers whose production totals more than 15 percent of the domestic like product, the Department will revoke the order on stainless steel sheet and strip in coils in the final results of this review.

**EFFECTIVE DATE:** February 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** Brandon Farlander or Audrey R. Twyman, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0182 and (202) 482–3534, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 6, 1999, the Department of Commerce (the ''Department'') published a countervailing duty order on stainless steel sheet and strip in coils (''SSSS'') from Italy. *See Amended Final Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea; and Notice of Countervailing Duty Orders: Stainless Steel Sheet and Strip in Coils from France, Italy, and the Republic of Korea*, 64 FR 42923 (August

6, 1999). On December 2, 2005, the Department received a request from Allegheny Ludlum Corporation and AK Steel Corporation, some of the petitioners in the original investigation (''petitioners''), that the Department initiate a changed circumstances review for purposes of revoking the countervailing duty (''CVD'') order. Also, it is the petitioners' understanding that, upon revocation of the CVD order, the Department will fully refund any countervailing duties deposited pursuant to the order on unliquidated entries. The petitioners state that they are no longer interested in maintaining the countervailing duty order or in the imposition of CVD duties on the subject merchandise.

On January 4, 2006, the Department published a notice of initiation of a changed circumstances review of the countervailing duty order on SSSS from Italy. *See Initiation Notice*. In the *Initiation Notice*, we indicated interested parties could submit comments for consideration in the Department's preliminary results not later than 14 days after publication of the initiation of the review, and submit responses to those comments not later than 5 days following the submission of comments. No comments were received.

**Scope of the Order**

The products covered by this order are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat–rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold–rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at the following subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise covered by this order is dispositive.

Excluded from the scope of this order are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (i.e., flat–rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (i.e., cold–rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and (5) razor blade steel. Razor blade steel is a flat–rolled product of stainless steel, not further worked than cold–rolled (cold–reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

In response to comments by interested parties the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below:

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus–or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron–chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.''[1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non–magnetic stainless steel manufactured to American Society of Testing and

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high–temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.''[2]

Certain martensitic precipitation–hardenable stainless steel is also excluded from the scope of this order. This high–strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.''[3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[4] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent, and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6.''[5]

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

[5] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

## Preliminary Results of Review and Intent to Revoke in Whole

Pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.222(g), the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives the Department the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the continuation of the order. Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that (i) producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or (ii) if other changed circumstances sufficient to warrant revocation exist. The Department has interpreted ''substantially all'' production normally to mean at least 85 percent of domestic production of the like product. *See Certain Tin Mill Products From Japan: Final Results of Changed Circumstances Review*, 66 FR 52109 (October 12, 2001).

As noted above and in the *Initiation Notice*, the petitioners requested this changed circumstances review on the basis that they are no longer interested in maintaining the countervailing duty order or in the imposition of CVD duties on the subject merchandise. Because the Department did not receive any comments during the comment period opposing this changed circumstances review, we preliminarily conclude that producers accounting for substantially all of the production of the domestic like product, to which this order pertains, lack interest in the relief provided by the order. In accordance with 19 CFR 351.222(g), the Department preliminarily determines that there is a reasonable basis to believe that changed circumstances exist and that it is sufficient to warrant revocation of the order. Therefore, the Department is preliminarily revoking the order on SSSS from Italy, in whole. Unless the Department receives opposition within the time limit set forth below from domestic producers whose production totals more than 15 percent of the domestic like product, the Department will revoke the order on SSSS in its final results of this review.

If, as a result of this review, we revoke the order, we intend to instruct U.S. Customs and Border Protection (''CBP'') to liquidate without regard to applicable countervailing duties and refund any estimated countervailing duties collected on all unliquidated entries of the merchandise subject to the order, as described above in the ''Scope of the Order'' section, entered, or withdrawn from warehouse, for consumption on or after November 17, 1998, *i.e.*, the publication date of the Department's *Preliminary Determination* in the underlying investigation. We will also instruct CBP to pay interest on such refunds with respect to the subject merchandise entered, or withdrawn from warehouse, for consumption on or after August 6, 1999, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated countervailing duties on the subject merchandise will continue unless, and until, we publish a final determination to revoke in whole.

## Public Comment

Interested parties may submit case briefs not later than 14 days after the date of publication of this notice. *See* 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, which must be limited to issues raised in such case briefs, may be filed not later than 19 days after the date of publication of this notice. *See* 19 CFR 351.309(d). Parties who submit arguments are requested to submit with

the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Any interested party may request a hearing within 14 days of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, may be held 22 days after the date of publication of this notice, or the first working day thereafter, as practicable.

Consistent with section 351.216(e) of the Department's regulations, we will issue the final results of this changed circumstances review not later than 270 days after the date on which this review was initiated.

This notice is published in accordance with section 751(b)(1) and 771(i)(1) of the Act and sections 351.216 and 351.222 of the Department's regulations.

Dated: February 8, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E6–2087 Filed 2–13–06; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration, North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

**AGENCY:** NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of decision of panel.

**SUMMARY:** On February 8, 2006, the binational panel issued its decision in the review of the final determination made by the International Trade Administration, respecting Oil Country Tubular Goods from Mexico Final Results of Sunset Review of Antidumping Duty Order, Secretariat File No. USA–MEX–2001–1904–03. The binational panel remanded the redetermination on remand to the International Trade Administration. Copies of the panel decision are available from the U.S. Section of the NAFTA Secretariat.

**FOR FURTHER INFORMATION CONTACT:** Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

**SUPPLEMENTARY INFORMATION:** Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of the final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter has been conducted in accordance with these Rules.

*Panel Decision:* The Panel concluded and ordered the Department as follows:

The Department is directed to determine whether the decrease in the magnitude of TAMSA's foreign currency denominated debt in the sunset review period outweighs the ''likelihood'' presumption that results from the decrease in TAMSA's post-order exports.

If the Department determines that the lower level of TAMSA's foreign currency denominated debt does not outweigh the ''likelihood'' presumption that results from the decrease in TAMSA's post-order exports, the Department is directed to explain the reasons leading to its determination.

If the Department determines that the lower level of TAMSA's foreign currency denominated debt in fact outweighs the ''likelihood'' presumption that results from the decrease in TAMSA's post-order exports, the Department is directed to enter a finding of no likelihood of continuation or recurrence of dumping.

The Department is further directed to issue its Final Redetermination on Remand within twenty days from the date of this Panel Decision.

The Department was directed to report the results of its remand decision within 20 days of the date of the opinion, or not later than February 28, 2006.

Dated: February 8, 2006.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

[FR Doc. E6–2073 Filed 2–13–06; 8:45 am]

**BILLING CODE 3510–GT–P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### Announcing a National Voluntary Laboratory Accreditation Program Workshop for Laboratories Interested in the NIST Personal Identity Verification Program (NPIVP)

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of public workshop.

**SUMMARY:** The National Voluntary Laboratory Accreditation Program (NVLAP) and National Institute of Standards and Technology (NIST) Personal Identity Verification Program (NPIVP) will hold a public workshop on March 3, 2006, at NIST headquarters in Gaithersburg, MD. The purpose of the workshop is the exchange of information among NVLAP, laboratories interested in seeking accreditation for the testing of Personal Identity Verification (PIV) components, vendors interested in having their product NPIVP-certified and Federal agencies seeking NPIVP certified products. The workshop will also review the mandates of Homeland Security Presidential Directive (HSPD) 12, as well as Federal Information Processing Standard (FIPS) 201, Standard for Personal Identity Verification of Federal Employees and Contractors, and the associated Special Publications (SP) in general and more specific in relation to NVLAP, interested laboratories, vendors and Federal agencies. The results of the workshop discussions will be used in the development of the NVLAP Personal Identity Verification (PIV) Laboratory Accreditation Program (PIV LAP).

There is no charge for the workshop; however, because of security regulations, advance registration is mandatory. There will be no on-site, same-day registration. The registration deadline is Monday, February 27, 2006. A registration form can be found at *http://csrc.nist.gov/npivp/*. Please e-mail the registration to *npivp@nist.gov* or fax the registration form with your name, address, telephone, fax and e-mail address to (301) 948–2067 (Attn: Hildegard Ferraiolo) no later than February 27, 2006.

**DATES:** The workshop will be held on Friday, March 3, 2006, from 9 a.m. to 4:30 p.m.

**ADDRESSES:** The workshop will be held in the Administrative Building (Building 101), Lecture Room A, National Institute of Standards and

Technology, 100 Bureau Drive, Gaithersburg, MD.

**FOR FURTHER INFORMATION CONTACT:** Hildy Ferraiolo, (301) 975–6972, e-mail: *hildegrard.ferraiolo@nist.gov* or Erika McCallister, (301) 975–3390, e-mail: *erika.mccallister@nist.gov.* Their mailing address is: National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930. Information regarding NVLAP and the accreditation process can also be viewed at *http://www.nist.gov/nvlap.*

**SUPPLEMENTARY INFORMATION:** In response to Homeland Security Presidential Directive (HSPD) 12, the NIST Computer Security Division initiated a new program for improving the identification and authentication of Federal employees and contractors for access to Federal facilities and information systems. Federal Information Processing Standard (FIPS) 201, entitled Personal Identity Verification (PIV) of Federal Employees and Contractors, was developed to satisfy the requirements of HSPD 12, approved by the Secretary of Commerce, and issued on February 25, 2005.

To meet the interoperability requirements as specified in HSPD–12 and implemented in FIPS 201 and associated Special Publications (SP), NIST has established the NIST Personal Identity Verification Program (NPIVP) to certify interoperable Personal Identity Verification (PIV) components and sub-systems.

In furtherance of NPIVP, the National Voluntary Laboratory Accreditation Program (NVLAP) is establishing a program for laboratories that test PIV components and sub-systems for conformance to the interoperability requirements of FIPS 201 and associated special publications.

NVLAP accreditation criteria are established in accordance with the Code of Federal Regulations (15 CFR part 285), NVLAP Procedures and General Requirements. Laboratories conducting this testing will be required to meet ISO/IEC International Standard 17025, general requirements for the competence of testing and calibration laboratories. For each new laboratory accreditation program (LAP), NVLAP works with the affected testing community to develop program-specific technical requirements. These requirements tailor the general accreditation criteria referenced in Sections 4 and 5 of NIST Handbook 150 to the test and services in the new LAP. Program-specific requirements include the details of the scope of accreditation, test and measurement equipment, personnel requirements, validation of test methods, and reporting of test results.

**Authority:** This work effort is being initiated pursuant to NIST's responsibilities under the Federal Information Security Management Act of 2002.

Dated: February 8, 2006.

**William Jeffrey,**

*Director.*

[FR Doc. E6–2049 Filed 2–13–06; 8:45 am]

**BILLING CODE 3510–CN–P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 020806D]**

### North Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The North Pacific Fishery Management Council's (Council) Halibut Stakeholder Committee will meet in Anchorage, AK.

**DATES:** The meeting will be held on February 27–28, 2006.

**ADDRESSES:** The meeting will be held at the Anchorage Hilton Hotel, 500 West 3rd Avenue, Birch-Willow Room, Anchorage, AK 99501.

*Council address*: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

**FOR FURTHER INFORMATION CONTACT:** Jane DiCosimo, Council staff, telephone: (907) 271–2809.

**SUPPLEMENTARY INFORMATION:** The Halibut Stakeholder Committee will develop two alternatives for the long term management of the halibut charter fishery. The alternatives would be considered by the North Pacific Council at its April 5–11, 2006 meeting. The committee will identify common principles and goals to develop a problem statement and define two alternatives for a future analysis. One alternative would be an allocation based program. Elements to be included in the plan should include, but not be limited to: (1) A percentage based allocation that would float up and down with abundance in a fashion similar to the commercial longline Total Allowable Catch (TAC); (2) Subdivision of Area 2C and 3A into smaller geographic sub-districts, including time certain establishment of local area management plans (LAMPs) and super-exclusive registration areas; (3) Management measures that will be used to enforce the allocation, including: a) the current suite of measures to reduce harvests under the Guideline Harvest Level (GHL) (i.e., one trip per vessel per day, no harvest by skipper and crew, and annual limit of 5 or 6 fish per person (for Area 2C only));(b) Measures being pursued by the State of Alaska in 2006, including: (i) a halibut reporting requirement in charter boat logbooks with methodology to ensure accuracy; (ii) a proposed regulation to the Board of Fish to prohibit retention or harvest of fish by skipper and crew members when clients are on board; and (iii) limit the number of lines fished to the number of clients; (c) Other annual bag limits; (d) Limitations on days fished (either total number of days or by excluding specific days of the week); (e) Reduced daily limits including size limitations for the second fish caught; (f) Subtraction of any allocation exceedence from the following year's allocation; (g) Federal moratorium or control date of December 9, 2006 and/or a State limited entry program with delayed transferability; (h) Mechanisms which, if the charter harvest continues to grow, would allow for an orderly and compensated allocation shift from the longline sector to the charter sector, including the use of a charter stamp, which would generate funds to pay for management of the charter fishery and to buy longline shares to be converted into the charter allocation; (i) Exploration of delegation of some management aspects of the halibut sport fishery, including the charter sector, to the State of Alaska.

A second alternative would be a modified Individual Fishing Quota (IFQ) program, including, but not be limited to: (1) The elements of the previously proposed (2001) charter IFQ program; (2) A modified IFQ program, including, but not be limited to, addressing potential legal vulnerabilities that may exist in the 2001 IFQ program. Such approaches might include a ''leveling'' plan, other effort based mechanisms to update 1998 and 1999 history, new history approaches, an effort based transferable seat program, or other options; (3) Subdivision of Area 2C and 3A into smaller geographic sub-districts, including time certain establishment of LAMPs; (4) The use of a moratorium or control date of December 9, 2006; and (5) Other elements to be identified by the committee.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those

issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: February 8, 2006.

**Tracey L. Thompson,**

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

[FR Doc. E6–1994 Filed 2–13–06; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 020806D]**

### North Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The North Pacific Fishery Management Council's (Council) Halibut Stakeholder Committee will meet in Anchorage, AK.

**DATES:** The meeting will be held on February 27–28, 2006.

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**FOR FURTHER INFORMATION CONTACT:** Jane DiCosimo, Council staff, telephone: (907) 271–2809.

**SUPPLEMENTARY INFORMATION:** The Halibut Stakeholder Committee will develop two alternatives for the long term management of the halibut charter fishery. The alternatives would be considered by the North Pacific Council at its April 5–11, 2006 meeting. The committee will identify common principles and goals to develop a problem statement and define two alternatives for a future analysis. One alternative would be an allocation based program. Elements to be included in the plan should include, but not be limited to: (1) A percentage based allocation that would float up and down with abundance in a fashion similar to the commercial longline Total Allowable Catch (TAC); (2) Subdivision of Area 2C and 3A into smaller geographic sub-districts, including time certain establishment of local area management plans (LAMPs) and super-exclusive registration areas; (3) Management measures that will be used to enforce the allocation, including: a) the current suite of measures to reduce harvests under the Guideline Harvest Level (GHL) (i.e., one trip per vessel per day, no harvest by skipper and crew, and annual limit of 5 or 6 fish per person (for Area 2C only));(b) Measures being pursued by the State of Alaska in 2006, including: (i) a halibut reporting requirement in charter boat logbooks with methodology to ensure accuracy; (ii) a proposed regulation to the Board of Fish to prohibit retention or harvest of fish by skipper and crew members when clients are on board; and (iii) limit the number of lines fished to the number of clients; (c) Other annual bag limits; (d) Limitations on days fished (either total number of days or by excluding specific days of the week); (e) Reduced daily limits including size limitations for the second fish caught; (f) Subtraction of any allocation exceedence from the following year's allocation; (g) Federal moratorium or control date of December 9, 2006 and/or a State limited entry program with delayed transferability; (h) Mechanisms which, if the charter harvest continues to grow, would allow for an orderly and compensated allocation shift from the longline sector to the charter sector, including the use of a charter stamp, which would generate funds to pay for management of the charter fishery and to buy longline shares to be converted into the charter allocation; (i) Exploration of delegation of some management aspects of the halibut sport fishery, including the charter sector, to the State of Alaska.

A second alternative would be a modified Individual Fishing Quota (IFQ) program, including, but not be limited to: (1) The elements of the previously proposed (2001) charter IFQ program; (2) A modified IFQ program, including, but not be limited to, addressing potential legal vulnerabilities that may exist in the 2001 IFQ program. Such approaches might include a ''leveling'' plan, other effort based mechanisms to update 1998 and 1999 history, new history approaches, an effort based transferable seat program, or other options; (3) Subdivision of Area 2C and 3A into smaller geographic sub-districts, including time certain establishment of LAMPs; (4) The use of a moratorium or control date of December 9, 2006; and (5) Other elements to be identified by the committee.

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

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: February 8, 2006.

**Tracey L. Thompson,**

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

[FR Doc. E6–1995 Filed 2–13–06; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 020806G]**

### Western Pacific Regional Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The 91st meeting of the Western Pacific Regional Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will convene Tuesday, February 28, 2006, through Thursday March 2, 2006(see **SUPPLEMENTARY INFORMATION** for specific times, dates, and agenda items).

**DATES:** The SSC meeting will be held from 8:30 a.m. to 5 p.m. on Tuesday,

February 28, 2006, through Thursday March 2, 2006.

**ADDRESSES:** The SSC meeting will be held at the Council Office Conference Room, 1164 Bishop St., Suite 1400, Honolulu, HI; telephone: (808) 522–8220.

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

**SUPPLEMENTARY INFORMATION:**

### Agenda for SSC Meeting

*8:30 a.m. Tuesday, February 28, 2006*
1. Introductions
2. Approval of Draft Agenda and Assignment of Rapporteurs
3. Approval of the Minutes of the 90th Meeting
4. 2005 Status of Stocks Report to Congress
5. Insular Fisheries
A. Bottomfish Management
1. MHI Bottomfish Overfishing Alternatives (FINAL ACTION)
2. Pacific Island Fisheries Science Center Report on Hawaii Bottomfish
3. The Ocean Conservancy Hawaii Bottomfish Assessment
4. Assessment of Existing and Designation of New State of Hawaii Bottomfish Restricted Fishing Areas
5. Report on Bottomfish Remote Camera Studies
6. Plan Team Report and Recommendations
B. Precious Corals
1. Black Coral Workshop Plan
C. Public Comment
D. Discussion and Recommendations
6. Ecosystem and Habitat
A. Northwestern Hawaiian Islands Fishing Regulations
B. Hawaii Institute of Marine Biology Report on NWHI research
C. Hawaii Ta pe Feeding Study
D. Hawaii Parrotfish Study
E. Ecosystem Social Science Workshop Report
F. Public Comment
G. Discussion and Recommendations
*8:30 a.m. Wednesday, March 1, 2006*
7. Protected Species
A. Observer Program Data and Science
B. Public Comment
C. Discussion and Recommendations
8. Pelagics Fisheries
A. International Fisheries Management
1. Western Central Pacific Fisheries Commission Resolutions
a. Bigeye Tuna/Yellowfin Tuna Conservation
b. Northern and Southern Albacore Conservation
c. Bycatch Measures
B. Annual Report Restructuring
C. Update on Hawaii Offshore Handline Fishery Issues
D. American Samoa and Hawaii Longline Fisheries 2005 Reports
E. Preliminary Report on Shallow-Setting Regulations
F. Public Comment
G. Discussion and Recommendations
*8:30 a.m. Thursday, March 2, 2006*
8. Other Business
A. MSA Reauthorisation
B. New SSC Members
C. 92nd SSC meeting
9. Summary of SSC Recommendations to the Council

### Special Accommodations

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

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

Dated: February 9, 2006.

**Tracey L. Thompson,**

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

[FR Doc. E6–2013 Filed 2–13–06; 8:45 am]

BILLING CODE 3510–22–S

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## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0079]**

## Federal Acquisition Regulation; Information Collection; Corporate Aircraft Costs

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

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0079).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning corporate aircraft costs. This OMB clearance expires on June 30, 2006.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before April 17, 2006.

**ADDRESSES:** Submit comments, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Jerry Olson, Contract Policy Division, GSA, (202) 501–3221.

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

Government contractors that use company aircraft must maintain logs of flights containing specified information to ensure that costs are properly charged against Government contracts and that directly associated costs of unallowable activities are not charged to such contracts.

### B. Annual Reporting Burden

*Number of Respondents:* 3,000.

*Responses Per Respondent:* 1.

*Total Responses*: 3,000.

*Average Burden Per Response:* 6 hours.

*Total Burden Hours:* 18,000.

*Obtaining Copies of Proposals:* Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0079, Corporate Aircraft Costs, in all correspondence.

Dated: February 8, 2006.

**Gerald Zaffos**

*Director, Contract Policy Division.*

[FR Doc. 06–1364 Filed 2–13–06; 8:45 am]

BILLING CODE 6820–EP–S

## DELAWARE RIVER BASIN COMMISSION

### Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, March 1, 2006. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's office building, located at 25 State Police Drive in West Trenton, New Jersey.

The conference among the commissioners and staff will begin at 10:15 a.m. Topics of discussion will include a presentation on the State of Delaware Water Supply; an update on the State of the Basin Report currently under development; a presentation on the Oyster Revitalization Initiative in the Delaware Bay; a status report on the Development of a Long-Term Flow Regime for the New York City Reservoirs; a discussion about a forum to advance coordination among federal agencies that partner with the DRBC; and an update on activities relating to PCBs in the Delaware River.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed below:

1. *DSM Nutritional Products, Inc. D–85–14–3.* An application for renewal of a ground water and surface water withdrawal project to continue to supply up to 120 mg/30 days of water for industrial process, potable and sanitary uses and ground water remediation purposes to the applicant's manufacturing facility from six existing wells in the Pleistocene Alluvial Formation and one existing surface water intake located on the main stem of the Delaware River. The project is located in the Delaware River Watershed in White Township, Warren County, New Jersey.

2. *J.G. Townsend, Jr. & Co. D–89–48–3.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 15 million gallons per thirty days to supply the applicant's vegetable processing facility from existing Wells Nos. 1 and 5 in the Columbia Formation. The project is located in the Savannah Ditch Watershed in the Town of Georgetown, Sussex County, Delaware.

3. *Borough of Shoemakersville D–90–7 CP–3.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 7.5 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 1, 3, 4, 5 and 6 in the Hamburg Formation. The project is located in the Schuylkill River Watershed in Shoemakersville Borough and Perry Township, Berks County, Pennsylvania.

4. *BP Oil Company D–91–32 (G)–2.* An application for the renewal of a ground water decontamination project to withdraw up to 1 million gallons per day for treatment and discharge to the Delaware River through an existing outfall in DRBC Water Quality Zone 4. The project is located at the former BP Oil Company Refinery located off of Mantua Avenue in Paulsboro Borough, Gloucester County, New Jersey. Up to 30 mg/30 days of ground water is withdrawn from existing Wells Nos. R–4A, R–5A, R–6A, R–8, R–9 and R–10 and from new Wells Nos. R–11 and R–12, all located in New Jersey Critical Area 2 of the Potomac-Raritan-Magothy Formation.

5. *E.I. du Pont de Nemours and Company D–93–19–2.* An application for renewal of a surface and ground water withdrawal project to continue withdrawal of 1,126 mg/30 days to supply the applicant's industrial facility from existing Wells Nos. INT–10B, R–5A, INT–103A, INT–102A, Q13–R01C, Q13–R01D, WS–1, M–259, M–257, CP–2, CP–4, WS–2, R–7, DW–8R, CL–1, CL–2, CL–3, and CP–7 and Salem Canal Surface Water Intake No. III. The project is located in the Glacial/PRM Aquifer and the Salem Canal Watershed in Carneys Point, Mannington and Pennsville Townships, Salem County, New Jersey.

6. *Township of Lower Municipal Utilities Authority D–94–21 CP–2.* An application to discontinue the withdrawal of water and close Wells Nos. AP–2 and 3 in the applicant's public water supply system, which have become unreliable sources of supply, and to withdraw water from replacement Wells Nos. 6 and 7. The total withdrawal from replacement Wells Nos. 6 and 7 and existing Wells Nos. 1, 2 and 4 remains limited to 93 mg/30 days. Well No. 7 is located in the Atlantic Basin. The project is located in the Cohansey Formation in the Delaware River Watershed in Lower Township, Cape May County, New Jersey.

7. *Meter Services Company D–94–49 CP–2.* An application for renewal of a ground water withdrawal project to continue to supply up to 3.6 mg/30 days of water to the applicant's public water supply distribution system from existing Wells Nos. 1 and 2 in the Brunswick Formation. The project is located in the Mill Creek Watershed in Buckingham Township, Bucks County, Pennsylvania, in the Southeastern Pennsylvania Ground Water Protected Area.

8. *Rosenberger's Dairies, Inc. D–95–1–2.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 3.4 mg/30 days to supply the applicant's dairy processing facility from existing Wells Nos. R–1, R–3 and R–4 in the Brunswick Formation. The project is located in the West Branch Neshaminy Creek Watershed in Hatfield Township, Montgomery County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.

9. *Clement Pappas & Co., Inc. D–95–37–2.* An application for renewal of a ground water withdrawal project to continue to supply up to 73.4 mg/30 days of water to the applicant's food processing facility from existing Well No. 6B in the Kirkwood-Cohansey Formation. The project is located in the Cohansey River Watershed in Upper Deerfield Township, Cumberland County, New Jersey.

10. *Sybron Chemicals, Inc. D–85–5–3.* An application for the renewal of a ground water withdrawal project to decrease withdrawal from 77 mg/30 days to 34 mg/30 days to supply the applicant's industrial facility from existing Wells Nos. 4, 5 and EQ106 in the Middle Raritan and Mt. Laurel/Wenonah Aquifers. The project is located in the West Branch Rancocas Watershed in Pemberton Township, Burlington County, New Jersey.

11. *Willingboro Municipal Utilities Authority D–87–42 CP–3.* An application for the renewal of a ground water withdrawal project and for an increase in withdrawal from 300 mg/30 days to 310 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 1, 6, 9, 10, and 11 and new replacement Well No. 5A. Replacement Well No. 5A is located in the Potomac-Raritan-Magothy Formation. The project is located in the Rancocas Creek Watershed in Willingboro Township, Burlington County, New Jersey.

12. *PPL Martins Creek, LLC D–87–56–2.* An application to update the existing docket to reflect operational and structural modifications to Ash Basin No. 4 as a result of an ash slurry spill which occurred from Ash Basin No. 4 due to a wooden stop-log failure. Approximately 100 million gallons of ash slurry was released from Ash Basin No. 4 from August 23–30, 2005. In addition, this project includes emergency remediation activities that PPL conducted in response to the ash

slurry spill. Emergency approval was granted by letter dated October 12, 2005 for this project. The project discharges to the Delaware River in DRBC Water Quality Zone 1D, which is designated Special Protection Waters. The facility is located in Lower Mount Bethel Township, Northampton County, Pennsylvania.

13. *E.I. du Pont de Nemours and Company D–88–85–2.* An application to update and renew an existing industrial waste treatment plant (IWTP) discharge docket, which includes clarifying the Area Served and granting preliminary approval for the installation of a new outfall extension and diffuser. The IWTP discharges to Zone 5 of the Delaware River. DuPont Chambers Works is a large multi-product chemical manufacturing plant. The facility has an IWTP that is classified by EPA as a Centralized Waste Treatment system. The facility is located in Pennsville and Carneys Point, Salem County, New Jersey. The application does not request the Commission's approval to accept VX hydrolysate for treatment and discharge at the DuPont Chambers Works IWTP.

14. *Hamburg Municipal Authority D–92–73 CP–2.* An application to expand a 1.0 mgd wastewater treatment plant (WWTP) to treat 1.5 mgd, while continuing to provide advanced treatment via activated sludge and chemical addition processes. The WWTP will continue to serve the Borough of Hamburg, and portions of Tilden and Windsor townships, all in Berks County, Pennsylvania. The proposed expansion will enable the docket holder to serve the Borough of Port Clinton in Schuylkill County, Pennsylvania as well. The WWTP is located in Hamburg Borough, just east of State Route 61 on the east bank of the Schuylkill River, to which the plant will continue to discharge. At the WWTP outfall, the Schuylkill River is conditionally designated as ''Modified Recreational'' in the DRBC Comprehensive Plan.

15. *Purex Industries, Inc. D–93–34 (G)–2.* An application for the renewal of a ground water withdrawal project to decrease withdrawal from 11.23 million gallons per thirty days (mg/30 days) to 7.78 mg/30 days to supply the applicant's ground water remediation project from existing Wells RW–2, RW–7, RW–9, RW–10, and RW–13 and new Wells MP–7, MP–19 and MP–30 in the Kirkwood-Cohansey Aquifer. The project is located in the Maurice River Watershed in the City of Millville, Cumberland County, New Jersey.

16. *Jackson Township Municipal Utilities Authority D–94–18 CP–2.* An application for the renewal of a ground water withdrawal project and increase in the applicant's withdrawal from 26.42 mg/30 days to 30 mg/30 days to supply the Six Flags Great Adventure Hurricane Harbor water amusement park from existing Wells Nos. 7, 10 and ASR–12 in the Upper Potomac-Raritan-Magothy Formation. The project is located in the Crosswicks Creek Watershed in Jackson Township, Ocean County, New Jersey.

17. *Sunny Dell Foods, Inc. D–2000–23–2.* An application to increase the discharge from the applicant's industrial waste treatment plant (IWTP) from 0.05 mgd to 0.072 mgd; modify effluent limits associated with the Christina River total maximum daily loads for $CBOD_5$, ammonia, phosphorus and total nitrogen; and modify an existing contact cooling water system discharge of 0.09 mgd. Both the IWTP effluent and contact cooling water are discharged to the West Branch Red Clay Creek. The facility is located in Kennett Township, Chester County, Pennsylvania.

18. *Swedesboro, Inc. (t/a Beckett Golf Club) D–87–77–1.* An application for a surface water withdrawal project to supply up to 4.0 mg/30 days of water for supplemental irrigation of the applicant's golf course from existing Intakes Nos. 1 and 2. The surface water intakes are located on two on-site ponds. The project is located in the Oldmans Creek Watershed in Woolwich Township, Gloucester County, New Jersey. A Notice of Application Received (NAR) for this project was previously published on November 5, 1987 under docket number D–87–77. The current NAR reflects project revisions made since the 1987 application.

19. *Mercer County Correction Center D–2002–50 CP.* An application for approval of a ground water withdrawal project to supply up to 4.333 mg/30 days of water to the applicant's correctional facility from existing Wells Nos. 1, 3 and 4 and new Well No. 5, all in the Passaic Formation. The project is located in the Delaware River Watershed in the northwest corner of Hopewell Township, Mercer County, New Jersey.

20. *Holman Enterprises—RMP Facility D–2004–25 1.* An application for approval of a ground water withdrawal project to pump up to 7.45 million gallons per 30 days (mg/30 days) of water to be treated by the applicant's ground water remediation project from Wells Nos. MW–7D, MW–19D, MW–23D, R–77D, R–78D, R–79D, R–80D and R–81D in the Potomac-Raritan-Magothy Formation. The project is located in the Pennsauken Creek Watershed in Pennsauken Township, Camden County, New Jersey.

21. *Town of Bethel D–2005–19 CP–1.* An application to construct a groundwater/leachate seep collection and treatment system to serve the Town of Bethel Landfill, an inactive and officially closed domestic waste landfill located on a 10-acre parcel of municipal property off Old White Lake Turnpike, about 0.25 miles east of its intersection with State Route 55 in the Town of Bethel, Sullivan County, New York. Following aeration and sedimentation, up to 0.035 mgd of wastewater will be applied to a subsurface absorption bed for final processing and disposal. In addition to proposed Discharge Monitoring Reports, the existing groundwater monitoring well network will be used to assure that the proposed treatment system does not impair groundwater quality. The project is located in the Mongaup River Watershed upstream from Swinging Bridge Reservoir and in the drainage area of DRBC Special Protection Waters. Although the Town of Bethel Landfill is capped with impervious materials, it is an unlined facility with residual leachate seepage that currently flows overland to the West Branch Mongaup River without any prior treatment.

22. *Chadds Ford Township D–2005–22 CP–1.* An application to construct a 0.15 mgd WWTP to serve existing residents in a portion of Chadds Ford Township, Delaware County, Pennsylvania and future residents of the proposed subdivision at Camp Sunset Hill (Turner's Mill), also in Chadds Ford Township. The WWTP is proposed to provide advanced treatment via extended aeration and tertiary filtration prior to ultraviolet light disinfection and discharge to Harvey Run, a tributary of Brandywine Creek in the Christina River Watershed. Its proposed location is the intersection of U.S. Route 1 (Baltimore Pike) and Ring Road, across from the Brandywine Battlefield State Park. The Pantos WWTP that currently serves Chadds Ford Village and the Painter's Crossing Condominiums is proposed to be converted to a pumping station, which will route up to 35,000 gallons per day of flow to the new WWTP.

23. *Motiva Enterprises, LLC D–2005–23–1.* An application for approval of a ground water withdrawal project to supply up to 6.7 mg/30 days of water to the applicant's ground water remediation project from new Wells Nos. 1 through 9 in the Kirkwood-Cohansey Formation. The project is located in the Maurice River Watershed in Franklin Township, Gloucester County, New Jersey.

24. *Congoleum Corporation D–2005–25–1.* An application to discharge an average of 168,000 gallons per day of non-contact cooling water from the applicant's tile floor manufacturing facility. The discharge is to a Hamilton Township municipal storm sewer, which discharges to Pond Run, a tributary to the Assunpink Creek. The facility is located in Hamilton Township, Mercer County, New Jersey.

25. *Tidewater Utilities, Inc. D–2005–26 CP–1.* An application for approval of a ground water withdrawal project to supply up to 1.427, 1.22 and 1.22 mg/30 days of water to the applicant's North Dover District public water supply distribution system from new Wells Nos. SF–01, SF–02 and KWE–02, respectively. The wells are all located in the Federalsburg and Cheswold aquifers. The total withdrawal from all wells will be limited to 3.85 mg/30 days. The project is located in the Leipsic River Watershed in Kent County, Delaware.

26. *Tidewater Utilities, Inc. D–2005–27 CP–1.* An application for approval of a ground water withdrawal project to supply up to 0.13, 3.51 and 0.065 mg/30 days of water to the applicant's Wild Quail District public water supply distribution system from new Wells Nos. WQ–01, WQ–02 and WQ–04, respectively. Wells Nos. WQ–01 and WQ–04 are located in the Frederica Formation and Well No. WQ–02 is located in the Piney Point Aquifer. The total withdrawal from all wells will be limited to 3.51 mg/30 days. The project is located in the St. Jones River Watershed in Kent County, Delaware.

27. *Penns Grove Sewerage Authority D–2005–29 CP–1.* An application to upgrade, but not expand, a 0.75 million gallon per day wastewater treatment plant (WWTP), which serves Penns Grove Borough, Salem County, New Jersey. The WWTP upgrade will provide two new final clarifiers with appurtenances. The existing final clarifiers require costly chemical additives to meet NJPDES permit limits, particularly during surge flow conditions. The two new final clarifiers should reduce or eliminate the need to add costly chemicals to meet permit limits. Penns Grove Sewerage Authority requested and was granted emergency approval by the DRBC on January 12, 2006 to implement the WWTP improvements expeditiously, in order to meet a construction grant deadline. The WWTP will continue to discharge to the Delaware River in DRBC Water Quality Zone 5 through the existing outfall.

28. *Camp Ramah in the Poconos D–2005–30–1.* An application to upgrade an existing seasonally operated WWTP by the addition of a new primary clarification process and a new aeration system. Seasonally, the WWTP discharges approximately 30,000 gallons per day to an unnamed tributary of Equinunk Creek, a tributary to the West Branch Delaware River. The facility is located in Buckingham Township, Wayne County, Pennsylvania.

29. *U.S. Army Corps of Engineers, Philadelphia District D–2005–32 CP–1.* An application to modify the Prompton Dam to safely pass the Probable Maximum Flood (PMF) of 111,000 cubic feet per second (cfs), based upon revised estimates of flow regimes for the 60-square mile drainage area. The original PMF flow of 81,500 cfs was calculated in the year 1949, prior to advancements in mathematical modeling. Primarily a flood control facility, Prompton Dam is located in Prompton Borough, Wayne County, Pennsylvania. The lake that it forms on the West Branch Lackawaxen River extends into Clinton Township, also in Wayne County. The project involves the widening of the spillway from 50 to 85 feet, constructing a fuse-plug in the spillway, upgrading the outlet works rip-rap, and constructing an embankment with material that will be excavated from the spillway. The project is located in the drainage area of DRBC Special Protection Waters and the Upper Delaware Scenic and Recreational River.

In addition to the public hearing on the dockets listed above, the Commission's 1:30 p.m. business meeting will include a public hearing on a resolution to approve the Commission's FY 2006–2007 budget and work plan. The Commission also will consider a resolution amending the *Basin Regulations—Water Supply Charges* regarding certificates of entitlement; a resolution establishing the PMP Peer Review Advisory Committee; and a resolution authorizing the Executive Director to extend the Commission's contract with the Northeast-Midwest Institute on a month-to-month basis through December 31, 2006.

The meeting will also include: adoption of the Minutes of the December 7, 2005 business meeting; announcements; a report on basin hydrologic conditions; a report by the executive director; a report by the Commission's general counsel; and an opportunity for public dialogue. Draft dockets and the resolutions scheduled for public hearing on March 1, 2006 will be posted on the Commission's Web site, *http://www.drbc.net,* where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact William Muszynski at 609–883–9500, extension 221, with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the commission secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission may accommodate your needs.

Dated: February 7, 2006.

**Pamela M. Bush,**

*Commission Secretary.*

[FR Doc. E6–1999 Filed 2–13–06; 8:45 am]

**BILLING CODE 6360–01–P**

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**SUMMARY:** The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before April 17, 2006.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The 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. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 7, 2006.

**Angela C. Arrington,**

*IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.*

### Federal Student Aid

*Type of Review:* Extension.

*Title:* Federal Perkins Loan Program Master Promissory Note.

*Frequency:* On occasion; annually.

*Affected Public:* Individuals or household; Businesses or other for-profit; Not-for-profit institutions.

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 690,000.

*Burden Hours:* 345,000.

*Abstract:* The promissory note is the means by which a Federal Perkins Loan borrower promises to repay his or her loan.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2988. 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. E6–2008 Filed 2–13–06; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before March 16, 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: February 7, 2006.

**Angela C. Arrington,**

*IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.*

### Office of Postsecondary Education

*Type of Review:* Reinstatement.

*Title:* Application for Grants under the Strengthening Institutions Program, American Indian Tribally Controlled Colleges and Universities Program, and Alaska Native and Native Hawaiian-Serving Institutions Program.

*Frequency:* One time.

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

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 305.

*Burden Hours:* 12,100.

*Abstract:* The information is required of institutions of higher education that apply for grants under the Strengthening Institutions Program, the American Indian Tribally Controlled Colleges and Universities Program, and the Alaska Native and Native Hawaiian Serving Institutions Program, authorized under Title III, Part A of the Higher Education Act of 1965, as amended. This information will be used in the peer review and in making funding recommendations.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

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 2983. 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

may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–2009 Filed 2–13–06; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**SUMMARY:** The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before April 17, 2006.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The 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. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 8, 2006.

**Angela C. Arrington,**

*IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.*

#### Federal Student Aid

*Type of Review:* Extension.

*Title:* Direct Loan Program's General Forbearance Request Form.

*Frequency:* On Occasion.

*Affected Public:* Individuals or household.

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 1,162,530.

*Burden Hours:* 232,506.

*Abstract:* Borrowers who receive loans through the William D. Ford Federal Direct Loan Program will use this form to request forbearance on their loans when they are willing but unable to make their currently scheduled monthly payments because of a temporary financial hardship.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2989. 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. E6–2057 Filed 2–13–06; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before March 16, 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: February 8, 2006.

**Angela C. Arrington,**

*IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.*

#### Institute of Education Sciences

*Type of Review:* Revision.

*Title:* Integrated Postsecondary Education Data System (IPEDS), Web-Based Collection System.

*Frequency:* Annually.

*Affected Public:* Not-for-profit institutions; Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 44,340.

*Burden Hours:* 147,867.

*Abstract:* IPEDS is a system of surveys designed to collect basic data from approximately 6,600 Title IV postsecondary institutions in the United States. The IPEDS provides information on numbers of students enrolled, degrees completed, other awards earned, dollars expended, staff employed at postsecondary institutions, and cost and pricing information. The amendments to the Higher Education Act of 1998, Part C, Sec. 131, specify the need for the ''redesign of relevant data systems to improve the usefulness and timeliness of the data collected by such systems.'' As a consequence, in 2000 IPEDS began to collect data through a web-based data collection system and to concentrate on those institutions that participate in Title IV Federal student aid programs; other institutions may participate on a voluntary basis.

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 2940. 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. E6–2058 Filed 2–13–06; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

### Federal Energy Management Program; Standard for Premium Energy Efficient Electric Motors for Federal Acquisition

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

**ACTION:** Notice and request for comments.

**SUMMARY:** The Energy Policy Act of 2005 (EPAct 2005) requires that in the case of electric motors of 1 to 500 horsepower, Federal agencies shall select only premium efficient motors that meet a standard designated by the Secretary of Energy (Secretary). DOE today designates the energy efficient motor specifications, developed under Executive Order 13123, as the temporary standard for premium efficient motors for purposes of Federal purchasing. Consistent with public comment requirements for ''procurement policies'' in 41 U.S.C. 418b, DOE invites public comment on the temporary standard. DOE intends to finalize a standard after considering any public comments that are submitted. The temporary specifications are consistent with standards recommended by the National Electrical Manufacturers Association (NEMA), the Consortium for Energy Efficiency (CEE) and other energy efficiency groups.

**DATES:** The effective date of this notice is February 14, 2006. Comments on this notice are due March 16, 2006.

**ADDRESSES:** Address all comments concerning this standard to Joan Glickman, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–2L, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–0371, e-mail: *joan.glickman@ee.doe.gov.*

**FOR FURTHER INFORMATION CONTACT:** Joan Glickman, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Federal Energy Management Program (FEMP), EE–2L, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–0371, e-mail: *joan.glickman@ee.doe.gov.*

**SUPPLEMENTARY INFORMATION:** Section 104 of EPAct 2005 requires that Federal agencies procure only ENERGY STAR qualified products or FEMP-designated products unless the agency finds in writing that no qualifying product is lifecycle cost-effective or is reasonably available that meets the applicable functional requirements. Prior to enactment of EPAct 2005, similar provisions for energy-efficient Federal purchasing were established under Executive Order 13123. With respect to motors, in response to Executive Order 13123, FEMP worked with NEMA and CEE to establish efficiency criteria for low-voltage electric motors as a voluntary standard for Federal procurements.

Part 3 of Title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 *et seq.*), as amended by section 104 of EPAct 2005, requires that in the case of electric motors of 1 to 500 horsepower, Federal agencies shall purchase only premium efficient motors that meet a standard designated by the Secretary no later than 120 days after the date of enactment; EPAct 2005 was enacted on August 8, 2005.

After consultation with NEMA and representatives of energy efficiency organizations participating in the CEE Motors Committee, and subject to evaluation of public comments, DOE today designates as a temporary standard for premium energy efficient motors rated from 1 to 500 HP, the efficiency levels as set forth in Tables 1 and 2 attached to this notice. The efficiency levels in these tables are consistent with the NEMA Premium™ and Premium Efficiency Motors efficiency criteria. They can also be found on the DOE FEMP procurement Web site at *http://www.eere.energy.gov/femp/technologies/eep_emotors.cfm*, the NEMA Web site at *http://www.nema.org/gov/energy/efficiency/premium/*, and the CEE Web site at *http://www.cee1.org/ind/motrs/motrs-main.php3.*

By using common specifications for premium energy efficient motors, NEMA, CEE, and DOE have helped focus market demand by Federal buyers and utility company customers on a single standard for energy efficiency, thus providing a clear market signal in support of energy efficiency to manufacturers, suppliers, specifiers, and installers of electric motors.

FEMP will periodically review the DOE's motor efficiency standard and revise it as necessary, in consultation with industry and energy efficiency organizations, to reflect technology advances and/or changing market conditions.

DOE finds that the statutory deadline in section 104 is an urgent and compelling circumstance warranting designation of the standard set forth in this notice on a temporary basis pending receipt and evaluation of public comments. DOE intends to make a final designation after considering any relevant comments that DOE receives.

Issued in Washington, DC, on February 3, 2006.

**Douglas L. Faulkner,**

*Acting Assistant Secretary, Energy Efficiency and Renewable Energy.*

TABLE 1.—NOMINAL EFFICIENCIES FOR "NEMA PREMIUM™" INDUCTION MOTORS RATED 600 VOLTS OR LESS

[Random wound]

| | Open drip-proof | | | Totally enclosed fan-cooled | | |
|---|---|---|---|---|---|---|
| HP | 6-pole | 4-pole | 2-pole | 6-pole | 4-pole | 2-pole |
| 1 | 82.5 | 85.5 | *77.0 | 82.5 | 85.5 | 77.0 |
| 1.5 | 86.5 | 86.5 | 84.0 | 87.5 | 86.5 | 84.0 |
| 2 | 87.5 | 86.5 | 85.5 | 88.5 | 86.5 | 85.5 |
| 3 | 88.5 | 89.5 | 85.5 | 89.5 | 89.5 | 86.5 |
| 5 | 89.5 | 89.5 | 85.5 | 89.5 | 89.5 | 88.5 |
| 7.5 | 90.2 | 91.0 | 88.5 | 91.0 | 91.7 | 89.5 |
| 10 | 91.7 | 91.7 | 89.5 | 91.0 | 91.7 | 90.2 |
| 15 | 91.7 | 93.0 | 90.2 | 91.7 | 92.4 | 91.0 |
| 20 | 92.4 | 93.0 | 91.0 | 91.7 | 93.0 | 91.0 |
| 25 | 93.0 | 93.6 | 91.7 | 93.0 | 93.6 | 91.7 |
| 30 | 93.6 | 94.1 | 91.7 | 93.0 | 93.6 | 91.7 |
| 40 | 94.1 | 94.1 | 92.4 | 94.1 | 94.1 | 92.4 |
| 50 | 94.1 | 94.5 | 93.0 | 94.1 | 94.5 | 93.0 |
| 60 | 94.5 | 95.0 | 93.6 | 94.5 | 95.0 | 93.6 |
| 75 | 94.5 | 95.0 | 93.6 | 94.5 | 95.4 | 93.6 |
| 100 | 95.0 | 95.4 | 93.6 | 95.0 | 95.4 | 94.1 |
| 125 | 95.0 | 95.4 | 94.1 | 95.0 | 95.4 | 95.0 |
| 150 | 95.4 | 95.8 | 94.1 | 95.0 | 95.8 | 95.0 |
| 200 | 95.4 | 95.8 | 95.0 | 95.8 | 96.2 | 95.4 |
| 250 | 95.4 | 95.8 | 95.0 | 95.8 | 96.2 | 95.8 |
| 300 | 95.4 | 95.8 | 95.4 | 95.8 | 96.2 | 95.8 |
| 350 | 95.4 | 95.8 | 95.4 | 95.8 | 96.2 | 95.8 |
| 400 | 95.8 | 95.8 | 95.8 | 95.8 | 96.2 | 95.8 |
| 450 | 96.2 | 96.2 | 95.8 | 95.8 | 96.2 | 95.8 |
| 500 | 96.2 | 96.2 | 95.8 | 95.8 | 96.2 | 95.8 |

TABLE 2.—NOMINAL EFFICIENCIES FOR "NEMA PREMIUM™" INDUCTION MOTORS RATED 5 KV OR LESS

[Form wound]

| | Open drip-proof | | | Totally enclosed fan-cooled | | |
|---|---|---|---|---|---|---|
| HP | 6-pole | 4-pole | 2-pole | 6-pole | 4-pole | 2-pole |
| 250 | 95.0 | 95.0 | 94.5 | 95.0 | 95.0 | 95.0 |
| 300 | 95.0 | 95.0 | 94.5 | 95.0 | 95.0 | 95.0 |
| 350 | 95.0 | 95.0 | 94.5 | 95.0 | 95.0 | 95.0 |
| 400 | 95.0 | 95.0 | 94.5 | 95.0 | 95.0 | 95.0 |
| 450 | 95.0 | 95.0 | 94.5 | 95.0 | 95.0 | 95.0 |
| 500 | 95.0 | 95.0 | 94.5 | 95.0 | 95.0 | 95.0 |

[FR Doc. 06–1363 Filed 2–13–06; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC06–587–000; FERC Form-587]**

### Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

February 7, 2006.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

**DATES:** Comments on the collection of information are due April 14, 2006.

**ADDRESSES:** A copy of the collection of information accompanies this notice or can be obtained from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, ED–34, 888 First Street NE, Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filing, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC06–587–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on "Make an E-filing", and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERCOlineSupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

**FOR FURTHER INFORMATION CONTACT:** Michael Miller may be reached by telephone at (202) 502–8415, by fax at

(202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

**SUPPLEMENTARY INFORMATION:** The information collected under the requirements of FERC Form 587 ''Land Description'' (OMB No. 1902–0145) is used by the Commission to implement the statutory provisions of section 24 of the Federal Power Act (FPA), (16 U.S.C. 818).

Applicants proposing hydropower projects, or changes to existing projects located on lands owned by the United States are required to provide a description of the U.S. lands affected, to the Commission and to the Secretary of Interior. FERC Form 587 consolidates the information required, and identifies hydropower project boundary maps associated with lands of the United States. The Commission verifies the accuracy of the information supplied and coordinates with the Bureau of Land Management State Offices (BLM) so the U.S. lands can be reserved as hydropower sites and withdrawn from other uses.

*Action:* The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

*Burden Statement:* Public reporting burden for this collection is estimated as:

| Number of respondents annually (1) | Number of responses per respondent (2) | Average burden hours per response (3) | Total annual burden hours (1) × (2) × (3) |
|---|---|---|---|
| 250 | 1 | 1 | 250 |

Estimated cost burden to respondents is $13,554. (250 hours/2080 hours per year times $112,767 per year average per employee). The cost per respondent is $54.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2036 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC06–567–000; FERC–567]**

### Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

February 7, 2006.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

**DATES:** Comments on the collection of information are due April 14, 2006.

**ADDRESSES:** Copies of sample filings of the collection of information can be obtained from the Commission's Web site (*http://www.ferc.gov/docs-filings/elibrary.asp*) or from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, ED–34, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filing, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC06–567–000. Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing'', and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERCOlineSupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

**FOR FURTHER INFORMATION CONTACT:** Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

**SUPPLEMENTARY INFORMATION:** The information collected under the requirements of FERC–567 ''Gas Pipeline Certificates: Annual Reports of System Flow Diagrams and Systems Capacity'' (OMB No. 1902–0005) is used by the Commission to implement the statutory provisions of sections 4, 5, 6,

7, 9, 10(a) and 16 of the Natural Gas Act (NGA), 15 U.S.C. 717–717w and Title III, sections 301(a), 303(a), 304(d), Title IV, sections 401 and 402, Title V, section 508 of the Natural Gas Policy Act (Pub. L. 95–621). The information collected under the requirements of FERC–567 is used by the Commission to obtain accurate data on pipeline facilities. Specifically, the FERC–567 data is used in determining the configuration and location of installed pipeline interconnections and receipt and delivery points; and developing and evaluating alternatives to proposed facilities as a means to mitigate environmental impact of new pipeline construction.

FERC–567 also contains valuable information that can be used to assist federal officials in maintaining adequate natural gas service in times of national emergency. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Parts 260 and 284, §§ 260.8 and 284.13.

*Action:* The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

*Burden Statement:* Public reporting burden for this collection is estimated as:

| Number of respondents annually (1) | Number of responses per respondent (2) | Average burden hours per response (3) | Total annual burden hours (1) × (2) × (3) |
|---|---|---|---|
| 91 | 1,714* | 81.58 | 12,724 |

* Derived by dividing the total number of responses expected annually (156) by the number of respondents (91) and rounding to three places.

Estimated cost burden to respondents is $689,830 (12,724 hours/2080 hours per year times $112,767 per year average per employee = $ 689,830). The cost per respondent is $7,581.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2044 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP06–202–000]**

### Cheyenne Plains Gas Pipeline Company, LLC; Notice of Tariff Filing

February 6, 2006.

Take notice that on February 1, 2006, Cheyenne Plains Gas Pipeline Company, L.L.C. (Cheyenne Plains) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Revised Sheet No. 401, to become effective March 1, 2006.

Cheyenne Plains states that the tariff sheet updates the Form of Service Agreement for Rate Schedule FT, clarifying that a specific date or triggering event may be used as the contract begin date.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2030 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP06–203–000]**

### Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 6, 2006.

Take notice that on February 1, 2006, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective March 1, 2006:

Tenth Revised Sheet No. 383
Seventh Revised Sheet No. 406A
Seventh Revised Sheet No. 412A
Seventh Revised Sheet No. 419
Seventh Revised Sheet No. 427

CIG states that the tariff sheets update the Form of Service Agreements for Rate Schedules TF–1, NNT–1, NNT–2, TF–4 and FS–1, clarifying that a specific date or triggering event may be used as the contract begin date.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2031 Filed 2–13–06; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EC06–73–000]**

### Duke Energy Trading and Marketing, L.L.C. and J. Aron & Company: Notice of Filing

February 6, 2006.

Take notice that on January 30, 2006, Duke Energy Trading and Marketing, L.L.C. and J. Aron & Company, (collectively, Applicants) submitted for filing an Application for Authorization Under Section 203 of the Federal Power Act for approval of the transfer by Duke Energy to J. Aron & Company under which Duke Energy sells electric power at wholesale. Applicants requests confidential treatment of this request.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5 p.m. eastern time on February 21, 2006.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2026 Filed 2–13–06; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP06–206–000]**

### Northern Border Pipeline Company; Notice of Petition for Limited Waiver

February 6, 2006.

Take notice that on February 1, 2006, Northern Border Pipeline Company (Northern Border) tendered for filing a petition for a limited waiver of subsection 36.1 of the general terms and conditions in its FERC Gas Tariff, First Revised Volume No. 1.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* February 14, 2006.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2025 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP06–204–000]**

### Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 6, 2006.

Take notice that on February 1, 2006, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective April 1, 2006:

2 Revised 72 Revised Sheet No. 50
2 Revised 73 Revised Sheet No. 51
2 Revised 36 Revised Sheet No. 52
2 Revised 72 Revised Sheet No. 53
24 Revised Sheet No. 54
2 Revised 20 Revised Sheet No. 56
2 Revised 31 Revised Sheet No. 60
2 Revised 11 Revised Sheet No. 60A
19 Revised Sheet No. 61
19 Revised Sheet No. 62
22 Revised Sheet No. 63
21 Revised Sheet No. 64

Northern states that the revised tariff sheets are being filed in accordance with sections 53A and 53B of Northern's Tariff. Northern further explains that this filing establishes the fuel and unaccounted for percentages to be in effect April 1, 2006 based on actual data for the respective periods.

Northern states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2032 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. NJ06–4–000]**

### Southwestern Power Administration; Notice of Filing

February 6, 2006.

Take notice that on January 25, 2006, the Department of Energy, Southwestern Power Administration tendered for filing revisions to its non-jurisdictional open access transmission tariff filed with the Commission on December 31, 1997, to conform to the terms and conditions of an agreement dated March 31, 2005, between Southwestern and the Regional Transmission Organization of the Southwest Power Pool, Inc.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5 p.m. eastern time on February 15, 2006.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2027 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. PR05–19–001]**

### Unocal Keystone Gas Storage, LLC; Notice of Compliance Filing

February 6, 2006.

Take notice that on January 24, 2005, Unocal Keystone Gas Storage, LLC (Keystone) filed a compliance filing submitting operating statement pursuant to §§ 284.123(e) and 154.203 of the Commission's regulations. Keystone

states that it submits its revised operating statement for storage and hub services in interstate commerce provided under its limited jurisdiction blanket certificate. Keystone further states that the revised operating statement has eliminated the proposed provision to hold off-system capacity in Item 24, renumbered the subsequent items (previously labeled Items 25 and 26), and revised its Title Page and Table of Contents to reflect these changes.

Any person desiring to protest this rate filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5 p.m. eastern time on February 14, 2006.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2029 Filed 2–13–06; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP06–205–000]**

### Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

February 6, 2006.

Take notice that on February 1, 2006, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective February 1, 2006:

Ninth Revised Sheet No. 374
Twelfth Revised Sheet No. 376

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2033 Filed 2–13–06; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 459–128]**

### Union Electric Company, dba AmerenUE; Notice of Availability of Environmental Assessment

February 7, 2006.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects' staff has reviewed the application for new license for the Osage Project, located on the Osage River in south central Missouri, and has prepared an Environmental Assessment (EA) for the project. In the EA, Commission staff analyzed the potential environmental effects of relicensing the project and concluded that issuing a new license for the project, with appropriate environmental measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the EA are available for review in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. You may register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or any other pending projects. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 459–128 to all comments. Comments may be filed electronically via the Internet, in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions

on the Commission's Web site under the ''e-filing'' link. Based on the comments filed, Commission staff may elect to revise the EA and issue a final environmental document. For further information, please contact Allan Creamer by telephone at (202) 502–8365 or by e-mail at *allan.creamer@ferc.gov.*

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2038 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[ Docket No. CP05–412–000]**

### Tennessee Gas Pipeline Company; Notice of Availability of the Environmental Assessment for the Proposed Northeast ConneXion Project—New England

February 6, 2006.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Tennessee Gas Pipeline Company (Tennessee) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the installation of 55,400 horsepower (hp) and replacement of 10,500 hp for a net total increase of 44,900 hp of compression at one new compressor station and upgrade at six existing compressor stations which includes:

- Installation of two additional 3,550–hp CAT 3612 compressor units at each of the existing Compressor Stations 241, 245, and 249 located in Onondaga, Herkimer, and Schoharie Counties, New York;
- Replacement of an existing 4,500–hp compressor unit with a single 10,300–hp Solar Taurus 70S turbine-driven compressor unit at existing Compressor 254 in Columbia County, New York;
- Replacement of three existing compressor units totaling 6,000 hp with the installation of two 6,275–hp Solar Centaur 50L turbine-driven compressor units (12,550 hp total) at existing Compressor Station 264 in Worcester County, Massachusetts;
- Installation of one additional 3,550-hp CAT 3612 compressor unit at existing Compressor Station 313 in Potter County, Pennsylvania; and
- Construction of new Compressor Station 405A, with a single 7,700–hp Solar Taurus 60S turbine-driven compressor unit in Steuben County, New York.

Tennessee indicates that the proposed facilities would enable it to provide up to 136,300 decatherms per day of incremental firm transportation capacity on Tennessee's Lines 200 and 400.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426. (202) 502–8371.

Copies of the EA have been mailed to Federal, State and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas Branch 2, PJ11.2.
- Reference Docket No. CP05–412–000; and
- Mail your comments so that they will be received in Washington, DC on or before March 8, 2006.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Sign-up.''

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2034 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[FERC Docket No. PF06–4–000, BLM Reference No. AZA–33350]**

### Transwestern Pipeline Company, LLC; Notice of Intent To Prepare an Environmental Impact Statement and Proposed Land Use Plan Amendment for the Proposed Phoenix Expansion Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings

February 6, 2006.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of Transwestern Pipeline Company, LLC's (Transwestern) proposed Phoenix Expansion Project. This notice explains the scoping process that will be used to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EIS. Please note that the scoping period for the project will close on March 8, 2006.

Comments may be submitted in written form or verbally. In lieu of or in addition to sending written comments, you are invited to attend the public scoping meetings that have been scheduled in the project area. These meetings are scheduled for February 27, 2006 in Black Canyon City, Arizona; February 28, 2006 in Casa Grande, Arizona; March 1, 2006 in Prescott Valley, Arizona; and March 2, 2006 in Avondale, Arizona. Further instructions on how to submit comments and additional details of the public scoping meetings are provided in the public participation section of this notice.

The FERC will be the lead Federal agency for the preparation of the EIS. The document will satisfy the requirements of the National Environmental Policy Act (NEPA) and will be used by the FERC to consider the environmental impacts that could result if it issues Transwestern a Certificate of Public Convenience and Necessity under section 7 of the Natural Gas Act.

The Bureau of Land Management (BLM) is participating as a cooperating agency in the preparation of the EIS because the project would cross Federal land under the jurisdiction of the Farmington Field Office in New Mexico and the Hassayampa and Lower Sonoran Field Offices within the Phoenix District Office in Arizona. The U.S. Department of Agriculture, Forest Service (FS) is participating as a cooperating agency in the preparation of the EIS because the project would cross the Kaibab and Prescott National Forests. The U.S. Army Corps of Engineers (COE) is also participating as a cooperating agency in the preparation of the EIS to satisfy its NEPA responsibilities under section 404 of the Clean Water Act.

Under section 185(f) of the Mineral Leasing Act of 1920, the BLM has the authority to issue Right-of-Way Grants for all affected Federal lands. This would be in accordance with Title 43 Code of Federal Regulations (CFR) parts 2800 and 2880, subsequent 2800 and 2880 Manuals, and Handbook 2801–1. As a cooperating agency, the BLM would adopt the EIS per Title 40 CFR 1506.3 to meet its responsibilities under NEPA in considering Transwestern's application for a Right-of-Way Grant and Temporary Use Permit for the portion of the project on Federal land, including the Kaibab and Prescott National Forests. The concurrence or non-concurrence of the FS would be considered in the BLM's decision as well as impacts on resources and programs and the proposed project's conformance with land use plans.

The BLM is currently in the process of preparing a new resource management plan (Agua Fria National Monument and Bradshaw-Harquahala Resource Management Plan and Environmental Impact Statement) for the Phoenix District Office that would modify the currently designated utility corridor. It is not expected, however, that the plan would be finalized before the environmental review process for the Phoenix Expansion Project is completed. Therefore, for the proposed project, the EIS will be used by the BLM to consider amending the current Phoenix Resource Management Plan (approved September 29, 1989), which would be necessary for any pipeline construction outside of a designated utility corridor. Additional discussion of the BLM's plan amendment process is presented later in this notice.

With this notice, the staffs of the FERC, BLM, FS, and COE (Agency Staffs) are asking other Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EIS. These agencies may choose to participate once they have evaluated Transwestern's proposal relative to their responsibilities. Agencies that would like to request cooperating status should follow the instructions for filing comments described later in this notice.

This notice is being sent to affected landowners; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. The Agency Staffs encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a Transwestern representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the FERC's proceedings.

**Summary of the Proposed Project**

Transwestern has announced its intention to expand its existing system by constructing new pipeline facilities in San Juan and McKinley Counties, New Mexico, and Yavapai, Coconino, Maricopa, and Pinal Counties, Arizona. The project would involve the construction of the Phoenix Lateral consisting of approximately 260 miles of 36-inch-diameter lateral [1] pipeline and ancillary facilities from the existing mainline in Yavapai County, Arizona to delivery points in the Phoenix, Arizona area. For the majority of the route, the pipeline would be collocated with utility and transportation corridors. Transwestern would also construct approximately 25 miles of 36-inch-diameter pipeline in two loops [2] along its existing San Juan Lateral: Loop A is an approximately 16-mile-long loop in McKinley County, New Mexico; Loop B is an approximately 9-mile-long loop in

[1] A lateral pipeline typically takes gas from the main system to deliver it to a customer, local distribution system, or another interstate transmission system.

[2] A loop is a segment of pipeline that is usually adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the system.

San Juan County, New Mexico. Nearly 100 percent of the proposed loop pipeline route would parallel Transwestern's existing pipeline system. Figures of the proposed facilities are provided in Appendix 1.[3]

The proposed project would also include construction of three customer laterals, ranging in length from 0.1 mile to 1.5 miles, to deliver natural gas from the Phoenix Lateral to side taps and meter stations associated with major delivery points. One customer lateral would be located in Maricopa County, Arizona (24-inch-diameter pipeline) and two customer laterals would be located in Pinal County, Arizona (16-inch-diameter pipelines). In addition, Transwestern would add compression at its existing Compressor Station 4 near Klagetoh, Arizona; construct a new aboveground facility at the intersection of its existing mainline and the Phoenix Lateral, approximately 1 mile southeast of Ash Fork, Arizona (Ashfork Facility); and construct various mainline valves and pig[4] launcher and receiver facilities in New Mexico and Arizona.

Transwestern proposes to begin construction of the expansion project in July 2007, with a projected in-service date of April 2008.

**Land Requirements**

Construction of Transwestern's proposed pipeline and aboveground facilities would require about 5,680 acres of land, including land requirements for the nominal construction right-of-way, temporary extra work areas, access roads, pipe and contractor yards, and aboveground facilities. Following construction, about 1,680 acres would be retained as permanent right-of-way for the pipeline and operation of the aboveground facility sites. The remaining 4,000 acres would be restored and allowed to revert to its former use.

*Phoenix Lateral*

The 36-inch-diameter Phoenix Lateral would generally be installed adjacent to and within existing utility and transportation corridors within a 100-foot-wide construction right-of-way. At certain locations (*e.g.*, road, railroad, and waterbody crossings), extra workspaces would be required. Transwestern would retain a 50-foot-wide permanent right-of-way for the pipeline.

*San Juan Lateral Loops*

The 36-inch-diameter San Juan Lateral Loops would generally be installed parallel to and 25 feet from Transwestern's existing pipeline within a 100-foot-wide construction right-of-way. In most areas Transwestern would require 25 feet of new permanent right-of-way. The construction right-of-way would consist of all or part of the new and existing permanent right-of-way plus 50 feet of temporary workspace. In some areas the loops would be separated from the existing pipeline due to the presence of foreign pipelines or other obstacles.

*Customer Laterals*

The 24-inch- and 16-inch-diameter customer laterals would generally be installed within a 100-foot-wide construction right-of-way. Transwestern would retain a 50-foot-wide permanent right-of-way for the laterals.

*Aboveground Facilities*

The activities at Compressor Station 4 would occur within the existing fenced property. Transwestern's mainline valves and pig launcher and receiver facilities would generally be constructed within the permanent pipeline right-of-way and would not require additional permanent right-of-way. The Ashfork Facility would be located within an approximate 2-acre parcel.

**The EIS Process**

NEPA requires the FERC to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. The EIS will give the Agency Staffs the information needed to do that.

Although no formal application has been filed, the Agency Staffs have already initiated a NEPA review under the FERC's Pre-Filing Process, which was established in Docket No. RM05–31–000 and Order No. 665. The purpose of the Pre-Filing Process is to seek public and agency input early in the project planning phase and encourage involvement by interested stakeholders in a manner that allows for the early identification and resolution of environmental issues. The BLM, the FS, and the COE have agreed to conduct their reviews in conjunction with the FERC's Pre-Filing Process. The Agency Staffs will work with all interested stakeholders to identify and attempt to address issues before Transwestern files its application with the FERC. A diagram depicting the environmental review process for the proposed project is attached to this notice as Appendix 2.

As part of the Pre-Filing Process review, FERC staff representatives participated in public open houses sponsored by Transwestern in the project area on January 9–12, 2006 and January 25, 2006 to explain the environmental review process to interested stakeholders and take comments about the project. In February and March 2006, the Agency Staffs plan to continue their Pre-Filing Process review by conducting interagency scoping meetings in the project area to solicit comments and concerns about the project from other jurisdictional agencies.

By this notice, the Agency Staffs are formally announcing their preparation of the EIS and requesting agency and public comments to help focus the analysis in the EIS on the potentially significant environmental issues related to the proposed action. If you provide comments at an interagency scoping meeting, you do not need to resubmit the same comments in response to this notice.

The Agency Staffs' independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; affected landowners; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. It is currently expected that a 90-day comment period will be allotted for review of the draft EIS to comply with the BLM's plan amendment process regulations. If, however, the Agua Fria National Monument and Bradshaw-Harquahala Resource Management Plan and Environmental Impact Statement referred to above has been finalized by the time the draft EIS is issued, a 45-day comment period will be allotted. The Agency Staffs will consider all timely comments on the draft EIS and revise the document, as necessary, before issuing a final EIS.

**The BLM's Plan Amendment Process**

As discussed above, the BLM will use the EIS to consider amending the Phoenix Resource Management Plan. Publication of this notice formally initiates the plan amendment process and begins the scoping process.

[3] The appendices referenced in this notice are not being printed in **Federal Register**. Copies (including maps) are available on the Commission's Internet Web site *(http://www.ferc.gov)* at the ''eLibrary'' link or from the Commission's Public Reference Room at (202) 502–8371. For instructions on connecting to eLibrary, refer to the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Transwestern by calling its Phoenix Right-of-Way toll-free at 1–888–998–1764 or (602) 298–1764.

[4] A pig is an internal tool that can be used to clean and dry a pipeline and/or to inspect it for damage or corrosion.

The BLM regulations in Title 43 CFR part 1600 and the NEPA process detailed in the Council on Environmental Quality regulations in Title 40 CFR parts 1500–1508 guide preparation of plan amendments. The process is tailored to the anticipated level of public interest and potential for significant impacts.

Plan amendments (see Title 43 CFR part 1610.5–5) change one or more of the terms, conditions, or decisions of an approved land use plan. These decisions may include those relating to desired outcomes; measures to achieve desired outcomes, including resource restrictions; or land tenure decisions. Plan amendments are required to consider any proposal or action that does not conform to the plan.

An applicant may request that the BLM amend the land use plan to allow an otherwise non-conforming proposal. The amendment and any implementation actions (*i.e.*, granting the Right-of-Way and Temporary Use Permit) may be considered together. However, at the decision stage, the land use plan decisions must be separated from the implementation decisions.

Additional information regarding the plan amendment process can be found in the BLM's Land Use Planning Handbook (*http://www.blm.gov/nhp/200/wo210/landuse_hb.pdf*).

**Currently Identified Environmental Issues**

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project. The Agency Staffs have already identified a number of issues and alternatives that they think deserve attention based on a preliminary review of the proposed facilities, the environmental information provided by Transwestern, and the scoping comments received to date. This preliminary list of issues and alternatives may be changed based on your comments and the Agency Staffs' additional analysis.

- Geology and Soils:
—Assessment of potential geological hazards.
—Effect on prime farmland soils.
—Desert construction and erosion control.
—Right-of-way restoration and revegetation in an arid environment.
—Evaluation of noxious weed control.
—Need for a rock disposal plan.
—Construction in steep terrain, including blasting.
- Water Resources:
—Impact of dry crossings of irrigation canals and drains.
—Impact of open-cut crossings of dry washes.
—Impact on wetland hydrology and assessment of wetland mitigation options.
—Effect of pipeline crossings on perennial and intermittent waterbodies.
—Assessment of alternative waterbody crossing methods.
—Assessment of hydrostatic test water sources and discharge locations.
—Effects on the wild and scenic river characteristics of the Verde River.
- Fish, Wildlife, and Vegetation:
—Effect on coldwater and sensitive fisheries.
—Effect on wildlife resources and their habitat.
—Effect on migratory birds.
—Assessment of construction time window restrictions.
—Effect on riparian vegetation.
—Assessment of measures to successfully revegetate the right-of-way.
- Special Status Species:
—Potential effect on federally listed or proposed species.
—Potential effect on state-listed sensitive species.
- Cultural Resources:
—Effect on historic and prehistoric sites, including the high concentration of cultural resources along the Black Canyon portion of the project.
—Native American and tribal concerns, including impacts on traditional cultural properties.
- Land Use, Recreation and Special Interest Areas, and Visual Resources:
—Impacts on the Agua Fria and Sonoran Desert National Monuments.
—Impacts on agricultural land and residences.
—Future residential growth.
—Amendment to the Phoenix Resource Management Plan.
—Impacts associated with contaminated sites.
—Visual impacts.
—Off-highway vehicle impacts on public lands.
- Socioeconomics:
—Effects on transportation and traffic.
—Effects of construction workforce demands on public services and temporary housing.
- Air Quality and Noise:
—Effects on local air quality and noise environment from construction and operation of the proposed facilities.
- Reliability and Safety:
—Assessment of hazards associated with natural gas pipelines.
- Alternatives:
—Assessment of existing systems and alternative routes to reduce or avoid environmental impacts.
—Deviations from a designated utility corridor.
- Cumulative Impact:
—Cumulative impact of multiple utilities.
—Assessment of the effect of the proposed project when combined with other past, present, or future actions in the same region.

**Public Participation**

You are encouraged to become involved in this process and provide your specific comments or concerns about Transwestern's proposal. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To expedite the Agency Staffs' receipt and consideration of your comments, electronic submission of comments is strongly encouraged. See Title 18 CFR 385.2001(a)(1)(iii) and the instructions on the FERC Internet Web site (*http://www.ferc.gov*) under the eFiling link and the link to the User's Guide. Before you can submit comments you will need to create a free account by clicking on ''Sign-up'' under ''New User.'' You will be asked to select the type of submission you are making. This type of submission is considered a ''Comment on Filing.'' Comments submitted electronically must be submitted by March 8, 2006.

If you wish to mail comments, please mail your comments so that they will be received in Washington, DC on or before March 8, 2006 and carefully follow these instructions:

Send an original and two copies of your letter to:

- Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426;
- Label one copy of your comments for the attention of Gas 2, DG2E; and
- Reference Docket No. PF06–4–000 on the original and both copies.

The public scoping meetings are designed to provide another opportunity to offer comments on the proposed project. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the EIS. A transcript of the meetings will be generated so that your comments will be accurately recorded. All meetings will begin at 7 p.m. (MST), and are scheduled as follows:

| Date | Location |
|---|---|
| Monday, February 27, 2006 | Albins Civic Center, Black Canyon Community Association, 19055 East K-Mine Road, Black Canyon City, AZ 85324, (623) 374–5553. |
| Tuesday, February 28, 2006 | Holiday Inn-Copper/Cotton Room, 777 North Pinal Avenue, Casa Grande, AZ 85222, (520) 426–3500. |
| Wednesday, March 1, 2006 | Central Arizona Seniors Association, 9360 East Manzanita Circle, Prescott Valley, AZ 86314, (928) 772–3337. |
| Thursday, March 2, 2006 | Estrella Mountain Community College, North Community Room, 3000 North Dysart Road, Avondale, AZ 85323, (623) 935–8493. |

**Environmental Mailing List**

Everyone who responds to this notice or provides comments throughout the EIS process will be retained on the mailing list. If you do not want to send comments at this time but still want to stay informed and receive copies of the draft and final EISs, you must return the Mailing List Retention Form (Appendix 3). If you do not send comments or return the Mailing List Retention Form asking to remain on the mailing list, you will be taken off the mailing list.

**Availability of Additional Information**

Additional information about the Project is available from the FERC's Office of External Affairs at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to the eSubscription link on the FERC Internet Web site.

Information concerning the proposed land use plan amendment and the involvement of the BLM in the EIS and plan amendment process may be obtained from Mark Mackiewicz, PMP, Project Manager, at (435) 636–3616.

Information concerning the involvement of the FS in the EIS may be obtained from Chip Ernst at (928) 635–8317 or Tom Mutz at (928) 635–5661 (Kaibab National Forest) or from Vicki Clay at (928) 443–8013 or Ken Simeral at (928) 443–8010 (Prescott National Forest).

Finally, Transwestern has established an Internet Web site for its project at *http://www.crosscountryenergy.com/about/tw.shtml.* The Web site includes a description of the project, Transwestern's answers to frequently asked questions, and links to related documents. Transwestern will continue to update its Web site with information about the project. You can also request additional information by calling Transwestern directly at its Phoenix Right-of-Way Office toll-free at 1–888–998–1764 or (602) 298–1764.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2028 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 9184–013]**

### Flambeau Hydro, LLC; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

February 7, 2006.

Take notice that the following hydroelectric license application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License.

b. *Project No.:* P–9184–013.

c. *Date Filed:* June 10, 2005.

d. *Applicant:* Flambeau Hydro, LLC.

e. *Name of Project:* Danbury Hydroelectric Project.

f. *Location:* Located on the Yellow River in Burnett County, Wisconsin. This project does not occupy federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Scott Klabunde, North American Hydro, Inc., P.O. Box 167, Neshkoro, WI 54960; 920–293–4628 ext. 14.

i. *FERC Contact:* Timothy Konnert, (202) 502–6359, *timothy.konnert@ferc.gov.*

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

*All documents (original and eight copies) should be filed with:* Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link.

k. This application has been accepted, and is ready for environmental analysis at this time.

l. The existing Danbury Project consists of: (1) A 35-foot-high concrete dam with a 48-foot-wide spillway with three sections, each of which is equipped with 7-foot-high slide gates; (2) a 300-foot-long earthen dike connecting to the right side of the concrete dam; (3) a powerhouse (Plant 1) integral to the dam containing a 176-kW turbine generating unit and a 300-kW turbine generating unit; (4) a 255-acre reservoir with a negligible net storage capacity at a water surface elevation of 929.21 feet NGVD from April through October and 928.11 feet NGVD from November through March; (5) a 2,500-foot-long power canal that

conveys water to; (6) a second powerhouse (Plant 2) containing a single 600-kW turbine generating unit; and (7) appurtenant facilities. The applicant estimates that the total average annual generation is 3,844 megawatt-hours. The dam and existing project facilities are owned by Flambeau Hydro, LLC.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

*All filings must:* (1) Bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS'', ''TERMS AND CONDITIONS'', or ''PRESCRIPTIONS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions, or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

You may also register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural schedule:* The Commission staff proposes to issue an Environmental Assessment (EA) rather than issuing a draft and final EA. Staff intends to allow at least 30 days for entities to comment on the EA, and will take into consideration all comments received on the EA before final action is taken on the license application. The application will be processed according to the following schedule, but revisions to the schedule may be made as appropriate:

*Issue Notice of availability of the EA:* May 30, 2006.

*Ready for Commission decision on the application:* July 31, 2006.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2035 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2216–066]**

### New York Power Authority; Notice of Application Ready for Environmental Analysis, and Soliciting Comments, Terms and Conditions, Recommendations, and Prescriptions

February 7, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* P–2216–066.

c. *Date Filed:* August 18, 2005.

d. *Applicant:* New York Power Authority.

e. *Name of Project:* Niagara Power Project, which consists of the Lewiston Pump Generating Plant and the Robert Moses Niagara Power Plant.

f. *Location:* The Niagara Power Project is located on the Niagara River in the City of Niagara Falls and the Towns of Niagara and Lewiston, in Niagara County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Frederick E. Chase, Executive Director of Hydropower Relicensing, Power Authority of the State of New York, 30 South Pearl Street, Albany, NY 12207–3425, (518) 433–6738 or *chase.f@nypa.gov.*

i. *FERC Contact:* Steve Kartalia, (202) 502–6131 or *Stephen.kartalia@ferc.gov.*

j. *Deadline for filing comments, terms and conditions, recommendations, and prescriptions:* 60 days from the issuance of this notice. All reply comments must be filed with the Commission within 105 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, terms and conditions, recommendations, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link.

k. This application has been accepted and is now ready for environmental analysis.

l. *Description of Project:* The existing project has a conventional development and a pumped storage development for a total current installed capacity of 2,538 megawatts (based on currently completed upgrades). Existing project facilities include: (a) Two 700-foot-long intake structures located on the upper Niagara River about 2.6 miles upstream from the American Falls; (b) two 4.3-mile-long concrete underground water supply conduits, each measuring 46 feet wide by 66.5 feet high; (c) a forebay; (d) the Lewiston Pump-Generating Plant, measuring 975 feet long by 240 feet wide by 160 feet high; (e) the 1,900-acre Lewiston Reservoir at a maximum water surface elevation of 658 feet United States Lake Survey Datum; (f) the Robert Moses Niagara power plant, including an intake structure, measuring 1,100 feet long by 190 feet wide by 100 feet high; (g) a switch yard; and (h) appurtenant facilities.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances

related to this or other pending projects. For assistance, contact FERC Online Support.

All filings must (1) Bear in all capital letters the title ''COMMENTS;'' ''REPLY COMMENTS'', ''RECOMMENDATIONS'', ''TERMS AND CONDITIONS'', or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accomplished by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

n. *Procedural schedule and final amendments:* At this time we anticipate preparing a draft environmental impact statement (DEIS). Recipients will have 45 days to provide the Commission with any written comments on the DEIS. All comments filed with the Commission will be considered in the final environmental impact statement (FEIS). The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

*Notice of the Availability of the DEIS:* June 2006.

*Notice of the Availability of the FEIS:* November 2006.

*Ready for Commission's decision on the application:* February 2007.

Final amendments to the application must be filed with the Commission no later than 60 days from the issuance date of this notice.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2037 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application for Surrender of Conduit Exemption and Soliciting Comments, Motions To Intervene, and Protests

February 7, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of Conduit Exemption.

b. *Project No:* 6546–001.

c. *Date Filed:* November 16, 2005.

d. *Applicant:* Glenn-Colusa Irrigation District.

e. *Name of Project:* Stovall #2 Project.

f. *Location:* The project is located on the Glenn-Colusa Canals in Colusa County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. O.L. Tenney, Glenn-Colusa Irrigation District, P.O. Box 150, 344 East Laurel Street, Willows, CA 95988, (530) 934–8881.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing comments and or motions:* March 7, 2006.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–6546–001) on any comments or motions filed.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

l. *Description of Application:* Glenn-Colusa Irrigation District proposes to surrender the exemption from licensing for the Stovall #2 Project. As part of its request, Glenn-Colusa Irrigation District proposes to decommission the project. The Glenn-Colusa Irrigation District will remove the turbine form the concrete penstock, the lids will be replaced and secured and water deliveries will continue through the same conduits that have been historically used.

m. *Location of the Application:* This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, here P–6546, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

q. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2039 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application for Surrender of Exemption From Licensing and Soliciting Comments, Motions To Intervene, and Protests

February 7, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of Exemption From Licensing.

b. *Project No:* 6805–001.

c. *Date Filed:* November 16, 2005.

d. *Applicant:* Glenn-Colusa Irrigation District.

e. *Name of Project:* Stovall #1 Project.

f. *Location:* The project is located on the Glenn-Colusa Canals in Colusa County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. O.L. Tenney, Glenn-Colusa Irrigation District, P.O. Box 150, 344 East Laurel Street, Willows, CA 95988, (530) 934–8881.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing comments and/or motions:* March 7, 2006.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–6805–001) on any comments or motions filed.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

l. *Description of Application:* Glenn-Colusa Irrigation District proposes to surrender the exemption from licensing for the Stovall #2 Project. As part of its request, Glenn-Colusa Irrigation District proposes to decommission the project. The Glenn-Colusa Irrigation District will remove the turbine from the concrete penstock, the lids will be replaced and secured and water deliveries will continue through the same conduits that have been historically used.

m. *Location of the Application:* This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, here P–6805, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

q. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2040 Filed 2–13–06; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application for Surrender of Exemption From Licensing and Soliciting Comments, Motions To Intervene, and Protests

February 7, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of Exemption from Licensing.

b. *Project No:* 7422–003.

c. *Date Filed:* March 3, 2003.

d. *Applicant:* Horn Creek Conference Grounds.

e. *Name of Project:* Horn Creek Hydro Project.

f. *Location:* The project is located on the Horn Creek in Custer County, Colorado.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. DeWayne Davis, Horn Creek Conference Grounds, 6758 County Road, Westcliffe, CO 81252, (719) 783–2205.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing comments and or motions:* March 7, 2006.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–7422–003) on any comments or motions filed.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

l. *Description of Application:* Horn Creek Conference Grounds proposes to surrender the exemption from licensing for the Horn Creek Hydro Project. As part of its request, Horn Creek Conference Grounds proposes to abandon the project works which will remain a part of the conference grounds. The water will bypass the facility and continue to a part of the natural flow of Horn Creek.

m. *Location of the Application:* This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number here, P–7422, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

q. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2041 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application for Surrender of Conduit Exemption and Soliciting Comments, Motions To Intervene, and Protests

February 7, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of Conduit Exemption.

b. *Project No:* 9045–002.

c. *Date Filed:* November 16, 2005.

d. *Applicant:* Glenn-Colusa Irrigation District.

e. *Name of Project:* Mile 41.1 Project.

f. *Location:* The project is located on the Mile 41.1 Conduit in Colusa County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. O.L. Tenney, Glenn-Colusa Irrigation District, P.O. Box 150, 344 East laurel Street, Willows, CA 95988, (530) 934–8881.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing comments and or motions:* March 7, 2006.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–9045–002) on any comments or motions filed.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

l. *Description of Application:* Glenn-Colusa Irrigation District proposes to surrender the exemption from licensing for the Stovall #2 Project. As part of its request, Glenn-Colusa Irrigation District proposes to decommission the project. The Glenn-Colusa Irrigation District will remove the turbine from the concrete penstock, the lids will be replaced and secured and water deliveries will continue through the same conduits that have been historically used.

m. *Location of the Application:* This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, here P–9045, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

q. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2043 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 8657, Project No. 9840]**

### Virginia Hydrogeneration and Historical Society, L.C.; Appomattox L.P.; Notice on Appomattox River Fish Passage Technical Workshop

February 7, 2006.

On February 22, 2006, Commission staff will be conducting a fish passage technical workshop to discuss fish passage on the Appomattox River as it relates to Commission projects, which include Harvell Dam Project (FERC No. 8657), Battersea Dam Project (FERC No. 8535) [1] and the Appomattox River Project (FERC No. 9840). The meeting will allow Commission staff to discuss: (1) The status of fish passage at the various dams on the Appomattox River, (2) associated costs incurred to date for fish passage at the various dams; and (3) proposals and/or goals for any remaining obstructions to fish passage on the Appomattox River.

The meeting will specifically focus on the above topics to clarify information currently on file with the Commission. Commission staff will review the record on file and be prepared to lead a discussion using information that has been filed by the various parties concerning fish passage, passage status at the various dams, and the associated costs of providing passage. Commission staff ask all parties that plan to participate to be prepared to support statements with documented information.

The meeting will be held on February 22, 2006, at the Hampton Inn, 5103 Plaza Drive, Hopewell, Virginia 23860, at 9 a.m. (EST). Intervenors and other parties interested in this issue are invited to participate if they so desire.

Any questions about this notice should be directed to Blake Condo at (202) 502–8914 or via e-mail at *blake.condo@ferc.gov* or Bob Fletcher at (202) 502–8901 or via e-mail at *robert.fletcher@ferc.gov.*

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6–2042 Filed 2–13–06; 8:45 am]

**BILLING CODE 6717–01–P**

[1] *See Order Accepting Final Surrender of License* issued November 23, 2005, 113 FERC ¶ 62,153 (2005).

## DEPARTMENT OF ENERGY

### Southwestern Power Administration

### Integrated System Power Rates

**AGENCY:** Southwestern Power Administration, DOE.

**ACTION:** Notice of Rate Order.

**SUMMARY:** Pursuant to Delegation Order Nos. 00–037.00, effective December 6, 2001, and 00–001–00B, effective July 28, 2005, the Deputy Secretary has approved and placed into effect on an interim basis Rate Order No. SWPA–53, which increases the power rates for the Integrated System pursuant to the following Integrated System Rate Schedules:

Rate Schedule P–05, Wholesale Rates for Hydro Peaking Power.

Rate Schedule NFTS–05, Wholesale Rates for Non-Federal Transmission/ Interconnection Facilities Service.

Rate Schedule EE–05, Wholesale Rate for Excess Energy.

The rate schedules supersede the existing rate schedules shown below:

Rate Schedule P–04, Wholesale Rates for Hydro Peaking Power (superseded by P–05).

Rate Schedule NFTS–04, Wholesale Rates for Non-Federal Transmission/ Interconnection Facilities Service (superseded by NFTS–05).

Rate Schedule EE–04, Wholesale Rate for Excess Energy (superseded by EE–05).

**DATES:** The effective period for the rate schedules specified in Rate Order No. SWPA–53 is February 1, 2006, through September 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, Department of Energy, Williams Center Tower I, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6696, *gene.reeves@swpa.gov.*

**SUPPLEMENTARY INFORMATION:** Southwestern Power Administration's (Southwestern) Administrator has determined based on the 2005 Integrated System Current Power Repayment Study, that existing rates will not satisfy cost recovery criteria specified in Department of Energy Order No. RA 6120.2 and Section 5 of the Flood Control Act of 1944. The finalized 2005 Integrated System Power Repayment Studies (PRSs) indicate that an increase in annual revenue of $9,016,929, or 7.3 percent, beginning February 1, 2006, will satisfy cost recovery criteria for the Integrated System projects. The proposed Integrated System rate schedules would increase annual revenues from $124,325,100 to $133,342,029, primarily to recover increased expenditures in operations and maintenance (O&M) and increased investments in the hydroelectric generating facilities. Additionally, the PRS indicates the need for an annual increase of $227,100 in revenues received through the Purchased Power Adder to recover increased purchased energy costs. This rate proposal also includes a provision to continue the Administrator's Discretionary Purchased Power Adder Adjustment, to adjust the purchased power adder annually, of up to $0.0011 per kilowatthour as necessary, at his/her discretion, under a formula-type rate, with notification to the FERC.

The Administrator has followed Title 10, part 903 subpart A, of the Code of Federal Regulations, ''Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions'' in connection with the proposed rate schedule. On August 16, 2005, Southwestern published notice in the **Federal Register**, (70 FR 48121), of a 90-day comment period, together with a Public Information Forum and a Public Comment Form, to provide an opportunity for customers and other interested members of the public to review and comment on the proposed rate increase for the Integrated System. Both public forums were canceled since no one expressed an intention to participate. Written comments were accepted through November 14, 2005. Comments from three entities were received and are addressed in this rate proposal.

Information regarding this rate proposal, including studies and other supporting material, is available for public review and comment in the offices of Southwestern Power Administration, Williams Center Tower I, One West Third Street, Suite 1400, Tulsa, Oklahoma 74103.

Following review of Southwestern's proposal within the Department of Energy, I approved, Rate Order No. SWPA–53, on an interim basis, which increases the existing Integrated System annual revenue requirement to $133,342,029 per year for the period February 1, 2006 through September 30, 2009.

Dated: February 1, 2006.

**Clay Sell,**

*Deputy Secretary.*

**In the Matter of: Southwestern Power Administration Integrated System Rates; Rate Order No. SWPA–53; Order Confirming, Approving and Placing Increased Power Rate Schedules in Effect on an Interim Basis**

Pursuant to sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983, the Secretary of Energy delegated to the Administrator of Southwestern the authority to develop power and transmission rates, delegated to the Deputy Secretary of the Department of Energy the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Administrator under the delegation. Delegation Order No. 0204–108, as amended, was rescinded and subsequently replaced by Delegation Orders 00–037.00 (December 6, 2001) and 00–001–00B (July 28, 2005). The Deputy Secretary issued this rate order pursuant to said delegations.

**Background**

FERC confirmation and approval of the following Integrated System (System) rate schedules was provided in FERC Docket No. EF05–4011–000 issued October 11, 2005, for the period January 1, 2005, through September 30, 2008:

Rate Schedule P–04, Wholesale Rates for Hydro Peaking Power.

Rate Schedule NFTS–04, Wholesale Rates for Non-Federal Transmission/ Interconnection Facilities Service.

Rate Schedule EE–04, Wholesale Rate for Excess Energy.

Southwestern Power Administration's (Southwestern), Current Power Repayment Study (PRS) indicates that the existing rates will not satisfy present financial criteria regarding repayment of investment within a 50-year period due to implementing the final cost allocation for the Harry S. Truman Project plus increasing operation and maintenance expenditures and investment for both the U.S. Army Corps of Engineers (Corps) and Southwestern. The revised PRS indicates that an increase in annual revenues of $9,016,929 is necessary beginning February 1, 2006, to accomplish repayment in the required number of years. Accordingly, Southwestern has prepared proposed rate schedules based on the additional revenue requirement and the 2005 Rate Design Study.

An informal meeting was held in June 2005 with customer representatives to review the repayment and rate design processes and present the basis for the 7.3 percent annual revenue increase. In September 2005, Southwestern prepared a proposed 2005 PRS for the Integrated System.

Title 10, part 903, subpart A of the Code of Federal Regulations, ''Procedures for Public Participation in Power and Transmission Rate Adjustment,'' has been followed in connection with the proposed rate adjustments. More specifically, opportunities for public review and comment on proposed System power rates during a 90-day period were announced by notice published in the **Federal Register**, August 16, 2005, (70 FR 48121). A Public Information Forum was scheduled for August 30, 2005, in Tulsa, Oklahoma, and a Public Comment Forum was scheduled for September 29, 2005, also in Tulsa. Both were canceled since no one expressed an intention to attend. Written comments were due by November 14, 2005. Southwestern mailed copies of the proposed September 2005 PRS and Rate Design Studies to customers and interested parties that requested the data, for review and comment during the formal period of public participation.

Following conclusion of the comment period on November 14, 2005, comments presented during the formal public participation process were reviewed. Once all comments were carefully evaluated and responded to, the 2005 PRS and Rate Design Studies were completed. No changes were made to the 2005 PRS based on comments received. The studies were finalized in November 2005. The Administrator decided to submit the rate proposal for interim approval and implementation. The comments resulting from the public participation process and responses, as developed by Southwestern's staff, are contained in this Rate Order.

**Discussion**

*General*

The existing rate schedules developed in the 2004 Integrated System PRS were the basis for revenue determination in the September 2005 Integrated System Current PRS. The Current PRS indicates that existing rates are insufficient to produce the annual revenues necessary to accomplish repayment of the capital investment as required by section 5 of the Flood Control Act of 1944 and Department of Energy (DOE) Order No. RA 6120.2.

A Revised PRS was prepared with annual revenue of $9,016,929 added to the Current PRS, to satisfy repayment criteria.

In Southwestern's 2005 Rate Proposal, rates were designed to recover the additional revenue requirements. The monthly demand charge for the sale of Federal hydroelectric power has increased. The energy charge was separated into a peaking energy charge and a supplemental energy charge, both of which reflected increases over the current base energy rate. In addition, transmission charges for non-Federal, firm service have increased. There is no change in the capacity charge for those customers taking transformation service. The increase to the transmission charges are due to including projected additions and replacements to Southwestern's aging transmission facilities since the last rate change.

Consistant with FERC's Order No. 888, Southwestern will continue charging separately for five ancillary services under Rate Schedule P–05 and Rate Schedule NFTS–05, and offering network transmission service under Rate Schedule NFTS–05. Southwestern's rate design has separated the five ancillary services for all transmission service. Two ancillary services, Scheduling, System Control and Dispatch Service together with Reactive and Voltage Support Service, are required for every transmission transaction. These charges are also a part of the capacity rate for Federal power. This is consistent with Southwestern's long-standing practice of charging for the sale and delivery of Federal power in its Federal demand charge. The three remaining ancillary services will be made available to any transmission user within Southwestern's control area, including Federal power customers. The rate schedules for Peaking Power and Non-Federal Transmission Service reflect these charges. Network transmission service is provided to those who request the service, within Southwestern's control area, but only for non-Federal deliveries. The rate for and application of this service are identified in the Non-Federal Transmission/Interconnection Facilities Service Rate Schedule, NFTS–05.

With respect to the Purchased Power Adder (Adder), Southwestern is

proposing, as in all previous proposals beginning with the 1983 implementation of the purchased power rate component (45 FR 19032, March 24, 1980), that the Adder be set equal to the current average long-term purchased power rate requirement. As shown in the Rate Design Study, the amount is determined by dividing the estimated total average direct purchased power costs by Southwestern's total annual contractual 1200-hour peaking energy commitments to the customers (exclusive of contract support arrangements). In this rate proposal, the resulting Adder is $0.0029 per kWh of peaking energy. The total revenue created through application of this Adder would enable Southwestern to cover its average annual purchased power costs.

**Comments and Responses**

The Southwestern Power Administration (Southwestern) responded to questions provided during the public participation period which are included in the supplemental background information. In addition, Southwestern received comments from three entities during the public participation process. Southwestern's responses are summarized into three general areas of concern, and are as follows:

*Cost Control*

Comments

The commenter questions why Southwestern would charge its customers for an upgrade to their facilities, which would be owned and operated by Southwestern, and then include such costs in its need for a rate increase.

Response

Southwestern requires customers to fully pay for upgrades or improvements to its system which improve the customer's own system reliability. However, when these upgrades are an integral part of Southwestern's system, Southwestern takes ownership and responsibility for future maintenance. Since the original costs were fully paid by the customer, none of these costs are included in rates to be paid by the customer improving its system reliability or any other customer.

*Southwest Power Pool Issues*

Comment

A commenter has stated that withdrawal of Southwestern's transmission facilities from the Southwest Power Pool (SPP) has adversely affected those customers not directly connected to Southwestern's facilities and suggests a transmission rate credit to offset perceived adverse impacts.

Response

Southwestern has not withdrawn its Transmission Facilities from the Southwest Power Pool (SPP). Southwestern and SPP are currently operating under an independent contractual coordination agreement that allows SPP to utilize Southwestern's transmission facilities under the SPP Tariff, and for SPP to provide Southwestern services such as OASIS administration, regional reliability coordination services, and administration of Southwestern's Open Access Transmission Tariff. The separate agreement is necessary in order for Southwestern to comply with Federal statutes and regulations while allowing Southwestern to participate in the SPP Regional Transmission Organization (RTO) per the Department of Energy's direction to support the formation of RTO's.

The issue of Southwestern's participation in the SPP RTO and customers receiving service under the SPP tariff is not germane to this rate filing. Further, Southwestern is not required by FERC Order No. 888 or Order No. 2000 to offer unbundled services to its customers. Section 5 of the Flood Control Act of 1944 sets forth the statutory requirements for the sale and delivery of Federal power and energy. Southwestern's sales of Federal power and energy are based on a ''postage-stamp'' type rate, which is based on the financial integration of all the projects marketed under the Integrated System, as well as various components of Southwestern's transmission system. The capacity rate for all Federal power customers includes a transmission component and the two required ancillary services. The transmission component of this rate has been set to assure that Southwestern charges itself the same rates it charges for the use of the transmission system for wheeling non-Federal power. Southwestern must recover *all* costs of its generation and transmission systems through its rates according to section 5 of the Flood Control Act of 1944.

Furthermore, based on DOE policy as stated in a press release dated December 31, 1997, ''each of the PMAs that own transmission facilities will publish generally applicable open access wholesale transmission tariffs and will take service itself under such tariffs. The tariffs will include rates, terms, and conditions, and will offer transmission services, including ancillary services, to all entities eligible to seek a transmission order under section 211 of the Federal Power Act * * *'' Southwestern has complied with this policy in separating its non-Federal transmission service and to provide for ancillary services.

The delivery of Federal power over the transmission facilities of Southwestern is currently excluded from SPP's Tariff, and has been excluded from SPP's tariff under all previous agreements between SPP and Southwestern since we believe that such inclusion would be inconsistent with Federal statutes related to Southwestern's marketing authority including section 5 of the 1944 Flood Control Act and Public Law 95–456. In accordance with Public Law 95–456, Southwestern must charge all customers the same rate for the delivery of Federal power over Federal facilities without regard to where they are physically located in relation to our grid. Any individual credit would be in violation of Public Law 95–456 which states in part:

''* * * That power and energy marketed by the Southwestern Power Administration pursuant to Section 825s of title 16, United States code (1970), shall be sold at uniform system wide rates, without discrimination between customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities constructed with appropriated funds, and customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities, the use of which is acquired by lease, wheeling or other contractual arrangements.''

In addition, the recently enacted Energy Policy Act of 2005, section 1232, reinforces this position by providing that Southwestern's participation in an RTO does not exempt us from any provision of Federal law currently in effect, or authorize abrogation of any contract.

*Purchased Power Adder*

Comment

A commenter has stated that the Purchased Power Adder should only apply to those customers requesting firming energy under Southwestern's 1200 hour peaking contractual obligations.

Response

This comment is not germane to the rate proposal since it relates to Southwestern's marketing plan and

power sales contract provisions. The rate schedule provision for the Purchased Power Adder merely provides a charge for energy delivered under a contract provision. Under Southwestern's marketing plan published in the **Federal Register** (45 FR 19032), Southwestern has allocated Federal Peaking Power with 1200 hours of firm Peaking Energy from its integrated hydroelectric system. During some periods, such as we are currently experiencing with high power demands and low pool levels, Southwestern must purchase non-Federal energy to support these 1200 hour integrated firm Peaking Power sales contracts. The power we receive from these hydroelectric dams is not customer or project specific, nor is the energy we purchase to support the 1200 hour peaking sales. All of the Integrated System projects combined support the system-wide requirements, thus it would be inappropriate to attempt to segregate firming energy purchases, and it would be inconsistent with Southwestern's marketing plan and power sales contracts.

**Other Issues**

Other issues are discussed in the Administrator's Record of Decision.

*Availability of Information*

Information regarding this rate proposal, including studies, comments and other supporting material, is available for public review and comment in the offices of Southwestern Power Administration, One West Third Street, Tulsa, OK 74101.

*Administrator's Certification*

The November 2005 Revised Power Repayment Study indicates that the increased power rates will repay all costs of the Integrated System including amortization of the power investment consistent with the provisions of Department of Energy Order No. RA 6120.2. In accordance with Delegation Order No. 00–037.00, December 6, 2001, and section 5 of the Flood Control Act of 1944, the Administrator has determined that the proposed System rates are consistent with applicable law and the lowest possible rates consistent with sound business principles.

*Environment*

The environmental impact of the proposed System rates was evaluated in consideration of DOE's guidelines for implementing the procedural provisions of the National Environmental Policy Act and was determined to fall within the class of actions that are categorically excluded from the requirements of preparing either an environmental Impact Statement or an Environmental Assessment.

**Order**

In view of the foregoing and pursuant to the authority delegated to me the Deputy Secretary of Energy, I hereby confirm, approve and place in effect on an interim basis, effective February 1, 2006, the following Southwestern Integrated System Rate Schedules which shall remain in effect on an interim basis through September 30, 2009, or until the FERC confirms and approves the rates on a final basis.

Dated: February 1, 2006.

Clay Sell,

*Deputy Secretary.*

**Rate Schedule P–05 [1] Wholesale Rates for Hydro Peaking Power**

*Effective*

During the period February 1, 2006, through September 30, 2009, in accordance with Rate Order No. SWPA–53 issued by the Deputy Secretary of Energy on February 1, 2006.

*Available*

In the marketing area of Southwestern Power Administration (Southwestern), described generally as the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

*Applicable*

To wholesale Customers which have contractual rights from Southwestern to purchase Hydro Peaking Power and associated energy (Peaking Energy and Supplemental Peaking Energy).

*Character and Conditions of Service*

Three-phase, alternating current, delivered at approximately 60 Hertz, at the nominal voltage(s), at the points of delivery, and in such quantities as are specified by contract.

*Definitions of Terms*

''Customer'' is the entity which is utilizing and/or purchasing hydroelectric power and associated energy and services from Southwestern pursuant to this rate schedule.

The ''Demand Period'' used to determine maximum integrated rates of delivery for the purpose of power accounting is the 60-minute period which begins with the change of hour. The term ''peak demand'' means the highest rate of delivery, in kilowatts, for any Demand Period during a particular month, at any particular point of delivery.

For the purposes of this Rate Schedule, the term ''point of delivery'' is used to mean either a single physical point at which electric power and energy are delivered from the System of Southwestern (defined below), or a specified set of delivery points which together form a single, electrically integrated load. ''Peak demand'' for such set of delivery points is computed as the coincidental highest rate of delivery among the specified points rather than as the sum of peak demands for each individual physical point of delivery.

The term ''Peaking Contract Demand'' means the maximum rate in kilowatts at which Southwestern is, by contract, obligated to deliver Peaking Energy during any Demand Period. Unless otherwise provided by contract, the ''Peaking Billing Demand'' for any month shall be equal to the ''Peaking Contract Demand.''

Supersedes Rate Schedule P–04

The term ''Uncontrollable Force,'' as used herein, shall mean any force which is not within the control of the party affected, including, but not limited to failure of water supply, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, or restraint by court of general jurisdiction, which by exercise of due diligence and foresight such party could not reasonably have been expected to avoid.

The term ''System of Southwestern'' means the high-voltage transmission lines and related facilities Southwestern owns and operates, and/or has contractual rights to such transmission facilities owned by others.

''Ancillary Services'' are those services necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the System of Southwestern in accordance with good utility practice. Definitions of the Ancillary Services are as follows:

''Scheduling, System Control, and Dispatch Service'' is provided by Southwestern as Control Area operator and is in regard to interchange and load-match scheduling and related system control and dispatch functions.

''Reactive Supply and Voltage Control from Generation Sources Service'' is provided at transmission facilities in the System of Southwestern to produce or absorb reactive power and to maintain transmission voltages within specific limits.

''Regulation and Frequency Response Service'' is the continuous balancing of generation and interchange resources accomplished by raising or lowering the output of on-line generation as

[1] Supersedes Rate Schedule P–04

necessary to follow the moment-by-moment changes in load and to maintain frequency within a Control Area.

''Spinning Operating Reserve Service'' maintains generating units on-line, but loaded at less than maximum output, which may be used to service load immediately when disturbance conditions are experienced due to a sudden loss of generation or load.

''Supplemental Operating Reserve Service'' provides an additional amount of operating reserve sufficient to reduce Area Control Error to zero within 10 minutes following loss of generating capacity which would result from the most severe single contingency.

''Energy Imbalance Service'' corrects for differences over a period of time between schedules and actual hourly deliveries of energy to a load. Energy delivered or received within the authorized bandwidth (defined below) for this service is accounted for as an inadvertent flow and is returned to the providing party by the receiving party in accordance with standard utility practice.

**Energy Associated With Hydro Peaking Power**

*Peaking Energy*

1,200 kilowatthours of Peaking Energy per kilowatt of Peaking Contract Demand will be furnished during each contract year.

*Supplemental Peaking Energy*

Supplemental Peaking Energy (in addition to Peaking Energy) will be furnished if and when determined by Southwestern to be available, and at rates of delivery which do not exceed the Customer's Peaking Contract Demand.

**Monthly Rates for Peaking Contract Demand**

*Capacity Charge for Hydro Peaking Power*

$3.03 per kilowatt of Peaking Billing Demand.

**Services Associated With Capacity Charge for Hydro Peaking Power**

The capacity charge for Hydro Peaking Power includes such transmission services as are necessary to integrate Southwestern's resources in order to reliably deliver Hydro Peaking Power and associated energy to Customers. This capacity charge also includes two ancillary services charges, Scheduling, System Control and Dispatch Service and Reactive Supply and Voltage Control from Generation Sources Service.

**Secondary Transmission Service Under Capacity Associated With Hydro Peaking Power**

Customers may utilize the capacity associated with Peaking Contract Demand for the transmission of non-Federal energy, on a non-firm, as-available basis, at no additional charge for such transmission service or associated Ancillary Services, under the following terms and conditions:

(1) The sum of the capacity, for any hour, which is used for Peaking Energy, Supplemental Peaking Energy, and Secondary Transmission Service, may not exceed the Peaking Contract Demand;

(2) The non-Federal energy transmitted under such secondary service is delivered to the Customer's point of delivery for Hydro Peaking Power;

(3) The Customer pays for or commits to provide Real Power Losses associated with such deliveries of non-Federal energy; and

(4) Southwestern determines that sufficient transfer capability exists between the point of receipt into the System of Southwestern of such non-Federal energy and the Customer's point of delivery for Hydro Peaking Power for the time period that such secondary transmission service is requested.

**Rates for Energy Associated With Hydro Peaking Power**

*Energy Charge*

(a) $0.0082 per kilowatthour of Peaking Energy delivered; plus (c).

(b) $0.0055 per kilowatthour of Supplemental Peaking Energy delivered;

(c) A purchased power adder of $0.0029 per kilowatthour of Peaking Energy delivered, as adjusted by the Administrator, Southwestern, in accordance with the procedure within this rate schedule. This adder does not apply to:

Supplemental Peaking Energy, or

Sales to any Customer which, by contract, has assumed the obligation to supply energy to fulfill the minimum of 1,200 kilowatthours of Peaking Energy per kilowatt of Peaking Contract Demand during a contract year (Contract Support Arrangements).

**Monthly Rates for Transformation Service**

*Capacity Charges for Transformation Service*

A charge of $0.30 per kilowatt will be assessed for capacity used to deliver energy at any point of delivery at which Southwestern provides transformation service for deliveries at voltages of 69 kilovolts or less from higher voltage facilities.

**Application of Capacity Charges for Transformation Service**

For any particular month, charges for transformation service will be assessed on the greater of (1) that month's actual peak demand, or (2) the highest peak demand recorded during the previous 11 months, at any point of delivery. For the purpose of this Rate Schedule, the peak demand will be based on all deliveries, of both Federal and non-Federal energy, from the System of Southwestern, at such point during such month.

**Rates for Ancillary Services**

*Capacity Charges for Ancillary Services*

(a) Regulation and Frequency Response Service: Monthly rate of $0.08 per kilowatt of Peaking Billing Demand.

(b) Spinning Operating Reserve Service: Monthly rate of $0.0079 per kilowatt of Peaking Billing Demand. Daily rate of $0.00036 per kilowatt for non-Federal generation inside Southwestern's control area.

(c) Supplemental Operating Reserve Service: Monthly rate of $0.0079 per kilowatt of Peaking Billing Demand. Daily rate of $0.00036 per kilowatt for non-Federal generation inside Southwestern's control area.

(d) Energy Imbalance Service: $0.0 per kilowatt for all reservation periods.

**Availability of Ancillary Services**

Ancillary Services (a) and (d) listed above are available only for deliveries of power and energy to load centers within Southwestern's Control Area. Ancillary Services (b) and (c) listed above are available only for deliveries of non-Federal power and energy generated by resources located within Southwestern's Control Area and for deliveries of all Hydro Peaking Power and associated energy from and within Southwestern's Control Area. Where available, such Ancillary Services must be taken from Southwestern; unless, subject to Southwestern's approval, they are provided by others.

**Application of Ancillary Services Charges**

For any month, the charges for Ancillary Services (a), (b), (c) and (d) listed above for deliveries of Hydro Peaking Power shall be based on the Peaking Billing Demand.

The daily charge for Ancillary Services (b) and (c) for non-Federal generation inside Southwestern's Control Area shall be applied to the greater of Southwestern's previous day's estimate of the peak, or the actual peak,

in kilowatts, of the internal non-Federal generation.

**Provision of Ancillary Services by Others**

Customers for which Ancillary Services (a), (b), (c) and (d) are made available as specified above, must inform Southwestern by written notice of the Ancillary Services which they do *not* intend to take and purchase from Southwestern, and of their election to provide all or part of such Ancillary Services from their own resources or from a third party.

Subject to Southwestern's approval of the ability of such resources or third parties to meet Southwestern's technical requirements for provision of such Ancillary Services, the Customer may change the Ancillary Services which it takes from Southwestern and/or from other sources at the beginning of any month upon the greater of 60 days notice or upon completion of any necessary equipment modifications necessary to accommodate such change.

**Limitations on Energy Imbalance Service**

Energy Imbalance Service primarily applies to deliveries of power and energy which are required to satisfy a Customer's load. As Hydro Peaking Power and associated energy are limited by contract, the Energy Imbalance Service bandwidth specified in Southwestern's Open Access Transmission Service tariff does not apply to deliveries of Hydro Peaking Power, and therefore Energy Imbalance Service is not charged on such deliveries. Customers who consume a capacity of Hydro Peaking Power greater than their Peaking Contract Demand may be subject to a Capacity Overrun Penalty.

**Application of Capacity Overrun Penalty**

Customers which have loads within Southwestern's Control Area are obligated by contract to provide resources, over and above the Hydro Peaking Power and associated energy purchased from Southwestern, sufficient to meet their loads. A Capacity Overrun Penalty shall be applied only when the formulas provided in Customers' contracts indicate an overrun on Hydro Peaking Power, *and* investigation determines that all resources, both firm and non-firm, which were available at the time of the apparent overrun were insufficient to meet the Customer's load.

*Capacity Overrun Penalty*

*For each hour* during which Hydro Peaking Power was provided at a rate greater than that to which the Customer is entitled, the Customer will be charged a capacity overrun penalty at the following rates:

| Months associated with charge | Rate per kilowatt |
|---|---|
| March, April, May, October, November, December | $0.15 |
| January, February, June, July, August, September | 0.30 |

**Application of Energy Overrun Penalty**

By contract, the Customer is subject to limitations on the maximum amounts of Peaking Energy which may be scheduled during any month or during any four consecutive months. When the Customer schedules an amount in excess of such maximum amounts for any month, or schedules more than 1,200 hours of Peaking Energy per kilowatt of Peaking Contract Demand in any contract year, such Customer is subject to the Energy Overrun Penalty.

*Energy Overrun Penalty*

For each kilowatthour of overrun: $0.0902 per kilowatthour.

**Rates for Real Power Losses**

The Customer shall purchase real power losses unless it elects to self-provide such losses under the provision detailed below in *Annual Election to Self Provide Real Power Losses.*

Real Power Losses are computed as four (4) percent of the total amount of non-Federal energy transmitted under a particular Customer's Peaking Contract Demand. The monthly charge for such Real Power Losses will be computed on a per kilowatthour basis as follows:

$$MC = .04 \times NFE \times R$$

with the factors defined as follows:

MC = The monthly charge ($) by Southwestern for Real Power Losses of non-Federal energy transmitted under the capacity associated with Hydro Peaking Power;

NFE = The amount of non-Federal energy (kWh) transmitted under a Customer's Peaking Contract Demand during a particular month; and

R = The rate for Real Power Losses ($ per kWh), is equal to the average of Southwestern's actual costs for the purchase of energy to replace Real Power Losses during the previous fiscal year (October through September), as reflected in Southwestern's financial records.

The rate for Real Power Losses will be posted on Southwestern's OASIS by November 1 of each year. This rate will be effective for one year beginning January 1 of each calendar year.

*Annual Election to Self Provide Real Power Losses:* The Customer may elect, on an annual basis, to self-provide all loss energy for which it is responsible subject to the following conditions:

(1) Such election for self-provision shall be for a full calendar year (January through December) for that Customer and shall be exercised by execution of a service agreement, or equivalent, before December 1 of the prior calendar year;

(2) Unless otherwise specified in the service agreement, the Customer shall schedule the delivery of real power losses into the System of Southwestern at the rate of one megawatt of real power losses for every 25 megawatts of non-Federal power and energy delivered to Customers' loads served from the points of delivery set forth in the Southwestern/Customer contract;

(3) For any new customer taking transmission service from Southwestern, election to self-provide real power losses shall be made at the time the contract is negotiated. Such service shall be implemented as provided for in the contract and the election to self-provide shall apply through the end of that calendar year for all transmission services.

**Requirements Related to Power Factor**

Any Customer served from facilities owned by or available by contract to Southwestern will be required to maintain a power factor of not less than 95 percent and will be subject to the following provisions.

*Determination of Power Factor*

The power factor will be determined for all Demand Periods and shall be calculated under the formula:

$$PF = (kWh) \div \sqrt{(kWh^2 + rkVAh^2)},$$

with the factors defined as follows:

PF = The power factor for any Demand Period of the month.

kWh = The total quantity of energy which is delivered during such Demand Period to the point of delivery or interconnection.

rkVAh = The total quantity of reactive kilovolt-ampere-hours (kvars) delivered during such Demand Period to the point of delivery or interconnection.

*Power Factor Penalty and Assessment*

The Customer shall be assessed a penalty for all Demand Periods of a month where the power factor is less

than 95 percent lagging. For any Demand Period during a particular month such penalty shall be in accordance with the following formula:

$C = D \times (.95 - LPF) \times \$0.10$

with the factors defined as follows:

C = The charge in dollars to be assessed for any particular Demand Period of such month that the Determination of Power Factor ''PF'' is calculated to be less than 95 percent lagging.

D = The Customer's demand in kilowatts at the point of delivery for such Demand Period in which a low power factor was calculated.

LPF = The lagging power factor, if any, determined by the formula ''PF'' for such Demand Period.

If C is negative, then C = zero (0).

**Application of Power Factor Penalty**

The Power Factor Penalty is applicable to radial interconnections with the System of Southwestern. The total Power Factor Penalty for any month shall be the sum of all charges ''C'' for all Demand Periods of such month. No penalty is assessed for leading power factor. Southwestern, in its sole judgment and at its sole option, may determine whether power factor calculations should be applied to a single physical point of delivery or to multiple physical points of delivery where a Customer has a single, electrically integrated load served through multiple points or interconnections. The general criteria for such decision shall be that, given the configuration of the Customer's and Southwestern's systems, Southwestern will determine, in its sole judgment and at its sole option, whether the power factor calculation more accurately assesses the detrimental impact on Southwestern's system when the above formula is calculated for a single physical point of delivery or for a combination of physical points or for an interconnection as specified by an Interconnection Agreement.

Southwestern, at its sole option, may reduce or waive power factor penalties when, in Southwestern's sole judgment, low power factor conditions were not detrimental to the System of Southwestern due to particular loading and voltage conditions at the time the power factor dropped below 95 percent lagging.

**Adjustment for Reduction in Service**

If, during any month, the quantity of Peaking Contract Demand of Southwestern's 1200 hour peaking power sales customers that is scheduled by the customer for delivery is reduced by Southwestern for a period or periods of not less than two consecutive hours by reason of an outage caused by either an Uncontrollable Force or by the installation, maintenance, replacement or malfunction of generation, transmission and/or related facilities on the System of Southwestern, or insufficient pool levels, the Customer's capacity charges for such month will be reduced for each such reduction in service by an amount computed under the formula:

$R = (C \times K \times H) \div S$

with the factors defined as follows:

R = The dollar amount of reduction in the monthly total capacity charges for a particular reduction of not less than two consecutive hours during any month, except that the total amount of any such reduction shall not exceed the product of the Customer's capacity charges associated with Hydro Peaking Power times the Peaking Billing Demand.

C = The Customer's capacity charges associated with Hydro Peaking Power for the Peaking Billing Demand for such month.

K = The reduction in kilowatts in Peaking Billing Demand for a particular event.

H = The number of hours duration of such particular reduction.

S = The number of hours that Peaking Energy is scheduled during such month, but not less than 60 hours times the Peaking Contract Demand.

Such reduction in charges shall fulfill Southwestern's obligation to deliver Peaking Power and Peaking Energy.

**Procedure for Determining Southwestern's Net Purchased Power Adder Adjustment**

Not more than once annually, the Purchased Power Adder of $.0029 (2.9 mills) per kilowatthour of Peaking Energy, as noted in this Rate Schedule, may be adjusted by the Administrator, Southwestern, by an amount up to ±$.0011 (1.1 mills) per kilowatthour, as calculated by the following formula:

$ADJ = (PURCH - EST + DIF) \div SALES$

with the factors defined as follows:

ADJ = The dollar amount of the total adjustment, plus or minus, to be applied to the Net Purchased Power Adder, rounded to the nearest $.0001 per kilowatthour, provided that the total ADJ to be applied in any year shall not vary from the then-effective ADJ by more than $.0011 per kilowatthour;

PURCH = The actual total dollar cost of Southwestern's System Direct Purchases as accounted for in the financial records of the Southwestern Federal Power System for the period;

EST = The estimated total dollar cost ($6,505,400 per year) of Southwestern's System Direct Purchases used as the basis for the Purchased Power Adder of $.0029 per kilowatthour of Peaking Energy;

DIF = The accumulated remainder of the difference in the actual and estimated total dollar cost of Southwestern's System Direct Purchases since the effective date of the currently approved Purchased Power Adder set forth in this rate schedule, which remainder is not projected for recovery through the ADJ in any previous periods;

SALES = The annual Total Peaking Energy sales projected to be delivered (2,241,300,000 KWh per year) from the System of Southwestern, which total was used as the basis for the $.0029 per kilowatthour Purchased Power Adder.

**Rate Schedule NFTS–05 [1] Wholesale Rates for Non-Federal Transmission/ Interconnection Facilities Service**

*Effective*

During the period February 1, 2006, through September 30, 2009, in accordance with Rate Order No. SWPA–53 issued by the Deputy Secretary of Energy on February 1, 2006.

*Available*

In the region where Southwestern Power Administration (Southwestern) owns and operates high-voltage transmission lines and related facilities, and/or has contractual rights to such transmission facilities owned by others (System of Southwestern).

*Applicable*

To Customers which have executed Service Agreements with Southwestern for the transmission of non-Federal power and energy over the System of Southwestern or for its use for interconnections. Southwestern will provide services over those portions of the System of Southwestern in which the Administrator, Southwestern, in his or her sole judgment, has determined that uncommitted transmission and transformation capacities in the System of Southwestern are and will be available in excess of the capacities required to market Federal power and energy pursuant to section 5 of the Flood Control Act of 1944 (58 Stat. 887,890; 16 U.S.C. 825s).

*Character and Conditions of Service*

Service will be provided as 3-phase, alternating current, at approximately 60 Hertz, and at the voltage level of the point(s) specified by Service Agreement or Transmission Service Transaction.

*Definitions of Terms*

A *Customer* is the entity which is utilizing and/or purchasing services from Southwestern pursuant to this rate schedule.

A ''Service Agreement'' is a contract executed between a Customer and Southwestern for the transmission of non-Federal power and energy over the System of Southwestern or for interconnections. Service Agreements include:

''Firm Transmission Service Agreements'' that provide for reserved transmission capacity on a firm basis, for a particular point-to-point delivery path.

''Non-Firm Transmission Service Agreements'' that provide for the Customer to request transmission service on a non-firm basis.

''Network Transmission Service Agreements'' that provide for the Customer to request firm transmission service for the delivery of capacity and energy from the Customer's network resources to the Customer's network load, for a period of one year or more.

**Supersedes Rate Schedule NFTS–04**

''Interconnection Agreements'' that provide for the use of the System of Southwestern and recognize the exchange of mutual benefits for such use or provide for application of a charge for Interconnection Facilities Service.

A ''Service Request'' is made under a Transmission Service Agreement through Southwestern's Open Access Same-Time Information System (OASIS) for reservation of transmission capacity over a particular point-to-point delivery path for a particular period. When a Service Request is approved by Southwestern, it becomes a ''Transmission Service Transaction.'' The Customer must submit hourly schedules for actual service in addition to the Service Request.

''Firm Point-to-Point Transmission Service'' is transmission service reserved on a firm basis between specific points of receipt and delivery pursuant to either a Firm Transmission Agreement or to a Transmission Service Transaction. ''Non-Firm Point-to-Point Transmission Service'' is transmission service reserved on a non-firm basis for specific points of receipt and delivery pursuant to a Transmission Service Transaction. ''Network Integration Transmission Service'' is transmission service provided under Part III of Southwestern's Open Access Transmission Service Tariff which provides the Customer with firm transmission service for the delivery of capacity and energy from the Customer's resources to the Customer's load.

''Secondary Transmission Service'' is associated with Firm Point-to-Point Transmission Service and Network Integration Transmission Service. For Firm Point-to-Point Transmission Service, it consists of transmission service provided on an as-available, non-firm basis, scheduled within the limits of a particular capacity reservation for transmission service, and scheduled from points of receipt, or to points of delivery, other than those designated in a Long-Term Firm Transmission Agreement or a Transmission Service Transaction for Firm Point-to-Point Transmission Service. For Network Integration Transmission Service, Secondary Transmission Service consists of transmission service provided on an as-available, non-firm basis, from resources other than the Network Resources designated in a Network Transmission Service Agreement, to meet the Customer's Network Load. The charges for Secondary Transmission Service, other than Real Power Losses and Ancillary Services, are included in the applicable capacity charges for Firm Point-to-Point Transmission Service and Network Integration Transmission Service.

The ''Demand Period'' used to determine a maximum integrated rate of delivery for the purposes of power accounting is the 60-minute period which begins with the change of hour. The term ''Peak Demand'' means the highest rate of delivery, in kilowatts, for any Demand Period during a particular month, at any particular point of delivery or interconnection.

For the purposes of this rate schedule, the term ''Point of Delivery'' is used to mean either a single physical point to which electric power and energy are delivered from the System of Southwestern, or a specified set of delivery points which together form a single, electrically integrated load. Peak Demand for such set of points is computed as the coincidental highest rate of delivery among the specified points rather than as the sum of peak demands for each individual physical point.

''Ancillary Services'' are those services necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the System of Southwestern in accordance with good utility practice. Ancillary Services include:

''Scheduling, System Control, and Dispatch Service'' is provided by Southwestern as Control Area operator and is in regard to interchange and load-match scheduling and related system control and dispatch functions.

''Reactive Supply and Voltage Control from Generation Sources Service'' is provided at transmission facilities in the System of Southwestern to produce or absorb reactive power and to maintain transmission voltages within specific limits.

''Regulation and Frequency Response Service'' is the continuous balancing of generation and interchange resources accomplished by raising or lowering the output of on-line generation as necessary to follow the moment-by-moment changes in load and to maintain frequency within a Control Area.

''Spinning Operating Reserve Service'' maintains generating units on-line, but loaded at less than maximum output, which may be used to service load immediately when disturbance conditions are experienced due to a sudden loss of generation or load.

''Supplemental Operating Reserve Service'' provides an additional amount of operating reserve sufficient to reduce Area Control Error to zero within 10 minutes following loss of generating capacity which would result from the most severe single contingency.

''Energy Imbalance Service'' corrects for differences over a period of time between schedules and actual hourly deliveries of energy to a load.

''Interconnection Facilities Service'' provides for the use of the System of Southwestern to deliver energy and/or provide system support at an interconnection.

**Rates for Firm Point-to-Point Transmission Service**

*Capacity Charges for Firm Transmission Service*

Monthly: $0.90 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a longer term agreement.

Weekly: $0.225 per kilowatt of transmission capacity reserved in increments of one week of service.

Daily: $0.0409 per kilowatt of transmission capacity reserved in increments of one day of service.

**Service Associated With Capacity Charges for Firm Point-to-Point Transmission Service**

The capacity charge for firm transmission service includes Secondary Transmission Service, but does not include charges for Ancillary Services or for Real Power Losses associated with actual schedules.

**Application of Capacity Charges for Firm Point-to-Point Transmission Service**

Capacity charges for firm transmission service are applied to quantities reserved by contract under a Firm Transmission Agreement or in accordance with a Transmission Service Transaction.

Customers, unless otherwise specified by contract, will be charged on the greatest of (1) the Peak Demand at any particular point of delivery during a particular month, rounded up to the nearest whole megawatt, or (2) the highest Peak Demand recorded at such point of delivery during any of the previous 11 months, rounded up to the nearest whole megawatt, or (3) the capacity reserved by contract; which amount shall be considered such Customer's reserved capacity. Secondary Transmission Service for such Customers shall be limited during any month to the most recent Peak Demand on which a particular Customer is billed or to the capacity reserved by contract, whichever is greater.

**Rates for Non-Firm Point-to-Point Transmission Service**

*Capacity Charges for Non-Firm Transmission Service*

Monthly: 80 percent of the firm monthly charge of transmission capacity reserved in increments of one month of service.

Weekly: 80 percent of the firm monthly charge divided by 4 of transmission capacity reserved in increments of one week of service.

Daily: 80 percent of the firm monthly charge divided by 22 of transmission capacity reserved in increments of one day of service.

Hourly: 80 percent of the firm monthly charge divided by 352 of transmission capacity reserved in increments of one hour of service.

**Application of Charges for Non-Firm Point-to-Point Transmission Service**

Capacity charges for Non-Firm Transmission Service are applied to quantities reserved under a Transmission Service Transaction, and do not include charges for Ancillary Services or Real Power Losses.

**Rates for Network Integration Transmission Service**

*Annual Revenue Requirement for Network Integration Service*

$9,155,900.

*Monthly Revenue Requirement for Network Integration Service*

$762,992.

*Net Capacity Available for Network Integration Service*

845,000 kilowatts.

*Capacity Charge for Network Integration Transmission Service*

$0.90 per kilowatt of Network Load ($762,992/845,000 kilowatts).

**Application of Charge for Network Integration Transmission Service**

Network Integration Transmission Service is available only for deliveries of non-Federal power and energy, and is applied to the Customer utilizing such service exclusive of any deliveries of Federal power and energy. The capacity on which charges for any particular Customer utilizing this service is determined on the greatest of (1) The Peak Demand at any particular point of delivery during a particular month, rounded up to the nearest whole megawatt, or (2) the highest Peak Demand recorded at such point of delivery during any of the previous 11 months, rounded up to the nearest whole megawatt.

For those Customers taking Network Integration Transmission Service who are also taking delivery of Federal Power and Energy, the Peak Demand shall be determined by subtracting the energy scheduled for delivery of Federal Power and Energy for any hour from the metered demand for such hour.

Secondary transmission Service for such Customers shall be limited during any month to the most recent Peak Demand on which a particular Customer is billed. Charges for Ancillary Services and for Real Power Losses shall also be assessed.

**Rates for Real Power Losses**

The Customer shall purchase real power losses unless it elects to self-provide such losses under the provisions detailed below in *Annual Election to Self-Provide Real Power Losses.*

Real Power Losses are computed as four (4) percent of the total amount of non-Federal energy transmitted on behalf of a Customer. The monthly charge for such Real Power Losses will be computed on a per kilowatthour basis as follows:

$$MC = .04 \times NFE \times R$$

with the factors defined as follows:

MC = The monthly charge ($) by Southwestern for Real Power Losses of non-Federal energy transmitted on behalf of a Customer;

NFE = The amount of non-Federal energy (kWh) transmitted on behalf of a Customer during a particular month; and

R = The rate for Real Power Losses ($ per kWh), is an average of Southwestern's actual costs for the purchase of energy to replace Real Power Losses during the previous fiscal year (October through September), as reflected in Southwestern's financial records.

The rate for Real Power Losses will be posted on Southwestern's OASIS by November 1 of each year. This rate will become effective for one year beginning January 1 of each calendar year.

*Annual Election to Self-Provide Real Power Losses:* The Customer may elect, on an annual basis, to self-provide all loss energy for which it is responsible, subject to the following conditions:

(1) Such election for self-provision shall be for a full calendar year (January through December) for that Customer and shall be exercised by execution of a Service Agreement, or equivalent, before December 1 of the prior calendar year.

(2) Unless otherwise specified in the Service Agreement, the Customer shall schedule the delivery of real power losses in the System of Southwestern at the rate of one megawatt of real power losses for every 25 megawatts of non-Federal power and energy delivered to Customers' loads served from the points of delivery set forth in the Southwestern/Customer contract.

(3) For any new Customer taking transmission service from Southwestern, election to self-provide real power losses shall be made at the time the contract is negotiated. Such service shall be implemented as provided for in the contract and the election to self-provide shall apply through the end of that calendar year for all transmission services.

**Monthly Capacity Charges for Transformation Service**

A charge of $0.30 per kilowatt will be assessed for capacity used to deliver energy at any point of delivery at which Southwestern provides transformation for deliveries at voltages of 69 kilovolts or less from higher voltage facilities.

**Application of Capacity Charges for Transformation Service**

For any particular month, charges for transformation service will be assessed

on the greater of (1) that month's actual Peak Demand, or (2) the highest Peak Demand recorded during the previous 11 months. For the purpose of this rate schedule, the Peak Demand will be based on all deliveries, of both Federal and non-Federal energy, from the System of Southwestern, at such point during such month.

**Rates for Ancillary Services**

*Capacity Charges for Ancillary Services Associated With Transmission Services*

(a) Scheduling, System Control, and Dispatch Service

Monthly: $0.06 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a Long-Term Firm Transmission Agreement or Network Transmission Service Agreement.

Weekly: $0.015 per kilowatt of transmission capacity reserved in increments of one week of service.

Daily: $0.0027 per kilowatt of transmission capacity reserved in increments of one day of service.

Hourly: $0.00017 per kilowatthour of energy delivered as non-firm transmission service.

(b) Reactive Supply and Voltage Control from Generation Sources Service

Monthly: $0.03 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a Long-Term Firm Transmission Agreement or Network Transmission Service Agreement.

Weekly: $0.008 per kilowatt of transmission capacity reserved in increments of one week of service.

Daily: $0.0014 per kilowatt of transmission capacity reserved in increments of one day of service.

Hourly: $0.00009 per kilowatthour of energy delivered as non-firm transmission service.

(c) Regulation and Frequency Response Service

Monthly: $0.08 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a Long-Term Firm Transmission Agreement or Network Transmission Service Agreement.

Weekly: $0.020 per kilowatt of transmission capacity reserved in increments of one week of service.

Daily: $0.0036 per kilowatt of transmission capacity reserved in increments of one day of service.

Hourly: $0.00023 per kilowatthour of energy delivered as non-firm transmission service.

(d) Spinning Operating Reserve Service

Monthly: $0.0079 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a Long-Term Firm Transmission Agreement or Network Transmission Service Agreement.

Weekly: $0.00198 per kilowatt of transmission capacity reserved in increments of one week of service.

Daily: $0.00036 per kilowatt of transmission capacity reserved in increments of one day of service.

Hourly: $0.00002 per kilowatthour of energy delivered as non-firm transmission service.

(e) Supplemental Operating Reserve Service

Monthly: $0.0079 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a Long-Term Firm Transmission Agreement or Network Transmission Service Agreement.

Weekly: $0.00198 per kilowatt of transmission capacity reserved in increments of one week of service.

Daily: $0.00036 per kilowatt of transmission capacity reserved in increments of one day of service.

Hourly: $0.00002 per kilowatthour of energy delivered as non-firm transmission service.

(f) Energy Imbalance Service

$0.0 per kilowatt for all periods of reservation.

**Availability of Ancillary Services**

Ancillary Services (a) and (b) are available for all transmission services in and from the System of Southwestern and shall be provided by Southwestern. Ancillary Services (c) and (f) listed above are available only for deliveries of power and energy serving load within Southwestern's Control Area and shall be provided by Southwestern, unless, subject to Southwestern's approval, they are provided by others. Ancillary Services (d) and (e) are available only for deliveries of power and energy generated by resources located within Southwestern's Control Area and shall be provided by Southwestern, unless, subject to Southwestern's approval, they are provided by others.

**Application of Ancillary Services Charges**

Charges for all Ancillary Services are applied to the reserved or network transmission service taken by the Customer in accordance with the rates listed above when such services are provided by Southwestern.

The charges for Ancillary Services are considered to include Ancillary Services for any Secondary Transmission Service, except in cases where Ancillary Services (c) through (f) are applicable to a Secondary Transmission Service transaction, but are not applicable to the firm capacity reservation under which Secondary Transmission Service is provided. When charges for Ancillary Services are applicable to Secondary Transmission Service, the charge for the Ancillary Service shall be the hourly rate applied to all energy transmitted utilizing the Secondary Transmission Service.

**Provision of Ancillary Services by Others**

Customers for which Ancillary Services (c) through (f) are made available as specified above must inform Southwestern by written notice of the Ancillary Services which they do *not* intend to take and purchase from Southwestern, and their election to provide all or part of such Ancillary Services from their own resources or a third party.

Subject to Southwestern's approval of the ability of such resources or third parties to meet Southwestern's technical requirements for provision of such Ancillary Services, the customer may change the Ancillary Services which it takes from Southwestern and/or from other sources at the beginning of any month upon the greater of 60 days written notice or upon the completion of any necessary equipment modifications necessary to accommodate such change. Such notice requirements also apply to requests for Southwestern to provide Ancillary Services when such services are available as specified above.

**Limitations on Energy Imbalance Service**

Energy Imbalance Service is authorized for use only within a bandwidth of ± 1.5 percent of the actual requirements of the load at a particular point of delivery, for any hour, compared to the resources scheduled to meet such load during such hour. Deviations which are greater than ± 1.5 percent, but which are less than ± 2,000 kilowatts, are considered to be within the authorized bandwidth. Deviations outside the authorized bandwidth are subject to a Capacity Overrun Penalty.

Energy delivered or received within the authorized bandwidth for this service is accounted for as an inadvertent flow and will be netted against flows in the future. The inadvertent flow in any given hour will only be offset with the flows in the

corresponding hour of a day in the same category. The two categories of days are weekdays and weekend days/North American Electric Reliability Council holidays. This process will result in a separate inadvertent accumulation for each hour of the two categories of days. The hourly accumulations in the current month will be added to the hourly inadvertent balances from the previous month, resulting in a month-end balance for each hour.

The Customer is required to adjust the scheduling of resources in such a way as to reduce the accumulation towards zero. It is recognized that the inadvertent hourly flows can be both negative and positive, and that offsetting flows should deter a significant accumulation of inadvertent. In the event any hourly month-end balance exceeds 12 MWHs, the excess will be subject to the *Application of Capacity Overrun Penalty* or the *Unauthorized Use of Energy Imbalance Service by Overscheduling of Resources* provisions, depending on the direction of the accumulation.

**Application of Capacity Overrun Penalty**

Customers, who receive deliveries within Southwestern's Control Area, are obligated to provide resources sufficient to meet their loads. Such obligation is not related to the amount of transmission capacity that such Customers may have reserved for transmission service to a particular load. Customers whose resources are scheduled by Southwestern are not subject to this provision. In the event that a Customer under schedules its resources to meet its load, resulting in a difference between resources and actual metered load (adjusted for transformer losses as applicable) outside the authorized bandwidth for Energy Imbalance Service for any hour, then such Customer is subject to the following penalty:

*Capacity Overrun Penalty*

*For each hour* during which energy flows outside the authorized bandwidth, the Customer will be obliged to purchase such energy at the following rates:

| Months associated with charge | Rate per kilowatt |
|---|---|
| March, April, May, October, November, December | $0.15 |
| January, February, June, July, August, September | $0.30 |

**Unauthorized Use of Energy Imbalance Service by Overscheduling of Resources**

In the event that a Customer schedules greater resources than are needed to meet its load, such that energy flows at rates beyond the authorized bandwidth for the use of Energy Imbalance Service, Southwestern retains such energy at no cost to Southwestern and with no obligation to return such energy. Customers whose resources are scheduled by Southwestern are not subject to this provision.

**Application of Charge for Interconnection Facilities Service**

Any Customer that requests an interconnection from Southwestern which, in Southwestern's sole judgment and at its sole option, does not provide commensurate benefits or compensation to Southwestern for the use of its facilities shall be assessed a capacity charge for Interconnection Facilities Service. For any month, charges for Interconnection Facilities Service shall be assessed on the greater of (1) that month's actual Peak Demand, or (2) the highest Peak Demand recorded during the previous eleven months, as metered at the interconnection. The use of Interconnection Facilities Service will be subject to power factor provisions as specified in this rate schedule. The interconnection customer shall also be assessed charges for Real Power Losses on metered flow through the interconnection where Interconnection Facilities Services is assessed.

*Rate for Interconnection Facilities Service*

The monthly capacity charge for Interconnection Facilities Service is $0.90 per kilowatt.

*Requirements Related to Power Factor*

Any Customer served from facilities owned by or available by contract to Southwestern will be required to maintain a power factor of not less than 95 percent and will be subject to the following provisions.

*Determination of Power Factor*

The power factor will be determined for all Demand Periods and shall be calculated under the formula:

$$PF = kWh \div \sqrt{\left(kWh^2 + rkVAh^2\right)},$$

with the factors defined as follows:

PF = The power factor for any Demand Period of the month.

kWh = The total quantity of energy which is delivered during such Demand Period to the point of delivery or interconnection.

rkVAh = The total quantity of reactive kilovolt-ampere-hours (kvars) delivered during such Demand Period to the point of delivery or interconnection.

**Power Factor Penalty and Assessment**

The Customer shall be assessed a penalty for all Demand Periods of a month where the power factor is less than 95 percent lagging. For any Demand Period during a particular month such penalty shall be in accordance with the following formula:

$$C = D \times (.95 - LPF) \times \$0.10$$

with the factors defined as follows:

C = The charge in dollars to be assessed for any particular Demand Period of such month that the Determination of Power Factor ''PF'' is calculated to be less than 95 percent lagging.

D = The Customer's demand in kilowatts at the point of delivery for such Demand Period in which a low power factor was calculated.

LPF = The lagging power factor, if any, determined by the formula ''PF'' for such Demand Period.

If C is negative, then C = zero (0).

**Application of Power Factor Penalty**

The Power Factor Penalty is applicable to radial interconnections with the System of Southwestern. The total Power Factor Penalty for any month shall be the sum of all charges ''C'' for all Demand Periods of such month. No penalty is assessed for the leading power factor. Southwestern, in its sole judgment and at its sole option, may determine whether power factor calculations should be applied to a single physical point of delivery or to multiple physical points of delivery where a Customer has a single, electrically integrated load served through multiple points or interconnections. The general criteria for such decision shall be that, given the configuration of the Customer's and Southwestern's systems, Southwestern will determine, in its sole judgment and at its sole option, whether the power factor calculation more accurately assesses the detrimental impact on Southwestern's system when the above formula is calculated for a single physical point of delivery or for a combination of physical points or for an interconnection as specified by an Interconnection Agreement.

Southwestern, at its sole option, may reduce or waive power factor penalties when, in Southwestern's sole judgment, low power factor conditions were not detrimental to the System of Southwestern due to particular loading and voltage conditions at the time the

power factor dropped below 95 percent lagging.

**Rate Schedule EE–05 [1] Wholesale Rate for Excess Energy**

*Effective*

During the period February 1, 2006, through September 30, 2009, in accordance with Rate Order No. SWPA–53 issued by the Deputy Secretary of Energy on February 1, 2006.

*Available*

In the marketing area of Southwestern Power Administration (Southwestern), described generally as the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

*Applicable*

To electric utilities which, by contract, may purchase Excess Energy from Southwestern.

*Character and Conditions of Service*

Three-phase, alternating current, delivered at approximately 60 Hertz, at the nominal voltage and points of delivery specified by contract.

*Energy Associated With This Rate Schedule*

Excess Energy will be furnished at such times and in such amounts as Southwestern determines to be available.

*Transmission and Related Ancillary Services*

Transmission service for the delivery of Excess Energy shall be the sole responsibility of such customer purchasing Excess Energy.

*Rate for Excess Energy*

Energy Charge: $0.0055 per kilowatthour.

[FR Doc. 06–1356 Filed 2–13–06; 8:45 am]

BILLING CODE 6450–01–P

[1] Supersedes Rate Schedule EE–04.

## ENVIRONMENTAL PROTECTION AGENCY

**[WA–06–001, FRL–8031–6]**

### Procedures for Determining Localized Carbon Monoxide Concentrations (Hot-Spot Analysis) for Transportation Conformity Under the Clean Air Act in Washington State

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that EPA, in accordance with the regulations has approved a 'different procedure' submitted on November 7, 2005 for determining localized carbon monoxide (CO) concentrations (hot-spot analysis) for Transportation Conformity under the Clean Air Act in Washington State.

**FOR FURTHER INFORMATION CONTACT:** Wayne Elson, U.S. EPA, Region 10 (AWT–107), 1200 Sixth Ave., Seattle, WA 98101; (206) 553–1463 or *elson.wayne@epa.gov,* or Mia Waters, Washington State Department of Transportation, 15700 Dayton Avenue North, PO Box 330310, Seattle, WA 98133; (206) 440–4541 or *WatersY@wsdot.wa.gov.*

**SUPPLEMENTARY INFORMATION:** This is a notice of EPA's approval of the Washington State Intersection Screening Tool (WASIST) for carbon monoxide (CO) concentrations (hot-spot analysis) for Transportation Conformity under the Clean Air Act in Washington State submitted by the Washington State Department of Transportation on November 7, 2005. This 'different procedure' was developed through the interagency consultation process and is consistent with 40 CFR 93.105. The basis for this approval is provided by 40 CFR 93.123 (a)(1). A letter approving WASIST was sent to Washington State Department of Transportation on February 2, 2006. The purpose of WASIST is to provide a different procedure to ensure that highway projects in Washington state will not cause or contribute to any new localized CO violations or increase the frequency or severity of any existing CO violations in CO nonattainment and maintenance areas consistent with 40 CFR 93.116. This different procedure will result in a substantial cost savings to governments in Washington when making project level CO hot-spot transportation conformity demonstrations for highway projects.

**Authority:** 42 U.S.C. 7401–7671q.

Dated: February 6, 2006.

**L. Michael Bogert,**

*Regional Administrator, Region 10.*

[FR Doc. E6–2051 Filed 2–13–06; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–8029–1]**

### Proposed Agreement and Covenant Not To Sue Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act of 1986; In Re: Davenport and Flagstaff Smelters Superfund Site, Operable Unit Number Three, Salt Lake County, UT

**ACTION:** Notice of proposed agreement; request for public comment.

**SUMMARY:** In accordance with the Comprehensive Environmental Response Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9601, et. seq., notice is hereby given of a proposed Agreement and Covenant Not to Sue (''Agreement'') between the United States, on behalf of the U.S. Environmental Protection Agency (''EPA''), and L.C. Canyon Partners, LLC (''Settling Respondent''). Under the Proposed Agreement, Settling Respondent agrees to pay past costs, oversight costs, and to conduct a removal action defined in the enforcement action memorandum consisting primarily of the development of remediated portions of the property being purchased by Settling Respondent into single-family home sites. In addition, Settling Respondent agrees to provide access to representatives of EPA and the State of Utah. In exchange for this consideration, EPA will grant Settling Respondent a covenant not to sue for existing contamination. Additionally, Settling Respondent will be entitled to contribution protection for ''matters addressed'' in the Agreement.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the Agreement. EPA will consider all comments received and may modify or withdraw its consent to the Agreement if comments received disclose facts or considerations that indicate that the Agreement is inappropriate, improper, or inadequate. The proposed Agreement, as well as EPA's response to any comments received will be available for public inspection in the administrative record held at the Superfund Record Center, 999 18th Street, Suite 300, Denver, CO. During the public comment period, the Agreement (without exhibits) may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.*

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

**ADDRESSES:** Comments should be addressed to Michael Rudy, U.S. Environmental Protection Agency–Region 8, 999 18th Street, Suite 300, mail code: 8ENF–RC, Denver, CO 80202 or *rudy.mike@epa.gov*.

**FOR FURTHER INFORMATION CONTACT:** A copy of the proposed Agreement can also be obtained from Michael Rudy at the address listed in the **ADDRESSES** section above or by calling 303–312–6332.

Dated: January 27, 2006.

**Bert Garcia,**

*Director, Superfund Remedial Program.*

[FR Doc. E6–2059 Filed 2–13–06; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *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 March 10, 2006.

**A. Federal Reserve Bank of Kansas City** (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

*1. Home State Bancorp*, Loveland, Colorado; to retain 100 percent of the voting shares of Loveland Securities, Inc., Loveland, Colorado, and thereby indirectly retain voting shares of Home State Bank, Loveland, Colorado.

Board of Governors of the Federal Reserve System, February 9, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E6–2060 Filed 2–13–06; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 11:30 a.m., Tuesday, February 21, 2006.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**FOR FURTHER INFORMATION CONTACT:** David W. Skidmore, Assistant to the Board, Office of Board Members at 202–452–2955.

**SUPPLEMENTARY INFORMATION:** You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, February 10, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 06–1422 Filed 2–10–06; 1:49 pm]

BILLING CODE 6210–01–SP

## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3090–0014]**

### Federal Supply Service; Information Collection; Standard Form (SF) 123, Transfer Order-Surplus Personal Property and Continuation Sheet

**AGENCY:** Federal Supply Service, (GSA).

**ACTION:** Notice of request for comments regarding a renewal to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration has submitted to the Office of Management and Budget (OMB) a request to review and approve a renewal of a currently approved information collection requirement regarding Standard Form (SF) 123, transfer order-surplus personal property and continuation sheet. A request for public comments was published at 70 FR 12688, March 15, 2005. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

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

**FOR FURTHER INFORMATION CONTACT:** Denise Thomas, Property Disposal Specialist, Federal Supply Service, at telephone (703) 308–0742 or via e-mail to *denise.thomas@gsa.gov*.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Ms. Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0014, Standard Form (SF) 123, Transfer Order-Surplus Personal Property and Continuation Sheet, in all correspondence.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

Standard form (SF) 123, Transfer Order-Surplus Personal Property and Continuation Sheet is used by public agencies, nonprofit educational or public health activities, programs for the

elderly, service educational activities, and public airports to apply for donation of Federal surplus personal property. The SF 123 serves as the transfer instrument and includes item descriptions, transportation instructions, nondiscrimination assurances, and approval signatures.

**B. Annual Reporting Burden**

*Respondents:* 63,000.
*Responses Per Respondent:* 1.
*Hours Per Response:* 0.3.
*Total Burden Hours:* 18,900.
*Obtaining Copies of Proposals:*
Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0014, Standard Form (SF) 123, Transfer Order-Surplus Personal Property and Continuation Sheet, in all correspondence.

Dated: February 2, 2006.

**Michael W. Carleton,**

*Chief Information Officer.*

[FR Doc. E6–2024 Filed 2–13–06; 8:45 am]

BILLING CODE 6820–YT–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### National Institute for Occupational Safety and Health; National Occupational Research Agenda

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following public meeting and request for information:

*Name:* Opportunity to Provide Input for the National Occupational Research Agenda (NORA).

*Time and Date:* March 13, 2006, 9 a.m.–5 p.m. EST.

*Place:* Department of Health and Human Services, Great Hall, The Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

*Status:* This meeting is open to the public, limited only by the space available.

*Background:* NORA is a framework to guide occupational safety and health research for the nation. NORA seeks to focus research in order to reduce work-related injury and illness. As the program approaches a ten-year milestone, NIOSH is accepting input from individuals and organizations on important research issues and agendas. This input will assist in the development of the initiative's future direction, which will be based on eight different industry sector groups.

The public meetings are open to everyone, including all workers, professional societies, organized labor, employers, researchers, health professionals, government officials, and elected officials. Broad participation is desired. All participants are requested to register for the free meeting at the NORA Web page or onsite the day of the meeting. Participants wishing to speak are encouraged to register early.

*Purpose:* The meeting will address priorities for research during a morning and an afternoon public comment period. Stakeholders will be invited to speak for 5 minutes on an important occupational safety and health issue, including those that occur in multiple sectors. Participants may register to speak during either the morning or the afternoon session, though they are encouraged to stay for both sessions should they choose.

Types of occupational safety and health issues might include diseases, injuries, exposures, populations at risk, and needs of occupational safety and health systems. Falls from heights, for example, might be a top injury issue for the residential construction industry. Low back pain and related back disorders might be a top disease concern for the urban transit industry.

If possible, please include as much information as might be useful for understanding the safety or health research priority you identify. Such information could include characterization of the frequency and severity with which the injury, illness, or hazardous exposure is occurring and of the factors you believe might be causing the health or safety issue. Input is also requested on the types of research that you believe might make a difference and which partners (e.g., specific industry associations, labor organizations, research organizations, governmental agencies) should be involved in informing research efforts and solutions.

All presentations will be entered into the NORA Docket, which is maintained by NIOSH. All comments in the NORA Docket will be used to help shape sector-specific and related cross-sector research agendas for the nation. Comments may also be e-mailed to *niocindocket@cdc.gov* or sent via postal mail to Docket NIOSH–047, Robert A. Taft Laboratories (C–34), 4676 Columbia Parkway, Cincinnati, Ohio 45226. More information about NORA can be found on the NORA Web page at *http://www.cdc.gov/niosh/nora/townhall.*

*For Further Information Contact:* Sid Soderholm, PhD, NORA Coordinator, (202) 401–0721.

Stakeholders are also invited to submit comments electronically at the NORA Web page *http://www.cdc.gov/niosh/nora.* Comments submitted to the Web page by others can also be viewed there along with information about similar meetings that were held earlier.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: February 6, 2006.

**Alvin Hall,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E6–2017 Filed 2–13–06; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 2006N–0065]**

### Emerging Clostridial Disease; Public Workshop

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public workshop; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA), on behalf of the Centers for Disease Control and Prevention (CDC) and the National Institute of Allergy and Infectious Diseases (NIAID) are announcing a public workshop entitled ''Emerging Clostridial Disease.'' This public workshop is intended to develop a draft research agenda to better understand the virulence, pathogenesis, host factors, and nonantimicrobial risk factors contributing to reports of morbidity and mortality associated with *Clostridium sordellii* (*C. sordellii*) and *Clostridium difficile* (*C. difficile*). Additionally, our goals are to identify research needs and priorities that will enable rapid progress as well as to develop and provide recommendations for detecting cases and conducting surveillance of diseases and organisms.

**DATES**: The public workshop will be held on May 11, 2006, from 8:30 a.m. to 4:30 p.m. See section III of this document for information on how to

register to attend or present at the workshop. You must register by close of business on April 15, 2006, to attend or participate.

We are opening a docket to receive your written or electronic comments (see **ADDRESSES**). Written or electronic comments must be submitted to the docket by June 15, 2006.

**ADDRESSES:** The public workshop will be held at the Centers for Disease Control and Prevention, 1600 Clifton Rd., NE., CDC Roybal Campus, Bldg. 19, Auditorium A, Atlanta, GA 30333.

Submit written comments to 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:** Workshop Coordinator, Center for Drug Evaluation and Research (HFD–006), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–6779, FAX: 301–827–4312, e-mail: *cderexsec@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Why Are We Holding a Public Workshop?

This workshop has been developed in response to reports of morbidity and mortality associated with *C. sordellii* and *C. difficile*. These reports include cases and clusters of *C. sordellii* toxic shock syndrome following treatment with mifepristone, *C. sordellii* sepsis associated with tissue grafts, and rapidly fatal toxin-mediated cases of community-associated *C. difficile* infection. The primary goal of the workshop is to bring together scientific and public health experts to develop a draft research agenda. This research agenda is expected to lead to better understanding of the virulence, pathogenesis, host factors, and nonantimicrobial risk factors contributing to these reports and to identify research needs and priorities in these areas. As part of a research agenda, the workshop will assist in the development of recommendations for detecting cases and conducting surveillance. The meeting focus will be on increasing our understanding of severe community associated *C. difficile* and *C. sordellii* disease and of disease in otherwise healthy populations previously thought to be at low risk.

## II. What Are the Issues We Intend to Address at the Workshop?

1. What clinical and laboratory surveillance data are needed to help guide infection prevention?

2. Are there characteristics of the clinical presentations of these infections that suggest measures that could prevent or mitigate them?

3. How does our current understanding of the pathophysiology and risk factors associated with these infections inform future research and public health actions?

4. What are the gaps in basic research that are critical to a better understanding of the pathogenesis of *C. sordellii* and *C. difficile?*

## III. How Do You Register?

Registration is required to attend or participate in the workshop. Your registration must be received by the close of business on April 15, 2006. Registration is free. Seats are limited, so please register as soon as possible. Space will be filled in order of receipt of registration. Those registered will receive confirmation on April 18, 2006. Registration will close after available space fills. You will not be notified if registration has closed before your registration is received. There will be no on-site registration the day of the workshop.

Time will be allowed during the scheduled agenda for attendees to ask questions of panelists, to participate in the discussion, and to provide input to the sponsoring agencies on future research, surveillance, and case detection. In addition, we strongly encourage written submissions to the docket.

If you need special accommodations due to disability, please contact the Workshop Coordinator (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the workshop.

*Registration Form Instructions*: To register to attend the workshop, complete the following registration form and submit via:

- E-mail: *cderexsec@cder.fda.gov*;
- FAX: 301–827–4312; or
- Mail to: Food and Drug Administration, Center for Drug Evaluation and Research, Office of Executive Programs, Executive Operations Staff (HFD–006), 5600 Fishers Lane, Rockville, MD 20857, Attn: Workshop Coordinator.

Name: _____
Company Name: _____
Mailing Address: _____
City: _____ State: _____
Zip Code: _____
Phone: (  ) _____
Fax: (  ) _____
E-mail: (  ) _____
U.S. Citizen Yes/No (Required by CDC Security)

## IV. How Should You Send Comments on the Issues?

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. Comments should be identified 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. To ensure consideration of your comments, we must receive any written or electronic comments by the date indicated (see **DATES**).

## V. Will Meeting Transcripts Be Available?

You can examine a transcript of the May 11, 2006, public workshop on the Internet at *http://frwebgate.access.gpo.gov/cgi-bin/leaving.cq* approximately 30 days after the workshop or at the Division of Dockets Management (see **ADDRESSES**), Monday through Friday between 9 a.m. and 4 p.m. You may also request a copy of the transcript from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the public workshop at a cost of 10 cents per page.

Dated: February 9, 2006.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 06–1371 Filed 2–10–06; 11:33 am]

**BILLING CODE 4160–01–S**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 2000D–1400]**

### Guidance for Industry: Considerations for Developmental Toxicity Studies for Preventive and Therapeutic Vaccines for Infectious Disease Indications; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: Considerations for Developmental Toxicity Studies for Preventive and Therapeutic Vaccines for Infectious Disease Indications,'' dated February 2006. The guidance is intended to provide sponsors with recommendations for the conduct of developmental toxicity studies for

investigational preventive and therapeutic vaccines for infectious disease indications. The recommendations pertain to the assessment of the developmental toxicity potential of preventive and therapeutic vaccines for infectious diseases indicated for females of childbearing potential and pregnant individuals. This guidance document finalizes the draft guidance entitled ''Guidance for Industry: Considerations for Reproductive Toxicity Studies for Preventive Vaccines for Infectious Disease Indications,'' dated August 2000.

**DATES:** Submit written or electronic comments on agency guidances at any time.

**ADDRESSES:** Submit written requests for single copies of the guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the guidance 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:** Astrid Szeto, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Considerations for Developmental Toxicity Studies for Preventive and Therapeutic Vaccines for Infectious Disease Indications,'' dated February 2006. The guidance document provides sponsors with recommendations for the conduct and assessment of developmental toxicity studies for investigational preventive and therapeutic vaccines for infectious diseases indicated for women of childbearing potential and pregnant women.

This guidance document finalizes the draft guidance entitled ''Guidance for Industry: Considerations for Reproductive Toxicity Studies for Preventive Vaccines for Infectious Disease Indications,'' dated August 2000 (65 FR 54534, September 8, 2000). The guidance was revised based on public comments submitted to the Division of Dockets Management on the draft guidance, and on recommendations made by an expert panel convened at a workshop entitled ''Non-Clinical Safety Evaluation of Preventive Vaccines: Recent Advances and Regulatory Considerations'' held December 2 and 3, 2002, Arlington, VA.

The guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in this guidance for 21 CFR 601.2 has been approved under OMB control number 0910–0338.

## III. Comments

Interested persons may, at any time, submit written or electronic comments to the Division of Dockets Management (see **ADDRESSES**) regarding this guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in the brackets in the heading of this document. A copy of the guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

## III. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/cber/guidelines.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: February 1, 2006.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. E6–1998 Filed 2–13–06; 8:45 am]

**BILLING CODE 4160–01–S**

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# DEPARTMENT OF HEALTH AND HUMAN SERVICES

## National Institutes of Health

## Proposed Collection; Comment Request, Fogarty International Center CareerTrac

**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 Fogarty International Center, 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:* Fogarty International Center CareerTrac.

*Type of Information Collection Request:* NEW.

*Need and Use of Information Collection:* This data collection system is being developed to track, evaluate and report short and long-term output, outcomes and impacts of international trainees involved in health research training programs—specifically tracking this for at least ten years following training. The data collection system provides a streamlined, Web-based application permitting principal investigators to record career achievement progress by trainee on a voluntary basis. FIC Program Managers will use this data to monitor, evaluate and adjust grants to ensure desired outcomes are achieved, comply with OMB Part requirements for managing grants, respond to congressional inquiries, and as a guide to in future strategic and management decisions regarding the grants training program.

*Frequency of Response:* Annual and periodic.

*Affected Public:* none.

*Type of Respondents:* Principal Investigators funded by Fogarty International Center.

The annual reporting burden is as follows:

*Estimated Number of Respondents:* 150;

*Estimated Number of Responses per Respondent:* 15;

*Average Burden Hours per Response:* .50; and

*Estimated Total Annual Burden Hours Requested:* 1125.

The annualized cost to respondents is estimated at $87,939. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

*Request for Comments:* Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Flora Katz, Fogarty International Center, National Institutes of Health, 31 Center Drive, Building 31, Bethesda, MD 20892–2220 or call non-toll-free number 301–402–9591 or E-mail your request, including your address to: *KatzF@mail.nih.gov*.

*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.

Dated: February 1, 2006.

**Richard Miller,**

*Executive Officer, FIC, National Institutes of Health.*

[FR Doc. E6–2014 Filed 2–13–06; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, Public Health Service, HHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**ADDRESSES:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

**Autoantibody Screening for Cancer Diagnosis**

Yoon S. Cho-Chung (NCI).

U.S. Provisional Application filed (HHS Reference No. E–057–2006/0-US–01).

*Licensing Contact:* David A. Lambertson; 301/435–4632; *lambertsond@mail.nih.gov*.

There are a number of specific antigens, such as alpha-fetal protein (AFP), nonmucinous ovarian cancer antigen (CA125), vascular endothelial growth factor (VEGF), prostate-specific antigen (PSA), which are secreted into the serum of patients who have particular cancers. Kits for detecting these antigens are generally used as a means of diagnosing patients as having a specific cancer. However, the current methods suffer from a lack of sensitivity.

The instant technology provides a method for the early diagnosis of different cancers that does not suffer the drawbacks of the current assays. The inventors observed that auto-antibodies against the cancer marker antigens can be detected in the serum of patients with particular cancers. This new technology is designed to screen for the autoantibodies for a spectrum of secreted tumor antigens in a single assay (BBA, in press). This provides a highly sensitive assay for diagnosing cancer at an early stage, or when the tumor is of a very small size. Claims of the instant invention are drawn to methods and kits for performing this analysis as a means of diagnosing cancer.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

**Therapeutic HIV Vaccine Vectors for Individuals Receiving Antiretroviral Therapy**

Barbara K. Felber *et al.* (NCI).

U.S. Provisional Application filed 09 Jul 2004 (HHS Reference No. E–249–2004/0-US–01); PCT Application No. PCT/US2005/024498 filed 11 Jul 2005 (HHS Reference No. E–249–2004/1-PCT–01);

PCT Application No. PCT/US01/45624 filed 01 Nov 2001, which published as WO 02/36806 on 10 May 2002 (HHS Reference No. E–308–2000/0-PCT–02);

National Stage filed in EP, CA, AU, JP, and U.S. (HHS Reference No. E–308–2000/0-US–07).

*Licensing Contact:* Susan Ano; 301/435–5515; *anos@mail.nih.gov.*

Antiretroviral therapy (ART) against HIV leads to control of viremia, but it does not eradicate the virus. Thus, interruption of ART leads to virus rebound. In addition, prolonged ART is associated with toxicity and development of virus resistance. The technology describes the use of DNA vaccine vectors that produce either secreted or intracellularly degraded antigens for administration to individuals receiving ART. These DNA vectors have recently been shown to work unusually well in controlling viremia when administered as DNA vaccines to SIV-infected monkeys that are undergoing treatment with antiretroviral agents. The current technologies would decrease the drug dependence and assist in clearing or reducing virus burden.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

**Haplotypes of Human Bitter Taste Receptor Genes**

Dennis Drayna and Un-Kyung Kim (NIDCD).

PCT International Application No. PCT/US2004/019489, filed 18 June 2004 (priority date 19 June 2003), International Publication No. WO 2005/007891, Publication Date 27 January 2005 and global IP (HHS Reference Nos. E–222–2003/0 and E–222–2003/1).

*Licensing Contact:* Susan Carson, D.Phil., 301 435–5020; *carsonsu@mail.nih.gov*.

Bitter taste has evolved in mammals as a crucial, important warning signal against ingestion of poisonous or toxic compounds. However, many beneficial compounds are also bitter, and taste masking of bitter tasting pharmaceutical

compounds is a billion dollar industry. The diversity of compounds that elicit bitter-taste sensations is very large and more than two dozen members of the T2R bitter taste receptor family have been identified. Individuals are now known to be genetically predisposed to respond or not to respond to the bitter taste of a number of substances. For example, large individual differences in the perception of bitterness have been well documented in compounds as different as nicotine, thiocyanates such as those found in cruciferous vegetables, and many bitter beta-glucopyranosides. This may have broad implications for nutritional status and tobacco use and common allelic variants of a member of the T2R bitter taste receptor gene family have been shown to underlie variation in the ability to taste phenylthiocarbamide (PTC) [Science (2003) 299, 1221–1225; HHS Ref No: E–169–2001/0].

Scientists at the NIDCD have extended these results to other bitter taste receptors and have sequenced 22 of the 24 known T2R genes in a series of populations worldwide, including Northern Europeans, Hungarians, Japanese, Cameroonians, Pygmies and South American Indians and the present invention includes these isolated sequences and their variants. This includes a total of 127 SNPs and 103 different protein coding haplotypes, including those defined for the PTC Receptor (T2R38) [E–169–2001/0]. The inventors showed that 77% of the SNPs identified caused an amino acid substitution in the encoded receptor protein, giving rise to a very high degree of receptor protein variation in the population (Kim *et al.* (2005) Human Mutation 26, 199–204). The frequencies of these different haplotypes have been shown to differ in different populations which will aid in population-specific studies, such as those targeting differences in taste perception between Europeans and Asians, for example.

The invention available for licensing includes these novel SNPs and haplotypes and methods of use, which can be used to better identify and characterize different groups of individuals within and between populations that vary in their bitter taste abilities. This is important to the food and flavoring industry, for example, where these variants can be used to aid in the development of a variety of taste improvements in foods and orally administered medications. [Also available for licensing in the Human Taste Receptor Haplotype patent portfolio is HHS Ref No. E–169–2001/0-PCT–02: Phenylthiocarbamide Taste Receptor, International Publication No. WO 2003/008627, PCT filed July 19, 2002 and global IP, and HHS Ref. No 099–2005/0: Human Sweet and Umami Taste Receptor Genes, U.S. Provisional Patent Application No. 60/671,173 filed April 2005].

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Dated: February 2, 2006.

**Steven M. Ferguson,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. E6–2015 Filed 2–13–06; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby give of a meeting of the Board of Scientific Counselors for Basic Sciences National Cancer Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors for Basic Sciences National Cancer Institute.

*Date:* March 13, 2006.

*Open:* 8 a.m. to 10:30 a.m.

*Agenda:* Joint Session of NCI, Board of Scientific Advisors and Boards of Scientific Counselors.

*Place:* National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

*Closed:* 11 a.m. to 7:30 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

*Contact Person:* Florence E. Farber, PhD, Executive Secretary, Office of the Director, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 2115, Bethesda, MD 20892. 301–496–7628. *ff6p@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(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: February 1, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1323 Filed 2–13–06; 8:45 am]

**BILLING CODE 4140–01–M**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of 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 a meeting of the Board of Scientific Counselors for Clinical Sciences and Epidemiology National Cancer Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance

with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personal qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors for Clinical Sciences and Epidemiology National Cancer Institute.

*Date:* March 12–13, 2006.

*Closed:* March 12, 2006, 6 p.m. to 10 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

*Open:* March 13, 2006, 8 a.m. to 10:30 a.m.

*Agenda:* Joint Session of NCI, Board of Scientific Advisors and Boards of Scientific Counselors.

*Place:* National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

*Contact Person:* Brian E. Wojcik, PhD, Senior Review Administrator, Institute Review Office, Office of the Director, National Cancer Institute, 6116 Executive Boulevard, Room 2114, Bethesda, MD 20892. (301) 496–7628. *wojcikb@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's Home page: *deainfo.nci.nih.gov/advisory/bsc.htm,* where an agenda and any additional information for the meeting will be posted when available.

(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: February 1, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1324 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Heart, Lung, and Blood Institute; 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 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 Heart, Lung, and Blood Institute Special Emphasis Panel.

*Date:* February 23, 2006.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Courtyard Crystal City, 2899 Jefferson Davis Hwy., Arlington, VA 22202.

*Contact Person:* Mark Roltsch, PhD, Scientific Review Administrator, Review Branch, NHLBI, National Institutes of Health, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892.

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel.

*Date:* February 24, 2006.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Courtyard Crystal City, 2899 Jefferson Davis Hwy., Arlington, VA 22202.

*Contact Person:* Mark Roltsch, PhD, Scientific Review Administrator, Review Branch, NHLBI, National Institutes of Health, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 2, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1339 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Heart, Lung, and Blood 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 constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel, Research Project (Cooperative Agreements) U01s.

*Date:* March 2–3, 2006.

*Time:* 9 AM to 5 PM.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Rouge, 1315 16 Street NW., Washington, DC 20036.

*Contact Person:* Keith A. Mintzer, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, 301–435–0280, *mintzerk@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 2, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1340 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; 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 provision set forth in section 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 Mental Health Special Emphasis Panel, Services Application.

*Date:* February 15, 2006.

*Time:* 1 p.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

*Contact Person:* Marina Broitman, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Mental Health, NIH, Nuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–09608, (301) 402–8152 *mbroitmamail.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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Award for Research Training, National Institutes of Health, HHS)

Dated: February 3, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1327 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; 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 Mental Health Special Emphasis Panel, Centers Program for Research on HIV/AIDS and Mental Health.

*Date:* March 1, 2006.

*Time:* 9 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Double Tree Washington, DC, 1515 Rhode Island Ave., NW., Washington, DC 20005.

*Contact Person:* Serena P. Chu, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892–9609, 301–443–0004, *sechu@mail.nih.gov.*

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, NIMH Brain Bank Review.

*Date:* March 1, 2006.

*Time:* 11 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* David M. Armstrong, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center/ Room 6138/MSC 9608, 6001 Executive Boulevard, Bethesda, MD 20892–9608, 301–443–3534, *armstrda@mail.nih.gov.*

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, Rapid Assessment Post-Impact of Disaster Applications.

*Date:* March 9, 2006.

*Time:* 11 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Mental Health, Neuroscience Building, 6001 Executive Blvd., Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Serena P. Chu, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892–9609, 301–443–0004, *sechu@mail.nih.gov.*

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, HIV/STD Risk Reduction Competing Continuation.

*Date:* March 27, 2006.

*Time:* 3 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Mental Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 3, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1328 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; 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 Institute of General Medical Sciences Special Emphasis Panel, Institutional National Research Service Award Predoctoral Applications.

*Date:* March 3, 2006.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Clarion Hotel Bethesda Park, 8400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Carole H. Latker, PhD, Scientific Review Administrator, Office of Science Review, National Institute of General

Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–18, Bethesda, MD 20892, (301) 594–2848, *latkerc@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 3, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1329 Filed 2–13–06; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; 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 section 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 General Medical Sciences Initial Review Group, Biomedical Research Training Review Subcommittee A.

*Date:* March 2, 2006.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Clarion Hotel Bethesda Park, 8400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Carole H. Latker, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18, Bethesda, MD 20892, (301) 594–2848, *latkerc@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 3, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1330 Filed 2–13–06; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of 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 open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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 Diabetes and Digestive and Kidney Diseases Initial Review Group, Digestive Diseases and Nutrition C Subcommittee.

*Date:* March 14–16, 2006.

*Open:* March 14, 2006, 5 p.m. to 5:30 p.m.

*Agenda:* To review procedures and discuss policy.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Closed:* March 14, 2006, 5:30 p.m. to 9 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Closed:* March 15, 2006, 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Closed:* March 16, 2006, 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Paul A. Rushing, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892–5452. 301–594–8895. *rushingp@extra.niddk.nih.gov.*

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Kidney, Urologic and Hermatologic Diseases D Subcommittee.

*Date:* March 14–16, 2006.

*Open:* March 14, 2006, 6 p.m. to 6:30 p.m.

*Agenda:* To review procedures and discuss policy.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Closed:* March 14, 2006, 6:30 p.m. to 11 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Closed:* March 15, 2006, 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Closed:* March 16, 2006, 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Neal A. Musto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 751, 6707 Democracy Boulevard, Bethesda, MD 20892–5452. 301–594–7798. *muston@extra.niddk.nih.gov.*

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

*Date:* March 14–16, 2006.

*Open:* March 14, 2006, 6 p.m. to 6:30 p.m.

*Agenda:* To review procedures and discuss policy.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Closed:* March 14, 2006, 6:30 p.m. to 11 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Closed:* March 15, 2006, 7:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Closed:* March 16, 2006, 7:30 a.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* John F. Connaughton, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892–5452. 301–594–7797. *connaughtonj@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseaeses and Nutrition

Research; 93.849, Kidney Diseeases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 2, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1332 Filed 2–13–06; 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 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 Allergy and Infectious Diseases Special Emphasis Panel, ZAl1–SR–A–M3—Unit for HIV/AIDS Clinical Trials Network (4).

*Date:* February 27, 2006.

*Time:* 9 a.m. to 4 p.m.

*Agenda:* To review and evaluate cooperative agreement applications.

*Place:* National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Room 3200, Bethesda, MD 20817. (Telephone Conference Call).

*Contact Person:* Stefani T. Rudnick, 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. *srudnick@niaid.nih.gov.*

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel, ZAl1–TP–A–M2—Unit for HIV/AIDS Clinical Trials Network (7).

*Date:* February 27, 2006.

*Time:* 10 a.m. to 4 p.m.

*Agenda:* To review and evaluate cooperative agreement applications.

*Place:* National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Room 3200, Bethesda, MD 20817. (Telephone Conference Call).

*Contact Person:* Thames E. Pickett, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIH/NIAID/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616. 301–496–2550. *pickette@niaid,nih.gov.*

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel, ZAl1–MP–I–M1—RFA–AI–05–026—Cooperative Study Group for Autoimmune Disease Prevention.

*Date:* February 28–March 1, 2006.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate cooperative agreement applications.

*Place:* Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

*Contact Person:* Mercy R. PrabhuDas, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616. 301–451–2615. *mp457n@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: February 2, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1337 Filed 2–13–06; 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 552(b)(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 Allergy and Infectious Diseases Special Emphasis Panel, Units for HIV/AIDS Clinical Trials Network (11)–ZAI1–BLG–A–M2.

*Date:* February 28, 2006.

*Time:* 11 a.m. to 6 p.m.

*Agenda:* To review and evaluate cooperative agreement applications.

*Place:* National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call).

*Contact Person:* Brenda Lange-Gustafson, PhD, Scientific Review Administrator, NIAID, DEA, Scientific Review Program, Room 2217, 6700–B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616. (301) 496–2550. *bgustafson@niaid.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: February 2, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1338 Filed 2–13–06; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; 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*: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Molecular and Cellular Endocrinology Study Section.

*Date*: February 13–14, 2006.

*Time*: 8 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*: Syed M. Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6172, MSC 7892, Bethesda, MD 20892. (301) 435–1043. *amirs@csr.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*: Center for Scientific Review Special Emphasis Panel, SBCA Special Emphasis Panel.
*Date*: February 15, 2006.
*Time*: 3:30 p.m. to 7 p.m.
*Agenda*: To review and evaluate grant applications.
*Place*: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).
*Contact Person*: Robert Lees, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7806, Bethesda, MD 20892. (301) 435–2684. *leesro@csr.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*: Center for Scientific Review Special Emphasis Panel, Arthritis, Connective Tissue and Skin Sciences: A Member Conflict Panel.
*Date*: February 17, 2006.
*Time*: 11:30 a.m. to 3 p.m.
*Agenda*: To review and evaluate grant applications.
*Place*: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).
*Contact Person*: Tamizchelvi Thyagarajan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016K, MSC 7814, Bethesda, MD 20892. 301–451–1327. *tthyagar@csr.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*: Health of the Population Integrated Review Group, Health Services Organization and Delivery Study Section.
*Date*: February 23–24, 2006.
*Time:* 8 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications and/or proposals.
*Place:* Hyatt Regency Reston, 1800 Presidents Street, Reston, VA 20190.
*Contact Person:* Kathy Salaita, SCD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 1014–2, MSC 7770, Bethesda, MD 20892. (301) 451–8504. *salaitak@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Clinical Research and Field Studies of Infectious Diseases.
*Date:* February 24, 2006.
*Time:* 8 a.m. to 6 p.m.
*Agenda:* To review and evaluate grant applications and/or proposals.
*Place:* St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.
*Contact Person:* Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892. (301) 435–1150. *politisa@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Renal and Urological Small Business.
*Date:* February 28, 2006.
*Time:* 10:30 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications and/or proposals.
*Place:* Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.
*Contact Person:* Aftab A. Ansari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892. (301) 594–6376. *ansaria@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Member Conflicts: Hearing Impairment.
*Date:* March 1, 2006.
*Time:* 2 p.m. to 3 p.m.
*Agenda:* To review and evaluate grant applications and/or proposals.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).
*Contact Person:* Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892. (301) 435–1713. *melchioc@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Genes, Genetics, Genomics, Fellowships.
*Date:* March 1–3, 2006.
*Time:* 6:30 p.m. to 1 p.m.
*Agenda:* To review and evaluate grant applications and/or proposals.
*Place:* Hotel Washington, Pennsylvania Avenue at 15th Street, NW., Washington, DC 20004.
*Contact Person:* Mary P. McCormick, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892. (301) 435–1047. *mccormim@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Behavioral Neurosciences Fellowships.
*Date:* March 1–2, 2006.
*Time:* 9 p.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications and/or proposals.
*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
*Contact Person:* Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892. 301–435–1245. *marcusr@csr.nih.gov.*

*Name of Committee:* Brain Disorders and Clinical Neuroscience Integrated Review Group, Developmental Brain Disorders Study Section.
*Date:* March 2–3, 2006.
*Time:* 8 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
*Contact Person:* Sherry L. Stuesse, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892. 301–435–1785. *stuesses@csr.nih.gov.*

*Name of Committee:* AIDS and Related Research Integrated Review Group, AIDS Molecular and Cellular Biology Study Section.
*Date:* March 2–3, 2006.
*Time:* 8 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
*Contact Person:* Kenneth A. Roebuck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892. 301–435–1166. *roebuckk@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, F03A Biochemical and Molecular Neuroscience.
*Date:* March 2–3, 2006.
*Time:* 8 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.
*Contact Person:* Vilen A. Movsesyan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892. 301–402–7278. *movsesyanv@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Fellowships: Cell Biology.
*Date:* March 2–3, 2006.
*Time:* 8 a.m. to 5:30 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:* Jonathan Arias, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892. 301–435–2406. *ariasj@csr.nih.gov.*

*Name of Committee:* Immunology Integrated Review Group, Transplantation, Tolerance, and Tumor Immunology.
*Date:* March 2–3, 2006.
*Time:* 8 a.m. to 12 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.
*Contact Person:* Cathleen L Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892. 301–435–3566. *cooperc@csr.nih.gov*.

*Name of Committee:* Bioengineering Sciences & Technologies Integrated Review Group, Gene and Drug Delivery Systems Study Section.
*Date:* March 2–3, 2006.
*Time:* 8 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:* Steven J. Zullo, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7849, Bethesda, MD 20892. (301) 435–2810. *zullost@csr.nih.gov*.

*Name of Committee:* Health of the Population Integrated Review Group, Epidemiology of Cancer Study Section.
*Date:* March 2–3, 2006.
*Time:* 8 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:* Denise Wiesch, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892. (301) 435–0684. *wieschd@csr.nih.gov*.

*Name of Committee:* Immunology Integrated Review Group, Vaccines Against Microbial Diseases.
*Date:* March 2–3, 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:* Jian Wang, MD, PhD, Scientific Review Administrators Intern, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892. (301) 435–2778. *wangjia@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Immunology Fellowships and AREA.
*Date:* March 2–3, 2006.
*Time:* 8:30 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
*Contact Person:* Paek-Gyu Lee, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095D, MSC 7812, Bethesda, MD 20892. (301) 402–7391. *leepg@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Chemistry/Biophysics SBIR/STTR.
*Date:* March 2–3, 2006.
*Time:* 8:30 a.m. to 4 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* The Doubletree Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20005.
*Contact Person:* Vonda K. Smith, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda, MD 20892. 301–435–1789. *smithvo@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Genes, Genomics, and Genetics Special.
*Date:* March 2–3, 2006.
*Time:* 8:30 a.m. to 4 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Doubletree Hotel Washington, 1515 Rhode Island Ave, NW., Washington, DC 20005.
*Contact Person:* Michael A. Marino, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2216, MSC 7890, Bethesda, MD 20892. (301) 435–0601. *marinomi@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Small Business: Psychopathology and Adult Disorders.
*Date:* March 2–3, 2006.
*Time:* 8:30 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.
*Contact Person:* Dana Jeffrey Plude, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7848, Bethesda, MD 20892. 301–435–2309. *pluded@csr.nih.gov*.

*Name of Committee:* Infectious Diseases and Microbiology Integrated Review Group, Virology—A Study Section.
*Date:* March 2–3, 2006.
*Time:* 8:30 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
*Contact Person:* Joanna M. Pyper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892. (301) 435–1151. *pyperj@csr.nih.gov*.

*Name of Committee:* Genes, Genomes, and Genetics Integrated Review Group, Genomics, Computational Biology and Technology Study Section.
*Date:* March 2–3, 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:* Camilla E. Day, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7890, Bethesda, MD 20892. (301) 435–1037. *dayc@csr.nih.gov*.

*Name of Committee:* Brain Disorders and Clinical Neuroscience Integrated Review Group, Clinical Neuroplasticity and Neurotransmitters Study Section.
*Date:* March 2–3, 2006.
*Time:* 8:30 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
*Contact Person:* William C. Benzing, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892. (301) 435–1254. *benzingw@csr.nih.gov*.

*Name of Committee:* Cardiovascular Sciences Integrated Review Group, Electrical Signaling, Ion Transport, and Arrhythmias Study Section.
*Date:* March 2–3, 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:* Rajiv Kumar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892. (301) 435–1212. *kumarra@csr.nih.gov*.

*Name of Committee:* Bioengineering Sciences & Technologies Integrated Review Group, Modeling and Analysis of Biological Systems Study Section.
*Date:* March 2–3, 2006.
*Time:* 8:30 a.m. to 4 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin AVe., Bethesda, MD 20814.
*Contact Person:* Malgorzata Klosek, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 4188, MSC 7849, Bethesda, MD 20892. (301) 435–2211. *klosekm@csr.nih.gov*.

*Name of Committee:* Bioengineering Sciences & Technologies Integrated Review Group, Instrumentation and Systems Development Study Section.
*Date:* March 2–3, 2006.
*Time:* 8:30 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.
*Contact Person:* Ping Fan, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892. (301) 435–1740. *fanp@csr.nih.gov*.

*Name of Committee:* Genes, Genomes, and Genetics Integrated Review Group, Genetics of Health and Disease Study Section.
*Date:* March 2–3, 2006.
*Time:* 8 a.m. to 3 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.
*Contact Person:* Cheryl M. Corsaro, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892. (301) 435–1045. *corsaroc@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Member Conflicts: Behavioral Neuroscience.
*Date:* March 2, 2006.
*Time:* 11 a.m. to 2 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:* Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892. 301–435–1245. *marcusr@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Small Business: Orthopedics.
*Date:* March 2–3, 2006.
*Time:* 6 p.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Wyndham Washington, DC, 1400 M Street, NW., Washington, DC 20005.
*Contact Person:* John P. Holden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016J, MSC 7814, Bethesda, MD 20892. 301–496–8551. *holdenjo@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Member Conflict: Voice and Speech Disorders.
*Date:* March 2, 2006.
*Time:* 12 p.m. to 2 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).
*Contact Person:* Weijia Ni, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, (for overnight mail use room # and 20817 zip), Bethesda, MD 20892. (301) 435–1507. *niw@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, SBIR/STTR Early Childhood Behaviors and Adolescent/Adult Addictions.
*Date:* March 3, 2006.
*Time:* 8:30 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Morrison House, 116 South Alfred Street, Alexandria, VA 22314.
*Contact Person:* Claire E. Gutkin, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7759, Bethesda, MD 20892. 301–594–3139. *gutkincl@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, EPIC Member Conflict Study Section.
*Date:* March 3, 2006.
*Time:* 8:30 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
*Contact Person:* Christopher Sempos, PhD, Scientific Review Adminsitrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3146, MSC 7770, Bethesda, MD 20892. (301) 451–1329. *semposch@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Erthrocyte Biology and Hemoglobin Synthesis.
*Date:* March 3, 2006.
*Time:* 2:30 p.m. to 4:30 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Lawton Chiles International House, Bethesda, MD 20892. (Telephone Conference Call).
*Contact Person:* Robert T. Su., PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892. (301) 435–1195. *sur@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 2, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1325 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Cancellation of Meeting

Notice is hereby given of the cancellation of the Pathogenic Eukaryotes Study Section, February 9, 2006, 8 a.m. to February 10, 2006, 5 p.m., Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007 which was published in the **Federal Register** on January 24, 2006, 71 FR 3871–3873.

The meeting is cancelled due to a lack of quorum.

Dated: February 3, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1326 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 7, 2006, 1 p.m. to February 7, 2006, 2:30 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on January 24, 2006, 71 FR 3871–3873.

The meeting will be held on February 6, 2006. The meeting time and location remain the same. The meeting is closed to the public.

Dated: February 2, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1331 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 14, 2006, 8 a.m. to February 14, 2006, 5 p.m., Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009, which was published in the **Federal Register** on January 27, 2006, 71 FR 4600–4603.

The meeting will be held February 24, 2006. The meeting time and location remain the same. The meeting is closed to the public.

Dated: February 2, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1333 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Hemostasis and Thrombosis Study Section, February 16, 2006, 8:30 a.m. to February 17, 2006, 10 a.m., Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814, which was published in the **Federal Register** on January 27, 2006, 71 FR 4600–4603.

The meeting will be held at the Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814. The meeting dates and time remain the same. The meeting is closed to the public.

Dated: February 2, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1334 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 17, 2006, 11 a.m. to February 17, 2006, 5 p.m., Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814, which was published in the **Federal Register** on February 1, 2006, 71 FR 5349–5351.

The meeting will be held at the Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814. The meeting date and time remain the same. The meeting is closed to the public.

Dated: February 2, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1335 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cardiovascular and Sleep Epidemiology Study Section, February 16, 2006, 8 a.m. to February 17, 2006, 5 p.m., Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD, 20814 which was published in the **Federal Register** on January 27, 2006, 71 FR 4600–4603.

The meeting will be held at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814. The meeting dates and time remain the same. The meeting is closed to the public.

Dated: February 2, 2006.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 06–1336 Filed 2–13–06; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

**[DHS–2006–0007]**

### Data Privacy and Integrity Advisory Committee

**AGENCY:** Office of the Secretary, DHS.

**ACTION:** Notice of Federal advisory committee meeting.

**SUMMARY:** The notice announces the date, time, location, and agenda for the next meeting of the Department of Homeland Security Data Privacy and Integrity Advisory Committee. This meeting will include an administrative session, which will be closed to the public.

**DATES:** The meeting will be held on Tuesday, March 7, 2006, in Washington, DC.

**ADDRESSES:** The Department of Homeland Security Data Privacy and Integrity Advisory Committee meeting will be held in the Polaris Room at the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, Washington, DC 20004. Persons wishing to make comments or who are unable to attend or speak at the meeting may submit comments at any time. Comments must be identified by DHS–2006–0007 and may be submitted by any *one* of the following methods:

- Federal Rulemaking Portal: *http://www.regulations.gov.* Follow instructions for submitting comments on the Web site.
- E-mail: *PrivacyCommittee@dhs.gov.* Include docket number in the subject line of the message.
- *Fax:* 571–227–4171.
- Mail: Ms. Toby Levin, Acting Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Mail Stop C–3, Arlington, VA, 22202.

*Instructions:* All submissions received must include the Department of Homeland Security and DHS–2006–0007, the docket number for this action. Comments received will be posted without alteration at www.regulations.gov, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received by the DHS Data Privacy and Integrity Committee, go to *http://www.regulations.gov.* Comments received will be posted without alteration at *http://www.dhs.gov/privacy,* including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Maureen Cooney, Acting Chief Privacy Officer, or Toby Levin, Acting Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Arlington, VA 22202, by telephone 571–227–3813, by facsimile 571–227–4171, or by e-mail *PrivacyCommittee@dhs.gov.*

**SUPPLEMENTARY INFORMATION:** The DHS Data Privacy and Integrity Advisory Committee (Committee) will be meeting on Tuesday, March 7, 2006, in the Polaris Room at the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, Washington, DC 20004. The meeting will begin at 8:30 a.m. and continue until 4:30 p.m. Although most of the meeting is open to the public, there will be a closed session between 12:30 p.m. and 2:30 p.m., in order to permit the Privacy Advisory Committee members to discuss administrative and planning items, including future meetings and a timeline for possible subcommittee reports to the full Committee.

At the meeting, the Acting Chief Privacy Officer will provide an update on the activities of the Privacy Office. The subcommittees on Emerging Applications and Technology, Data Sharing and Usage, Framework, and Screening will update the Committee on the work currently being conducted. In the morning and afternoon sessions, invited speakers will discuss how to foster information sharing while protecting privacy. An agenda will be posted on the Privacy Committee Web site at *http://www.dhs.gov/privacy* prior to the meeting.

Public comments will be accepted during the meeting between 4 p.m. and 4:30 p.m. All those who wish to testify during this time may register in advance or sign-up on the day of the meeting. In order to allow as many people as possible to testify, witnesses should limit their remarks to three minutes. For those wishing to make written comments, please follow the procedure noted above.

Public attendance is encouraged. Any member of the public who wishes to attend the public session is requested to provide his or her name no later than 12 p.m. e.s.t., Thursday, March 2, 2006, to Toby Levin via e-mail at *PrivacyCommittee@dhs.gov,* or via telephone at 571–227–3813. This will assist with the preparation of meeting materials and seating arrangements. Everyone who plans to attend is respectfully requested to be present and seated by 8:15 a.m. for the morning session and by 2:15 p.m. for the afternoon session.

Persons with disabilities who require special assistance should indicate this in their admittance request and are encouraged to identify anticipated special needs as early as possible.

Although every effort will be made to accommodate all members of the public, seating is limited and will be allocated on a first-come, first-served basis.

*Basis for Closure:* A portion of this Committee meeting will be closed for administrative and planning purposes that are referenced above. The closed portion is excluded from the Open Meetings requirement, pursuant to the authority contained in 41 CFR 102–3.160(b).

Dated: February 2, 2006.

**Maureen Cooney,**

*Acting Chief Privacy Officer.*

[FR Doc. E6–2048 Filed 2–13–06; 8:45 am]

**BILLING CODE 4410–10–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[CGD05–06–011]**

### Waterway Suitability Assessment for Expansion of Dominion Cove Point Liquefied Natural Gas Facility, Calvert County, Maryland

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice, request for comment.

**SUMMARY:** On August 8, 2005, the Federal Energy Regulatory Commission (FERC) requested Dominion Cove Point Liquefied Natural Gas (LNG) Limited Partnership to prepare a Waterway Suitability Assessment (WSA) for the proposed Cove Point LNG Expansion Project to be submitted to the United States Coast Guard in accordance with the Navigation and Vessel Inspection Circular (NVIC) 05–05. The purpose of the WSA is to identify credible security threats and safety hazards associated with increased LNG marine transportation in the Chesapeake Bay and identify appropriate risk management measures. The Coast Guard Captain of the Port, Baltimore, and the Captain of the Port, Hampton Roads, received the WSA from Dominion Cove Point on January 17, 2006. The conclusions of the WSA are included in this notice. The Coast Guard solicits public comments on these conclusions to consider when preparing recommendations to FERC for inclusion in their final Environmental Impact Statement (EIS) regarding the suitability of the Chesapeake Bay for increased LNG traffic.

**DATES:** Comments and related material must reach U.S. Coast Guard Sector Baltimore on or before March 16, 2006.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number CGD05–06–011 to U.S. Coast Guard Sector Baltimore. To avoid duplication, please use only one of the following methods:

(1) Mail: Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1791, Attn: Cove Point WSA.

(3) Fax: 410–576–2553.

(4) Hand delivery: Room 216 of Building 70 on the Coast Guard Yard Curtis Bay, 2401 Hawkins Point Road, Baltimore, MD, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is 410–576–2619.

(5) Electronic mail: *joseph.s.dufresne@uscg.mil.*

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, or if you have questions on viewing or submitting material to the docket, call LCDR Joe DuFresne, Coast Guard Sector Baltimore, Waterways Management Division, at telephone 410–576–2619.

**SUPPLEMENTARY INFORMATION:**

#### Request for Comments

If you submit a comment, please include your name and address, identify the docket number for this notice (CGD05–06–011) and give the reason for each comment. You may submit your comments by electronic means, mail, fax, or delivery to Coast Guard Sector Baltimore at the address under **ADDRESSES**; but please submit your comments by only one means. If you submit comments by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the address listed under **ADDRESSES**, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments received during the comment period.

#### Background and Purpose

U.S. Coast Guard NVIC 05–05, ''Guidance on Assessing the Suitability of a Waterway for Liquefied Natural Gas Marine Traffic'', published on June 14, 2005, provides guidance to an applicant seeking a permit to build and operate a shore-side LNG terminal to ensure that full consideration is given to safety and security of the port, the facility, and the vessels transporting the LNG. The guidance also assists the Coast Guard to obtain all information needed to assess the proposed LNG marine operations and fulfill its commitment to FERC to provide input to their EIS and to allow the Coast Guard to comply with the National Environmental Policy Act (NEPA). While NVIC 05–05 is primarily focused towards new LNG facilities, the guidance it contains may also be applied to existing facilities seeking to change their operations. Using the guidance in NVIC 05–05, on August 8, 2005, FERC requested Dominion Cove Point LNG to prepare a Waterway Suitability Assessment for the proposed Cove Point Expansion Project and submit it to the Coast Guard.

Dominion Cove Point LNG approached Det Norske Veritas, USA, Inc. (DNV) to perform the WSA on their behalf. The Dominion Cove Point WSA prepared by DNV applies the guidance in NVIC 05–05 and the Sandia National Laboratories Report SAND2004–6258, ''Guidance on Risk Analysis and Safety Implications of a Large Liquefied Natural Gas Spill Over Water'', to assess risks and develop risk management strategies.

The Dominion Cove Point WSA contains the following sections: Port Characterization, Facility and Route Characterization, Risk Assessment and Risk Management Strategies, and Conclusions and Recommendations. The Port Characterization provides a general discussion regarding the middle and lower Chesapeake Bay, the LNG operation footprint, and an overview identifying the main considerations and elements within the region. The Facility and Route Characterization contains detailed specifics related to LNG vessels entering and exiting the Chesapeake Bay, their transit to and from the Dominion Cove Point facility, and the carrier/facility interface. This section provides information on the facility layout and operation as well as details concerning navigation, population densities, and critical infrastructures along the carrier route.

The Risk Assessment and Risk Management Strategies section applies scenarios listed in NVIC 05–05 and the Sandia Lab report to develop an initial scenario inventory. DNV further refined the scenario inventory by including others developed and obtained during the course of WSA research and various hazard identification sessions. In addition, DNV analyzed where an LNG carrier could physically maneuver in the Chesapeake Bay versus its routine track, withdrew current safeguards such that an attack or hijacking would be successful, and assessed the overall risk values for select scenarios.

To assess the scenarios, DNV applied established industry risk assessment

methodologies and Risk Based Decision-Making techniques. Since the facility is currently in operation, DNV considered existing safeguards documented in the Baltimore Area Maritime Security Plans, other Coast Guard safety and security assessments, Dominion's facility security assessments, and LNG Maritime Security Workshop findings. The analysis results highlighted potential safety and security risks, determined overall risk values, and identified risk management strategies.

The Resource Needs for Safety, Security and Response section identifies public and private resources along the length of the Chesapeake Bay LNG route that may be used to prevent and/or mitigate an accidental or intentional LNG carrier casualty.

Due to the sensitive nature of the information contained in the WSA, it is classified as Sensitive Security Information (SSI) and is controlled under 49 CFR part 1520. The WSA itself is, therefore, not able to be released in its entirety to the public without a ''need to know'' as defined in 49 CFR 1520.5. However, the general conclusions of the WSA are presented here for your information.

Based on the research, analysis, and findings in the Cove Point WSA, DNV concluded that additional LNG vessel traffic related with the Dominion Cove Point expansion project does not pose an undue hazard to the Chesapeake Bay or to the facility/vessel interface. The assessment indicates that currently employed risk management strategies at required enforcement levels for each MARSEC level offer the necessary protection to identified safety and security risks for increased LNG tanker traffic in the Chesapeake Bay and that no additional safeguards would be necessary to manage the risk to an acceptable level.

The Coast Guard will take into consideration the results of the Cove Point WSA and public comments received on its conclusions when preparing our input to FERC for inclusion in the Final EIS. The results will also be considered as the Coast Guard prepares a Letter of Recommendation which will identify what actions and resources are necessary to make the Chesapeake Bay suitable for increased LNG traffic to Cove Point.

Dated: January 26, 2006.

**Curtis A. Springer,**

*Captain, U.S. Coast Guard, Commander, U.S. Coast Guard Sector Baltimore, Baltimore, Maryland.*

[FR Doc. E6–2055 Filed 2–13–06; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed extension of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the information collection outlined in 44 CFR part 61, as it pertains to application for National Flood Insurance Program (NFIP) insurance.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP) is authorized by Public Law 90–448 (1968) and expanded by Public Law 93–234 (1973). The National Flood Insurance Act of 1968 requires that the Federal Emergency Management Agency (FEMA) provided flood insurance at full actuarial rates reflecting the complete flood risk to structures built or substantially improved on or after the effective date for the initial Flood Insurance Rate Map (FIRM) for the community, or after December 31, 1974, whichever is later, so that the risks associated with buildings in flood-prone areas are borne by those located in such areas and not by the taxpayers at large. In accordance with Public Law 93–234, the purchase of flood insurance is mandatory when Federal or federally related financial assistance is being provided for acquisition or construction of buildings located, or to be located, within FEMA-identified special flood hazard areas of communities that are participating in the NFIP.

**Collection of Information**

*Title:* National Flood Insurance Program Policy Forms.

*Type of Information Collection:* Extension of a currently approved collection.

*OMB Number:* 1660–0006.

*Form Numbers:* FEMA Form 81–16, Flood Insurance Application, FEMA Form 81–17, Cancellation/Nullification Request , FEMA Form 81–18, General Change Endorsement, FEMA Form 81–25, V–Zone Risk Factor Rating, FEMA Form 81–67, Preferred Risk Application.

*Abstract:* In order to provide for the availability of policies for flood insurance, policies are marketed through the facilities of licensed insurance agents or brokers in the various States. Applications from agents or brokers are forwarded to a servicing company designated as fiscal agent by FIA. Upon receipt and examination of the application and required premium, the servicing company issues the appropriate Federal flood insurance policy.

*Affected Public:* Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; State, Local or Tribal Government

ESTIMATED TOTAL ANNUAL BURDEN HOURS

| FEMA NFIP policy form | Number of responses | Per form burden hours | Total burden hours |
|---|---|---|---|
| 81–16 Flood Insurance Application | 20,000 | 12 min. | 4,000 hrs. |
| 81–67 Preferred Risk Application | 5,000 | 15 min. | 1,000 hrs. |
| 81–17 Cancellation | 8,000 | 7.5 min. | 1,000 hrs. |
| 81–18 Endorsement | 75,000 | 9 min. | 11,250 hrs. |
| RPPRI Letters (to obtain missing information required for applications, endorsements, and renewals). | Because this format is used to obtain information requested but missing on, and required to process, applications, endorsements and renewals, its burden hours are not counted separately, but are included in the burden hour totals for those forms. | | |
| 81–25 V–Zone Risk Factor Rating Form | 50 | 6 hours | 300 hrs. |
| Renewal Premium Notice | 146,000 | 3 min. | 7,300 hrs. |
| Coastal Construction Manual—CD Version | 50 | 30 min. | 25 hrs. |

ESTIMATED TOTAL ANNUAL BURDEN HOURS—Continued

| FEMA NFIP policy form | Number of responses | Per form burden hours | Total burden hours |
|---|---|---|---|
| Total | 254,100 | | 24,875 |

*Estimated Cost:* A $50 expense constant and a $30 policy fee are charged to the policyholder for the issuance of a new policy or the renewal of an existing policy in order to meet the operating expenses of the NFIP. (The amount of the expense constant and/or the policy fee is subject to adjustment as needed to meet the actual cost of the program.)

The projected Operating Expenses (not including claims and claim adjustment expenses) of the NFIP are estimated at approximately $6,800,000. This amount includes all administrative expenses such as processing flood applications, endorsements, cancellations, and customer service.

*Comments:* Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments must be submitted on or before April 17, 2006.

**ADDRESSES:** Interested persons should submit written comments to Chief, Records Management Section, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Contact Mary Chang, Mitigation Division, (202) 646–2790 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov*.

Dated: February 7, 2006.

**Darcy Bingham,**

*Branch Chief, Information Resources Management Branch, Information Technology Services Division.*

[FR Doc. E6–2018 Filed 2–13–06; 8:45 am]

**BILLING CODE 9110–11–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5043–N–02]**

## Notice of Proposed Information Collection for Public Comment: Notice of Funding Availability and Application Kit for the Community Outreach Partnership Center (COPC) Program.

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* April 17, 2006.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8228, Washington, DC 20410–6000.

**FOR FURTHER INFORMATION CONTACT:** Susan Brunson, 202–708–3061, ext. 3852 (this is not a toll-free number), for copies of the proposed forms and other available documents.

**SUPPLEMENTARY INFORMATION:** The Department of Housing And Urban Development will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

This Notice also lists the following information:

*Title of Proposal:* Notice of Funding Availability and Application Kit: for the Community Outreach Partnership Center Program.

*OMB Control Number:* 2528–0180 (exp. 02/28/03).

*Descriptions of the Need for the Information and Proposed Use:* The information is being collected to select applicants for award in this statutorily created competitive grant program and to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

*Agency Form Numbers:* SF–424, SF–424 Supplement, HUD–424–CB, SF–LLL, HUD–27300. HUD–2880, HUD–2993, HUD–2994, HUD–30001, HUD–30002, HUD–30011, HUD–96010 and HUD–96011.

*Members of the Affected Public:* Community colleges, four-year colleges, and universities.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* Information pursuant to grant award will be submitted once a year. The following chart details the respondent burden on an annual and semi-annual basis.

| | Number of respondents | Total annual responses | Hours per response | Total hours |
|---|---|---|---|---|
| Applications | 135 | 135 | 40 | 5400 |

| | Number of respondents | Total annual responses | Hours per response | Total hours |
|---|---|---|---|---|
| Semi-Annual Reports | 25 | 50 | 6 | 300 |
| Final Reports | 25 | 25 | 8 | 200 |
| Recordkeeping | 25 | 25 | 5 | 125 |
| Total | | | 59 | 6025 |

*Status of the proposed information collection:* Pending OMB approval.

*Authority:* Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 8, 2006.

**Darlene F. Williams,**

*Assistant Secretary for Policy Development and Research.*

[FR Doc. 06–1358 Filed 2–13–06; 8:45 am]

**BILLING CODE 4210–27–M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Notice of Availability of the Final Comprehensive Conservation Plan for Lost Trail National Wildlife Refuge, Marion, MT

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. Fish and Wildlife Service announces that a Final Comprehensive Conservation Plan (CCP) for Lost Trail National Wildlife Refuge is available. This CCP, prepared pursuant to the National Wildlife Refuge System Improvement Act of 1997 and the National Environmental Policy Act of 1969, describes how the U.S. Fish and Wildlife Service intends to manage this refuge for the next 15 years.

**ADDRESSES:** A copy of the Final CCP or Summary may be obtained by writing to U.S. Fish and Wildlife Service, Lost Trail National Wildlife Refuge, 6295 Pleasant Valley Road, Marion, Montana 59925; or downloaded from *http://mountain-prairie.fws.gov/planning.*

**FOR FURTHER INFORMATION CONTACT:** Ray Washtak, Refuge Manager, U.S. Fish and Wildlife Service, Lost Trail National Wildlife Refuge, 6295 Pleasant Valley Road, Marion, Montana 59925; telephone 406–858–2216; fax 406–858–2218; or e-mail: *ray_washtak@fws.gov.*

**SUPPLEMENTARY INFORMATION:** Lost Trail National Wildlife Refuge (NWR), comprised of nearly 9,300 acres, is long and narrow and is nearly bisected throughout its length by the Pleasant Valley Road in Flathead County, in extreme northwestern Montana. This breathtakingly beautiful refuge was established in 1999 and is nestled in Montana's Pleasant Valley, within the Fisher River watershed. Lost Trail NWR can be described as a long valley crossed by Pleasant Valley Creek and encompassing the 182-acre Dahl Lake. Lost Trail NWR is comprised of wetlands, lush riparian corridors, uplands dominated by prairie and tame grasses, and temperate forests dominated by lodgepole pine and Douglas fir. Besides numerous migratory waterfowl and neotropical bird species, this refuge is home to federally listed species such as the bald eagle, black tern and Spalding's catchfly. Canada lynx and trumpeter swan occasionally use refuge habitats, and the grizzly bear, gray wolf, and bull trout occur in Pleasant Valley. Lost Trail NWR was established by Congress with the following purposes: (1) ''* * * for use by migratory birds, with emphasis on waterfowl and other water birds * * *'' (Migratory Bird Conservation Act); (2) ''* * * for the conservation of fish and wildlife resources * * *'' (Fish and Wildlife Act); (3) '' * * * for fish and wildlife-oriented recreation * * *'' (The Refuge Recreation Act); and (4) for the conservation of endangered and threatened species (Endangered Species Act of 1973, as amended).

This Final CCP identifies goals, objectives, and strategies for the management of Lost Trail NWR that emphasize restoration and maintenance of Dahl Lake and other native habitats, in vigorous condition, to promote biological diversity. The CCP places high importance on the control of invasive plant species with partners and integrated pest management. It seeks to provide habitats in order to contribute to conservation, enhancement and recovery of federally listed species and possible modification of public uses to protect visitors and minimize harmful interaction between users and listed species.

The availability of the Draft CCP and Environmental Assessment (EA) for a 30-day public review and comment period was announced in the **Federal Register** on July 20, 2005 (FO FR 41786). The Draft CCP/EA evaluated four alternatives for managing Lost Trail NWR. Alternative D, the No Action Alternative, proposed continuation of current management of the refuge. Alternative B emphasized manipulation of habitat to promote wildlife populations to provide the public with abundant quality wildlife recreation, as well as research, documentation, and interpretation of cultural resources. It also called for a contact station staffed 7 days a week. Alternative C called for restoration of habitats to historic conditions and allowance of natural processes to manage habitats. It called for increased protection of listed species, and de-emphasizing public use opportunities at the refuge (such as no fishing and hunting, except by special permit).

Based on this assessment and comments received, Alternative A, which is the proposed action, was selected because it best meets the purposes and goals of the refuge, as well as the goals of the National Wildlife Refuge System. The management direction of this refuge is expected to also benefit federally listed species, large ungulates, shore birds, migrating and nesting waterfowl, and neotropical migrants, as well as improve water quality from riparian habitat restoration. It identifies increased environmental education and partnerships that are likely to result in improved wildlife-dependent recreational opportunities. Finally, the CCP places high importance on the protection of cultural and historical resources.

Dated: October 17, 2005.

**Sharon R. Rose,**

*Acting Deputy Regional Director, Region 6, Denver, CO.*

[FR Doc. 06–1296 Filed 2–13–06; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Notice of Availability of the Draft Comprehensive Conservation Plan and Environmental Assessment for the Cedar Island National Wildlife Refuge in Carteret County, NC

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces that a Draft Comprehensive Conservation Plan and Environmental Assessment for the Cedar Island National Wildlife Refuge are available for review and comment. The National Wildlife System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, requires the Service to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

**DATES:** Individuals wishing to comment on the Draft Comprehensive Conservation Plan and Environmental Assessment for Cedar Island National Wildlife Refuge should do so no later than March 16, 2006. Public comments were requested, considered, and incorporated throughout the planning process in numerous ways. Public outreach has included scoping meetings, a review of the biological program, an ecosystem planning newsletter, and **Federal Register** notices.

**ADDRESSES:** Requests for copies of the Draft Comprehensive Conservation Plan and Environmental Assessment should be addressed to Bruce Freske, Refuge Manager, Mattamuskeet National Wildlife Refuge, 38 Mattamuskeet Road, Swan Quarter, North Carolina 27885; Telephone: 252/926–4021; Fax: 252/926–1743. Comments on the draft may be submitted to the above address or via electronic mail to: *bruce_freske@fws.gov.* 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 addresses from the record, which we will honor to the extent allowed by law.

**SUPPLEMENTARY INFORMATION:** The Service analyzed three alternatives for managing the refuge and chose Alternative 2 as the preferred alternative.

Proposed goals for the refuge include:

*Wildlife, Fish, and Plant Populations.* Conserve, protect, and maintain healthy and viable populations of migratory birds, wildlife, fish, and plants, including Federal and State threatened, endangered, and trust species.

*Habitat.* Protect and enhance diverse habitats, rare plant assemblages, and nursery areas associated with the Pamlico-Core Sounds and the mid-Atlantic coastal plain.

*Public use.* Develop programs and facilities to increase public use opportunities, including hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

*Resource Protection.* Protect refuge resources by limiting impacts of human development and activity on and around Cedar Island National Wildlife Refuge.

*Administration.* Provide adequate funding and staffing to accomplish refuge goals and objectives.

Also available for review are compatibility determinations for recreational hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

## Alternatives

Alternative 1 proposes to maintain the status quo. The staff would manage marshes and pine forests with prescribed burns conducted by employees from other refugees according to the Fire Management Plan. The refuge would employ a single maintenance worker stationed on the refuge to maintain the buildings and grounds, clean up dumpsites, and pick up litter. Staff from other refuges would survey waterfowl from the air on a routine basis. The refuge would conduct no other surveys of wildlife or habitats. The refuge would allow all six priority public use activities: waterfowl hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. The staff would not conduct environmental education and interpretation programs, but would allow others to conduct programs on the refuge. The Service would manage the refuge from Mattamuskeet National Wildlife Refuge.

Alternative 2, the preferred alternative, proposes minimum program increases. The refuge would document the presence of priority wildlife species, but would not monitor habitat. Staff would survey waterfowl from the air on a routine basis. The refuge would continue to allow the six priority public use activities, but would have the capacity to increase the number of opportunities. The staff would conduct environmental education programs once a month. An interpretive and observation trail with a brochure and a photo blind would be established. The staff would also control dominant pest plants and animals. There would be four staff members stationed at the Cedar Island National Wildlife Refuge.

Alternative 3 proposes moderate program increases. The refuge would document the presence of priority wildlife species and mammals and monitor fire-dependent habitats. The staff would monitor vegetation in the marshes and pine forests before and after prescribed burns conducted by staff from other refuges according to the Fire Management Plan. Staff from the refuge would survey waterfowl from the air and the ground on a routine basis. The refuge would continue to allow the six priority public use activities, but would have the capacity to increase the number of opportunities. The staff would conduct environmental education and interpretation programs once a month. An interpretive trail with brochure and photo blind would be established. The staff would also monitor pest plants and animals and control them according to an integrated Pest Management Plan. There would be eight staff members stationed at the Cedar Island National Wildlife Refuge.

## Actions Common to All Alternatives

All three alternatives share the following concepts and techniques for achieving the goals of the refuge:

- Cooperating with local, State, and Federal agencies, and non-governmental organizations to administer refuge programs;
- Utilizing volunteers to execute the public use, biological, and maintenance programs on the refuge;
- Monitoring populations of waterfowl, shorebirds, and wading birds, and vegetation in the refuge impoundments;
- Maintaining vegetation in the marsh with prescribed fire; and
- Encouraging scientific research on the refuge.

Cedar Island National Wildlife Refuge, in east-central North Carolina, consists of 14,480 acres in fee simple ownership. On the refuge, 11,000 acres are brackish marsh, 1,500 acres are longleaf pine savanna, 150 acres are brackish shrub, 125 acres are pond pine woodland, 100 acres are bay forests, 100 acres are low pocosin, and 50 acres are cypress-gum swamp. These habitats support a variety of wildlife species, including waterfowl, shorebirds, wading

birds, marsh birds, and neotropical migratory songbirds.

The refuge hosts more than thirty thousand visitors annually who participate in hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

**Authority:** This notice is published under the authority of the National Wildlife Refuge System Improvement act of 1997, Public Law 105–57.

Dated: September 7, 2005.

**Cynthia K. Dohner,**

*Acting Regional Director.*

**Editorial Note:** This document was received at the Office of the Federal Register on February 9, 2006.

[FR Doc. 06–1347 Filed 2–13–06; 8:45 am]

**BILLING CODE 4310–55–M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Receipt of an Application and Availability of Environmental Assessment for an Incidental Take Permit for Commercial Development in Lake County, FL

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** Richard E. Bosserman and Charles E. Bosserman III (Applicants) request an incidental take permit (ITP) for a 10-year term, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Applicants anticipate taking sand skinks (*Neoseps reynoldsi*) and bluetail mole skinks (*Eumeces egregious*) (cumulatively referred to as skinks) resulting from land clearing and site preparation for commercial construction on about 75 acres near Clermont, Lake County, Florida.

The Applicants' HCP describes the mitigation and minimization measures proposed to address the effects commercial construction on the skinks. These measures are outlined in the **SUPPLEMENTARY INFORMATION** section below. We announce the availability of the ITP application, HCP, and an Environmental Assessment (EA).

**DATES:** Written comments on the ITP application, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before April 17, 2006.

**ADDRESSES:** Persons wishing to review the application, EA, and HCP may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Please reference permit number TE105732–0 in such requests. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216–0912.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Dell, Regional HCP Coordinator, (see **ADDRESSES** above), telephone: 404/679–7313, facsimile: 404/679–7081; or Mr. Michael Jennings, Fish and Wildlife Biologist, Jacksonville Field Office, Jacksonville, Florida (see **ADDRESSES** above), telephone: 904/232–2580, ext. 113.

**SUPPLEMENTARY INFORMATION:** If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE105732–0 in such comments. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to *david_dell@fws.gov*. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from us that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION CONTACT**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). 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 administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, 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.

The blue-tailed mole skink is a small, slender lizard that occupies xeric upland habitats in central peninsular Florida. It requires open, sandy patches interspersed with vegetation. The blue-tailed mole skink is highly adapted for life in the sand; it spends the majority of time below the surface where it moves through loose sand in search of food, shelter, and mates. Much of the blue-tailed mole skink's historic habitat has been destroyed or degraded because of fragmentation due to residential, commercial, and agricultural development. Habitat protection and management are essential for the survival of this species.

The sand skink is a small, semi-fossorial lizard that occurs on the sandy ridges of interior central Florida from Marion County south to Highlands County. The species is vulnerable because of habitat loss due to conversion to residential, commercial, and agricultural uses and from habitat degradation due to fire exclusion. The recovery of sand skinks will require restoration of habitat and possible reintroduction of individuals into successfully restored habitat.

Xeric uplands within the Lake Wales Ridge have declined in distribution and ecological quality over the past 100 years. Urban and agricultural development in this area has resulted in substantial losses of habitat; by the early 1980's habitat loss was estimated at 66 percent. Since then additional losses are attributed to increasing urban growth, particularly in the northern portions of the action area. Severe freezes during the mid-1980's also resulted in a shift in citrus production from north central Florida to south Florida which resulted in further loss of xeric uplands. Recent estimates indicate that 70 to 80 percent of the xeric uplands in Florida have been lost or degraded. Within the Lake Wales Ridge, about 85 percent of xeric uplands have been lost.

In addition to the direct destruction of xeric uplands within the Project area, increasing fragmentation has resulted in the degradation of many of the remaining parcels of habitat. These xeric communities require periodic fire to maintain their ecological and biological functions and values. Urban and agricultural uses now interspersed between xeric upland habitats do not allow the natural periodicity or magnitude of fires that once spread across this xeric landscape. In most instances, fire suppression is practiced to protect human health and the safety of property. Lacking fire, xeric uplands tend towards more mesic conditions, which include denser vegetative canopies and more heterogeneous vegetative structure. Under these conditions, many of the species that

evolved in presence of periodic fires and low structural diversity diminish in abundance and eventually are extirpated.

The Applicants biological surveys determined that about 5.5 acres of the 75-acre parcel is occupied by sand skinks and the Fish and Wildlife Service believes that bluetail mole skinks also occupy the same 5.5 acres. The Applicants' proposed construction activities would result in harm to skinks due to destruction of foraging, sheltering, and nesting habitat. The Applicants' proposed commercial construction would result in the loss of 5.5 acres of occupied skink habitat that is isolated due to surrounding urban development. Avoidance or minimized impact of the occupied skink habitat was determined to be too costly to the Applicant. In addition, conserving skink habitat on site would only maintain habitat that would be increasingly isolated from other skink habitat. The Applicants' mitigation proposes to acquire, perpetually protect, and manage 10 acres of skink habitat at an off-site location and donate $20,000 for use in skink habitat acquisition. Take of skinks is anticipated due to commercial development of the Applicants' property, while the off-site mitigation proposed by the Applicants will result in conservation benefits to skinks and several other species endemic to xeric scrub.

The Service has made a preliminary determination that issuance of the requested ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of National Environmental Policy Act. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. This notice is provided pursuant to Section 10 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the issuance criteria requirements of section 10(a)(1)(B) of the Act. By conducting an intra-Service section 7 consultation the Service will also evaluate whether issuance of the section 10(a)(1)(B) ITP would comply with section 7 of the Act. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: January 29, 2006.

**Cynthia K. Dohner,**

*Acting Regional Director, Southeast Region.*

[FR Doc. E6–1960 Filed 2–13–06; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR–081–5882–DF–SM99; HAG 06–0075]**

### Meetings: Resource Advisory Committees—Salem, OR

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Meeting notice for the Salem, Oregon, Bureau of Land Management (BLM) Resource Advisory Committee under Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393).

**SUMMARY:** This notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act. Meeting notice is hereby given for the Salem Oregon BLM Resource Advisory Committee pursuant to Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000, Public Law 106–393 (the Act). Topics to be discussed by the Salem BLM Resource Advisory Committee include: reviewing 2006 project applications, developing funding recommendations for 2006 projects, monitoring progress of previously approved projects, and scheduling field reviews of projects.

**DATES:** The Salem Oregon BLM Resource Advisory Committee will meet at the BLM Salem District Office, 1717 Fabry Road, Salem, Oregon 97306, from 8:30 a.m. to 4 p.m. on June 22, 2006. If an additional meeting is needed for the Resource Advisory Committee to develop funding recommendations, it will be held on June 29, 2006. In addition to these meeting dates, a pre-proposal meeting to review submitted projects will be held on March 2, 2006.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act, Secure Rural Schools and Community Self Determination Act of 2000, five Resource Advisory Committees have been formed for western Oregon BLM districts that contain Oregon & California (O&C) Grant Lands and Coos Bay Wagon Road lands. The Secure Rural Schools and Community Self Determination Act of 2000 establishes a six-year payment schedule to local counties in lieu of funds derived from the harvest of timber on Federal lands.

The Secure Rural Schools and Community Self Determination Act of 2000 creates a new mechanism for local community collaboration with Federal Land management activities in the selection of projects to be conducted on Federal lands or that will benefit resources on Federal lands. The BLM Resource Advisory Committees consist of 15 local citizens (plus 6 alternates) representing a wide array of interests.

**FOR FURTHER INFORMATION CONTACT:** Additional information concerning the Salem BLM Resource Advisory Committee may be obtained from Paul Jeske, Salem District Designated Federal Official at 503–375–5644 or Trish Hogervorst, Salem BLM Public Affairs Officer, 503–375–5657 at 1717 Fabry Rd. SE., Salem, Oregon 97306.

Dated: February 8, 2006.

**Denis Williamson,**

*District Manager.*

[FR Doc. E6–2019 Filed 2–13–06; 8:45 am]

BILLING CODE 4310–33–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 18, 2005, and published in the **Federal Register** on August 19, 2005, (70 FR 48779), Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in Schedules I and II:

| Drug | Schedule |
|---|---|
| Gamma hydroxybutyric acid (2010). | I |
| Amphetamine (1100) | II |
| Methylphenidate (1724) | II |

The company plans to manufacture bulk products for finished dosage units and distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Lonza Riverside to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Lonza Riverside to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical

security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: February 7, 2006.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. E6–2021 Filed 2–13–06; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review: Comment Request

February 8, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13,44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Ira Mills on 202–693–4122 (this is not a toll-free number) or E-Mail: *Mills.Ira@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* Employment and Training Administration (ETA).

*Type of Review:* New collection.

*Title:* State Income and Eligibility Verification System Reemployment and Eligibility Assistance.

*OMB Number:* 1205–0NEW.

*Frequency:* Quarterly.

*Affected Public:* State, local, or tribal gov't.

*Type of Response:* Reporting.

*Number of Respondents:* 53.

*Annual Responses:* 424.

*Average Response time:* 30 minutes.

*Total Annual Burden Hours:* 2,120.

*Total Annualized Capital/Startup Costs:* 0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* 0.

*Description:* The Secretary has interpreted applicable sections of Federal law to require States to identify claimants who are most likely to exhaust their UI benefits and to provide reemployment services to expedite their return to suitable work. The ETA 9048 report provides a count of the claimants who were referred to Worker Profiling and Reemployment Services (WPRS) and a count of those who completed the services. A second report provides the subsequent collection of wage records which is a useful management tool for monitoring the success of the WPRS program in the state.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. E6–2064 Filed 2–13–06; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Proposed Information Collection Request Submitted for Public Comment and Recommendations; Job Corps Placement Verification and Follow-Up of Job Corps Participants

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(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.

**DATES:** Submit comments on or before April 17, 2006.

**ADDRESSES:** Send comments to the Office of Job Corps, 200 Constitution Ave., NW., N–4507, Washington, DC 20210. E-Mail Internet Address: *conboy.chris@dol.gov*; Telephone number: (202) 693–3000. Fax number: (202) 693–2767.

**FOR FURTHER INFORMATION CONTACT:** Chris Conboy, Office of Job Corps, 200 Constitution Ave., NW., Rm. N–4510, Washington, DC 20210. E-Mail Internet Address: *conboy.chris@dol.gov*; Telephone number: (202) 693–3093. Fax number: (202) 693–3113.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Job Corps program authorized by the Workforce Investment Act (WIA) of 1998, is designed to serve low-income young women and men, 16 through 24, who are in need of additional vocational, educational and social skills training, and other support services in order to gain meaningful employment, return to school or enter the Armed Forces. Job Corps is operated by the Department of Labor through a nationwide network of 118 Job Corps centers. The program is primarily a residential program operating 24 hours per day, 7 days per week, with non-resident enrollees limited by legislation to 20 percent of national enrollment. These centers presently accommodate more than 40,000 students.

The Placement Verification and Follow-up of Job Corps Participants is comprised of three data collection instruments to collect follow-up data on individuals who are no longer actively participating in Job Corps. The instruments consist of modules that include questions designed to obtain the following information: re-verification of initial job and/or school placements; employment and educational experiences; job search activities of those who are neither working nor in school; and information about former participants' satisfaction with the services provided by Job Corps.

### II. Desired Focus of Comments

Currently, the Office of Job Corps is soliciting comments concerning the

proposed extension of form ETA 426 Job Corps Placement Verification and Follow-up of Job Corps Participants.

• To evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• To 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;

• To enhance the quality, utility, and clarity of the information to be collected; and

• To minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Copies of the Paperwork Reduction Act Submission Package are at this Web site: *http://www.doleta.gov/Performance/guidance/OMBControlNumber.cfm.*

**III. Current Actions**

*Type of Review:* Extension.

*Agency:* Employment and Training Administration.

*Title:* Job Corps Placement Verification and Follow-up of Job Corps Participants.

*OMB Number:* 1205–0426.

*Agency Number:* N/A.

*Recordkeeping:* The respondent is not required to retain records; Career Transition Service providers and center staff are required to retain records of graduates and former enrollees, who are placed in a job, further education or military service, for three years.

*Affected Public:* Individuals or households and Business or other for-profit institutions.

*Cite/Reference/Form/etc.:* 20 CFR, subpart A, section 670.100.

*Estimated Total Burden Hours:* 16,483 burden hours.

| Respondent category | Number of responses | Estimated hours per response | Estimated hours total burden |
|---|---|---|---|
| Placed Former Enrollees at 90 days | 1,815 | .25 | 454 |
| Placed Graduates at 90–120 days | 22,720 | .25 | 5,680 |
| Placed Graduates at 6 Months | 23,360 | .20 | 4,672 |
| Placed Graduates at 12 Months | 21,440 | .20 | 4,288 |
| Employer/Institution Re-verification | 8,172 | .17 | 1,389 |
| Total | 77,507 | | 16,483 |

*Total Burden Cost (capital/startup):* n/a.

*Total Burden Cost (operating/maintaining):* $2,908,443.

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: February 3, 2006.

**Grace A. Kilbane,**

*National Director, Office of Job Corps.*

[FR Doc. E6–2068 Filed 2–13–06; 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: Notice of Termination, Suspension, Reduction or Increase in Benefit Payments (CM–908). 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 April 17, 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**

The Office of Workers' Compensation Programs (OWCP) administers the Federal Mine Safety and Health Act of 1977 as amended, Section 432 (30 U.S.C. 942) and 20 CFR 725.621 necessitate this information collection. Under the Act, coal mine operators, their representatives, or their insurers who have been identified as responsible for paying Black Lung benefits to an eligible miner or an eligible surviving dependent of the miner, are called Responsible Operators (RO's). RO's that pay benefits are required to report any change in the benefit amount to the Department of Labor (DOL). The CM–908, when completed and sent to DOL, notifies DOL of the change in the beneficiary's benefit amount and the reason for the change. 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 carry out its responsibility to ensure that Division of Coal Mine Workers' Compensation regulations are followed correctly, that the new benefit amount is accurate and to insure that the correct benefits amounts are paid.

*Type of Review:* Extension.

*Agency:* Employment Standards Administration.

*Title:* Notice of Termination, Suspension, Reduction or Increase in Benefit Payments.

*OMB Number:* 1215–0064.

*Agency Number:* CM–908.

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

*Total Respondents:* 325.

*Total Responses:* 7,500.

*Time per Response:* 12 minutes.

*Frequency:* On Occasion and Annually (Reporting).

*Estimated Total Burden Hours:* 1,500.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintenance):* $6,300.

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: February 8, 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. E6–2066 Filed 2–13–06; 8:45 am]

**BILLING CODE 4510–CK–P**

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## 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: Economic Survey Schedule (WH–1). 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 April 17, 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:**

**Background**

Fair Labor Standards Act (FLSA), 29 U.S.C. 201 *et seq.*, §§ 5, 6(a)(3) and 8 provide that covered, non-exempt employees in America Samoa may be paid at minimum wage rates established by a Special Industry Committee, in lieu of the general federal minimum wage specified in § 6(a)(1) of the Act. The FLSA requires the Committee to recommend to the Secretary of Labor the highest minimum wage rate—not to exceed the rate required under FLSA § 6(a)(1)—that it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry and will not give any industry in America Samoa a competitive advantage over any industry in the U.S. outside of America Samoa. The Committee must consider competitive conditions as affected by transportation, living and production costs; the wages established by collective bargaining agreements in various industries; and wages paid by employers who voluntarily maintain minimum wage standards. FLSA § 5(d) requires the Secretary of Labor to provide data on the matters the Committee will consider. Regulations 29 CFR 511.6 and 511.11 require the Administrator of the Wage and Hour Division (WHD) of DOL prepare for the Committee an economic report containing data pertinent to establishing industry minimum wage rates in America Samoa. WHD uses Form WH–1, Economic Survey Schedule, to gather the information necessary to prepare the economic report. 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 gather information necessary to prepare the required economic report used by the Committee to set industry wage rates in America Samoa.

*Type of Review:* Extension.

*Agency:* Employment Standards Administration.

*Title:* Economic Survey Schedule.

*OMB Number:* 1215–0028.

*Agency Number:* WH–1.

*Affected Public:* Business or other for-profit; State, Local or Tribal Government.

*Total Respondents:* 67.

*Total Responses:* 67.

*Time per Response:* 45 minutes.

*Frequency:* Biennially.

*Estimated Total Burden Hours:* 50.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintenance):* $0.

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: February 8, 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. E6–2067 Filed 2–13–06; 8:45 am]

BILLING CODE 4510–27–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice (06–007)]**

### Notice of Information Collection

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of information collection.

**SUMMARY:** The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)).

**DATES:** All comments should be submitted within 60 calendar days from the date of this publication.

**ADDRESSES:** All comments should be addressed to Mr. Walter Kit, National Aeronautics and Space Administration, Washington, DC 20546–0001.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mr. Walter Kit, NASA Reports Officer, NASA Headquarters, 300 E Street SW., JE0000, Washington, DC 20546, (202) 358–1350, *Walter.Kit-1@nasa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The National Aeronautics and Space Administration (NASA) is requesting approval for a new collection that will be used to collect ideas, on a voluntary basis, from the general public about ways to fulfill NASA's technology development challenges.

### II. Method of Collection

NASA will utilize electronic methods to collect this information, via an on-line Web based form.

### III. Data

*Title:* Centennial Challenges Idea Submission Web Forms.

*OMB Number:* 2700–0119.

*Type of review:* Extension of currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 300.

*Estimated Time Per Response:* 0.25 hours.

*Estimated Total Annual Burden Hours:* 75.

*Estimated Total Annual Cost:* $0.

### IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

**Patricia L. Dunnington,**

*Chief Information Officer.*

[FR Doc. E6–2052 Filed 2–13–06; 8:45 am]

BILLING CODE 7510–13–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 06–006]**

### Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of prospective patent license.

**SUMMARY:** This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA is contemplating the granting of a partially exclusive license in the United States to practice the inventions described and claimed in U.S. Patent No. 6,321,746, entitled ''Portable Hyperbaric Chamber,'' U.S. Patent No. 6,231,010, ''Advanced structural and inflatable hybrid spacecraft module,'' and U.S. Patent No. 6,547,189, ''Inflatable Vessel and Method'' to Oxyheal Health Group, Inc., having a place of business in National City, CA. The fields of use may be limited to hyperbaric oxygen therapy apparatuses and methods of use. The patent rights in the inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

**DATES:** The prospective partially exclusive license may be granted within fifteen (15) days from the date of this published notice, unless NASA receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will be treated as objections to the grant of the contemplated partially exclusive license.

NASA's practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you may state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

**ADDRESSES:** Inquires, comments, objections, and other material relating to the contemplated license may be submitted to Patent Counsel, Office of Chief Counsel, Johnson Space Center, Mail Code AL, 2101 NASA Parkway, Houston, Texas 77058.

**FOR FURTHER INFORMATION CONTACT:** Theodore Ro, Patent Attorney, NASA Johnson Space Center, Mail Stop AL, Houston, TX 77058–8452; telephone (281) 244–7148.

Dated: February 8, 2006.

**Keith T. Sefton,**

*Deputy General Counsel, Administration and Management.*

[FR Doc. E6–2023 Filed 2–13–06; 8:45 am]

BILLING CODE 7510–13–P

## NATIONAL SCIENCE FOUNDATION

### Astronomy and Astrophysics Advisory Committee #13883; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following Astronomy and Astrophysics Advisory Committee (#13883) meeting:

*Date and Time:* February 13–14, 2006, 8:30 a.m.–5 p.m.

*Place:* National Aeronautics and Space Administration (NASA), 300 E Street SW., Room MIC–5, Washington, DC 20546.

*Type of Meeting:* Open.

*Contact Person:* Dr. G. Wayne Van Citters, Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–4908.

*Purpose of Meeting:* To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

*Agenda:* To hear presentations of current programming by representatives from NSF, NASA, DOE and other agencies relevant to astronomy and astrophysics; to discuss current and potential areas of cooperation between the agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

*Reason for Late Notice:* Due to administrative complications and oversight.

Dated: February 9, 2006.

**Susanne E. Bolton,**

*Committee Management Officer.*

[FR Doc. 06–1350 Filed 2–13–06; 8:45 am]

BILLING CODE 7555–01–M

## NUCLEAR REGULATORY COMMISSION

### In the Matter of Duke Energy Corporation; Order Approving Application Regarding Proposed Corporate Restructuring and Approving Conforming Amendments

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|---|---|
| (Catawba Nuclear Station, Units 1 and 2). | Docket No. 50–413.<br>Docket No. 50–414.<br>Renewed License No. NPF–35. |
| (McGuire Nuclear Station, Units 1 and 2). | Docket No. 50–369.<br>Docket No. 50–370.<br>Renewed License No. NPF–9.<br>Renewed License No. NPF–17. |
| (Oconee Nuclear Station, Units 1, 2, and 3 ) and Oconee Independent Spent Fuel Storage Installation). | Docket No. 50–269.<br>Docket No. 50–270.<br>Docket No. 50–287.<br>Docket No. 72–004.<br>Renewed License No. DPR–38.<br>Renewed License No. DPR–47.<br>Renewed License No. DPR–55.<br>License No. SNM–2503.<br>Renewed License No. NPF–52. |

**I.**

Duke Energy Corporation (Duke Energy), the North Carolina Electric Membership Corporation, and the Saluda River Electric Cooperative, Inc., are the holders of Renewed Facility Operating License No. NPF–35, which authorizes the possession, use, and operation of the Catawba Nuclear Station, Unit 1. Duke Energy, the North Carolina Municipal Power Agency No. 1, and the Piedmont Municipal Power Agency are the holders of Renewed Facility Operating License No. NPF–52, which authorizes the possession, use, and operation of the Catawba Nuclear Station, Unit 2. The Catawba Nuclear Station, Units 1 and 2, is located in York County, South Carolina.

Duke Energy is the holder of Renewed Facility Operating Licenses Nos. NPF–9 and NPF–17, which authorizes the possession, use, and operation of the McGuire Nuclear Station, Units 1 and 2. The McGuire Nuclear Station is located in Mecklenburg County, North Carolina.

Duke Energy is the holder of Renewed Facility Operating Licenses Nos. DPR–38, DPR–47, and DPR–55, which authorize the possession, use, and operation of the Oconee Nuclear Station, Units 1, 2, and 3, and Materials License No. SNM–2503, which authorizes operation of the Oconee Independent Spent Fuel Storage Installation (ISFSI). The Oconee Nuclear Station and the ISFSI are located in Oconee County, South Carolina.

**II.**

By application dated August 5, 2005, as supplemented by letters dated November 28 and December 14, 2005, and February 6, 2006, Duke Energy requested, pursuant to Title 10 of the Code of Federal Regulations (10 CFR), Part 50, Section 50.80 (10 CFR 50.80), consent to the indirect license transfers that would be effected by the indirect transfer of control of Duke Energy's ownership and/or operating interests in Catawba Nuclear Station, Units 1 and 2, McGuire Nuclear Station, Units 1 and 2, and Oconee Nuclear Station, Units 1, 2, and 3 (the Duke nuclear units) and the Oconee ISFSI. This action is being sought as a result of a corporate restructuring involving the creation of a new holding company which will become the parent of Duke Energy. The new holding company, to be named Duke Energy Corporation (referred to herein as New Duke Energy, to distinguish it from the licensee, Duke Energy), will be created in connection with the merger of Duke Energy with Cinergy Corporation (Cinergy). Duke Energy will convert its corporate form to a limited liability company (LLC) without interruption of its legal existence and be renamed Duke Power Company LLC (Duke Power). The holders of the Catawba Nuclear Station Renewed Facility Operating Licenses other than Duke Energy are not involved in this action.

Approval of the indirect transfer of the Renewed Facility Operating Licenses and the Oconee ISFSI License was requested by Duke Energy pursuant to 10 CFR 50.80 and 10 CFR 72.50, respectively. Approval of conforming license amendments was requested pursuant to 10 CFR 50.90 and 72.56. Three notices entitled, ''Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring and Conforming Amendments, and Opportunity for a Hearing,'' were published in the **Federal Register** on December 30, 2005 (70 FR 77430 (Catawba), 70 FR 77429 (McGuire), and 70 FR 77428 (Oconee)). No comments or hearing requests were received.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. In addition, pursuant to 10 CFR 72.50, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information in the application by Duke Energy and other information before the Commission, the Nuclear Regulatory Commission (NRC) staff has determined that the subject corporate restructuring will not affect the qualifications of Duke Energy, converted to Duke Power, to hold the licenses to the same extent now held by Duke Energy, and that the indirect

transfer of the licenses effected by the restructuring is otherwise consistent with the applicable provisions of laws, regulations, and orders issued by the NRC, pursuant thereto. The NRC staff has further found that the applications for the proposed license amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facilities will operate in conformity with the applications, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated February 7, 2006.

**III.**

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended (the Act), 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80 and 10 CFR 72.50, *It is hereby ordered* that the application regarding the proposed corporate restructuring and indirect license transfers is approved, subject to the following condition:

Duke Power shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Duke Power to its parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Duke Power's net utility plant, as recorded on its books of account.

*It is further ordered* that consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosures 2 through 9 to the cover letter forwarding this Order, to reflect the subject restructuring action are approved. The amendments shall be issued and made effective at the time the proposed restructuring action is completed.

*It is further ordered* that after receipt of all required regulatory approvals of the proposed corporate restructuring and/or merger between Duke Energy and Cinergy Corporation, Duke Energy shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt within 5 business days and of the date of the closing of the restructuring no later than 2 business days prior to the date of closing. Should the proposed restructuring not be completed by February 1, 2007, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated August 5, 2005, as supplemented by letters dated November 28 and December 14, 2005, and February 6, 2006, and the safety evaluation dated February 7, 2006, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 7th day of February 2006.

For the Nuclear Regulatory Commission.

**Catherine Haney,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

**E. William Brach,**

*Director, Spent Fuel Project, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. E6–2022 Filed 2–13–06; 8:45 am]

BILLING CODE 7590–01–P

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## NUCLEAR REGULATORY COMMISSION

### Sunshine Act Meeting; Notice

**AGENCY HOLDING THE MEETINGS:** Nuclear Regulatory Commission.

**DATE:** Weeks of February 13, 20, 27, March 6, 13, 20, 2006.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**MATTERS TO BE CONSIDERED:**

**Week of February 13, 2006**

*Tuesday, February 14, 2006*

2 p.m. Briefing on Office of Nuclear Materials Safety and Safeguards (NMSS) Programs, Performance, and Plans—Waste (Public Meeting). (Contact: Teresa Mixon, 301–415–474; Derek Widmayer, 301–415–6677.)

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

*Wednesday, February 15, 2006*

9:30 a.m. Briefing on Office of Chief Financial Officer (CFO) Programs, Performance, and Plans (Public Meeting). (Contact: Edward New, 301–415–5646.)

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

**Week of February 20, 2006—Tentative**

There are no meetings scheduled for the Week of February 20, 2006.

**Week of February 27, 2006—Tentative**

There are no meetings scheduled for the Week of February 27, 2006.

**Week of March 6, 2006—Tentative**

There are no meetings scheduled for the Week of March 6, 2006.

**Week of March 13, 2006—Tentative**

*Monday, March 13, 2006*

1:30 p.m. Briefing on Office of Information Services (OIS) Programs, Performance, and Plans (Public Meeting). (Contact: Edward Baker, 301–415–8700.)

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

*Wednesday, March 15, 2006*

9:30 a.m. Briefing on Office of Nuclear Security and Incident Response (NSIR) Programs, Performance, and Plans (Public Meeting). (Contact: Evelyn S. Williams, 301–415–7011.)

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

1:30 p.m. Discussion of Security Issues (closed—ex. 1 & 3).

*Thursday, March 16, 2006*

9:30 a.m. Briefing on Office of Nuclear Reactor Regulation (NRR) Programs, Performance, and Plans (Public Meeting). (Contact: Cynthia Carpenter, 301–415–1275.)

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

**Week of March 20, 2006—Tentative**

There are no meetings scheduled for the Week of March 20, 2006.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html*.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.*, braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov*.

Dated: February 9, 2006.

**R. Michelle Schroll,**

*Office of the Secretary.*

[FR Doc. 06–1418 Filed 2–10–06; 1:17 pm]

**BILLING CODE 7590–01–M**

## NUCLEAR REGULATORY COMMISSION

### Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

### I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 20, 2006, to February 2, 2006. The last biweekly notice was published on January 31, 2006 (71 FR 5078).

### Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition

should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, HearingDocket@nrc.gov; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by email to *pdr@nrc.gov.*

*Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Genoa, Wisconsin*

*Date of amendment request:* December 13, 2005.

*Description of amendment requests:* The La Crosse Boiling Water Reactor (LACBWR) is currently undergoing limited decommissioning and dismantlement. The proposed license amendment would revise Technical Specifications (TS) to allow waste processing components or fixtures to be handled over the Fuel Element Storage Well (FESW), limiting the weight of such items to 50 tons (the weight of the heavy load drop found acceptable in the cask drop analyses performed for the LACBWR FESW). The proposed wording changes to the TS would allow processing and shipment of Class B and Class C radioactive waste currently stored in the FESW, which will require a cask similar to the spent fuel shipping cask reflected in the current TS.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR Part 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated? No.

The shipping cask, whether it is a spent fuel shipping cask or a waste shipping cask, will be handled with the same equipment, under essentially the same LACBWR crane operating procedures and precautions, and will be conservatively enveloped by previous accident evaluations that assumed a heavy load drop weighing 50 tons. Allowing the placement of typical waste processing equipment in the FESW and the handling of a waste shipping cask limited to weighing less than 50 tons over the FESW may increase the number of cask movements over the FESW slightly but will not increase the probability nor consequences of an accident previously evaluated during a given cask handling.

(2) Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated? No.

Simply changing the name of the heavy load handled over the FESW from ''spent fuel shipping cask'' to the generic term ''shipping cask,'' as long as the heavy loads are limited to the analyzed drop weight of 50 tons and their methods of handling are essentially equivalent, does not create the possibility of a new or different kind of accident from any accident previously evaluated. Other waste processing equipment will likewise be limited to the analyzed drop weight.

(3) Does the proposed change involve a significant reduction in a margin of safety? No.

Any shipping cask or other waste processing equipment to be handled over the LACBWR FESW will be conservatively enveloped by the load and conditions in the heavy load drop analysis, which assumed a drop weight of 50 tons, performed for the LACBWR FESW and, therefore, the TS change will not involve a significant reduction in a margin of safety.

The U.S. Nuclear Regulatory Commission (NRC) staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR Part 50.92(c) are satisfied. Therefore, NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*NRC Section Chief:* Claudia Craig.

*Dominion Energy Kewaunee, Inc. Docket No. 50–305, Kewaunee Power Station, Kewaunee County, Wisconsin*

*Date of amendment request:* January 12, 2006.

*Description of amendment request:* The proposed changes to the Technical Specifications (TSs) are necessary in order to implement the guidance for the industry initiative on NEI 97–06, ''Steam Generator [SG] Program Guidelines.''

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, via reference to a generic analysis published in the **Federal Register** on March 2, 2005 (70 FR 10298). In addition, the licensee's January 12, 2006, application contains analysis of the issue of no significant hazards consideration associated with those changes to the TS needed to adapt the model, generic, TS ( described in NUREG–1431, Revision 3) addressed in the **Federal Register** on March 2, 2005, to the plant-specific TS applicable to Kewaunee Power Station. The analysis is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change requires a SG Program that includes performance criteria that will provide reasonable assurance that the SG tubing will retain integrity over the full range of operating conditions (including startup, operation in the power range, hot standby, cooldown and all anticipated transients included in the design specification). The SG performance criteria are based on tube structural integrity, accident induced leakage, and operational LEAKAGE.

A SGTR [Steam Generator Tube Rupture] event is one of the design basis accidents that are analyzed as part of a plant's licensing basis. In the analysis of a SGTR event, a bounding primary to secondary LEAKAGE rate equal to the operational LEAKAGE rate limits in the licensing basis plus the LEAKAGE rate associated with a double-ended rupture of a single tube is assumed.

For other design basis accidents such as MSLB, [Main Steam Line Break] rod ejection, and reactor coolant pump locked rotor the tubes are assumed to retain their structural integrity (i.e., they are assumed not to rupture). These analyses typically assume that primary to secondary LEAKAGE for all SGs is 1 gallon per minute or increases to 1 gallon per minute as a result of accident induced stresses. The accident induced leakage criterion introduced by the proposed changes accounts for tubes that may leak during design basis accidents. The accident induced leakage criterion limits this leakage to no more than the value assumed in the accident analysis.

The SG performance criteria proposed change to the TS identify the standards against which tube integrity is to be measured. Meeting the performance criteria provides reasonable assurance that the SG tubing will remain capable of fulfilling its specific safety function of maintaining reactor coolant pressure boundary integrity throughout each operating cycle and in the unlikely event of a design basis accident. The performance criteria are only a part of the SG Program required by the proposed change to the TS. The program, defined by NEI 97–06, Steam Generator Program Guidelines, includes a framework that incorporates a balance of prevention, inspection, evaluation, repair, and leakage monitoring. The proposed changes do not, therefore, significantly increase the probability of an accident previously evaluated.

The consequences of design basis accidents are, in part, functions of the DOSE EQUIVALENT I–131 [Iodine 131] in the primary coolant and the primary to secondary LEAKAGE rates resulting from an accident. Therefore, limits are included in the plant technical specifications for operational leakage and for DOSE EQUIVALENT I–131 in primary coolant to ensure the plant is operated within its analyzed condition. The typical analysis of the limiting design basis accident assumes that primary to secondary leak rate after the accident is 1 gallon per minute with no more than [500 gallons per day or 720 gallons per day] in any one SG, and that the reactor coolant activity levels of DOSE EQUIVALENT I–131 are at the TS values before the accident.

The proposed change does not affect the design of the SGs, their method of operation, or primary coolant chemistry controls. The proposed approach updates the current TSs and enhances the requirements for SG inspections. The proposed change does not adversely impact any other previously evaluated design basis accident and is an improvement over the current TSs.

Therefore, the proposed change does not affect the consequences of a SGTR accident and the probability of such an accident is reduced. In addition, the proposed changes do not affect the consequences of an MSLB, rod ejection, or a reactor coolant pump locked rotor event, or other previously evaluated accident.

The proposed change involves rewording of certain Technical Specification sections to be consistent with NUREG–1431, Revision 3. These modifications involve no technical changes to the existing Technical Specifications. As such, these changes are administrative in nature and do not affect initiators of analyzed events or assumed mitigation of accident or transient events.

Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed performance based requirements are an improvement over the requirements imposed by the current technical specifications. Implementation of the proposed SG Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The result of the implementation of the SG Program will be an enhancement of SG tube performance. Primary to secondary LEAKAGE that may be experienced during all plant conditions will be monitored to ensure it remains within current accident analysis assumptions.

The proposed change does not affect the design of the SGs, their method of operation, or primary or secondary coolant chemistry controls. In addition, the proposed change does not impact any other plant system or component. The change enhances SG inspection requirements.

The proposed change involves rewording of certain Technical Specification sections to be consistent with NUREG–1431, Revision 3. The change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. The changes will not impose any new or different requirements or eliminate any existing requirements from those already approved in the CLIIP.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The SG tubes in pressurized water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of an SG is

maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change is expected to result in an improvement in the tube integrity by implementing the SG Program to manage SG tube inspection, assessment, repair, and plugging. The requirements established by the SG Program are consistent with those in the applicable design codes and standards and are an improvement over the requirements in the current TSs.

The proposed change involves rewording of certain Technical Specification sections to be consistent with NUREG–1431, Revision 3. The changes are administrative in nature and will not involve any technical changes. The changes will not reduce a margin of safety because they have no impact on any safety analysis assumptions. In addition, since these changes are administrative in nature, no question of safety is involved.

Therefore, the changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

*Acting NRC Branch Chief:* T. Kobetz.

*Entergy Nuclear Operations, Inc., Docket Nos. 50–247 and 50–286, Indian Point Nuclear Generating Unit Nos. 2 and 3 (IP2 & IP3), Westchester County, New York*

*Date of amendment request:* December 27, 2005

*Description of amendment request:* The proposed amendment changes consist of:

- Adoption of Technical Specification Task Force (TSTF)–258, Revision 4; regarding changes to Section 5.0, Administrative Controls .
- Adoption of TSTF–308, Revision 1; regarding the determination of cumulative and projected dose contributions in the Radioactive Effluents Control Program (RECP).
- Revision of IP2 definition for dose equivalent 1–131 based on NUREG–1431, Revision 3.
- Revision of IP2 RECP requirements based on NUREG–1431, Revision 3.
- Revision of IP3 Explosive Gas and Storage Tank Radioactivity Monitoring Program requirements based on NUREG–1431.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed changes are administrative in nature and have no affect on accident scenarios previously evaluated. Affected sections include Unit Staff requirements, the Radioactive Effluent Controls Program (RECP), and High Radiation Areas. In addition, a definition is being revised for IP2. The proposed changes will result in consistent wording for the affected sections in the Indian Point 2 and Indian Point 3 Technical Specifications, based on wording used in the latest version of the Standard Technical Specifications. This will facilitate the implementation of common programs and administrative procedures for the Indian Point site. The proposed changes do not affect initiating events for accidents previously evaluated and do not affect modified plant systems or procedures used to mitigate the progression or outcome of those accident scenarios.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed changes do not involve the installation of new plant equipment or modification of existing plant equipment. No system or component setpoints are being changed and there are no changes being proposed for the way that the plant is operated. There are no new accident initiators or equipment failure modes resulting from the proposed changes. The proposed changes are administrative in nature and support the implementation of common programs and administrative procedures for the two nuclear units located at the same site.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

The proposed changes revise a definition and the description of certain administrative control programs. There are no changes proposed to equipment operability requirements, setpoints, or limiting parameters specified in the plant Technical Specifications.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Mr. John Fulton, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

*NRC Branch Chief:* Richard J. Laufer.

*Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania*

*Date of application for amendments:* April 28, 2005.

*Description of amendment request:* The proposed changes will modify Technical Specifications (TSs) 3.3.4.2, ''End of Cycle Recirculation Pump Trip (EOC–RPT) Instrumentation''; 3.4.1,''Recirculation Loops Operating''; and 3.7.6, ''Main Turbine Bypass System'' to add a requirement for the linear heat generation rate (LHGR) limits specified in the Core Operating Limits Report (COLR).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. The LHGR is a measure of the heat generation rate of a fuel rod in a fuel assembly at any axial location.

Limits on the LHGR are specified to ensure that fuel design limits are not exceeded anywhere in the core during normal operation, including anticipated operational occurrences, and to ensure that the peak cladding temperature (PCT) during a postulated design basis Loss-of-Coolant Accident (LOCA) does not exceed the limits specified in 10 CFR 50.46.

LHGR limits have been established consistent with the NRC-approved GESTAR methodology to ensure that fuel performance during normal, transient, and accident conditions is acceptable. The proposed changes establish a requirement for LHGR limits to be modified, as specified in the COLR, such that the fuel is protected for the conditions of an inoperable EOC–RPT [end-of-cycle recirculation pump trip] instrument function, single recirculation loop operation, or an inoperable Main Turbine Bypass System and during any plant transients or

anticipated operational occurrences that may occur while in these conditions. Modifying the LHGR limits for the above three (3) condition[s] does not increase the probability of an evaluated accident. The proposed change[s] [do] not require any physical plant modifications, physically affect any plant components, or entail changes in plant operation. Therefore, no individual precursors of an accident are affected.

Limits on the LHGR are specified to ensure that fuel design limits are not exceeded anywhere in the core during normal operation, including anticipated operational occurrences, and to ensure that the PCT during a postulated design basis LOCA does not exceed the limits specified in 10 CFR 50.46. This will ensure that the fuel design safety criteria (i.e., less than 1% plastic strain of the fuel cladding and no fuel centerline melting) are met and that the core remains in a coolable geometry following a postulated design basis LOCA or any anticipated operational occurrence. Since the operability of plant systems designed to mitigate any consequences of accidents has not changed and all fuel design limits continue to be met, the consequences of an accident previously evaluated are not expected to increase.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications of the plant configuration, including changes in allowable modes of operation. The proposed changes do not involve any modifications of the plant configuration or allowable modes of operation. Requiring the LHGR limits to be modified for the conditions of inoperable EOC–RPT instrument function, single recirculation loop operation, or an inoperable Main Turbine Bypass System ensures that fuel design limits are not exceeded anywhere in the core during normal operation, including anticipated operational occurrences and that the assumptions of the LOCA analyses are met.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

*Response:* No.

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change[s] will not adversely affect operation of plant equipment. The change[s] will not result in a change to the setpoints at which protective actions are initiated. LHGR limits for the conditions of an inoperable EOC–RPT instrument function, single recirculation loop operation, or an inoperable Main Turbine Bypass System are established to ensure that fuel design limits are not exceeded anywhere in the core during normal operation, including anticipated operational occurrences and that the PCT during a postulated design basis LOCA does not exceed the limits specified in 10 CFR 50.46. This will ensure that the core remains in a coolable geometry following a postulated design basis LOCA. The proposed change will ensure the appropriate level of fuel protection.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for Licensee:* Mr. Brad Fewell, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Kennett Square, PA 19348.

*NRC Branch Chief:* Darrell J. Roberts.

*FPL Energy Seabrook LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire*

*Date of amendment request:* December 19, 2005.

*Description of amendment request:* The requested change will delete those parts of Technical Specification (TS) 6.8.1.2, ''Annual Reports,'' related to occupational radiation exposures and challenges to pressurizer relief and safety valves, and TS 6.8.1.5, ''Monthly Operating Reports.'' The NRC staff issued a notice of availability of a model no significant hazards consideration (NSHC) determination for referencing in license amendment applications in the **Federal Register** on June 23, 2004 (69 FR 35067). The licensee affirmed the applicability of the model NSHC determination in its application dated December 19, 2005.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed change eliminates the Technical Specifications (TSs) reporting requirements to provide a monthly operating report of shutdown experience and operating statistics if the equivalent data is submitted using an industry electronic database. It also eliminates the TS reporting requirement for an annual occupational radiation exposure report, which provides information beyond that specified in NRC regulations. The proposed change involves no changes to plant systems or accident analyses. As such, the change is administrative in nature and does not affect initiators of analyzed events or assumed mitigation of accidents or transients. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed change does not involve a physical alteration of the plant, add any new equipment, or require any existing equipment to be operated in a manner different from the present design. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

This is an administrative change to reporting requirements of plant operating information and occupational radiation exposure data, and has no effect on plant equipment, operating practices or safety analyses assumptions. For these reasons, the proposed change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above, the requested change does not involve significance hazards consideration.

*Attorney for licensee:* M.S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

*NRC Branch Chief:* Darrell J. Roberts.

*Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota*

*Date of amendment request:* September 15, 2005.

*Description of amendment request:* The licensee proposed to revise the current licensing basis by incorporating a full-scope application of the Alternative Source Term (AST) methodology (see Regulatory Guide 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents of Nuclear Power Reactors,'' July 2000) in the analysis of radiological consequences for design-basis accidents. Approval of this amendment by the Nuclear Regulatory Commission (NRC) staff would result in updating various portions of the MNGP Technical Specifications to reflect the assumptions and parameters used in the AST methodology. Also, upon approval of the proposed amendment, the licensee will make conforming changes to the MNGP Updated Final Safely Analysis Report.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff's own analysis is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The licensee's proposed application of AST methodology to the licensing basis is analytical in nature (i.e., in Chapter 14 of the MNGP Updated Final Safety Analysis Report), and does not lead to nor is it a result of modifications to plant equipment or method of operation. Since there is no change to plant equipment or method of operation, there can thus be no change in the probability of occurrence of an accident, and no change to the accident scenarios documented in the MNGP licensing basis and previously evaluated by the NRC staff. Consequently, the actual accident radiological consequences would not be any different whether or not AST methodology is used in predicting radiological consequences.

(2) Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not introduce new equipment operating modes, nor does it alter existing system and component design. Accordingly, the proposed amendment to apply AST methodology does not introduce new failure modes, nor does it alter the equipment required for accident mitigation. The postulated accident scenarios previously evaluated are not changed in any way. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed change involve a significant reduction in the margin of safety?

No. The proposed amendment would approve the licensee's application of AST methodology to predict radiological consequences for various postulated accident scenarios. The AST methodology is an NRC-approved alternative for this purpose. Other than this change, which will be reviewed by the NRC staff, the licensee is proposing no other changes to other analytical models, assumptions, parameters, or acceptance criteria. Accordingly, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on its own analysis above, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

*Attorney for licensee:* Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016.

*NRC Acting Branch Chief:* T. Kobetz.

*Nuclear Management Company, LLC, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota*

*Date of amendment request:* November 9, 2005.

*Description of amendment request:* The proposed amendments would revise Technical Specifications (TS) for the Prairie Island Nuclear Generating Plant (PINGP) Units 1 and 2, to clarify which TS Surveillance Requirements (SRs) shall be met for TS systems which include more components (installed spare components) than are required to satisfy the TS Limiting Conditions for Operation (LCO).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

This license amendment proposes to revise Technical Specification Surveillance Requirements for event monitoring instrumentation, containment ventilation isolation instrumentation, cooling water system, AC sources during plant operations and nuclear instrumentation during refueling. The affected Surveillance Requirements may require all possible components in their associated Technical Specifications to meet the Surveillance Requirements even though the Technical Specifications Limiting Conditions for Operation only require some of the possible components to be operable to satisfy the Limiting Conditions for Operation. Consistent with industry guidance, the affected Surveillance Requirements were revised to include some form of ''required'' as a descriptor of the components which shall meet the Surveillance Requirements. Minor format and error corrections are also proposed for some of these Technical Specifications.

The instrumentation and systems which are the subject of the affected Technical Specifications mitigate accidents or monitor plant conditions. The instrumentation and systems are not accident initiators, thus the proposed changes do not involve a significant increase in the probability of a previously evaluated accident. With the proposed changes, the Technical Specification Limiting Conditions for Operation will continue to be met, thus the proposed changes do not involve a significant increase in the consequences of a previously evaluated accident. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

This license amendment proposes to revise Technical Specification Surveillance Requirements for event monitoring instrumentation, containment ventilation isolation instrumentation, cooling water system, AC sources during plant operations and nuclear instrumentation during refueling. The affected Surveillance Requirements may require all possible components in their associated Technical Specifications to meet the Surveillance Requirements even though the Technical Specifications Limiting Conditions for Operation only require some of the possible components to be operable to satisfy the Limiting Conditions for Operation. Consistent with industry guidance, the affected Surveillance Requirements were revised to include some form of ''required'' as a descriptor of the components which shall meet the Surveillance Requirements. Minor format and error corrections are also proposed for some of these Technical Specifications.

The proposed Technical Specification changes do not involve a change in the instrumentation or systems' operation, or the use of the instrumentation or systems. The Limiting Conditions for Operation will continue to be met and the instrumentation and systems will continue to provide their same monitoring or mitigation function. There are no new failure modes or mechanisms created through the clarifications of which components must meet the Surveillance Requirements. There are no new accident precursors generated by clarifying which components must meet the Surveillance Requirements. The minor format and error corrections do not create new failure modes or mechanisms and do not generate new accident precursors. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

*Response:* No.

This license amendment proposes to revise Technical Specification Surveillance Requirements for event monitoring instrumentation, containment ventilation isolation instrumentation, cooling water system, AC sources during plant operations and nuclear instrumentation during refueling. The affected Surveillance Requirements may require all possible components in their associated Technical Specifications to meet the Surveillance Requirements even though the Technical Specifications Limiting Conditions for Operation only require some of the possible components to be operable to satisfy the Limiting Conditions for Operation. Consistent with industry guidance, the affected Surveillance Requirements were revised to include some form of ''required'' as a descriptor of the components which shall meet the Surveillance Requirements. Minor format and error corrections are also proposed for some of these Technical Specifications.

The Technical Specification changes proposed in this License Amendment

Request are administrative, that is, they do not involve any substantive changes in plant systems, structures or components and they do not involve any changes in plant operations. Currently the affected Technical Specification Limiting Conditions for Operation do not require all possible components addressed by the Technical Specifications to be operable. This License Amendment Request clarifies that the components not required to be operable are not required to meet the Surveillance Requirements. The Limiting Conditions for Operation will continue to be met as required by the Technical Specifications. Minor format and error corrections are also proposed. Since these changes are administrative, they do not involve a significant reduction in a margin of safety.

Therefore, based on the considerations given above, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Attorney for licensee:* Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016.

*NRC Acting Branch Chief:* Timothy Kobetz.

*Pacific Gas and Electric Company, Docket No. 50–275, Diablo Canyon Nuclear Power Plant, Unit No. 1, San Luis Obispo County, California*

*Date of amendment requests:* December 16, 2005.

*Description of amendment requests:* The proposed amendment would revise Technical Specification 5.6.5, ''Core Operating Limits Report (COLR),'' by adding WCAP–12945–P–A, Addendum 1–A, Revision 0, ''Method for Satisfying 10 CFR 50.46 [Section 50.46 of Title 10 of the Code of Federal Regulations] Reanalysis Requirements for Best Estimate LOCA [Loss-of-Coolant Accident] Evaluation Models,'' dated December 2004, as an approved analytical method for determining core operating limits for Unit 1. Pacific Gas and Electric is performing a plant-specific best-estimate loss-of-coolant accident analysis for Unit 2 using a methodology different than the methodology presented in Addendum 1–A to WCAP–12945–P–A. Therefore, this license amendment applies only to Unit 1.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed change to allow the use of the abbreviated best estimate loss-of-coolant accident (LOCA) analysis methodology does not involve a physical alteration of any plant equipment or change operating practice at Unit 1 of Diablo Canyon Power Plant (DCPP). Therefore, there will be no increase in the probability of a LOCA. The consequences of a LOCA are not being increased.

The plant conditions assumed in the analysis are bounded by the design conditions for all equipment in Unit 1. That is, it is shown that the emergency core cooling system is designed so that its calculated cooling performance conforms to the criteria contained in 10 CFR 50.46, paragraph b. No other accident is potentially affected by this change.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

*Response:* No.

The proposed change would not result in any physical alteration to any Unit 1 system, and there would not be a change in the method by which any safety related system performs its function. The parameters assumed in the analysis are within the design limits of existing plant equipment.

Therefore, the proposed change does not create the possibility of a new or different accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

It has been shown that the analytic technique used in the analysis realistically describes the expected behavior of the DCPP Unit 1 reactor system during a postulated LOCA. Uncertainties have been accounted for as required by 10 CFR 50.46. A sufficient number of LOCAs with different break sizes, different locations, and other variations in properties have been analyzed to provide assurance that the most severe postulated LOCAs were analyzed. It has been shown by the analysis that there is a high level of probability that all criteria contained in 10 CFR 50.46, paragraph b, are met.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Attorney for licensee:* Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

*NRC Branch Chief:* David Terao.

*PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2 (SSES 1 and 2), Luzerne County, Pennsylvania*

*Date of amendment request:* November 18, 2005.

*Description of amendment request:* The proposed amendment would change the SSES 1 and 2 Technical Specifications (TSs) to implement the Average Power Range Monitor/Rod Block Monitor/Technical Specifications/Maximum Extended Load Line Limit Analysis (ARTS/MELLLA). Specifically, the average power range monitor (APRM) flow-biased scram and rod block trip setpoints would be revised to permit operation in the MELLLA region. The current flow-biased rod block monitor (RBM) would also be replaced by a power dependent RBM implemented through the referenced proposed upgrade to a digital power range neutron monitor system (PRNMS). The change from the flow-biased RBM to the power-dependent RBM would also require new trip setpoints. In addition, the flow-biased APRM scram and rod block trip setdown requirement would be replaced by more direct power and flow-dependent thermal limits to reduce the need for APRM gain adjustments, and to allow more direct thermal limits administration during operation other than rated conditions. Finally, the proposed amendment would change the methods used to evaluate the annulus pressurization (AP), mass blowdown, and early release resulting from the postulated recirculation suction line break (RSLB).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

Proposed Change No. 1: The proposed change eliminates the Average Power Range Monitor (APRM) flow-biased scram and rod block trip setpoint setdown requirements and substitutes power and flow dependent adjustments to the Minimum Critical Power Ratio (MCPR) and Linear Heat Generation Rate (LHGR) thermal limits. Thermal limits will be determined using NRC approved analytical methods. The proposed change will have no effect upon any accident initiating mechanism. The power and flow

dependent adjustments will ensure that the MCPR safety limit will not be violated as a result of any Anticipated Operational Occurrence (AOO), and that the fuel thermal and mechanical design bases will be maintained. Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Proposed Change No. 2: The proposed change expands the power and flow operating domain by relaxing the restrictions imposed by the formulation of the APRM flow-biased scram and rod block trip setpoints and the replacement of the current flow-biased RBM with a new power dependent RBM, which will be implemented using a digital Power Range Neutron Monitoring System (PRNMS). The APRM and RBM are not involved in the initiation of any accident; and the APRM flow-biased scram and rod block functions are not credited in any PPL safety licensing analyses.

The analysis of the instrument line break event resulted in an insignificant change in the radiological consequences. The change for the instrument line break was an insignificant increase of 0.1 Rem.

Since the proposed changes will not affect any accident initiator, or introduce and initial conditions that would result in NRC approved criteria being exceeded, and since the APRM and RBM will remain capable of performing their design functions, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Proposed Change No. 3: The methods used to evaluate Annulus Pressurization (AP) and mass blowdown and energy releases resulting from the postulated Recirculation Suction Line Break (RSLB) at the MELLLA conditions are changed to use more realistic, but still conservative, methods of analysis to determine an AP mass and energy release profile for AP loads resulting from the postulated RSLB. The releases resulting from the RSLB at off-rated conditions have been demonstrated to be bounded by the current design basis loads. Since the proposed changes do not affect any accident initiator and since the RSLB AP releases remain bounded by the current design basis, the proposed changes do not involve a significant increase in the probability or radiological consequences of an accident previously evaluated. Therefore the proposed changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

Proposed Change No. 1: The proposed change eliminates the Average Power Range Monitor (APRM) flow-biased scram and rod block setpoint setdown requirements and substitutes power and flow dependent adjustments to the Minimum Critical Power Ratio (MCPR) and Linear Heat Generation Rate (LHGR) thermal limits. Because the thermal limits will continue to be met, no analyzed transient event will escalate into a new or different type of accident due to the initial starting conditions permitted by the adjusted thermal limits. Therefore, the proposed change will not create the possibility of a new or different kind of accident previously evaluated.

Proposed Change No. 2: The proposed change expands the power and flow operating domain by relaxing the restrictions imposed by the formulation of the APRM flow-biased scram and rod block trip setpoints and the replacement of the current flow-biased RBM with a new power dependent RBM, which will be implemented using a digital Power Range Neutron Monitoring System (PRNMS). Changing the formulation for the APRM flow-biased scram and rod block trip setpoints and from a flow-biased RBM to a power dependent RBM does not change their respective functions and manner of operation. The change does not introduce a sequence of events or introduce a new failure mode that would create a new or different type of accident. The APRM flow-biased rod block trip setpoint will continue to block control rod withdrawal when core power significantly exceeds normal limits and approaches the scram level. The APRM flow-biased scram trip setpoint will continue to initiate a scram if the increasing power/flow condition continue beyond the APRM flow-biased rod block setpoint. The power dependent RBM will prevent rod withdrawal when the power dependent RBM rod block setpoint is reached. No new failure mechanisms, malfunctions, or accident initiators are being introduced by the proposed changes. In addition, operating within the expanded power flow map will not require any systems, structures or components to function differently than previously evaluated and will not create initial conditions that would result in a new or different kind of accident from any accident previously evaluated.

Proposed Change No. 3: The methods used to evaluate Annulus Pressurization (AP) and mass blowdown and energy releases resulting from the postulated Recirculation Suction Line Break (RSLB) at the MELLLA conditions are changed to use more realistic, but still conservative, methods of analysis to determine an AP mass and energy release profile for AP loads resulting from the postulated RSLB. The proposed changes to the methods of analysis to determine AP mass and energy releases resulting from the postulated RSLB do not change the design function or operation of any plant equipment. No new failure mechanisms, malfunctions, or accident initiators are being introduced by the proposed changes. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

*Response:* No.

Proposed Change No. 1: The proposed change eliminates the Average Power Range Monitor (APRM) flow-biased scram and rod block setpoint setdown requirements and substitutes power and flow dependent adjustments to the Minimum Critical Power Ratio (MCPR) and Linear Heat Generation Rate (LHGR) thermal limits. Replacement of the APRM setpoint setdown requirement with power and flow dependent adjustments to the MPR and LHGR thermal limits will ensure that margins to the fuel cladding Safety Limit are preserved during operation at other than rated conditions. Thermal limits will be determined using NRC approved analytical methods. The power and flow dependent adjustments will ensure that the MPR safety limit will not be violated as a result of any Anticipated Operational Occurrence (AOO), and that the fuel thermal and mechanical design bases will be maintained. The 10 CFR 50.46 acceptance criteria for the performance of the Emergency Core Cooling System (ECCS) following postulated Loss-Of-Coolant Accidents (LOCAs) will continue to be met. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

Proposed Change No. 2: The proposed change expands the power and flow operating domain by relaxing the restrictions imposed by the formulation of the APRM flow-biased scram and rod block trip setpoints and the replacement of the current flow-biased RBM with a new power dependent RBM, which will be implemented using a digital Power Range Neutron Monitoring System (PRNMS). The APRM flow-biased rod block trip setpoint will continue to block control rod withdrawal when core power significantly exceeds normal limits and approaches the scram level. The APRM flow-biased scram trip setpoint will continue to initiate a scram if the increasing power/flow condition continues beyond the APRM flow-biased rod block setpoint. The RBM will continue to prevent rod withdrawal when the power dependent RBM rod block setpoint is reached. The MPR and LHGR thermal limits will be developed to ensure that fuel thermal mechanical design bases shall remain within the licensing limits during a rod withdrawal error event and to ensure that the MPR safety limit will not be violated as a result of a rod withdrawal error event. Operation in the expanded operating domain will not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. Anticipated operational occurrences and postulated accident within the expanded operating domain will be evaluated using NRC approved methods. Therefore, the proposed change will not involve a significant reduction in the margin of safety.

Proposed Change No. 3: The methods used to evaluate Annulus Pressurization (AP) and mass blowdown and energy releases resulting from the postulated Recirculation Suction Line Break (RSLB) at the MELLLA conditions are changed to use more realistic, but still conservative, methods of analysis to determine an AP mass and energy release profile for AP loads resulting from the postulated RSLB. Mass and energy releases for AP loads resulting from the postulated RSLB remain bounded by the current design basis releases. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

*NRC Branch Chief:* Richard J. Laufer.

*Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California*

*Date of amendment requests:* November 30, 2005.

*Description of amendment requests:* The proposed amendment would revise the Technical Specification (TS) requirements related to steam generator (SG) tube integrity, based on the NRC-approved Revision 4 to TS Task Force (TSTF)-449, ''Steam Generator Tube Integrity.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on March 2, 2005 (70 FR 10298), on possible amendments adopting TSTF–449, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on May 6, 2005 (70 FR 24126). The licensee affirmed the applicability of the following NSHC determination in its application dated November 30, 2005.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change requires a[n] SG Program that includes performance criteria that will provide reasonable assurance that the SG tubing will retain integrity over the full range of operating conditions (including startup, operation in the power range, hot standby, cooldown and all anticipated transients included in the design specification). The SG performance criteria are based on tube structural integrity, accident induced leakage, and operational LEAKAGE.

A[n] SGTR [SG Tube Rupture] event is one of the design basis accidents that are analyzed as part of a plant's licensing basis. In the analysis of a[n] SGTR event, a bounding primary to secondary LEAKAGE rate equal to the operational LEAKAGE rate limits in the licensing basis plus the LEAKAGE rate associated with a double-ended rupture of a single tube is assumed. For other design basis accidents such as MSLB [main steamline break], rod ejection, and reactor coolant pump locked rotor the tubes are assumed to retain their structural integrity (i.e., they are assumed not to rupture). These analyses typically assume that primary to secondary LEAKAGE for all SGs is 1 gallon per minute or increases to 1 gallon per minute as a result of accident induced stresses. The accident induced leakage criterion introduced by the proposed changes accounts for tubes that may leak during design basis accidents. The accident induced leakage criterion limits this leakage to no more than the value assumed in the accident analysis.

The SG performance criteria proposed change to the TS identify the standards against which tube integrity is to be measured. Meeting the performance criteria provides reasonable assurance that the SG tubing will remain capable of fulfilling its specific safety function of maintaining reactor coolant pressure boundary integrity throughout each operating cycle and in the unlikely event of a design basis accident. The performance criteria are only a part of the SG Program required by the proposed change to the TS. The program, defined by NEI 97–06, Steam Generator Program Guidelines, includes a framework that incorporates a balance of prevention, inspection, evaluation, repair, and leakage monitoring. The proposed changes do not, therefore, significantly increase the probability of an accident previously evaluated.

The consequences of design basis accidents are, in part, functions of the DOSE EQUIVALENT 1–131 in the primary coolant and the primary to secondary LEAKAGE rates resulting from an accident. Therefore, limits are included in the plant technical specifications for operational leakage and for DOSE EQUIVALENT 1–131 in primary coolant to ensure the plant is operated within its analyzed condition. The typical analysis of the limiting design basis accident assumes that primary to secondary leak rate after the accident is 1 gallon per minute with no more than 720 gallons per day in any one SG, and that the reactor coolant activity levels of DOSE EQUIVALENT 1–131 are at the TS values before the accident.

The proposed change does not affect the design of the SGs, their method of operation, or primary coolant chemistry controls. The proposed approach updates the current TSs and enhances the requirements for SG inspections. The proposed change does not adversely impact any other previously evaluated design basis accident and is an improvement over the current TSs.

Therefore, the proposed change does not affect the consequences of a[n] SGTR accident and the probability of such an accident is reduced. In addition, the proposed changes do not affect the consequences of an MSLB, rod ejection, or a reactor coolant pump locked rotor event, or other previously evaluated accident.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed performance based requirements are an improvement over the requirements imposed by the current technical specifications. Implementation of the proposed SG Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The result of the implementation of the SG Program will be an enhancement of SG tube performance. Primary to secondary LEAKAGE that may be experienced during all plant conditions will be monitored to ensure it remains within current accident analysis assumptions.

The proposed change does not affect the design of the SGs, their method of operation, or primary or secondary coolant chemistry controls. In addition, the proposed change does not impact any other plant system or component. The change enhances SG inspection requirements.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The SG tubes in pressurized water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of an SG is maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change is expected to result in an improvement in the tube integrity by implementing the SG Program to manage SG tube inspection, assessment, repair, and plugging. The requirements established by the SG Program are consistent with those in the applicable design codes and standards and are an improvement over the requirements in the current TSs.

For the above reasons, the margin of safety is not changed and overall plant safety will be enhanced by the proposed change to the TS.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment requests involve no significant hazards consideration.

*Attorney for licensee:* Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

*NRC Branch Chief:* David Terao.

*Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia*

*Date of amendment request:* December 16, 2005.

*Description of amendment request:* The proposed amendment would revise the ACTIONS NOTE for TS 3.7.5, ''Auxiliary Feedwater (AFW) System,'' based on Industry/Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler TSTF–359, Revision 9, ''Increased Flexibility in Mode Restraints.''

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility or the manner in which the plant is operated and maintained. The proposed change does not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed change does not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational public radiation exposures. The proposed change is consistent with safety analysis assumptions and resultant consequences.

Therefore, the proposed change does not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

No. The proposed change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the change does not impose any new or different requirements or eliminate any existing requirements. The change does not alter assumptions made in the safety analysis. The proposed change is consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

No. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not impacted by this change. The proposed change will not result in plant operation in a configuration outside the design basis.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

*NRC Branch Chief:* Evangelos C. Marinos.

*Tennessee Valley Authority (TVA), Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant (SQN), Units 1 and 2, Hamilton County, Tennessee*

*Date of amendment request:* December 19, 2005 (TS–05–11).

*Description of amendment request:* The proposed amendment would revise the Technical Specifications (TSs) for consistency with the requirements of 10 CFR 50.55a(f)(4). Title 10 CFR 50.55a(f)(4) provides reference to the applicable American Society of Mechanical Engineers (ASME) code for testing pumps and valves that are classified as ASME Code Class 1, 2, and 3. The proposed change provides consistency with the 10 CFR 50.55a(f)(4) requirement by replacing the TS reference to ASME Boiler and Pressure Vessel Code, Section XI, with the ASME Code for Operation and Maintenance of Nuclear Power Plants (ASME OM Code) as it applies to the Inservice Test program. This change is based on TSTF–479, Revision 0, ''Changes to Reflect Revision of 10 CFR 50.55a.''

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

TVA's proposed change revises TS Surveillance Requirement (SR) 4.0.5 for SQN Units 1 and 2 to conform to the requirements of 10 CFR 50.55a(f) regarding inservice testing of pumps and valves for the third 10-Year interval. The current TSs reference the ASME Boiler and Pressure Vessel Code, Section XI, as the requirements for inservice testing of ASME Code Class 1, 2, and 3 pumps and valves. The proposed changes would replace current reference to Section XI of the Boiler and Pressure Vessel Code to the ASME OM Code, which is consistent with 10 CFR 50.55a(f) and accepted for use by the Nuclear Regulatory Commission (NRC). The proposed change incorporates updates to ASME code requirements that result in a net improvement in the measures for testing pumps and valves.

The proposed change does not involve any hardware changes, nor does it affect the probability of any event initiators. There will be no change to normal plant operating parameters, engineered safety feature actuation setpoints, accident mitigation capabilities, or accident analysis assumptions or inputs.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed change incorporates ASME code requirements that result in a net improvement for testing pumps and valves. The proposed change does not involve a modification to the physical configuration of the plant (i.e., no new equipment will be installed) or change in the methods governing normal plant operation. The proposed change will not impose any new or different requirements or introduce a new accident initiator, accident precursor, or malfunction mechanism. Additionally, there is no change in the types or increases in the amounts of any effluent that may be released off-site and there is no increase in individual or cumulative occupational exposure.

Equipment important to safety will continue to operate as designed. The changes to not result in any event previously deemed incredible being made credible. The changes do not result in adverse conditions or result in any increase in the challenges to safety systems.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

The proposed change incorporates revisions to the ASME Code that result in a net improvement in the measures of testing.

The safety function of the affected components will be maintained.

There are no new or significant changes to the initial conditions contributing to accident severity or consequences. The proposed amendment will not otherwise affect the plant protective boundaries, will not cause a release of fission products to the public, nor will it degrade the performance of any other structures, systems, or components important to safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

*NRC Branch Chief:* Michael L. Marshall, Jr.

*Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1 Rhea County, Tennessee*

*Date of amendment request:* December 13, 2005 (TS–05–06).

*Description of amendment request:* The proposed amendment would change the steam generator (SG) level requirement for Limiting Condition for Operation (LCO) 3.4.7.b and Surveillance Requirements (SRs) 3.4.5.2, 3.4.6.3 and 3.4.7.2 from greater than or equal to (≥) 6 percent to ≥ 32 percent following replacement of the SGs during the Unit 1 Cycle 7 refueling outage.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The accidents and transients of interest are those that may occur in MODE 3, 4 or 5 and that rely upon one or two of the SGs to be OPERABLE to provide a heat sink for the removal of decay heat from the reactor vessel. These events include an accidental control rod withdrawal from subcritical, ejection of a control rod, and accidental boron dilution. TS [Technical Specification] SRs provide verification of SG water level which demonstrates that the SG is OPERABLE and able to act as a heat sink.

The proposed revision to TSs 3.4.5, 3.4.6, and 3.4.7 reflects the change to the required minimum SG water level necessary to demonstrate OPERABILITY of the RSGs [Replacement SGs]. Therefore, since no initiating event mechanisms or OPERABILITY requirements are being changed, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

Operation in MODE 3, 4 or 5 with a SG water level of less than 32% of span is not an initiator of any of the accidents and transients described in the UFSAR [updated final safety analysis report]. This situation puts the plant into a LCO [limiting condition for operation] situation and requires that the plant initiate actions within a specified timeframe if SG OPERABILITY cannot be restored within the specified timeframe. The change in the value of the SG water level reflects the differences between the OSGs [Old Steam Generators] and the RSGs. The new value will be used in the same manner as the old one to assess the OPERABILITY of the SGs.

Therefore, operation in MODE 3, 4 or 5 with a SG water level of less than 32% of span will not initiate an accident nor create any new failure mechanisms. The changes to the TSs do not result in any event previously deemed incredible being made credible. The change will not result in more adverse conditions and is not expected to result in any increase in the challenges to safety systems.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

The proposed changes to the affected TSs revise the value of SG narrow range water level that is needed to demonstrate that OPERABILITY of the SG to support operation with the RSGs. The change in the value of the SG water level reflects the differences between the OSGs and the RSGs. These changes assure that the required numbers of SGs are OPERABLE with a secondary side narrow range water level indication high enough to cover the tubes. Therefore, the acceptance criterion is to provide an indicated level that will ensure the tubes are covered. Since the same acceptance criteria is being used for the RSGs as was used for the OSGs, there is no reduction in the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

*NRC Branch Chief:* Michael L. Marshall, Jr.

*Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1 (WBN), Rhea County, Tennessee*

*Date of amendment request:* December 15, 2005 (TS–05–09).

*Description of amendment request:* The proposed amendment would revise the Technical Specification Surveillance Requirements to increase the minimum required average ice basket weight, and thus the corresponding total weight of the stored ice in the WBN ice condenser. The changes to the ice basket and total ice weights are due to the additional energy associated with the Replacement Steam Generators.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The primary purpose of the ice bed is to provide a large heat sink to limit peak containment pressure in the event of a release of energy from a design basis loss-of-coolant [accident] (LOCA) or high energy line break (HELB) in containment. The LOCA requires the greatest amount of ice compared to other accident scenarios; therefore the increase in ice weight is based on the LOCA analysis. The amount of ice in the bed has no impact on the initiation of an accident, but rather on the mitigation of the accident.

The containment integrity analysis shows that the proposed increased ice weight is sufficient to maintain the peak containment pressure below the containment design pressure, and that the containment heat removal systems function to rapidly reduce the containment pressure and temperature in the event of a LOCA. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The ice condenser serves to limit the peak pressure inside containment following a LOCA. The revised containment pressure analysis determined that sufficient ice would be present to maintain the peak containment pressure below the containment design pressure. The increased ice weight does not create the possibility of an accident that is different from any already evaluated in the WBN Updated Final Safety [Analysis Report]

(UFSAR). No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this proposed change. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

The containment integrity analysis for increased ice weight results in a peak containment pressure that is slightly greater than that in the previous analysis of record, but still less than design pressure. This increase in peak pressure, along with the ice weight increase, is due to an increase in RCS [reactor coolant system] inventory and stored residual heat in the replacement Steam Generators that will be installed in the Unit 1 Cycle 7 Refueling Outage.

The revised technical specification ice weight surveillance limits are based on the ice weight assumed in the containment integrity analysis, with margins included for sublimation that is based on actual sublimation data from the first six refueling cycles at WBN. The analysis further demonstrates that the existing relationship between ice bed melt-out and containment spray switchover has been conservatively maintained. With the increased ice inventory, melt-out of the ice bed following a worst case large break LOCA has been determined to occur after the switchover of containment spray to the recirculation mode. Thus, the greater ice bed mass does not result in a reduction in the margin for operator action to initiate the switchover.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

*NRC Branch Chief:* Michael L. Marshall, Jr.

**Notice of Issuance of Amendments to Facility Operating Licenses**

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

*AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois*

*Date of application for amendment:* April 1, 2005, as supplemented September 23, 2005.

*Brief description of amendment:* The amendment revised the Technical Specifications (TSs) to support the implementation of Oscillation Power Range Monitor.

*Date of issuance:* January 26, 2006.

*Effective date:* As of the date of issuance and shall be implemented within 30 days following restart from the February 2006 refueling outage.

*Amendment No.:* 171.

*Facility Operating License No. NPF–62:* The amendment revised the TSs.

*Date of initial notice in **Federal Register:***April 26, 2005 (70 FR 21452). The supplement dated September 23, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 26, 2006.

*No significant hazards consideration comments received:* No.

*Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland*

*Date of application for amendments:* June 7, 2005, as supplemented on September 16, 2005.

*Brief description of amendments:* The amendments revised Technical Specification (TS) 3.1.1, ''Shutdown Margin,'' to modify the restrictions in Required Action B.1 to allow positive reactivity additions as long as the shutdown margin requirements in Limiting Condition for Operations 3.1.1 are maintained. The amendments also corrected an administrative error regarding an incorrect TS reference in TS 3.4.17, ''Special Test Exception RCS [reactor coolant system] Loops—Modes 4 and 5.''

*Date of issuance:* January 19, 2006.

*Effective date:* As of the date of issuance to be implemented within 30 days.

*Amendment Nos.:* 277 and 254.

*Renewed Facility Operating License Nos. DPR–53 and DPR–69:* Amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** July 5, 2005 (70 FR 38716).

The September 16, 2005, letter provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated January 19, 2006.

*No significant hazards consideration comments received:* No.

*Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan*

*Date of application for amendment:* March 17, 2005, as supplemented by letter dated April 15, 2005.

*Brief description of amendment:* The amendment revised Technical Specification

(TS) 3.4.10, ''RCS [Reactor Coolant System] Pressure and Temperature (P/T) Limits.'' Specifically, the amendment revised the P/T curves for the hydrostatic pressure test, non-nuclear heatup and cooldown, and nuclear (core critical) limits illustrated in TS Figure 3.4.10–1 with six recalculated separate curves for 24 and 32 effective full power years of reactor operation. In addition, the amendment revised associated surveillance requirements.

*Date of issuance:* January 25, 2006.

*Effective date:* As of the date of issuance and shall be implemented within 60 days.

*Amendment No.:* 168.

*Facility Operating License No. NPF–43:* Amendment revised the Technical Specifications.

*Date of initial notice in* ***Federal Register:*** April 26, 2005 (70 FR 21453).

The supplement dated April 15, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards determination as published in the **Federal Register** on April 26, 2005 (70 FR 21453).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 25, 2006.

*No significant hazards consideration comments received:* No.

*Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan*

*Date of application for amendment:* May 18, 2005, as supplemented by letter dated August 8, 2005.

*Brief description of amendment:* The amendment revised the Fermi 2 Technical Specifications to add Actions to limiting condition for operation [LCO] 3.8.1, ''AC [alternating current] Sources—Operating,'' for one offsite circuit inoperable, for two offsite circuits inoperable, and for one offsite circuit and one or both emergency diesel generators in one division inoperable.

*Date of issuance:* January 31, 2006.

*Effective date:* As of the date of issuance and shall be implemented within 30 days.

*Amendment No.:* 170.

*Facility Operating License No. NPF–43:* Amendment revised the Technical Specifications.

*Date of initial notice in* ***Federal Register:*** June 7, 2005 (70 FR 33212).

The supplement dated August 8, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally notice, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register** on June 7, 2005 (70 FR 33212).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 2006.

*No significant hazards consideration comments received:* No.

**Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan**

*Date of application for amendment:* June 29, 2005.

*Brief description of amendment:* The amendment revised Surveillance Requirements (SR) 3.6.1.3.11 and 3.6.1.3.12 in TS 3.6.1.3, ''Primary Containment Isolation Valves (PCIVs).'' Specifically, the proposed amendment revised the combined secondary containment bypass leakage rate limit for all bypass leakage paths in SR 3.6.1.3.11 from 0.05 to 0.10 $L_a$ (the maximum allowable containment leakage rate) and the combined main steam isolation valve (MSIV) leakage rate limit for all four main steam lines in SR 3.6.1.3.12 from 150 to 250 standard cubic feet per hour.

*Date of issuance:* January 25, 2006.

*Effective date:* As of the date of issuance and shall be implemented within 60 days.

*Amendment No.:* 169.

*Facility Operating License No. NPF–43:* Amendment revised the Technical Specifications.

*Date of initial notice in* ***Federal Register:*** August 16, 2005 (70 FR 48203).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 25, 2006.

*No significant hazards consideration comments received:* No.

*Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas*

*Date of application for amendment:* January 31, 2005.

*Brief description of amendment:* The amendment changed Technical Specifications (TS) 3.8.2.5, ''ELECTRICAL POWER SYSTEMS—Containment Penetration Conductor Overcurrent Protective Devices.'' The change relocated the requirements for containment penetration conductor overcurrent protective devices from the TSs to the licensee's Technical Requirements Manual (TRM). The Bases for this TS were also relocated to the TRM.

*Date of issuance:* January 23, 2006.

*Effective date:* As of the date of issuance to be implemented within 60 days from the date of issuance.

*Amendment No.:* 263.

*Renewed Facility Operating License No. NPF–6:* Amendment revised the Technical Specifications.

*Date of initial notice in* ***Federal Register:*** August 2, 2005 (70 FR 44401).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 23, 2006.

*No significant hazards consideration comments received:* No.

*FirstEnergy Nuclear Operating Company, et al., Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio*

*Date of application for amendment:* July 27, 2005.

*Brief description of amendment:* The amendment revised Technical Specification (TS) 3/4.10.2, ''Special Test Exceptions—Physics Tests,'' to increase the allowed time between the flux channel Channel Functional Tests and the beginning of Mode 2 Physics Tests from 12 hours to 24 hours.

*Date of issuance:* January 31, 2006.

*Effective date:* As of the date of issuance and shall be implemented within 120 days.

*Amendment No.:* 271.

*Facility Operating License No. NPF–3:* Amendment revised the Technical Specifications and Surveillance Requirements.

*Date of initial notice in* ***Federal Register:*** September 27, 2005 (70 FR 56502).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 2006.

*No significant hazards consideration comments received:* No.

*Nuclear Management Company, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa*

*Date of application for amendment:* August 1, 2005, as supplemented by letters dated October 11, November 1, November 2, and November 28, 2005.

*Brief description of amendment:* The amendment conforms the license to reflect the transfer of Facility Operating License No. DPR–49 to FPL Energy Duane Arnold, LLC, as approved by order of the Commission dated December 23, 2005.

*Date of issuance:* January 27, 2006.

*Effective date:* As of the date of issuance and shall be implemented within 30 days.

*Amendment No.:* 260.

*Facility Operating License No. DPR–49:* The amendment revised the Operating License. Date of initial notice in **Federal Register:** September 20, 2005 (70 FR 55175).

The supplemental letters contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 23, 2005.

*No significant hazards consideration comments received:* No.

*Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia*

*Date of application for amendments:* August 23, 2004, as supplemented by letter dated May 20, 2005.

*Brief description of amendments:* The amendments revised the Technical Specifications Surveillance Requirements for certain containment purge valves. The amendments replace requirements for valve seat replacement every 24 months with a requirement to perform an Appendix J leakage rate test of the valves at a frequency of at least once every 30 months.

*Date of issuance:* January 20, 2006.

*Effective date:* As of the date of issuance and shall be implemented within 60 days.

*Amendment Nos.:* 248/192.

*Renewed Facility Operating License Nos. DPR–57 and NPF–5:* Amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** January 4, 2005 (70 FR 405).

The supplemental letter contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 20, 2006.

*No significant hazards consideration comments received:* No.

Dated at Rockville, Maryland, this 2nd day of February 2006.

For the Nuclear Regulatory Commission.

**Catherine Haney,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 06–1162 Filed 2–13–06; 8:45 am]

BILLING CODE 7590–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 1–05084]**

## Issuer Delisting; Notice of Application of Tasty Baking Company To Withdraw Its Common Stock, $.50 Par Value, and Common Stock Purchase Rights From Listing and Registration on the New York Stock Exchange, Inc.

February 7, 2006.

On October 19, 2005, Tasty Baking Company, a Pennsylvania corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.50 par value, and common stock purchase rights (collectively ''Securities''), from listing and registration on the New York Stock Exchange, Inc. (''NYSE'').

The Board of Directors (''Board'') of the Issuer approved resolutions on October 6, 2005 to withdraw the Securities from listing and registration on the NYSE and to list the Securities on the Nasdaq National Market (''Nasdaq''). The Board determined that it is in the best interests of the Issuer to list the Securities on Nasdaq.

The Issuer stated in its application that it has complied with NYSE's rules governing an issuer's voluntary withdrawal of a security from listing and registration by providing NYSE with the required documents governing the removal of securities from listing and registration on NYSE.

The Issuer's application relates solely to the withdrawal of the Securities from listing on the NYSE and from registration under Section 12(b) of the Act,[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before March 6, 2006, comment on the facts bearing upon whether the application has been made in accordance with the rules of NYSE, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include the File Number 1–05084 or;

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number 1–05084. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6–2012 Filed 2–13–06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–53234; File No. SR–Amex–2006–009]**

## Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to ''All or None'' Orders

February 6, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 2, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Amex. On February 3, 2006, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The Exchange filed the proposed rule change, as amended, as a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act,[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, as amended, from interested persons.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to eliminate the ''all or none'' (''AON'') order type.[5] The text of the proposed rule change, as amended, is below. Proposed new language is in *italics.* Proposed deletions are in [brackets].

### Rule 118. Trading in Nasdaq National Market Securities

(a)–(p) No change.

(q) An institutional order is a limit order for a Nasdaq National Market Security of 10,000 shares or more transmitted to the order book electronically which is to be executed automatically in full at one price. If it is not executed automatically in full at one price, it is to be routed to the specialist for execution and may be partially executed. [Unlike an all or none order, a]*An* institutional order has standing on the limit order book. An institutional order may not be entered for the proprietary account of a broker-dealer.

### Rule 122. Bids or Offers for More Than Unit of Trading

Bids or offers for more than one unit of trading shall be deemed to be for the amount thereof or a smaller number of units[, except that bids or offers may be made and executed ''all or none'' if all of the following conditions are met:

Bids or offers, ''all or none''

(1) The securities bid for or offered are bonds;

(2) The amount bid for or offered equals or exceeds $25,000 of par value;

(3) The bid or offer is executed at a price higher than the best bid price and lower than the best offer price, ''regular way,'' at the time of execution].

### Rule 124. Types of Bids and Offers

(a)–(f) No change.

[''All or none''

(g) ''All or none,'' *i.e.*, that the bid or offer is for an amount of securities equal to the total amount of securities bid for or offered and no less; provided, however, that such condition may be specified only in accordance with the provisions of Rule 122.]

### Rule 128A. Automatic Execution

(a) No change.

(b) Definitions:

Amex Published Quote (''APQ'')—Specialist/Registered Trader Quantity—No change.

Available Book Quantity: The Available Book Quantity is the number of shares on the order book at the APQ plus additional orders on the book that can be executed at or within the APQ minus shares on the book priced at or within the APQ that cannot be executed by their terms (*e.g.*, [all or none orders and ]tick sensitive orders).

Trade Threshold—Maximum Spread Value—No change.

(c)–(i) No change.

(j) Auto-Ex Unavailability. Auto-Ex will be unavailable in the following situations.

(i)–(vii) No change.

(viii) Auto-Ex will not occur with respect to an incoming Auto-Ex Eligible [All Or None or] Institutional Order in the event that there is insufficient size to execute the order in full at one price.

(ix)–(xi) No change.

(xii) [Auto-Ex will not occur if it would cause a trade to occur through the price of an all or none order on the book.

(xiii)] Auto-Ex will not occur if there are orders on both sides of the market when the order book comes out of a Freeze condition to allow the specialist to pair-off the orders.

(*xiii*) [(xiv)] Auto-Ex will not occur if the spread exceeds the Maximum Spread Value.

Auto-Ex Eligible Orders that are not automatically executed will be routed to the specialist for handling.

* * * * *

### Rule 131. Types of Orders

(a)–(b) No change.

[All or none order

(c) An all or none order is a market or limited price order which is to be executed in its entirety or not at all, but, unlike a fill or kill order, is not to be treated as cancelled if not executed as soon as it is represented in the Trading Crowd. The making of ''all or none'' bids or offers in stocks is prohibited, and the making of ''all or none'' bids or offers in bonds is subject to the restrictions of Rule 122.]

(d)–(t) No change.

* * * * *

### Rule 904. Position Limits

(a)–(b) No change.

* * * Commentary

.01–.09 No change.

.10 No change.

(a)–(b) No change.

(c) The facilitation firm shall comply with the following provisions regarding the execution of its customer's order and its own facilitating order:

(1) Neither the customer order nor the facilitation order may be contingent on [''all or none'' or] ''fill or kill'' instructions;

(2) The orders may not be executed until Rule 950(d) procedures have been satisfied and all market participants have been given a reasonable time to participate in the order.

* * * * *

.11 No change.

### Rule 904C. Position Limits

(a)–(d) No change.

* * * Commentary

.01 No change.

.02 No change.

(a)–(b) No change.

(c) The facilitation firm shall comply with the following provisions regarding the execution of its customer's order and its own facilitating order:

(1) Neither the customer order nor the facilitation order may be contingent on [''all or none'' or] ''fill or kill'' instructions;

(2) The orders may not be executed until Rule 950(d) procedures have been satisfied and all market participants have been given a reasonable time to participate in the order;

* * * * *

## 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, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Partial Amendment No. 1 (''Amendment No. 1'') corrects an error in the heading of Exhibit 5 of Form 19b–4.

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange is proposing to eliminate the AON order type for equities (including Exchange Traded funds, Trust Issued Receipts and other equity traded products), options, and bonds.

may be examined at the places specified in Item IV below. The Amex 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, Proposed Rule Change*

1. Purpose

The Exchange proposes the elimination of the AON order type. The Amex states that, Exchange Rule 131(c) defines an AON order as a market or limited price order which is to be executed in its entirety or not at all, but, unlike a ''fill or kill'' [6] order, is not to be treated as cancelled if not executed as soon as it is represented in the Trading Crowd.

The Amex believes that, AON orders are unnecessary and should be eliminated because: (i) AON orders are infrequently used and represent a very small percentage of order flow; (ii) the resources and programming effort necessary to support AON orders cannot be justified; (iii) the availability of ''immediate or cancel'' [7] and ''fill or kill'' orders provide a better substitute for customers seeking similar types of executions; and (iv) AON orders cannot be represented in the Amex's published best bid/offer due to the conditional nature of the order's execution.

In support of the infrequent use of AON orders, Amex states that, an analysis of all AON equity orders on the Exchange for the months of November 2005 and December 2005 revealed that AON orders are infrequently used and represent a very small percentage of equity order flow. The Exchange notes that out of 7,854,438 and 8,736,624 orders entered on the Exchange during November 2005 and December 2005, respectively, only 53,405, or 0.68% and 54,607, or 0.63%, respectively, were AON orders. In addition, approximately 70.1% and 72.1% of these AON orders that were entered during the respective months of November and December were cancelled.

The Amex states that, similarly, an analysis of all AON options orders on the Exchange for the months of November 2005 and December 2005 also revealed that AON orders are infrequently used and represent a very small percentage of options order flow. The Exchange notes that out of 1,093,173 and 996,564 orders entered on the Exchange during November 2005 and December 2005, respectively, only 6,857, or 0.63% and 4,278 or 0.43%, respectively, were AON orders. In addition, approximately 26.6% and 28.3% of these AON orders that were entered during the respective months of November and December were cancelled.

Additionally, Amex notes that the New York Stock Exchange (the ''NYSE'') filed a proposal with the Commission in July 2005 to eliminate the AON order type citing similar reasons.[8] The Exchange believes that the AON order type should be eliminated, and accordingly, all references to AON orders should be eliminated from relevant Amex rules.

2. Statutory Basis

The Exchange believes that its proposal, 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, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and national market system and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purpose of the Act or the administration of the Exchange.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change, as amended, will impose any inappropriate 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 states that, no written comments were solicited or received with respect to the proposed rule change, as amended.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change, as amended, does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of filing (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest), the proposed rule change, as amended, has become effective pursuant to section 19(b)(3)(A) of the Act [11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[13] However, Rule 19b–4(f)(6)(iii)[14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has satisfied the five-day filing requirement. In addition, the Exchange has requested that the Commission waive the 30-day pre-operative delay and designate the proposed rule change, as amended, to become upon filing. The Commission believes that waiving the 30-day pre-operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to expeditiously eliminate an infrequently used order type, which may increase the efficiency of the Exchange. The Commission also notes that this proposed rule change, as amended, is similar to SR–NYSE–2005–51.[15] For the reasons stated above, the Commission designates the proposal, as amended, to become effective and operative immediately.[16]

[6] The Exchange states that, Amex Rule 131(i) defines a ''fill or kill'' order as a market or limited price order which is to be executed in its entirety as soon as it is represented in the Trading Crowd, and such order, if not so executed, is to be treated as cancelled. The Amex states that, for purposes of this definition, a ''stop'' is considered an execution. The Amex states, that a fill or kill order for securities other than options sent to the order book electronically and not executed by Auto-Ex would be cancelled immediately.

[7] The Exchange states that, Amex Rule 131(k) defines an ''immediate or cancel'' order as a market or limited price order which is to be executed in whole or in part as soon as such order is represented in the Trading Crowd, and the portion not so executed is to be treated as cancelled. The Amex states that, for the purposes of this definition, a ''stop'' is considered an execution. The Amex states that, in the case of an immediate or cancel order for securities other than options sent to the order book electronically, any portion not executed by Auto-Ex would be cancelled automatically.

[8] Securities Exchange Act Release No. 52154 (July 28, 2005), 70 FR 44966 (August 4, 2005) (order approving file No. SR–NYSE–2005–51).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *Id.*

[15] *See supra,* note 8.

[16] For purposes only of accelerating the operative date of this proposal, the Commission has

Continued

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 the furtherance of the purposes of the Act.[17]

## 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2006–009 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 20549–1090.

All submissions should refer to File Number SR–Amex–2006–009. 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 the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2006–009 and should be submitted on or before March 7, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E6–2011 Filed 2–13–06; 8:45 am]

**BILLING CODE 8010–01–P**

considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] The effective date of the original proposed rule change is February 2, 2006, and the effective date of Amendment No. 1 is February 3, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, the Commission considers the period to commence on February 3, 2006, the date on which the Exchange submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[18] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–53235; File No. SR–NYSE–2005–92]**

## Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Increasing Certain Fees Charged by the Exchange to Its Members and Member Organizations

February 6, 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 23, 2005, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. On February 2, 2006, the NYSE filed Amendment No. 1 to the proposed rule change.[3] The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the NYSE under section 19(b)(3)(A)(ii) 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the NYSE made non-substantive changes to the text of the proposed rule change.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to modify certain fees that the Exchange charges its members and member organizations. The proposed rule change increases the following fees: (1) Margin Extension Fees; (2) The Series 7 (General Securities Registered Representative) Examination Development Fee; (3) Statutory Disqualification Fees; and (4) the session fee for the regulatory element of the continuing education requirements of NYSE Rule 345A (''Continuing Education for Registered Persons''). Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

**NYSE 2005 Price List**

* * * * *

Pages 1–8 No changes.

Registration Fees

* * * * *

Credit Extensions

Amount per extension [$2.00]*$4.00*[6]

* * * * *

Statutory Disqualification *Filing* Fee [1,000.00]*$1,500.00*

*Statutory Disqualification Review Fee $1,000.00*[7]

* * * * *

*Regulatory Element Fee $75.00*[8]

Testing Fees: Please call 212.656.2578 for information.

*Qualification Examinations*

*Series 7 Fee $100.00*[9]

* * * * *

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE 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

[6] The $4.00 fee is effective as of January 1, 2006. The fee was $2.00 prior to January 1, 2006.

[7] The $1,000.00 fee is effective as of January 1, 2006. There was no fee before for the review of statutory disqualification applications, prior to January 1, 2006.

[8] The $75.00 fee is effective as of January 1, 2006. The fee was $60.00, prior to January 1, 2006.

[9] The $100.00 fee is effective as of January 1, 2006. The fee was $90.00, prior to January 1, 2006.

may be examined at the places specified in Item IV below. NYSE 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 increase certain qualification examination and regulatory fees [10] it assesses on its members and member organizations.

*Margin Extension Fees.* Under Regulation T [11] of the Federal Reserve System and Rule 15c3–3 [12] under the Act, broker-dealers may file on behalf of customers requests to extend under ''exceptional circumstances'' the time period which customers have to pay for a security purchased or to deliver a security sold. Since January 1978, the Exchange has charged member organizations a $2 fee per extension request for processing these extensions of time through the Exchange's automated Margin Extension Systems (''MEX'').[13] MEX maintains a history of Regulation T extensions submitted to the Exchange for each customer, and thus helps prevent excessive numbers of requests and customer abuses of the extension privilege.

As a result of enhancements to the MEX systems, increasing costs associated with providing these services to broker-dealers on behalf of customers and expenses incurred in monitoring for compliance with applicable margin and sales practice rules the Exchange is proposing to increase this fee to $4 an extension request. The proposed fee increase would be effective January 1, 2006.

*Series 7 Examination Development Fee.* The Series 7 (General Securities Registered Representatives Qualification Examination) is developed, maintained, and owned by the Exchange. It is intended to safeguard the investing public by helping to ensure that registered representatives are competent to perform their jobs. Given this purpose, the Series 7 examination seeks to measure accurately and reliably the degree to which each candidate possesses the knowledge, skills and abilities needed to perform the critical functions of a registered representative. The examination is 6 hours and consists of 250 multiple-choice questions.

Currently the fee for the Series 7 examination is $225. Of the $225, the NASD receives $135 and the Exchange receives $90. The NASD's fee is based on the cost to NASD to schedule and administer the examination, maintain records, and undertake systems changes.

The Exchange development fee includes costs incurred to develop and implement the Series 7 examination as well as to monitor for compliance with applicable registration, reporting and sales practices rules. NASD has filed a proposed rule change increasing the administration fee to $150.[14] This fee applies to all NYSE members and member organizations that are also members of NASD and to NYSE only members and member organizations.

The Exchange proposes to increase the development fee from $90 to $100. The total examination and development fees for each individual who takes the Series 7 examination for registration as a Registered Representative will be $250. The fee would be effective January 1, 2006.

Since the implementation of the Series 7 examination, the Exchange has continued to update, as necessary, the examination content and questions, maintain statistics and conduct various committee meetings. Accordingly, this fee will be reassessed on an on-going basis, as is the case with various other NYSE qualification examinations.

*Statutory Disqualification Fees.* NYSE Rule 346(f) (Limitations-Employment and Association with Members and Member Organizations) provides, in part, that except as otherwise permitted by the Exchange, no member, member organization, allied member, approved person, or employee shall have associated with it any person who is known to be subject to a statutory disqualification as defined in section 3(a)(39)[15] of the Act. NYSE Rule 346 further provides that any member organization seeking permission to have such person continue to be or become associated with it shall pay a fee in an amount to be determined by the Exchange.

The Act prohibits a person (including broker-dealers) subject to a statutory disqualification (*e.g.*, a suspension or bar by the Commission or another exchange or being convicted of certain criminal activities) from being associated with a broker-dealer unless specific application to the Commission for such association is made by a self-regulatory organization (''SRO'') on behalf of the person. The SRO makes such application after investigation of the facts surrounding the request. Specifically, Rule 19h–1[16] under the Exchange Act provides, in part, that any SRO proposing to admit or continue any person's association with a member, notwithstanding a statutory disqualification, as defined in section 3(a)(39) under the Exchange Act,[17] shall file a notice with the Commission of such proposed admission or continuance.[18]

In connection with a Rule 19h–1 filing made on behalf of an individual, the various Exchange Divisions, including Member Firm Regulation and Enforcement, review various documents, including a description of the individual's proposed duties and responsibilities. In conducting such reviews, the Exchange examines the circumstances surrounding the statutory disqualification and requests verification that all terms and conditions of the disqualification are met. Further, the Exchange reviews the firm's disciplinary and examination history, including any open matters before its Enforcement division. The purpose of the review is to ensure that adequate supervisory procedures are in effect. In connection with the Rule 19h–1 filing, the Exchange also responds to comments by Commission staff.[19]

When such filings are made on behalf of an entity (*e.g.*, a member firm), the process is similar to what is described above. In addition, the Exchange will request information from a firm as to what procedures were put in place to prevent a recurrence, and/or verification of payment of fines and/or compliance with an undertaking. The Exchange's Enforcement Division reviews the filings/applications and documents in making an evaluation into the nature of

[10] The 2005 Price List delineates Regulatory Fees, except for Qualification Examinations. The Price List can be found at *http://www.nyse.com/pdfs/2005pricelist_a.pdf.* It will be updated in 2006 to also include qualification examination fees.

[11] 12 CFR 220.1–12.

[12] 17 CFR 240.15c3–3.

[13] *See* NYSE Information Memo 77–59, dated December 30, 1977 in which the Exchange announced a new fee schedule for charges for specific services, including extension charges, provided by the Exchange.

[14] *See* Securities Exchange Act Release No. 52981 (December 19, 2005), 70 FR 76480 (December 27, 2005) (SR–NASD–2005–133). The actual change proposed in the filing is an increase in the Series 7 fee from $225 to $250, of which $150 is the administration fee paid to the NASD.

[15] 15 U.S.C. 78c(a)(39).

[16] 17 CFR 240.19h–1.

[17] As a result of the Sarbanes-Oxley Act, persons found to have violated certain state securities and insurance regulations and banking laws are also now subject to statutory disqualification.

[18] Under Rule 19h–1, a member organization willing to employ a person subject to a statutory disqualification makes an application to the Exchange for approval. If the Exchange approves the employing firm's application, it would submit it to the Commission.

[19] In certain instances, the Commission may request additional information or recommend that additional supervisory controls be in place before approving an application.

the crime and/or offense committed by the statutory disqualification, and where appropriate, conducts further background research, *e.g.*, examining court decrees, in completing its review.

Currently, pursuant to NYSE Rule 346(f), when a member organization seeks approval to remain or become associated with a person subject to any statutory disqualification, the Exchange imposes a $1,000 fee for filing the notice pursuant to Commission Rule 19h–1 under the Act.[20] In instances, where the Exchange is not required to make such a notice filing (*e.g.*, clerical and ministerial persons engaged in securities activities) but nevertheless reviews the request, it currently assesses no fee. Although no fees are currently charged for such reviews, the Exchange, as noted below, nevertheless incurs expenses in connection with such reviews.

As a result of costs associated with the development and maintenance of a new system [21] to track statutory disqualifications, the increased cost of processing filings and the increased costs of conducting examination oversight of statutory disqualifications, the Exchange is proposing that a fee in the amount of $1,000 be charged in instances where reviews are performed but a Rule 9h–1 filing is not required.[22] In instances where the Exchange is making the Rule 19h–1 filing, it is proposing that such fee be increased from $1,000 to $1,500.[23] The proposed fees of $1,000 and $1,500 are comparable to those charged by NASD.[24] The proposed fee increase would be effective January 1, 2006.

*Regulatory Element Fee.* NYSE Rule 345A provides in part, that no member or member organization shall permit any registered person to continue to, and no registered person shall continue to perform duties as a registered person unless such person has complied with the Regulatory Element [25] continuing education requirements of NYSE Rule 345A.

The Regulatory Element requires each subject registered person to complete a standardized, computer-based, interactive continuing education program within 120 days of their second registration anniversary date and every three years thereafter, or as otherwise prescribed by the Exchange. The purpose of this requirement is to help ensure that registered persons are kept up-to-date on regulatory, compliance, and sales practice-related industry rules and issues. There are three Regulatory Element programs: The S201 Supervisor Program, the S106 Series 6 Program, and the S101 General Program for Series 7 and all other registrations. Persons who fail to complete the Regulatory Element within the prescribed time frame are deemed inactive and may not perform, nor receive compensation for, functions requiring registration.

The Regulatory Element is a component of the Securities Industry Continuing Education Program (''Program'') under NYSE Rule 345A. The Securities Industry/Regulatory Council on Continuing Education (''Council'')[26] was organized in 1995 to facilitate cooperative industry and regulatory coordination of the administration and future development of the Program in keeping with applicable industry regulations and changing industry needs. Its roles include recommending and developing specific content and questions for the Regulatory Element, defining minimum core curricula for the Firm Element component of the Program, and developing and updating information about the Program for industry-wide dissemination.

It is the Council's responsibility to maintain the Program on a revenue neutral basis while maintaining adequate reserves for unanticipated future expenditures.[27] In December 2003, the Council voted to reduce the Regulatory Element session fee from $65 to $60, effective January 1, 2004, in order to reduce the reserves to a level necessary to support current and expected programs and expenses. The Council decided to review the reserve level and evaluate the Regulatory Element session fee on an annual basis. The 2004 financial review and evaluation produced no change in the Regulatory Element session fee. In September 2005, the Council's annual financial review and evaluation revealed that unless the Regulatory Element session fee were adjusted, the Council's reserves were likely to be insufficient in 2006. The reasons for the declining surplus are: (1) Lower than projected session volume resulting in a significant decrease in actual revenue over projected revenue; (2) higher delivery-related expenses beginning in 2006; and (3) costs associated with the rebuilding of PROCTOR®.[28] At its September 2005 meeting, the Council voted unanimously to increase the Regulatory Element session fee from $60 to $75 effective January 1, 2006, in order to meet costs and maintain an adequate reserve in 2006.[29]

The proposed implementation date is January 1, 2006.

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with section 6(b) of the Act,[30] in general, and furthers the objectives of section 6(b)(4)[31] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members, and issuers and other persons using its facilities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

NYSE 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*

NYSE 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)(ii) of the Act [32] and Rule

[20] *See* Securities Exchange Act Release No. 26674 (March 29, 1989), 54 FR 13801 (April 5, 1989) (SR–NYSE–88–45).

[21] In May 2005, Member Firm Regulation implemented its new Statutory Disqualification/Special Supervision (SD/SS) System to track statutory disqualifications.

[22] *See* Securities Exchange Act Release No. 25383 (February 23, 1988), 53 FR 6046 (February 29, 1988) (SR–NASD–88–3)

[23] *See* Securities Exchange Act Release No. 34897 (October 26, 1994), 59 FR 54648 (November 1, 1994) (SR–NASD–94–57).

[24] *See supra* notes 21 and 22.

[25] *See* NYSE Rule 345A(a).

[26] The Council currently consists of 20 individuals, 14 of whom are securities industry professionals associated with NASD member firms and six of whom represent self-regulatory organizations (the American Stock Exchange LLC, the Chicago Board Options Exchange, Incorporated, the Municipal Securities Rulemaking Board, NASD, the New York Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.).

[27] The Regulatory Element session fee was initially set at $75 when NASD established the continuing education requirements in 1995. The session fee was reduced in 1999 to $65 and again in 2004 to $60. The proposed increase returns the Regulatory Element session fee to its original 1995 level.

[28] PROCTOR® is an NASD technology system that supports computer-based testing and training. The Regulatory Element program uses PROCTOR® to package content, deliver, score and report results, and maintain and generate statistical data related to the Program.

[29] *See* Securities Exchange Act Release No. 52947 (December 13, 2005), 70 FR 75517 (December 20, 2005) (SR–NASD–2005–132).

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(4).

[32] 15 U.S.C. 78s(b)(3)(A)(ii).

19b–4(f)(2) thereunder,[33] 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 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.[34]

## 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2005–92 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 20549–1090.

All submissions should refer to File Number SR–NYSE–2005–92. 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 offices of the NYSE. 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–NYSE–2005–92 and should be submitted on or before March 7, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[35]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E6–2010 Filed 2–13–06; 8:45 am]

BILLING CODE 8010–01–P

[33] 17 CFR 240.19b–4(f)(2).

[34] The effective date of the original proposed rule change is December 23, 2005, and the effective date of Amendment No. 1 is February 2, 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 February 2, 2006, the date on which the NYSE submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[35] 17 CFR 200.30–3(a)(12).

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## DEPARTMENT OF STATE

**[Public Notice: 5307]**

## 60-Day Notice of Proposed Information Collection: Form DS–3097, Exchange Visitor Program Annual Report, and OMB Control Number 1405–0151

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

*Title of Information Collection:* Exchange Visitor Program Annual Report.

*OMB Control Number:* 1405–0151.

*Type of Request:* Extension of a Currently Approved Collection.

*Originating Office:* Educational and Cultural Affairs, Office of Exchange Coordination and Designation, ECA/EC/PS.

*Form Number:* Form DS–3097.

*Respondents:* Designated J–1 program sponsors.

*Estimated Number of Respondents:* 1468.

*Estimated Number of Responses:* 1468 annually.

*Average Hours per Response:* 1 hour.

*Total Estimated Burden:* 1468 hours.

*Frequency:* Annually.

*Obligation to Respond:* Mandatory.

**DATES:** The Department will accept comments from the public up to 60 days from date of publication in the **Federal Register.**

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

- E-mail: *jexchanges@state.gov.* You must include the RIN in the subject line of your message.
- Mail (paper, disk, or CD–ROM submissions): U.S. Department of State, Office of Exchange Coordination and Designation, SA–44, 301 4th Street, SW., Room 734, Washington, DC 20547.
- Fax: 202–203–5087.

Persons with access to the Internet may also view this notice and provide comments by going to the regulations.gov Web site at: *http://www.regulations.gov/index.cfm.*

**FOR FURTHER INFORMATION CONTACT:** Stanley S. Colvin, Acting Director, Office of Exchange Coordination and Designation, U.S. Department of State, SA–44, 301 4th Street, SW., Room 734, Washington, DC 20547; or e-mail at *jexchanges@state.gov.*

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

### Abstract of Proposed Collection

Annual reports from designated program sponsors assist the Department in oversight and administration of the J–1 visa program. The reports provide statistical data on the number of exchange participants an organization sponsored per category. Program sponsors include government agencies, academic institutions, not-for-profit and for-profit organizations.

### Methodology

Annual reports are run through the Student and Exchange Visitor Information System (SEVIS) and then printed and sent to the Department. The Department allows sponsors to submit annual reports by mail or fax at this time. There are measures being taken to

allow sponsors to submit the reports electronically in the future.

Dated: January 3, 2006.

**Stanley S. Colvin,**

*Director, Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. E6–2050 Filed 2–13–06; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on December 1, 2005 in Volume 70, Number 230 on pages 72145–72146.

**DATES:** Comments must be submitted on or before 30 days from the date of publication of this notice.

**FOR FURTHER INFORMATION CONTACT:** Donna Glassbrenner, PhD, at the National Highway Traffic Safety Administration, Mathematical Analysis Division, NPO–121, 400 Seventh Street, SW., Room 6125, Washington, DC 20590. Dr. Glassbrenner can also be reached at (202) 366–3962.

**SUPPLEMENTARY INFORMATION:**

**National Highway Traffic Safety Administration**

*Title:* National Survey of the Use of Booster Seats.

*OMB Number:* 2127–0644.

*Type of Request:* 3-year extension of approval for information collection.

*Abstract:* The National Survey of the Use of Booster Seats is being conducted to respond to the Section 14(i) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000. The Act directs the Department of Transportation to reduce the deaths and injuries among children in the 4-to-8 year old age group that are caused by failure to use a booster seat by 25 percent. Conducting the National Survey of the Use of Booster Seats will provide the Department with invaluable information on who is and is not using booster seats, helping the Department better direct its outreach programs to ensure that children are protected to the greatest degree possible when they ride in motor vehicles. The OMB approval for this survey is scheduled to expire on March 31, 2006. NHTSA seeks an extension to this approval in order to continue to obtain this important survey data, saving more children and helping to comply with the TREAD Act requirement.

*Affected Public:* Motorists in passenger vehicles at gas stations, fast food restaurants, and other types of sites frequented by children during the time in which the survey is conducted.

*Estimated Total Annual Burden:* 320 hours.

*Number of Respondents:* Approximately 4,800 adult motorists will respond to survey questions about the children in their vehicle.

**ADDRESSES:** Send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: NHTSA Desk Officer.

*Comments are invited on:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, February 2006.

**Joseph Carra,**

*Associate Administrator for the National Center for Statistics and Analysis, NHTSA.*

[FR Doc. 06–1360 Filed 2–13–06; 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; Ford Motor Company

**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 Ford Motor Company, (Ford) in accordance with § 543.9(c)(2) of 49 CFR Part 543, *Exemption from the Theft Prevention Standard,* for the Focus 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 October 7, 2005, Ford requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR Part 541) for the MY 2006 Focus 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, Ford provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Focus vehicle line. Ford will install its antitheft device, the SecuriLock Passive Anti-Theft Electronic Powertrain Immobilizer System (SecuriLock) as standard equipment on the Ford Focus vehicle line beginning with MY 2006. Features of the antitheft device will include an electronic key, ignition lock, and a passive immobilizer.

Additionally, the Ford Focus will have an optional perimeter alarm system which will monitor all the doors, decklid and hood of the vehicle. Ford'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.

The Ford SecuriLock is a transponder-based electronic immobilizer system. Ford stated that the integration of the transponder into the normal operation of the ignition key assures activation of the system. When the ignition key is turned to the start position, the transceiver module reads the ignition key code and transmits an encrypted message to the cluster. Validation of the key is determined and start of the engine is authorized once a separate encrypted message is sent to the powertrain's electronic control module (PCM). The powertrain will function only if the key code matches the unique identification key code previously programmed into the PCM. If the codes do not match, the powertrain engine starter will be disabled.

The effectiveness of Ford's SecuriLock device was first introduced as standard equipment on its MY 1996 Mustang GT and Cobra. In My 1997, the SecuriLock system was installed on the entire Mustang vehicle line as standard equipment. Ford stated that the 1997 model year Mustang with SecuriLock shows a 70% reduction in theft compared to the MY 1995 Mustang, according to National Insurance Crime Bureau (NICB) theft statistics. There were 149 reported theft for 1997 compared to 500 reported thefts in 1995.

In addressing the specific content requirements of 543.6, Ford provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Ford conducted tests based on its own specified standards. Ford 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. Ford also stated that the SecuriLock electronic engine immobilizer device makes conventional theft methods such as hot-wiring or attacking the ignition lock cylinder ineffective and virtually eliminates drive-away thefts.

Ford 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. Ford finds that the lack of an alarm or attention attracting device does not compromise the theft deterrent performance of a system such as the SecuriLock. Ford 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 Ford proposes to install on the new line. In these instances, the agency has concluded that the lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

On the basis of this comparison, Ford has concluded that the antitheft device proposed for its Focus 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 Ford, the agency believes that the antitheft device for the Focus 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 four of the five types of performance listed in § 543.6(a)(3): promoting activation; 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.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.6 (a)(4) and (5), the agency finds that Ford has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Ford provided about its device.

For the foregoing reasons, the agency hereby grants in full Ford's petition for exemption for the Focus 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 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 Ford 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 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Ford 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: February 8, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E6–2053 Filed 2–13–06; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**[Docket: RSPA–98–4957]**

### Request for Public Comments and Office of Management and Budget (OMB) Approval of an Existing Information Collection (2137–0589)

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**SUMMARY:** This notice requests public participation in the Office of Management and Budget (OMB) approval process for the renewal of an existing PHMSA information collection.

In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) described below has been forwarded to OMB for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. PHMSA published a **Federal Register** Notice soliciting comments on the following information collection and received none. The purpose of this notice is to allow the public an additional 30 days from the date of this notice to submit comments.

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

**ADDRESSES:** Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer.

**FOR FURTHER INFORMATION CONTACT:** William Fuentevilla at (202) 366–6199, or by e-mail at *William.Fuentevilla@dot.gov.*

**SUPPLEMENTARY INFORMATION:** Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. PHMSA published a **Federal Register** Notice with a 60-day comment period for this ICR on December 2, 2005 (70 FR 72323) and did not receive any comments.

This ICR relates to 49 CFR Part 194, Response Plans for Onshore Oil Pipelines. The rule requires an operator of an onshore oil pipeline facility to prepare and submit an oil spill response plan to PHMSA for review and approval when, because of its location, the facility could reasonably be expected to cause substantial harm to the environment if it were to discharge oil into navigable waters or adjoining shorelines. The rule established the planning requirements for oil spill response plans to reduce the environmental impact of oil discharged from onshore oil pipelines, as mandated by the Oil Pollution Act of 1990 (OPA 90). The rule provides greater specificity and guidance to facilities than is provided in OPA 90's statutory language to enhance private sector planning capabilities and to minimize the impacts of oil spills from pipelines.

The information collection required by the rule is the submission of response plans to PHMSA by affected pipeline operators. Additionally, operators must review and resubmit their response plans at least every 5 years, or in response to new or different operating conditions. Operators must submit any change or update to response plans within 30 days of making such a change. This information collection supports the DOT strategic goal of environmental stewardship by reducing pollution and other adverse environmental effects of transportation and transportation facilities.

As used in this notice, ''information collection'' includes all work related to preparing and disseminating information related to this recordkeeping requirement including completing paperwork, gathering information, and conducting telephone calls.

*Type of Information Collection Request:* Renewal of Existing Collection.

*Title of Information Collection:* Response Plans for Onshore Oil Pipelines.

*Respondents:* 367 hazardous liquid pipeline facilities.

*Estimated Total Annual Burden on Respondents:* 50,186 hours.

Issued in Washington DC, on February 8, 2006.

**Florence L. Hamn,**

*Director of Regulations, Office of Pipeline Safety.*

[FR Doc. 06–1355 Filed 2–13–06; 8:45 am]

**BILLING CODE 4910–60–P**

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## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0673]**

## Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Human Resources and Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Human Resources and Administration (HRA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to issue a One-VA identification verification card.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before April 17, 2006.

**ADDRESSES:** Submit written comments on the collection of information to Joseph Bond, Human Resources and Administration (006C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *joseph.bond@va.gov.* Please refer to ''OMB Control No. 2900–0673'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Joseph Bond at (202) 273–7109 or fax (202) 273–4877.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, HRA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of HRA's functions, including whether the information will have practical utility; (2) the accuracy of HRA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Request for One-VA Identification Card, VA Form 0711.

*OMB Control Number:* 2900–0673.

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

*Abstract:* VA Form 0711 is used to collect pertinent information from employees, VA applicants seeking employment with VA, contractors, and affiliates (such as students, WOC employees and others) prior to issuing a Department identification credential. The data collected will be used to personalize, print, and issue a personal identity verification card.

*Affected Public:* Federal government, Individuals or households, and Business or other for-profits.

*Estimated Annual Burden:* 8,333 hours.

*Estimated Average Burden per Respondent:* 5 minutes.

*Frequency of Response:* On Occasion.

*Estimated Number of Respondents:* 100,000.

Dated: February 1, 2006.

By direction of the Secretary.

**Denise McLamb,**

*Program Analyst, Records Management Service.*

[FR Doc. E6–2074 Filed 2–13–06; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0074]**

## Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine a claimant's eligibility for continued educational assistance when he or she requests a program change or place of training.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before April 17, 2006.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0074'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or fax (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Request for Change of Program or Place of Training for Veterans, (Under Chapters 30 and 32, Title 10, U.S.C.; Chapters 1606 and 1607, Title 10, U.S.C. and Section 903 of Public Law 96–342), VA Form 22–1995.

*OMB Control Number:* 2900–0074.

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

*Abstract:* Claimants receiving educational benefits complete VA Form 22–1995 to request a change in program or training establishment. VA uses the data collected to determine the claimant's eligibility for continued educational benefits.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 31,563 hours.

a. Electronically—6,313 hours.

b. Paper Copy—25,250 hours.

*Estimated Average Burden per Respondent:*

a. Electronically—15 minutes.

b. Paper Copy—20 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 101,000.

a. Electronically—25,250.

b. Paper Copy—75,750.

Dated: January 31, 2006.

By direction of the Secretary.

**Denise McLamb,**

*Program Analyst, Records Management Service.*

[FR Doc. E6–2075 Filed 2–13–06; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0154]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

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

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202)–565–6950 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0154.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0154'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Title:* Application for VA Education Benefits, VA Form 22–1990.

*OMB Control Number:* 2900–0154

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

*Abstract:* VA Form 22–1990 is completed by claimant's to apply for education assistance allowance. VA uses this information to determine the applicant's eligibility for benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 10, 2005 at page 68514.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 187,500 hours.

*Estimated Average Burden per Respondent:* 60 minutes.

*Frequency of Response:* One-time.

*Estimated Number of Respondents:* 200,000.

Dated: January 31, 2006.

By direction of the Secretary.

**Denise McLamb,**

*Program Analyst, Records Management Service.*

[FR Doc. E6–2079 Filed 2–13–06; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0112]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

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

**FOR FURTHER INFORMATION CONTACT:** Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202) 565–6950 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0112.'' Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0112'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Title:* Statement of Holder or Servicer of Veteran's Loan, VA Form 26–559.

*OMB Control Number:* 2900–0112.

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

*Abstract:* Holders and servicers complete VA Form 26–599 to provide the current loan payment status of a veteran-borrower's home loan to VA. When a veteran-borrower requests a release from personal liability from the Government, (1) their loan payment must be current, (2) the transferee will assume the veteran's legal liabilities in connection with the loan, and (3) the purchaser must qualify from a credit standpoint.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 2, 2005 at pages 66487–66488.

*Affected Public:* Individuals or households, Business or other for profit.

*Estimated Annual Burden:* 400 hours.

*Estimated Average Burden Per Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Total Respondents:* 2,400.

Dated: January 31, 2006.

By direction of the Secretary.

**Denise McLamb,**

*Program Analyst, Records Management Service.*

[FR Doc. E6–2080 Filed 2–13–06; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0156]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

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

**FOR FURTHER INFORMATION CONTACT:** Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202) 565–6950 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0156.'' Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0156'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Title:* Notice of Change in Student Status (Under Chapter 30, 32, or 35, Title 38 U.S.C; Chapters 1606 and 1607, Title 10 U.S.C.; or Section 901 and 903 of Public Law 96–342; the National Call to Service Provision of Public Law 107–314; the ''Transfer of Entitlement'' Provision of Public Law 107–107; and the Omnibus Diplomatic Security and Antiterrorism Act of 1986), VA Form 22–1999b.

*OMB Control Number:* 2900–0156.

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

*Abstract:* Educational institutions use VA Form 22–1999b to report a student's enrollment status. Benefits are not payable when the student interrupts or terminates a program. VA uses the information to determine the student's continued entitlement to educational benefits or if the benefits should be increased, decreased, or terminated.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on October 20, 2005 at pages 61172–61173.

*Affected Public:* State, Local or Tribal Government, Business or other for-profit, and Not-for-profit institutions.

*Estimated Annual Burden:* 50,570 hours.

a. VA Form 22–1999b (Paper Copy)—24,670 hours.

b. VA Form 22–1999b (Electronically Filed)—25,900 hours.

*Estimated Average Burden per Respondent:*

a. VA Form 22–1999b (Paper Copy)—10 minutes.

b. VA Form 22–1999b (Electronically Filed)—7 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 8,274.

*Estimated Total Number of Annual Responses:* 370,000.

a. VA Form 22–1999b (Paper Copy)—148,000.

b. VA Form 22–1999b (Electronically Filed)—222,000.

Dated: February 1, 2006.

By direction of the Secretary.

**Denise McLamb,**

*Program Analyst, Records Management Service.*

[FR Doc. E6–2091 Filed 2–13–06; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

### Rehabilitation Research and Development Service Scientific Merit Review Board; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Rehabilitation Research and Development Service Scientific Merit Review Board will be held on March 13–14, 2006, at the Marriott Crystal Gateway Hotel, Arlington, VA. The sessions are scheduled to begin at 8 a.m. and end at 5:30 p.m. each day.

The purpose of the Board is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public for the March 13, 2006 session from 8 a.m. to 9 a.m. for the discussion of administrative matters, the general status of the program and the administrative details of the review process. The meeting will be closed on March 13 from 9 a.m. to 5:30 p.m. and on March 14 from 8 a.m. to 5:30 p.m. for the Board's review of research and development applications.

This review involves oral comments, discussion of site visits, staff and consultant critiques of proposed research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Disclosure would also reveal research proposals and research underway which could lead to the loss of these projects to third parties and thereby frustrate future agency research efforts.

Thus, the closing is in accordance with 5 U.S.C. 552b(c)(6), and (c)(9)(B) and the determination of the Secretary of the Department of Veterans Affairs under Sections 10(d) of Public Law 92–463 as amended by Section 5(c) of Public Law 94–409.

Those who plan to attend the open session should contact Dr. Denise Burton, Federal Designated Officer, Portfolio Manager, Rehabilitation Research and Development Service (122P), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 254–0268.

Dated: February 3, 2006.

By direction of the Secretary.

**E. Philip Riggin,**

*Committee Management Officer.*

[FR Doc. 06–1366 Filed 2–13–06; 8:45 am]

BILLING CODE 8320–01–M

## DEPARTMENT OF VETERANS AFFAIRS

### Rehabilitation Research and Development Service Scientific Merit Review Board; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Rehabilitation Research and Development Service Scientific Merit Review Board will be held on February 27–March 2, 2006, at the Sofitel Hotel, 806 15th Street, NW., Washington, DC. The sessions are scheduled to begin at 8 a.m. and end at 5:30 p.m. each day.

The purpose of the Board is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public for the February 27 and March 1 sessions from 8 a.m. to 9 a.m. for the discussion of administrative matters, the general status of the program and the administrative details of the review process. The meeting will be closed on February 27 and March 1 from 9 a.m. to 5:30 p.m., and on February 28 and March 2 from 8 a.m. to 5:30 p.m. for the Board's review of research and development applications.

This review involves oral comments, discussion of site visits, staff and consultant critiques of proposed research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Disclosure would also reveal research proposals and research underway which could lead to the loss of these projects to third parties and thereby frustrate future agency research efforts.

Thus, the closing is in accordance with 5 U.S.C. 552b(c)(6), and (c)(9)(B) and the determination of the Secretary of the Department of Veterans Affairs under Sections 10(d) of Public Law 92–463 as amended by Section 5(c) of Public Law 94–409.

Those who plan to attend the open sessions should contact Dr. Denise Burton, Federal Designated Officer, Portfolio Manager, Rehabilitation Research and Development Service (122P), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, at (202) 254–0268.

Dated: February 3, 2006.

By direction of the Secretary.

**E. Philip Riggin,**

*Committee Management Officer.*

[FR Doc. 06–1369 Filed 2–13–06; 8:45 am]

BILLING CODE 8320–01–M

## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee on Women Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on Women Veterans will meet March 20–23, 2006, from 8:30 a.m. to 4:30 p.m., each day, in room C–7, VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA, designed to meet such needs. The Committee will make recommendations to the Secretary regarding such programs and activities.

On March 20, the agenda will include briefings on initiatives of the Veterans Health Administration, updates from the Veterans Benefits Administration, a roundtable discussion of VA's Women Veterans Health Program, an update on activities of the Center for Women Veterans, and presentation of Certificates of Appointment to two new Committee members. On March 21, the Committee will receive briefings and updates on issues related to the National Cemetery Administration, the Center for Veterans Enterprise, and initiatives of VA's homeless programs. On March 22, the Committee will begin preparation of the 2006 Report. On March 23, the

Committee will discuss any new issues that the Committee members may introduce, as well as continue preparation of the 2006 Report.

Any member of the public wishing to attend should contact Ms. Rebecca Schiller, at the Department of Veterans Affairs, Center for Women Veterans (00W), 810 Vermont Avenue, NW., Washington, DC 20420. Ms. Schiller may be contacted either by phone at (202) 273–6193, fax at (202) 273–7092, or e-mail at *00W@mail.va.gov.* Interested persons may attend, appear before, or file statements with the Committee. Written statements must be filed before the meeting, or within 10 days after the meeting.

Dated: February 3, 2006.

By direction of the Secretary.

**E. Philip Riggin,**

*Committee Management Officer.*

[FR Doc. 06–1368 Filed 2–13–06; 8:45 am]

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Federal Register

Tuesday,
February 14, 2006

Part II

# Department of Housing and Urban Development

## Fair Market Rents for Fiscal Year 2006 for Housing Choice Voucher, Moderate Rehabilitation Single Room Occupancy and Certain Other HUD Programs; Supplemental Notice on 50th Percentile Designation; Notice

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4995–N–04]**

## Fair Market Rents for Fiscal Year 2006 for Housing Choice Voucher, Moderate Rehabilitation Single Room Occupancy and Certain Other HUD Programs; Supplemental Notice on 50th Percentile Designation

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice.

**SUMMARY:** Section 8(c)(1) of the United States Housing Act of 1937 (USHA) requires the Secretary to publish fair market rents (FMRs) periodically, but not less than annually, to be effective on October 1 of each year. On October 3, 2005, HUD published final FMRs for Fiscal Year (FY) 2006. This notice identified 58 areas at 50th percentile FMRs, which consists of 48 areas previously eligible for 50th percentile FMRs plus 10 areas that are newly eligible. The 48 existing 50th percentile FMR areas were evaluated in a notice published August 25, 2005 (70 FR 50138) and it was determined that only 14 of these areas would remain eligible to participate in the 50th percentile FMR program. This notice confirms the eligibility of the 24 areas identified as having continuing or new eligibility for 50th percentile FMRs. Following a review of public comments, this notice confirms and implements elimination of 50th percentile FMRs for the 34 areas identified as no longer eligible in the August 25, 2005, notice.

HUD has special exception procedures to adjust voucher payment standards in areas affected by natural disasters. Areas directly or indirectly impacted by Hurricanes Katrina or Rita are either already qualified to use exception payment standards or can submit a documented request to do so. In areas directly affected by the two recent hurricanes, public housing agencies are authorized to use voucher payment standards of up to 120 percent of published FMRs, which is significantly higher than the standards permitted for 50th percentile areas. In addition, public housing agencies in these areas may request higher exception payment standards if justified by local rent increases.

**DATES:** *Effective Date:* The FMRs published in this notice are effective March 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at 800–245–2691 or access the information on the HUD Web site at *http://www.huduser.org/datasets/fmr.html*. FMRs are listed at the 40th or 50th percentile in Schedule B of this notice. For informational purposes, a table of 40th percentile recent mover rents for the areas with 50th percentile FMRs will be provided on the same Web site noted above. Any questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program staff. Questions on how to conduct FMR surveys or further methodological explanations may be addressed to Marie L. Lihn or Lynn A. Rodgers, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, telephone (202) 708–0590. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. (Other than the HUD USER information line and TTY numbers, telephone numbers are not toll free.) *Electronic Data Availability:* This **Federal Register** notice is available electronically from the HUD news page: *http://www.hudclips.org*. **Federal Register** notices also are available electronically from the U.S. Government Printing Office Web site at *http://www.gpoaccess.gov/fr/index.html*.

**SUPPLEMENTARY INFORMATION**

### I. Background

Section 8 of the USHA (42 U.S.C. 1437f) authorizes housing assistance to aid lower income families in renting safe and decent housing. Housing assistance payments are limited by FMRs established by HUD for different areas. In the Housing Choice Voucher program, the FMR is the basis for determining the ''payment standard amount'' used to calculate the maximum monthly subsidy for an assisted family (*see* 24 CFR 982.503). In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, and safe rental housing of a modest (non-luxury) nature with suitable amenities. In addition, all rents subsidized under the Housing Choice Voucher program must meet reasonable rent standards. The interim rule published on October 2, 2000 (65 FR 58870), established 50th percentile FMRs for certain areas.

Section 8(c) of the USHA requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. HUD's regulations implementing section 8(c), codified at 24 CFR part 888, provide that HUD will develop proposed FMRs, publish them for public comment, provide a public comment period of at least 30 days, analyze the comments, and publish final FMRs. (*See* 24 CFR 888.115.) HUD published its notice on proposed FY2006 FMRs on June 2, 2005 (70 FR 32402), and provided a 60-day public comment period. In the June 2, 2005, notice, HUD advised that it would publish a separate notice to identify any areas that may be newly eligible for 50th percentile FMRs as well as any areas that remain eligible or no longer remain eligible for 50th percentile FMRs, as provided in HUD's regulations. A supplemental notice on 50th percentile designations was published on August 25, 2005 (70 FR 50138), with comments due by September 26, 2005.

Fiftieth percentile FMRs were established by a rule published on October 2, 2000, that also established the eligibility criteria used to select areas that would be assigned 50th rather than the normal 40th percentile FMRs. The objective was to give PHAs a tool to assist them in de-concentrating voucher program use patterns. The three FMR area eligibility criteria were:

1. *FMR Area Size:* the FMR area had to have at least 100 census tracts.
2. *Concentration of Affordable Units:* 70 percent or fewer of the tracts with at least 10 two-bedroom units had at least 30 percent of these units with gross rents at or below the 40th percentile two-bedroom FMR; and,
3. *Concentration of Participants:* 25 percent or more of the tenant-based rental program participants in the FMR area resided in the 5 percent of census tracts with the largest number of program participants.

The rule also specified that areas assigned 50th percentile FMRs were to be re-evaluated after three years, and that the 50th percentile rents would be rescinded unless an area has made at least a fraction of a percent progress in reducing concentration and otherwise remains eligible. (*See* 24 CFR 888.113.) The three-year period has now passed. As noted in the June 2, 2005, notice, the three-year period for the first areas determined eligible to receive the 50th percentile FMRs, following promulgation of the regulation in § 888.113, has come to a close. The notice issued on August 25, 2005 identified 24 areas that will be eligible to use 50th percentile FMRs.

### II. 50th Percentile FMR Areas for FY2006

In making FY2006 FMRs effective on October 1, 2005, HUD did not terminate 50th percentile eligibility for areas designated to lose this status in the

August 25, 2005, notice. Instead, it implemented 50th percentile FMRs for newly identified areas and postponed implementation of all terminations until it had had the opportunity to review all related public comments. Based on its review, HUD has not found sufficient reason to change any of its initial determinations and is rescinding 50th percentile FMRs for the 34 areas identified in Table 1.

TABLE 1.—AREAS LOSING 50TH PERCENTILE FMRS

| |
|---|
| Allegan County, MI |
| Ashtabula County, OH |
| Atlanta-Sandy Springs-Marietta, GA HMFA |
| Baton Rouge, LA HMFA* |
| Bergen-Passaic, NJ HMFA |
| Buffalo-Niagara Falls, NY MSA |
| Cleveland-Elyria-Mentor, OH MSA |
| Dallas, TX HMFA |
| Detroit-Warren-Livonia, MI HMFA |
| Holland-Grand Haven, MI MSA |
| Hood County, TX |
| Miami-Fort Lauderdale-Miami Beach, FL |
| Minneapolis-St. Paul-Bloomington, MN–WI |
| Mohave County, AZ |
| Monroe, MI MSA |
| Muskegon-Norton Shores, MI MSA |
| Newark, NJ HMFA |
| Nye County, NV |
| Oakland-Fremont, CA HMFA |
| Ogden-Clearfield, UT MSA |
| Oklahoma City, OK HMFA |
| Oxnard-Thousand Oaks-Ventura, CA MSA |
| Philadelphia-Camden-Wilmington, PA–NJ–DE–MD |
| Pottawatomie County, OK |
| Sacramento—Arden-Arcade—Roseville, CA |
| Salt Lake City, UT HMFA |
| San Antonio, TX HMFA |
| San Diego-Carlsbad-San Marcos, CA MSA |
| San Jose-Sunnyvale-Santa Clara, CA HMFA |
| St. Louis, MO–IL HMFA |
| Tampa-St. Petersburg-Clearwater, FL MSA |
| Tulsa, OK HMFA |
| Warren County, NJ HMFA |
| Wichita, KS HMFA |

*Under the general waiver notice published on October 3, 2005 (70 FR 57716), PHAs in FEMA-designated Hurricane Katrina disaster areas may establish separate payment standards as high as 120 percent of the published 40th percentile rent to expand the supply of housing available to families displaced by Hurricane Katrina. This means that Baton Rouge is permitted to use payment standards much higher than its 50th percentile rents. In addition, it may request payment standards above 120 percent of published FMRs, but such requests must be justified by data.

## III. Procedures for Determining 50th Percentile FMRs

This section describes the procedure HUD followed in evaluating which new and currently designated areas are eligible for 50th percentile FMRs under HUD's regulations in 24 CFR part 888. Additionally, in accordance with HUD's Information Quality Guidelines (published at 67 FR 69642), certain FMR areas were deemed ineligible for 50th percentile FMRs because the information on concentration of voucher program participants needed to make the eligibility determination was of inadequate quality as described in this section. Table 2 lists the 48 FMR areas that were assigned proposed FY2006 FMRs set at the 50th percentile based on new FMR area definitions. Table 2 includes the 39 areas originally determined eligible for 50th percentile FMRs (following the October 2000 final rule that allowed 50th percentile FMRs) plus subparts of these areas that were separated from the original areas in accordance with the new Office of Management and Budget (OMB) metropolitan area definitions. Those areas marked by an asterisk (*) in Table 2 failed to meet one or more eligibility criteria as described below, including measurable deconcentration. Those areas marked by a plus sign (+) in Table 2 had insufficient information, as described below, upon which to determine concentration of voucher program participants and are deemed ineligible for 50th percentile FMRs. Only 14 of these areas met all of the eligibility criteria including information quality requirements and had measurable deconcentration.

TABLE 2.—PROPOSED FY2006 50TH PERCENTILE FMR AREAS LISTED IN JUNE 2, 2005, NOTICE

| |
|---|
| Albuquerque, NM MSA |
| *Allegan County, MI |
| *Ashtabula County, OH |
| *Atlanta-Sandy Springs-Marietta, GA HMFA |
| Austin-Round Rock, TX MSA |
| *Baton Rouge, LA HMFA |
| *Bergen-Passaic, NJ HMFA |
| *Buffalo-Niagara Falls, NY MSA |
| Chicago-Naperville-Joliet, IL HMFA |
| *Cleveland-Elyria-Mentor, OH MSA |
| +Dallas, TX HMFA |
| Denver-Aurora, CO MSA |
| *Detroit-Warren-Livonia, MI HMFA |
| Fort Worth-Arlington, TX HMFA |
| Grand Rapids-Wyoming, MI HMFA |
| *Holland-Grand Haven, MI MSA |
| *Hood County, TX |
| Houston-Baytown-Sugar Land, TX HMFA |
| Kansas City, MO–KS HMFA |
| Las Vegas-Paradise, NV MSA |
| +Miami-Fort Lauderdale-Miami Beach, FL MSA |
| *Minneapolis-St. Paul-Bloomington, MN–WI MSA |
| *Mohave County, AZ |
| *Monroe, MI MSA |
| *Muskegon-Norton Shores, MI MSA |
| +Newark, NJ HMFA |
| *Nye County, NV |
| *Oakland-Fremont, CA HMFA |
| *Ogden-Clearfield, UT MSA |
| *Oklahoma City, OK HMFA |

TABLE 2.—PROPOSED FY2006 50TH PERCENTILE FMR AREAS LISTED IN JUNE 2, 2005, NOTICE—Continued

| |
|---|
| Orange County, CA HMFA |
| *Oxnard-Thousand Oaks-Ventura, CA MSA |
| +Philadelphia-Camden-Wilmington, PA–NJ–DE–MD MSA |
| Phoenix-Mesa-Scottsdale, AZ MSA |
| *Pottawatomie County, OK |
| Richmond, VA HMFA |
| *Sacramento—Arden-Arcade—Roseville, CA HMFA |
| *Salt Lake City, UT HMFA |
| *San Antonio, TX HMFA |
| *San Diego-Carlsbad-San Marcos, CA MSA |
| *San Jose-Sunnyvale-Santa Clara, CA HMFA |
| *St. Louis, MO–IL HMFA |
| *Tampa-St. Petersburg-Clearwater, FL MSA |
| *Tulsa, OK HMFA |
| Virginia Beach-Norfolk-Newport News, VA–NC MSA |
| *Warren County, NJ HMFA |
| Washington-Arlington-Alexandria, DC–VA–MD HMFA |
| *Wichita, KS HMFA |

The following subsections describe HUD's application of the eligibility criteria for 50th percentile FMRs, set forth in 24 CFR 888.113, to the proposed FY2006 50th percentile FMR areas, and explain which areas lost eligibility for the 50th percentile FMR based on each criterion. The application of HUD's Information Quality Guidelines and findings of ineligibility of FMR areas on the basis of inadequate information on concentration of participants are described in the ''concentration of participants'' subsection. The final section identifies 10 additional FY2006 FMR areas assigned proposed 40th percentile FMRs in the June 2, 2005, notice, that are eligible, under the regulatory criteria and information quality guidelines, for 50th percentile FMRs.

*Continued Eligibility: FMR Area Size Criterion*

Application of the modified new OMB metropolitan area definitions results in several peripheral counties of FY2005 50th percentile FMR areas being separated from their core areas. The separated areas become either non-metropolitan counties, parts of different metropolitan areas, or form entirely new metropolitan areas. Table 3 shows proposed FY2006 FMR areas that are ineligible to receive 50th percentile FMRs because, as a result of the new metropolitan area definitions, they each have fewer than 100 census tracts and therefore fail to meet the FMR area size criterion.

TABLE 3.—PROPOSED FY2006 50TH PERCENTILE FMR AREAS WITH FEWER THAN 100 CENSUS TRACTS

| | Tracts |
|---|---|
| Allegan County, MI | 21 |
| Ashtabula County, OH | 22 |
| Holland-Grand Haven, MI MSA | 36 |
| Hood County, TX | 5 |
| Mohave County, AZ | 30 |
| Monroe, MI MSA | 39 |
| Muskegon-Norton Shores, MI MSA | 45 |
| Nye County, NV | 10 |
| Ogden-Clearfield, UT MSA | 93 |
| Pottawatomie County, OK | 15 |
| Warren County, NJ HMFA | 23 |

*Continued Eligibility: Concentration of Affordable Units*

The original 50th percentile FMR determination in 2000 measured the Concentration of Affordable Units criterion with data from the 1990 Census because 2000 Census data were not available. According to 2000 Census data, the FMR areas, shown in Table 4, and assigned proposed FY2006 50th percentile FMRs have more than 70 percent of their tracts containing 10 or more rental units where at least 30 percent of rental units rent for the 40th percentile two-bedroom FMR or less. These areas therefore fail to meet the Concentration of Affordable Units criterion and are not eligible for 50th percentile FMRs (FMR areas that are listed above as too small and also fail to meet this criterion are not listed here). In Table 4, the percentages following each FMR area name are, respectively, the 1990 Census and 2000 Census percent of tracts containing 10 or more rental units where at least 30 percent of rental units rent for the 40th percentile two-bedroom FMR or less. This number must be no greater than 70 percent for an FMR area to qualify for 50th percentile FMRs.

TABLE 4.—PROPOSED FY2006 50TH PERCENTILE FMR AREAS WHERE AFFORDABLE UNITS ARE NOT CONCENTRATED

| FMR area | 1990 [1] (percent) | 2000 (percent) |
|---|---|---|
| Atlanta-Sandy Springs-Marietta, GA HMFA | 69.5 | 72.8 |
| Baton Rouge, LA HMFA | 69.2 | 80.3 |
| Buffalo-Niagra Falls, NY MSA | 67.7 | 75.4 |
| Cleveland-Elyria-Mentor, OH MSA | 62.3 | 70.3 |
| Detroit-Warren-Livonia, MI HMFA | 65.7 | 72.7 |
| Minneapolis-St. Paul, MN-WI MSA | 65.0 | 73.1 |
| Oakland-Fremont, CA HMFA | 67.8 | 74.4 |
| Oklahoma City, OK HMFA | 63.1 | 71.5 |
| Oxnard-Ventura, CA MSA | 68.1 | 71.8 |
| St. Louis, MO-IL HMFA | 69.9 | 71.1 |
| Salt Lake City, UT HMFA | 66.3 | 70.6 |
| San Antonio, TX HMFA | 66.0 | 70.7 |
| San Jose-Santa Clara, CA HMFA | 67.5 | 74.8 |
| Tampa-St. Petersburg, FL MSA | 63.9 | 74.1 |
| Tulsa, OK HMFA | 67.5 | 70.4 |
| Witchita, KS HMFA | 68.4 | 70.2 |

*Continued Eligibility: Concentration of Participants*

The [1] Concentration of Participants criterion requires that 25 percent or more of voucher program participants be located in the five percent of census tracts with the highest number of voucher participants. Otherwise, an area is not eligible for 50th percentile FMRs. The data for evaluating the Concentration of Participants criterion comes from HUD's Public Housing Information Center (PIC). All public housing authorities (PHAs) that administer Housing Choice Voucher (HCV) programs must submit, on a timely basis, family records to HUD's PIC as set forth by 24 CFR part 908 and the consolidated annual contributions contract (CACC). PIC is the Department's official system to track and account for HCV family characteristics, income, rent, and other occupancy factors. PHAs must submit their form HUD–50058 records electronically to HUD for all current HCV families. Under HUD Notice PIH 2000–13 (HA), PHAs were required to successfully submit a minimum of 85 percent of their resident records to PIC during the measurement period covered by this notice (this requirement was raised to 95 percent by HUD Notice PIH 2005–17 (HA), but this higher reporting rate requirement is not used for purposes of this notice because it did not become effective until December 31, 2005, data submissions by PHAs).

Under HUD's Information Quality Guidelines,[2] the data used to determine eligibility for 50th percentile FMRs qualifies as ''influential'' and is therefore subject to a higher ''level of scrutiny and pre-dissemination review'' including ''robustness checks'' because ''public access to data and methods will not occur'' due to HUD's statutory duty to protect private information.[3] HUD cannot reasonably base the eligibility decision on inadequate data.

The information used to determine which FMR areas are assigned 50th percentile FMRs is ''influential''

[1] The 1990 percent of tracts containing 10 or more rental units where at least 30 percent of rental units rent for the 40th percentile 2-bedroom FMR or less is the figure computed for the original old-definition FMR area that was assigned the 50th percentile FMR in 2000. The 2000 figure may differ both because of change between the two decennial censuses as well as change in the geographic definition of the FMR areas.

[2] Section 515 of the Treasury and General Government Appropriations Act for FY2001 (Pub. L. 106–554) directed the OMB to issue government-wide guidelines that ''provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by federal agencies.'' Within one year after OMB issued its guidelines, agencies were directed to issue their own guidelines that described internal mechanisms by which agencies ensure that their information meets the standards of quality, objectivity, utility, and integrity. The mechanism also must allow affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines. OMB issued its final guidelines on September 28, 2001 (66 FR 49718), but requested additional comment on one component of the OMB guidelines. The OMB guidelines addressing additional public comment were published on January 3, 2002 (67 FR 369), and republished on February 22, 2002 (67 FR 6452). HUD issued its Final Information Quality Guidelines on November 18, 2002 (67 FR 69642), which follow public comment on proposed guidelines published on May 30, 2002 (67 FR 37851).

[3] Note that 13 U.S.C. 9 governs the confidentiality of census data. The Privacy Act (5 U.S.C. 552) governs confidentiality of the data used to evaluate the Concentration of Participants criterion.

because it has ''a clear and substantial impact,'' namely because it can potentially affect how voucher subsidy levels will be set in up to 108 large FMR areas containing about 59 percent of voucher tenants, thereby affecting ''a broad range of parties.'' PHA voucher payment standards are set according to a percentage of the FMR, so the setting of 50th percentile FMRs ''has a high probability'' of affecting subsidy levels for tenants in the affected FMR areas. An ''important'' public policy is affected by the decisions rendered from the information, namely the goal of deconcentrating voucher tenants and improving their access to jobs and improved quality of life.

Under HUD's Final Information Quality Guidelines, influential information that is developed using data that cannot be released to the public under Title XIII or for ''other compelling interests'' is subject to ''robustness checks'' to address, among other things, ''sources of bias or other error'' and ''programmatic and policy implications.'' The typical reason for a low overall reporting rate in an FMR area is very low reporting rates by the largest PHAs in the FMR area. Unless it could be shown that underreporting is essentially random (which would be difficult and impose a major administrative burden on HUD), low reporting rates render any results derived from the data inaccurate, unreliable, and biased.

The setting of a reporting rate threshold for consideration of eligibility for 50th percentile FMRs is, therefore, justified because it constitutes a ''robustness check'' on ''influential information'' as defined in HUD's Final Information Quality Guidelines. HUD sets the overall FMR area minimum reporting rate standard at 85 percent based on the minimum requirements established for PHA reporting rates.

Of the 21 areas passing the FMR Area Size and Concentration of Affordable Units criteria, the four listed below in Table 5 have data quality issues in measuring Concentration of Participants in 2005 because of low reporting by PHAs in the FMR area.

TABLE 5.—PROPOSED FY2006 50TH PERCENTILE FMR AREAS MEETING FMR AREA SIZE AND CONCENTRATION OF AFFORDABLE UNITS CRITERIA, BUT HAVING REPORTING RATES BELOW 85 PERCENT AS DERIVED FROM THE MAY 31, 2005, DELINQUENCY REPORT [4]

| | Percent |
|---|---|
| Dallas, TX HMFA | 83.2 |
| Miami-Fort Lauderdale-Miami Beach, FL MSA | 83.5 |
| Newark, NJ HMFA | 79.9 |
| Philadelphia-Camden-Wilmington, PA–NJ–DE–MD MSA | 54.0 |

There [4] are two areas with a proposed FY2006 50th percentile FMR that met the first two eligibility criteria, had adequate data to measure Concentration of Participants, but failed to meet 25 percent concentration criterion. These two areas are the Sacramento-Arden-Arcade-Roseville, CA HMFA and the San Diego-Carlsbad-San Marcos, CA MSA.

*Continued Eligibility: Deconcentration of Participants*

HUD's regulations in 24 CFR 888.113 specify that areas assigned 50th percentile rents are to be reviewed at the end of three years, and that the 50th percentile rents will be rescinded if no progress has been made in deconcentrating voucher tenants. FMR Areas that failed this test are ineligible for 50th percentile FMRs for the subsequent three years. One FMR area with proposed FY2006 50th percentile FMRs that passed the other 50th percentile eligibility tests, had sufficient data to accurately evaluate tenant concentration and measure deconcentration progress between 2000 and 2005, and failed to show deconcentration—the Bergen-Passaic, NJ HMFA.

The Newark, NJ HMFA and the Philadelphia-Camden-Wilmington, PA–NJ–DE–MD MSA are ineligible for 50th percentile FMRs because neither concentration nor deconcentration progress can be measured accurately based on data provided by PHA reporting. In addition, as discussed in the review of public comments, the Philadelphia PHA is exempt from FMR constraints in setting voucher payment standards, and it was this part of the metropolitan area that had the high levels of concentration that resulted in the initial 50th percentile FMR status. If reporting in any of these FMR areas has increased sufficiently when future evaluations of deconcentration are made, and eligibility can be established with increased reporting rates, the 50th percentile FMRs could be reinstated before the end of a three-year hiatus in these two areas.

Since the Bergen-Passaic, NJ HMFA has not demonstrated progress in deconcentrating voucher participants and this measurement is made with data of adequate quality (85.7 percent reporting rate), the Bergen-Passaic, NJ HMFA is ineligible for FY2006 50th percentile FMRs and shall remain so for 3 years. Bergen-Passaic's 40th percentile rents are within 5 percent of those of the New York City metropolitan area to which it is assigned under current OMB metropolitan area definitions, so under HUD's policies for establishing the FY2006 FMR areas it would become part of the New York City FMR area. However, as outlined in **Federal Register** Notice of Proposed Metropolitan Area Definitions for FY2006 Income Limits, published on December 16, 2005 (70 FR 74988), HUD has proposed creating four new FMR areas, including Bergen-Passiac, by splitting larger FY2006 FMR areas along the lines of FY2005 FMR areas. These new FMR areas were proposed because they have very large differences in median incomes and income limits from those of the larger areas of which they were originally part. Public comments on these proposed changes are pending, but comments to date have supported this proposal, so this notice maintains Bergen-Passiac as an independent FMR area on an interim basis pending completion of the comment process.

Table 6 lists the areas, originally assigned 50th percentile FMRs, and also assigned proposed FY2006 50th percentile FMRs, that have sufficient Reporting Rates as derived from the May 31, 2005, Delinquency Report to make an accurate assessment of participant concentration, that meet all eligibility criteria, and have shown evidence of participant deconcentration. These areas continue to be eligible for 50th percentile FMRs.

[4] For most PHAs the reporting rate comes directly from the Delinquency Report and is the ratio of form 50058 received to required units. In some cases, the number of 50058 required units was inconsistent with other figures on the number of HCV participants served by the PHA and was replaced with either the December 2004 leased units (if available) or Annual Contribution Contracts (ACC) units. The two significant instances where this procedure was used and negatively affected FMR area reporting rates in this table because the resulting PHA rates were below 85 percent are as follows: Dallas, TX HA (15,975 ACC units, PHA Report Rate 78.3%) and Philadelphia, PA HA (15,641 leased units, PHA Report Rate 0.0%).

TABLE 6.—PROPOSED FY2006 50TH PERCENTILE FMR AREAS THAT CONTINUE AS 50TH PERCENTILE AREAS

| |
|---|
| Albuquerque, NM MSA |
| Austin-Round Rock, TX MSA |
| Chicago-Naperville-Joliet, IL HMFA |
| Denver-Aurora, CO MSA |
| Fort Worth-Arlington, TX HMFA |
| Grand Rapids-Wyoming, MI HMFA |
| Houston-Baytown-Sugar Land, TX HMFA |
| Kansas City, MO–KS HMFA |
| Las Vegas-Paradise, NV MSA |
| Orange County, CA HMFA |
| Phoenix-Mesa-Scottsdale, AZ MSA |
| Richmond, VA HMFA |
| Virginia Beach-Norfolk-Newport News, VA–NC MSA |
| Washington-Arlington-Alexandria, DC–VA–MD HMFA |

*Newly Eligible Areas*

Table 7 lists the FY2006 FMR areas not originally assigned proposed 50th percentile FMRs that have sufficient Reporting Rates as derived from the May 31, 2005, Delinquency Report (more than 85 percent overall for the FMR area) to evaluate the Concentration of Participants and meet the eligibility requirements for 50th percentile FMRs. There were no FY2006 FMR areas originally assigned proposed 40th percentile FMRs that otherwise met the eligibility requirements for 50th percentile FMRs, but were deemed ineligible by having insufficient Reporting Rates as derived from the May 31, 2005, Delinquency Report.

TABLE 7.—NEW ASSIGNED 50TH PERCENTILE FMR AREAS

| |
|---|
| Baltimore-Towson, MD MSA |
| Hartford-West Hartford-East Hartford, CT HMFA |
| Honolulu, HI MSA |
| Milwaukee-Waukesha-West Allis, WI MSA |
| New Haven-Meriden, CT HMFA |
| Providence-Fall River, RI–MA HMFA |
| Riverside-San Bernardino-Ontario, CA MSA |
| Sarasota-Bradenton-Venice, FL MSA |
| Tacoma, WA HMFA |
| Tucson, AZ MSA |

## IV. Public Comments

A total of 32 comments were received and reviewed by HUD. Many of the comments submitted raised FMR issues that are not directly related to this notice and therefore are not discussed in detail. Several comments, for instance, gave rationales for 50th percentile FMRs that were unrelated to implementation of the regulatory criteria. The decision as to the percentile level at which FMRs should be set involves a complex trade-off between serving more households versus providing a higher level of assistance to those in the program, and is one that has been an on-going source of discussion and change over the life of the program but which, ultimately, is a wider Congressional and Administration policy decision.

Comments received from the Sacramento PHA and the San Diego Housing Commission questioned the accuracy of the PIC system tenant data used in the determinations. An error in the PIC data was discovered for Sacramento that resulted in double-counting of vouchers for one housing authority. Although Sacramento is no longer ineligible for the 50th percentile FMR program based on a low reporting rate, it still remains ineligible for continued use of 50th percentile FMRs because it fails to meet the concentration of participants criteria (25 percent or more of voucher program participants must be located in the five percent of census tracts with the highest number of voucher participants). No errors were found in the tenant reporting data used for San Diego. The San Diego Housing Commission comment had based its conclusions on data from the city and not included or considered data for the balance of the metropolitan area.

The Philadelphia Housing Authority, Mayor of Cherry Hill Township, the Wisler Pearlstine law firm (on behalf of the Montgomery County Housing Authority), Legal Services of New Jersey and the Council of Large Public Housing Authorities (CLPHA) oppose the removal of the Philadelphia metropolitan area from the 50th percentile FMR program based on its low reporting rate. They cite the designation of the Philadelphia HA as a Moving-to-Work (MTW) demonstration site as a waiver of HUD reporting requirements and note that other PHAs in the metropolitan area met or exceeded the 85 percent reporting rate. The Philadelphia metropolitan area's 50th percentile designation was based on the heavy concentration of program participants in a small number of census tracts within the city of Philadelphia. Under its MTW agreement, the Philadelphia PHA is not subject to FMRs and has the discretion to set its own payment standards, so FMRs are no longer relevant to its voucher program management. The MTW contract with the Philadelphia HA specifically states that it must report to the PIC system, and the lack of data prevents HUD from evaluating for purposes of the 50th percentile program in the same way that every other area is evaluated. Several comments stated that HUD should evaluate the area based on the data from the areas that did report but, aside from being inconsistent with the relevant regulations, this grouping of areas would not meet the regulatory eligibility criteria. It would be both inequitable and inconsistent with the regulations to permit PHAs outside the city limits to use 50th percentile FMRs when other areas that fail to meet the regulatory criteria are not allowed to do so.

Newark and Miami also protest the loss of the 50th percentile FMR based on insufficient data. The Miami-Dade Housing Agency and Florida Legal Services, Inc. note that there is no reporting requirement in the 50th percentile regulation. The Miami-Dade Housing Agency also noted that HUD used May 2005 data for its 50th percentile determination. They believed that use of September 30, 2004, data would have allowed the PHA to meet the reporting requirement. The Rahway Housing Authority, part of the Newark metropolitan area, points out that the new HUD requirement in Notice PIH 2005–17(HA) will sanction PHAs that do not submit data and that reporting is therefore likely to improve. Rahway asks HUD to defer determinations of 50th percentile eligibility for one year, at which time more data may be available. HUD's response to the above comments is based on the Final Information Quality Guidelines published in the **Federal Register** on November 18, 2002 (67 FR 69642), which are previously discussed in the section on ''Continued Eligibility.'' The reporting requirement is covered in each PHA's Annual Contribution Contract with HUD, and has been a requirement for over two decades. This submission requirement and the 85 percent standard have also been part of the Section 8 Management Assessment Program (SEMAP) regulatory standards under which PHA voucher program performance is evaluated. HUD's compliance with the Information Quality Guidelines is required by a statute passed subsequent to the issuance of the 50th percentile rule, and reporting compliance is required under PHAs' contractual agreements with HUD. Allowing PHAs to select when or how compliance should be measured is inconsistent with the letter and intent of these information quality guidelines.

The Public Housing Authorities Directors Association (PHADA) assumes that under-reporting is random and requests a further investigation by HUD. HUD does not accept this as a basis for over-ruling its information quality guidelines. Aside from violating the provisions of the guidelines, HUD has no basis for assuming that under-reporting is random. Under-reporting tends to be concentrated in one or a few

PHAs within a metropolitan area, and it is known that levels of program concentration vary significantly from PHA to PHA.

Several metropolitan areas and public interest groups cite the need for higher FMRs in their areas. The National Association of Home Builders (NAHB) and the National Association of Affordable Housing Lenders (NAAHL) propose increasing all FMRs to the 50th percentile level, or, at the very least restoring the 11 areas that lost designation simply as a result of adopting the new OMB metropolitan definitions. Those 11 areas were assigned 50th percentile FMR solely because they were previously grouped with central cities that had concentration problems. There is no basis for favoring these areas over other areas with similar characteristics solely because they were previously allowed to use higher FMRs.

The Housing Authority of Bergen County (NJ) and the city of Berkeley (CA) discuss the high cost of rental housing in their areas and the difficulty they will find in making the program work with lower FMRs. The Department of Community Affairs for the State of New Jersey notes that a reduction in the FMRs will make it more difficult for families to find decent affordable housing in neighborhoods of their choice and that the requirement to deconcentrate will be impossible to satisfy. The Decatur Housing Authority (GA) states that it can ill-afford a decrease resulting from the loss of the 50th percentile as its rental housing market begins to tighten, and argues that Atlanta metropolitan area needs higher rather than lower FMRs. HUD agrees that higher FMRs would permit more units to be accessed in all of the above areas, but past studies have shown that 40th percentile FMRs are high enough to permit a wide range of neighborhoods to be accessed. In addition, the above arguments do not address the regulatory criteria that govern 50th percentile FMR determinations.

Bergen County and Berkeley also argue that they need higher FMRs because they have higher rents than the metropolitan areas of which they are a part. To the extent that this condition can be documented, as can be done with 2000 Census data, this need should be addressed by requests for exception payment standards as permitted under voucher program regulations. In instances where PHAs believe FMRs are inaccurate, they should submit public comments to that effect in response to proposed FMRs, and may provide survey data to support such requests or ask HUD to conduct a survey (which HUD will seek to do within its funding constraints).

The Cuyahoga Metropolitan Housing Authority, Florida Legal Services, Inc., the Housing Authority of the County of Santa Clara and the Minnesota Housing Finance Agency state that PHAs that have been successful in meeting the HUD deconcentration measure should continue to have the necessary tools available to them and specifically request exception from the reduction to the 40th percentile FMR based on the provision set out in 24 CFR 982.503(f). They request that HUD immediately implement that provision of the 50th percentile regulation so that exceptions can be granted. Nothing in this or the August 25, 2005 notice rescinded this provision, and requests for implementation should be made to the Office of Public and Indian Housing. The Livonia Housing Commission and the Fair Housing Center of Metropolitan Detroit claim that the reduction in the FMR will have a disparate impact on minority and disabled families and that it raises fair housing concerns for low-income minority and disabled citizens in Wayne County. The argue that the reduction will reduce housing choices, increase rent burdens and negatively impact quality of life issues. The Detroit area lost its 50th percentile status because 2000 Census data showed that it did not meet the concentration of affordable units standard. The evaluative standards used were objective, race-neutral, and applied uniformly to all metropolitan areas.

The National Association of Housing and Redevelopment Officials (NAHRO) noted that, in its August 25th notice proposing rescission of some 50th percentile FMRS, HUD failed to mention the provision in HUD regulations (24 CFR 982.503(e)) that permits PHAs the opportunity to qualify for a success rate payment standard. Under the implementing notice for the 50th percentile notice, HUD clearly stated that PHAs may request these exceptions from their HUD office. Neither this notice nor the August 25, 2005, notice abrogate this right.

The Housing Authority of St. Louis County protests the elimination of St. Louis from the 50th percentile FMR program based on its percentage of affordable units because it feels the percentage, at 71.1 percent, does not represent a statistically significant difference from 70.0 percent. The National Low Income Housing Coalition stated that the precision used by HUD in its analysis was inappropriate and it requested that standard rounding practices be employed for areas such as Cleveland (70.3 percent), Tulsa (70.4 percent) and Wichita, KS (70.2 percent). These comments were considered, but rejected because the criteria used had been pre-specified and subject to public comment.

All of the public interest groups urged HUD to grant a moratorium on any reduction of 50th percentile areas for any area impacted by Hurricane Katrina (and Rita). NAHRO suggested that any federally declared disaster area, or any of the surrounding communities providing housing assistance to evacuees, be eligible to receive up to 150 percent of the existing FMR without prior HUD approval. The HUD Office of Public and Indian Housing (PIH) has issued a notice that provides exception payment standards for FEMA designated disaster areas and allows other areas impacted by displacement to request exception payment standards.

Revised final FY2006 FMRs for the areas affected by this notice are listed in Schedule B.[5] Consistent with current regulations, PHAs must obtain the approval of their governing board to implement use of 50th percentile FMRs or payment standards based on those FMRs.

Note 1 in the footnotes on Schedule B of the FMR tables as published on October 3, 2005, is incorrect. It should state the following: *The FMRs for unit sizes larger than 4 Bedrooms are calculated by adding 15% to the 4 Bedroom FMR for each extra bedroom*. Other information pertaining to the final FY2006 FMRs is unchanged from the October 3, 2005 notice.

Dated: February 7, 2006.

**Darlene Williams,**

*Assistant Secretary for Policy, Development and Research.*

**BILLING CODE 4210–67–P**

[5] FR–4995–N–02 listed five additional metropolitan counties as being affected by this policy. However, all five counties were also affected by the implementation of the state minimum policy in the final FY2006 FMRs published as FR–4995–N–03, which increased their FMRs above the levels proposed in FR–4995–N–02 and, therefore, this notice does not change published final FMRs for these areas.

SCHEDULE B - FY 2006 REVISED FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 1

ARIZONA continued

| NONMETROPOLITAN COUNTIES | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR |
|---|---|---|---|---|---|
| Mohave | 509 | 560 | 653 | 903 | 1008 |

CALIFORNIA

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Oxnard-Thousand Oaks-Ventura, CA MSA | 982 | 1084 | 1379 | 1976 | 2260 | Ventura |
| Sacramento--Arden-Arcade--Roseville, CA HMFA | 691 | 786 | 959 | 1384 | 1586 | El Dorado, Placer, Sacramento |
| San Diego-Carlsbad-San Marcos, CA MSA | 760 | 870 | 1065 | 1514 | 1871 | San Diego |
| Oakland-Fremont, CA HMFA | 865 | 1045 | 1238 | 1679 | 2079 | Alameda, Contra Costa |
| San Jose-Sunnyvale-Santa Clara, CA HMFA | 876 | 1015 | 1220 | 1754 | 1931 | Santa Clara |

DELAWARE

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA | 649 | 742 | 886 | 1061 | 1262 | New Castle |

FLORIDA

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Miami-Fort Lauderdale-Miami Beach, FL MSA | 652 | 752 | 911 | 1205 | 1377 | Broward, Miami-Dade, Palm Beach |
| Tampa-St. Petersburg-Clearwater, FL MSA | 585 | 649 | 785 | 995 | 1201 | Hernando, Hillsborough, Pasco, Pinellas |

GEORGIA

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Atlanta-Sandy Springs-Marietta, GA HMFA | 633 | 686 | 763 | 929 | 1013 | Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Heard, Henry, Jasper, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, Walton |

ILLINOIS

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| St. Louis, MO-IL HMFA | 485 | 526 | 654 | 842 | 882 | Calhoun, Clinton, Jersey, Madison, Monroe, St. Clair |

KANSAS

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Wichita, KS HMFA | 408 | 457 | 600 | 767 | 863 | Butler, Harvey, Sedgwick |

LOUISIANA

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Baton Rouge, LA HMFA | 458 | 499 | 576 | 734 | 808 | Ascension, East Baton Rouge, East Feliciana, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, West Feliciana |

SCHEDULE B - FY 2006 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 2

MARYLAND

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA... | 649 | 742 | 886 | 1061 | 1262 | Cecil |

MICHIGAN

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Detroit-Warren-Livonia, MI HMFA..... | 565 | 644 | 770 | 921 | 949 | Lapeer, Macomb, Oakland, St. Clair, Wayne |
| Holland-Grand Haven, MI MSA..... | 532 | 541 | 649 | 898 | 970 | Ottawa |
| Monroe, MI MSA..... | 599 | 601 | 723 | 944 | 1040 | Monroe |
| Muskegon-Norton Shores, MI MSA..... | 393 | 410 | 533 | 705 | 725 | Muskegon |

| NONMETROPOLITAN COUNTIES | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | NONMETROPOLITAN COUNTIES | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Allegan..... | 423 | 510 | 611 | 766 | 821 | | | | | | |

MINNESOTA

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Minneapolis-St. Paul-Bloomington, MN-WI MSA..... | 598 | 705 | 855 | 1119 | 1258 | Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, Wright |

MISSOURI

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| St. Louis, MO-IL HMFA..... | 485 | 526 | 654 | 842 | 882 | Sullivan city part of Crawford, Franklin, Jefferson, Lincoln, St. Charles, St. Louis, Warren, St. Louis city |

NEVADA

| NONMETROPOLITAN COUNTIES | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | NONMETROPOLITAN COUNTIES | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Nye..... | 409 | 568 | 631 | 919 | 947 | | | | | | |

NEW JERSEY

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Warren County, NJ HMFA..... | 763 | 854 | 999 | 1196 | 1231 | Warren |
| Bergen-Passaic, NJ HMFA..... | 875 | 979 | 1098 | 1356 | 1561 | Bergen, Passaic |
| Newark, NJ HMFA..... | 719 | 879 | 1004 | 1202 | 1329 | Essex, Morris, Sussex, Union |
| Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA... | 649 | 742 | 886 | 1061 | 1262 | Burlington, Camden, Gloucester, Salem |

NEW YORK

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Buffalo-Niagara Falls, NY MSA..... | 487 | 488 | 586 | 725 | 800 | Erie, Niagara |

OHIO

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Cleveland-Elyria-Mentor, OH MSA..... | 488 | 566 | 682 | 874 | 929 | Cuyahoga, Geauga, Lake, Lorain, Medina |

SCHEDULE B - FY 2006 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 3

OHIO continued

| NONMETROPOLITAN COUNTIES | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR |
|---|---|---|---|---|---|
| Ashtabula | 394 | 463 | 590 | 750 | 874 |

OKLAHOMA

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Oklahoma City, OK HMFA | 425 | 464 | 564 | 761 | 816 | Canadian, Cleveland, Logan, McClain, Oklahoma |
| Tulsa, OK HMFA | 456 | 495 | 605 | 799 | 825 | Creek, Osage, Rogers, Tulsa, Wagoner |

| NONMETROPOLITAN COUNTIES | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR |
|---|---|---|---|---|---|
| Pottawatomie | 393 | 447 | 497 | 630 | 731 |

PENNSYLVANIA

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA | 649 | 742 | 886 | 1061 | 1262 | Bucks, Chester, Delaware, Montgomery, Philadelphia |

TEXAS

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Dallas, TX HMFA | 548 | 607 | 733 | 954 | 1129 | Collin, Dallas, Delta, Denton, Ellis, Hunt, Kaufman, Rockwall |
| San Antonio, TX HMFA | 500 | 556 | 687 | 886 | 1077 | Bandera, Bexar, Comal, Guadalupe, Wilson |

| NONMETROPOLITAN COUNTIES | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR |
|---|---|---|---|---|---|
| Hood | 449 | 487 | 542 | 716 | 951 |

UTAH

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Ogden-Clearfield, UT MSA | 416 | 501 | 617 | 848 | 1003 | Davis, Morgan, Weber |
| Salt Lake City, UT HMFA | 526 | 572 | 690 | 971 | 1130 | Salt Lake |

WISCONSIN

| METROPOLITAN FMR AREAS | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | Counties of FMR AREA within STATE |
|---|---|---|---|---|---|---|
| Minneapolis-St. Paul-Bloomington, MN-WI MSA | 598 | 705 | 855 | 1119 | 1258 | Pierce, St. Croix |

Note: The FMRs for unit sizes larger then 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 01/24/2006

SCHEDULE D - FY 2006 FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES IN THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

| State | Area Name | Space Rent |
|---|---|---|
| California | *Orange County, CA HMFA | $624 |
| | *Riverside-San Bernardino-Ontario, CA MSA | $406 |
| | Los Angeles-Long Beach, CA HMFA | $513 |
| | Napa, CA MSA | $486 |
| | San Diego-Carlsbad-San Marcos, CA MSA | $649 |
| | Vallejo-Fairfield, CA MSA | $486 |
| Colorado | Boulder, CO MSA | $423 |
| Maryland | St. Mary's | $401 |
| New York | Utica-Rome, NY MSA | $249 |
| Oregon | Bend, OR MSA | $293 |
| | Salem, OR MSA | $404 |
| Pennsylvania | Adams | $446 |
| Washington | Olympia, WA MSA | $473 |
| West Virginia | Logan | $363 |
| | McDowell | $363 |
| | Mercer | $363 |
| | Mingo | $363 |
| | Wyoming | $363 |

* 50th percentile FMR areas.

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**Federal Register**

Vol. 71, No. 30

Tuesday, February 14, 2006

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## FEDERAL REGISTER PAGES AND DATE, FEBRUARY

5155–5578 ..... 1
5579–5776 ..... 2
5777–5966 ..... 3
5967–6190 ..... 6
6191–6332 ..... 7
6333–6660 ..... 8
6661–6972 ..... 9
6973–7392 .....10
7393–7672 .....13
7673–7842 .....14

z

## CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

**Proclamations:**
7959 (See Memorandum of February 3, 2006) .....6335
7976 .....5155
7977 .....5579
7978 .....5967
7979 .....6333
7980 .....6661

**Administrative Orders:**
Memorandums:
Memorandum of February 3, 2006 .....6335

**Executive Orders:**
13396 .....7389

**7 CFR**

301 .....5777, 6663, 7393
905 .....5157
927 .....7673
993 .....7395

**Proposed Rules:**
319 .....6011
457 .....6016
735 .....7445
985 .....5183
1250 .....6021
1427 .....7445
1496 .....6399

**9 CFR**

94 .....7401
352 .....6337

**10 CFR**

850 .....6858
851 .....6858

**Proposed Rules:**
170 .....7350
171 .....7350
430 .....6022

**12 CFR**

30 .....5779
201 .....6341
208 .....5779
225 .....5779
364 .....5779
568 .....5779
570 .....5779
611 .....5740
612 .....5740
614 .....5740
615 .....5740
618 .....5740
619 .....5740
620 .....5740
630 .....5740
1412 .....7402

**Proposed Rules:**
544 .....7695
552 .....7695
652 .....7446
655 .....7446

**14 CFR**

39 .....5159, 5162, 5581, 5584, 5969, 5971, 5976, 6191, 6194, 6342, 6343, 6663, 6665, 6667, 6669, 6673, 6973, 7626
71 .....7409
97 .....6345, 6675
212 .....5780

**Proposed Rules:**
23 .....5554
25 .....5554
27 .....5554
29 .....5554
33 .....5770
39 .....5620, 5623, 5626, 5796, 6025, 6400, 6402, 6404, 6408, 6411, 6413, 6415, 6417, 6420, 6681, 6683, 6685, 6687, 6691, 7446, 7449, 7698
158 .....5188

**16 CFR**

100 .....5165

**17 CFR**

1 .....5587
145 .....5587
147 .....5587
229 .....7411
230 .....7411, 7677
232 .....5596, 7678

**Proposed Rules:**
228 .....6542
229 .....6542
239 .....6542
240 .....6542
245 .....6542
249 .....6542
274 .....6542

**18 CFR**

**Proposed Rules:**
40 .....6693

**20 CFR**

**Proposed Rules:**
656 .....7656

**21 CFR**

17 .....5979
520 .....5788, 6677
522 .....7413
866 .....6677

**Proposed Rules:**
203 .....5200
205 .....5200

888 ....6710

**22 CFR**

**Proposed Rules:**
62 ....5627

**24 CFR**

91 ....6950
203 ....6347
570 ....6950

**26 CFR**

1 ....6197
602 ....6197
**Proposed Rules:**
1 ....6231, 7453

**27 CFR**

19 ....5598
24 ....5598
25 ....5598
26 ....5598
41 ....7679
70 ....5598
**Proposed Rules:**
19 ....5629
24 ....5629
25 ....5629
26 ....5629
70 ....5629

**28 CFR**

0 ....6206

**30 CFR**

925 ....5548
**Proposed Rules:**
206 ....7453
926 ....7475
931 ....7477
935 ....7480
944 ....7489
950 ....7492

**31 CFR**

215 ....5737
**Proposed Rules:**
10 ....6421

**32 CFR**

**Proposed Rules:**
275 ....5631

**33 CFR**

117 ....5170, 6207, 6975, 6976
165 ....5172, 5788, 6976
401 ....5605
**Proposed Rules:**
Ch. I ....5204
100 ....6713, 6715
402 ....7701

**38 CFR**

17 ....6679
**Proposed Rules:**
17 ....5204

**40 CFR**

9 ....6136, 6138
26 ....6138
35 ....7414
51 ....6347
52 ....5172, 5174, 5607, 5791, 5979, 6350, 6352, 7679, 7683
63 ....7415
81 ....6208, 6352
82 ....5985
122 ....6978
141 ....6136
142 ....6136
180 ....6356, 6359
412 ....6978
268 ....6209
**Proposed Rules:**
51 ....6718, 6729
52 ....5205, 5211, 6028, 6437, 6988
63 ....6030, 7494
81 ....6437
86 ....5426
261 ....7704
268 ....6238
600 ....5426
707 ....6733
799 ....6733
1604 ....5799

**41 CFR**

60-250 ....6213

**42 CFR**

**Proposed Rules:**
413 ....6991

**43 CFR**

4 ....6364

**44 CFR**

65 ....7688, 7690, 7692
67 ....7693
**Proposed Rules:**
67 ....7712, 7714

**45 CFR**

1180 ....6370
1182 ....6374
1631 ....5794
**Proposed Rules:**
1621 ....7496
2554 ....5211

**46 CFR**

**Proposed Rules:**
296 ....6438

**47 CFR**

1 ....6214, 6380
73 ....5176, 6214, 6381, 6382, 6383
74 ....6214
76 ....5176
**Proposed Rules:**
1 ....6992
64 ....5221
73 ....6441

**49 CFR**

**Proposed Rules:**
571 ....6441, 6743

**50 CFR**

17 ....6229, 6383, 7118
223 ....5178
229 ....5180, 6396, 7441
648 ....6984, 7443
679 ....6230, 6985, 6986
**Proposed Rules:**
17 ....5516, 6241, 6634, 6745, 7497, 7715
226 ....6999
635 ....7499
660 ....6315
679 ....6031, 6442

## 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 FEBRUARY 14, 2006

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollution; standards of performance for new stantionary sources:

Solid waste incineration units; published 12-16-05

Toxic substances:

Chemical inventory update reporting; published 12-16-05

## COMMENTS DUE NEXT WEEK

**AGRICULTURE DEPARTMENT**

**Agricultural Marketing Service**

Melons grown in—

Texas; comments due by 2-21-06; published 12-22-05 [FR 05-24339]

**AGRICULTURE DEPARTMENT**

**Animal and Plant Health Inspection Service**

Plant-related quarantine, foreign:

Fruits and vegetable importation; list; comments due by 2-21-06; published 12-22-05 [FR E5-07690]

**AGRICULTURE DEPARTMENT**

**Commodity Credit Corporation**

Export programs:

Supplier Credit Guarantee Program; comments due by 2-23-06; published 1-24-06 [FR 06-00610]

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Fish and seafood promotion:

Species-specific seafood marketing councils; comments due by 2-23-06; published 1-24-06 [FR 06-00666]

Fishery conservation and management:

West Coast States and Western Pacific fisheries—

Guam longline fishing; prohibited area; comments due by 2-21-06; published 1-20-06 [FR E6-00650]

**DEFENSE DEPARTMENT**

Acquisition regulations:

Contract pricing and cost accounting standards; comments due by 2-21-06; published 12-20-05 [FR 05-24219]

Military justice:

Criminal jurisdiction over civilians employed by or accompanying Armed Forces outside U.S., and service and former service members; comments due by 2-21-06; published 12-22-05 [FR 05-23938]

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollutants, hazardous; national emission standards:

Portland cement manufacturing industry; comments due by 2-23-06; published 1-9-06 [FR 06-00157]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Alabama; comments due by 2-24-06; published 1-25-06 [FR E6-00907]

Air quality implementation plans; approval and promulgation; various States:

Colorado; comments due by 2-23-06; published 1-24-06 [FR 06-00630]

Montana; comments due by 2-23-06; published 1-24-06 [FR 06-00633]

North Dakota; comments due by 2-23-06; published 1-24-06 [FR 06-00628]

Texas; comments due by 2-21-06; published 1-19-06 [FR 06-00435]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Benzaldehyde, etc.; comments due by 2-21-06; published 12-23-05 [FR E5-07693]

Difenoconazole, etc.; comments due by 2-21-06; published 12-21-05 [FR 05-24322]

Solid waste:

State municipal solid waste landfill permit programs—

Maine; comments due by 2-23-06; published 1-24-06 [FR 06-00627]

Maine; comments due by 2-23-06; published 1-24-06 [FR 06-00626]

Water pollution control:

National Pollutant Discharge Elimination System—

Storm water discharges for oil and gas exploration, production, processing, or treatment operations, or transmission facilities; comments due by 2-21-06; published 1-6-06 [FR E6-00036]

**FEDERAL COMMUNICATIONS COMMISSION**

Common carrier services:

Individuals with hearing and speech disabilities; telecommunications relay services and speech-to-speech services; comments due by 2-22-06; published 2-1-06 [FR E6-01368]

Practice and procedure:

Benefits reserved for designated entitites; competitive bidding rules and procedures; comments due by 2-24-06; published 2-10-06 [FR 06-01290]

**HEALTH AND HUMAN SERVICES DEPARTMENT**

Energy Employees Occupational Illness Compensation Program Act:

Special Exposure Cohort; employee classes designation as members; procedures; comments due by 2-21-06; published 12-22-05 [FR 05-24358]

**HOMELAND SECURITY DEPARTMENT**

**Coast Guard**

Drawbridge operations:

Florida; comments due by 2-21-06; published 12-21-05 [FR E5-07631]

Organization, functions, and authority delegations:

Marine Safety Center; address change; comments due by 2-21-06; published 12-21-05 [FR 05-24319]

Regattas and marine parades:

VYC Fleet Parade; comments due by 2-21-06; published 1-19-06 [FR E6-00584]

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

Community development block grants:

Job-pirating activities; block grant assistance use prohibition; comments due by 2-21-06; published 12-23-05 [FR 05-24428]

**INTERIOR DEPARTMENT**

**Fish and Wildlife Service**

Endangered and threatened species:

Critical habitat designations—

Spikedace and loach minnow; comments due by 2-21-06; published 12-20-05 [FR 05-23999]

**NATIONAL CREDIT UNION ADMINISTRATION**

Credit unions:

Indirect vehicle loans; third-party servicing; comments due by 2-21-06; published 12-21-05 [FR E5-07584]

**NUCLEAR REGULATORY COMMISSION**

Plants and materials; physical protection:

Design basis threat; comments due by 2-22-06; published 1-24-06 [FR 06-00676]

**PERSONNEL MANAGEMENT OFFICE**

Administrative Law Judge Program; revision; comments due by 2-21-06; published 12-21-05 [FR 05-24286]

**SECURITIES AND EXCHANGE COMMISSION**

Securities:

Tender offer best-price rule; amendments; comments due by 2-21-06; published 12-22-05 [FR 05-24359]

**SMALL BUSINESS ADMINISTRATION**

Loan programs:

Business loans and development company loans; liquidation and litigation procedures; comments due by 2-24-06; published 1-25-06 [FR E6-00881]

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

Airworthiness directives:

Aerospatiale; comments due by 2-21-06; published 1-19-06 [FR E6-00533]

Airbus; comments due by 2-21-06; published 1-19-06 [FR E6-00532]

Boeing; comments due by 2-21-06; published 11-23-05 [FR 05-23153]

Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 2-24-06; published 1-25-06 [FR E6-00901]

Fokker; comments due by 2-23-06; published 1-24-06 [FR E6-00795]

Area navigation routes; comments due by 2-23-06; published 1-9-06 [FR E6-00068]

Class E airspace; comments due by 2-21-06; published 1-6-06 [FR 06-00097]

VOR Federal airways; comments due by 2-23-06; published 1-9-06 [FR E6-00069]

**TREASURY DEPARTMENT**

**Internal Revenue Service**

Income taxes:

Corporate estimated tax; comments due by 2-22-06; published 12-12-05 [FR 05-23872]

**VETERANS AFFAIRS DEPARTMENT**

Legal services, General Counsel, and miscellaneous claims:

Service organization representatives and agents; accreditation; comments due by 2-21-06; published 12-23-05 [FR E5-07759]

## 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.

**S. 1932/P.L. 109–171**
Deficit Reduction Act of 2005 (Feb. 8, 2006; 120 Stat. 4)

**Last List February 8, 2006**

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