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Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 730

RIN 3206–AK60

Notification of Post-Employment Restrictions

AGENCY: Office of Personnel Management.

ACTION: Final Rule.

SUMMARY: The Office of Personnel Management is issuing final regulations requiring agencies to notify members of the Senior Executive Service (SES) and other employees in senior positions of certain post-employment conflict-of-interest restrictions. Agencies must provide written notification to affected employees of the new salary-based threshold for determining the applicability of the post-employment conflict-of-interest restrictions.

DATES: The final regulations are effective on April 17, 2006.

FOR FURTHER INFORMATION CONTACT: Brenda Roberts by telephone at (202) 606-2858; by FAX at (202) 606-0824; or by e-mail at *pay-performance-policy@opm.gov*.

SUPPLEMENTARY INFORMATION: On October 15, 2004, the Office of Personnel Management published interim regulations (69 FR 61143) to implement section 1125(b) of Public Law 108–136 to establish a new salary-based threshold for determining the applicability of certain post-employment conflict-of-interest restrictions under 18 U.S.C. 207(c). The new salary-based threshold became effective on the first day of the first applicable pay period beginning on or after January 1, 2004 (January 11, 2004, for most employees).

Section 1125(b)(1) of Public Law 108–136 amended 18 U.S.C. 207(c)(2)(A)(ii) to require SES members and other individuals who are paid at a rate of basic pay equal to or greater than 86.5 percent of the rate of level II of the Executive Schedule to be subject to the post-employment restrictions in 18 U.S.C. 207(c). Most members of the Senior Executive Service (SES) are subject to these post employment restrictions.

The law also included a grandfather provision in section 1125(b)(1) that applies to certain SES members and other individuals for a period of 2 years, through November 24, 2005. If such individuals, on November 23, 2003, were subject to 18 U.S.C. 207(c) and were employed in positions whose rate of basic pay, exclusive of locality payments under 5 U.S.C. 5304, was equal to or greater than the rate of basic pay payable for level 5 of the SES, they are subject to the 1-year post-employment restrictions in 18 U.S.C. 207(c) through November 24, 2005, without regard to any subsequent changes in position or pay.

If, at the end of the extended coverage period (November 24, 2005), a covered employee is paid at a rate of basic pay equal to or greater than 86.5 percent of the rate for level II of the Executive Schedule as of that date (i.e., $140,217), he or she will continue to be subject to the post-employment restrictions in 18 U.S.C. 207(c). Agencies should review the pay of all SES members and other individuals who are covered by the grandfather provision in section 1125(b)(1) to determine whether they are subject to the new post-employment restrictions applicable after November 24, 2005. Agencies must provide written notification to senior executives and other individuals covered by 18 U.S.C. 207(c)(2)(A)(ii) reflecting whether they are subject to the post-employment conflict-of-interest restrictions, including when employment or service in a covered position is terminated. OPM has provided guidance to agencies on the expiration of the grandfather provision.

The 60-day comment period for the interim regulations ended on December 14, 2004. OPM received no comments on the interim regulations. Therefore, we are adopting the interim regulations as final.

Regulatory Flexibility Act

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

E.O. 12866, Regulatory Review

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

List of Subjects in 5 CFR Part 730

Government employees.

Office of Personnel Management.

Linda M. Springer,

Director.

Accordingly, the interim rule amending part 730 of title 5 of the Code of Federal Regulations, which was published at 69 FR 61143 on October 15, 2004, is adopted as final without any changes.

[FR Doc. 06–2540 Filed 3–15–06; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 05–067–2]

Emerald Ash Borer; Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the emerald ash borer regulations by adding areas in Indiana, Michigan, and Ohio to the list of areas quarantined because of emerald ash borer. As a result of the interim rule, the interstate movement of regulated articles from those areas is restricted. The interim rule was necessary to prevent the artificial spread of the emerald ash borer from infested areas in the States of Indiana, Michigan, and Ohio into noninfested areas of the United States.

DATES: Effective on March 16, 2006, we are adopting as a final rule the interim rule that became effective on October 25, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah McPartlan, Operations Officer, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road

Unit 134, Riverdale, MD 20737–1236; (301) 734–4387.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective October 25, 2005, and published in the **Federal Register** on October 31, 2005 (70 FR 62230–62232, Docket No. 05–067–1), we amended the emerald ash borer regulations contained in 7 CFR 301.53–1 through 301.53–9 by adding Lima and Newbury Townships in LaGrange County, IN, and portions of Grand Traverse and Montcalm Counties, MI, and Auglaize, Fulton, Hancock, Henry, Lucas, Ottawa, Sandusky, and Wood Counties, OH, to the list of quarantined areas in § 301.53–3(c). The interim rule restricted the interstate movement of regulated articles from these quarantined areas to prevent the artificial spread of emerald ash borer to noninfested areas of the United States.

Comments on the interim rule were required to be received on or before December 30, 2005. We received one comment by that date, from a private citizen. The commenter offered a personal observation regarding the collection of firewood outside of a quarantined area, which we have brought to the attention of the relevant State officials, but did not provide any comments regarding the interim rule.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 70 FR 62230–62232 on October 31, 2005.

Done in Washington, DC, this 10th day of March 2006.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06–2549 Filed 3–15–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20970; Directorate Identifier 2004–NM–53–AD; Amendment 39–14511; AD 2006–06–03]

RIN 2120–AA64

Airworthiness Directives; Cessna Model 500, 501, 550, S550, 551, and 560 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Cessna Model 500, 501, 550, S550, 551, and 560 airplanes. This AD requires revising the airplane flight manual (AFM) to prohibit use of the wing fuel boost pumps for defueling under certain conditions; installing a placard; doing other specified investigative and corrective actions as necessary; and modifying the boost pumps. This AD also requires the subsequent removal of the AFM revision and placard. This AD results from a report of a chafed electrical wiring harness, which was arcing inside the fuel tank. We are issuing this AD to prevent potential fuel vapor ignition in a fuel tank, which could result in explosion and loss of the airplane.

DATES: This AD becomes effective April 20, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 20, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC.

Contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Bryan Easterwood, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4132; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Cessna Model 500, 501, 550, S550, 551, and 560 airplanes. That supplemental NPRM was published in the **Federal Register** on October 25, 2005 (70 FR 61580). That supplemental NPRM proposed to require revising the airplane flight manual (AFM) to prohibit use of the wing fuel boost pumps for defueling under certain conditions; installing a placard; doing other specified investigative and corrective actions as necessary; and modifying the boost pumps. That supplemental NPRM also would have required the subsequent removal of the AFM revision and placard.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been received on the supplemental NPRM or on the determination of the cost to the public.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD with the change described previously. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

There are about 2,397 airplanes of the affected design in the worldwide fleet; of these, 1,762 airplanes are U.S.-registered. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Applicable service bulletin	Work hours	Average hourly labor rate	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
SB500–28–12	20	$65	$2,229	$3,529	444	$1,566,876
SBS550–28–08	12	65	102	882	126	111,132
SB550–28–14	8	65	1,992	2,512	469	1,178,128
SB550–28–15	8	65	1,936	2,456	194	476,464
SB560–28–10	12	65	1,949	2,729	428	1,168,012
SB560–28–11	8	65	1,052	1,572	101	158,772

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–06–03 Cessna Aircraft Company: Amendment 39–14511. Docket No. FAA–2005–20970; Directorate Identifier 2004–NM–53–AD.

Effective Date

(a) This AD becomes effective April 20, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the Cessna airplanes listed in Table 1 of this AD, certificated in any category.

TABLE 1.—APPLICABILITY

Airplane model(s)	Serial Nos.
500 and 501	0001 through 0689 inclusive.
S550	0001 through 0160 inclusive.
550 and 551	0002 through 0733 inclusive.
550	0801 through 1075 inclusive.
560	0001 through 0648 inclusive.

Unsafe Condition

(d) This AD was prompted by a report of a chafed electrical wiring harness, which was arcing inside the fuel tank. We are issuing this AD to prevent potential fuel vapor ignition in a fuel tank, which could result in explosion and loss of the airplane.

Compliance

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

Service Information

(f) The term ''service bulletin'' as used in this AD refers to the applicable service bulletin listed in Table 2 of this AD.

TABLE 2.—SERVICE INFORMATION

For Cessna model—	Having serial Nos.—	Use Cessna service bulletin—	Dated—
500 and 501 airplanes	0001–0689	SB500–28–12	June 14, 2004.
S550 airplanes	0001–0160	SBS550–28–08	May 7, 2004.
550 and 551 airplanes	0002–0733	SB550–28–14	December 2, 2003.
550 airplanes	0801–1075	SB550–28–15	January 20, 2004.

TABLE 2.—SERVICE INFORMATION—Continued

For Cessna model—	Having serial Nos.—	Use Cessna service bulletin—	Dated—
560 airplanes	0001–0538	SB560–28–10	April 23, 2004.
560 airplanes	0539–0648	SB560–28–11	March 12, 2004.

AFM Revision

(g) Within 25 flight hours after the effective date of this AD: Revise the Limitations section of the applicable Cessna airplane flight manual (AFM) to prohibit use of the wing fuel boost pumps for defueling under certain conditions, by inserting the applicable temporary change identified in Cessna Service Bulletin SB550–28–14, dated December 2, 2003, or identified in Table 3 of this AD.

TABLE 3.—TEMPORARY CHANGES

Cessna temporary change—	Dated—	To the—
500FM TC–R57–01	April 5, 2004	Cessna Model 500 AFM.
500FM TC–R57–02	April 5, 2004	Cessna Model 500 AFM.
500FM TC–R57–03	April 5, 2004	Cessna Model 500 AFM.
55BFM TC–R10–07	March 17, 2004	Cessna Model 550 Citation Bravo AFM.
55BFM TC–R10–08	March 17, 2004	Cessna Model 550 Citation Bravo AFM.
55BFM TC–R10–09	March 17, 2004	Cessna Model 550 Citation Bravo AFM.
560FM TC–RC13–01	March 4, 2004	Cessna Model 560 Citation V AFM.
560FM TC–RC13–02	March 4, 2004	Cessna Model 560 Citation V AFM.
560FM TC–RC13–03	March 4, 2004	Cessna Model 560 Citation V AFM.
56FMA TC–04–01	March 4, 2004	Cessna Model 560 CItation Ultra AFM.
56FMA TC–04–02	March 4, 2004	Cessna Model 560 Citation Ultra AFM.
56FMA TC–04–03	March 4, 2004	Cessna Model 560 Citation Ultra AFM.
56FMB TC–R03–10	March 12, 2004	Cessna Model 560 AFM.
56FMB TC–R03–11	March 12, 2004	Cessna Model 560 AFM.
56FMB TC–R03–12	March 12, 2004	Cessna Model 560 AFM.
S55CA TC–04–01	July 8, 2004	Cessna Model S550 Citation S/II AFM.
S55CA TC–04–02	July 8, 2004	Cessna Model S550 Citation S/II AFM.
S55CA TC–04–03	July 8, 2004	Cessna Model S550 Citation S/II AFM.
S55FM TC–04–01	March 4, 2004	Cessna Model S550 Citation S/II AFM.
S55FM TC–04–02	March 4, 2004	Cessna Model S550 Citation S/II AFM.
S55FM TC–04–03	March 4, 2004	Cessna Model S550 Citation S/II AFM.

Placard Installation

(h) Within 25 flight hours after the effective date of this AD: Install a placard close to the fuel quantity gauge, in accordance with the Accomplishment Instructions of the service bulletin. In addition to the specifications in the service bulletin, the letters on the placard must be at least ¼-inch tall.

Inspection and Modification

(i) Within 300 flight hours after the effective date of this AD: Do the actions specified in paragraphs (i)(1) and (i)(2) of this AD in accordance with the Accomplishment Instructions of the service bulletin.

(1) Do a detailed inspection for chafed wiring of the wing fuel boost pumps, and, before further flight thereafter, do all applicable corrective and other specified actions.

(2) Modify the wing fuel boost pumps.

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

(j) Before further flight after the inspection and modification required by paragraph (i) of this AD, remove the AFM temporary change and placard required by paragraphs (g) and (h) of this AD.

Reporting Clarification

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

Alternative Methods of Compliance (AMOCs)

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

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Material Incorporated by Reference

(m) You must use the service information listed in Tables 4 and 5 of this AD, as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 4.—SERVICE BULLETINS

Cessna service bulletin—	Dated—
SB500–28–12	June 14, 2004.
SBS550–28–08	May 7, 2004.
SB550–28–14	December 2, 2003.
SB550–28–15	January 20, 2004.
SB560–28–10	April 23, 2004.
SB560–28–11	March 12, 2004.

TABLE 5.—TEMPORARY CHANGES

Cessna temporary change—	Dated—	To the—
500FM TC–R57–01	April 5, 2004	Cessna Model 500 AFM.
500FM TC–R57–02	April 5, 2004	Cessna Model 500 AFM.
500FM TC–R57–03	April 5, 2004	Cessna Model 500 AFM.
55BFM TC–R10–07	March 17, 2004	Cessna Model 550 Citation Bravo AFM.
55BFM TC–R10–08	March 17, 2004	Cessna Model 550 Citation Bravo AFM.
55BFM TC–R10–09	March 17, 2004	Cessna Model 550 Citation Bravo AFM.
560FM TC–R13–01	March 4, 2004	Cessna Model 560 Citation V AFM.
560FM TC–R13–02	March 4, 2004	Cessna Model 560 Citation V AFM.
560FM TC–R13–03	March 4, 2004	Cessna Model 560 Citation V AFM.
56FMA TC–04–01	March 4, 2004	Cessna Model 560 Citation Ultra AFM.
56FMA TC–04–02	March 4, 2004	Cessna Model 560 Citation Ultra AFM.
56FMA TC–04–03	March 4, 2004	Cessna Model 560 Citation Ultra AFM.
56FMB TC–R03–10	March 12, 2004	Cessna Model 560 AFM.
56FMB TC–R03–11	March 12, 2004	Cessna Model 560 AFM.
56FMB TC–R03–12	March 12, 2004	Cessna Model 560 AFM.
S55CA TC–04–01	July 8, 2004	Cessna Model S550 Citation S/II AFM.
S55CA TC–04–02	July 8, 2004	Cessna Model S550 Citation S/II AFM.
S55CA TC–04–03	July 8, 2004	Cessna Model S550 Citation S/II AFM.
S55FM TC–04–01	March 4, 2004	Cessna Model S550 Citation S/II AFM.
S55FM TC–04–02	March 4, 2004	Cessna Model S550 Citation S/II AFM.
S55FM TC–04–03	March 4, 2004	Cessna Model S550 Citation S/II AFM.

Issued in Renton, Washington, on March 3, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2408 Filed 3–15–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22121; Directorate Identifier 2004–NM–128–AD; Amendment 39–14512; AD 2006–06–04]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40 and –50 Series Airplanes, and Model DC–9–81 (MD–81), and DC–9–82 (MD–82) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain McDonnell Douglas Model DC–9–10, –20, –30, –40 and –50 series airplanes, and Model DC–9–81 (MD–81), and DC–9–82 (MD–82) airplanes. That AD currently requires installing a water drain system for the slant pressure panels in the left and right wheel wells of the main landing gear (MLG). This new AD also requires inspecting the seal assemblies of the overwing emergency exit doors for defects and constant gap; replacing defective door seals; performing repetitive operational checks of the water drain system auto drain valve and corrective actions if necessary; and, for certain airplanes, modifying the insulation blankets on the slant pressure panels in the left and right MLG wheel wells. This AD results from reports of water runoff from the slant pressure panels in the left and right MLG wheel wells, which subsequently froze on the lateral control mixer and control cable assemblies. We are issuing this AD to prevent ice from forming on the lateral control mixer and control cable assemblies, which could reduce controllability of the airplane.

DATES: This AD becomes effective April 20, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 20, 2006.

On August 18, 1993 (58 FR 38511, July 19, 1993), the Director of the Federal Register approved the incorporation by reference of certain other publications listed in the AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC.

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

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

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 93–13–07, amendment 39–8620 (58 FR 38511, July 19, 1993). The existing AD applies to certain McDonnell Douglas Model DC–9–10, –20, –30, –40 and –50 series airplanes, Model DC–9–81 and DC–9–82 series airplanes, and Model C–9 (Military) airplanes. That NPRM was published in the **Federal Register** on August 18, 2005 (70 FR 48502). That NPRM proposed to continue to require installing a water drain system for the slant pressure panels in the left and right wheel wells of the main landing gear (MLG). That NPRM also proposed to require inspecting the seal assemblies of the overwing emergency exit doors for defects and constant gap; replacing defective door seals; performing repetitive operational checks of the water drain system auto drain valve and corrective actions if necessary; and, for certain airplanes, modifying the insulation blankets on the slant pressure panels in the left and right MLG wheel wells.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been received on the NPRM.

Request To Eliminate Need for Alternate Method of Compliance (AMOC)

One commenter requests that we eliminate the need to request an AMOC. The commenter states that certain freighter airplanes had the auto drain valve removed in accordance with an AMOC with AD 93–13–07, which makes it impossible to perform the inspection required by paragraph (i) of the NPRM. The commenter states that revising paragraph (i) to address only airplanes that have not had the auto drain valve removed as discussed here would eliminate any need to request an AMOC in accordance with paragraph (i) of the NPRM.

We partially agree with this request. It is possible that an airplane that has had the auto drain valve removed as described could have the auto drain valve re-installed at some point. Therefore, we have revised paragraph (i) of the AD to be applicable to ''any airplane which is equipped with an auto drain valve of the slant pressure panel water drain system.''

Request To Provide Reference to Aircraft Maintenance Manual (AMM)

One commenter requests that we provide a reference of where to obtain instructions to accomplish the operational check of the auto drain valve system. The commenter states that paragraph (i) of the NPRM does not contain any details of where to find such instructions.

We agree with this request. Therefore, we have revised paragraph (i) of the AD to state that Chapter 51–10–01 of the Boeing MD–80 AMM or Chapter 51–00–01 of the Douglas DC–9 AMM is one approved method of performing the operational check and replacement of the auto drain valve.

Request To Revise Note 2

The same commenter requests that we revise Note 2 of the NPRM. The commenter states that paragraph (h) of the NPRM gives credit for inspections required by paragraph (g) of the AD that were performed before the effective date of the AD. The commenter believes that Note 2 should refer to paragraph (i) of the AD rather than paragraph (h) as Note 2 addresses documenting the repetitive inspections required by paragraph (i).

We agree with this request. Note 2 of the AD incorrectly referred to paragraph (h) of the AD, and we have revised Note 2 to refer to paragraph (i) of the AD as discussed.

Request To Eliminate Concurrent Service Bulletin

The same commenter requests that we reconsider paragraph (j) of the NPRM. The commenter states that the modification of the insulation blankets installed on the slant pressure panel and the general visual inspection specified in McDonnell Douglas Service Bulletin DC9–53–268, dated August 11, 1995 are mandated by paragraphs (a)(1) and (a)(2) of AD 96–11–04, amendment 39–9629 (61 FR 25557, May 22, 1996). The commenter asserts that these actions are also specified in McDonnell Douglas Service Bulletin DC9–53–268 R01, Revision 01, dated July 18, 1996, which is mandated for concurrent accomplishment by this AD. The commenter also asserts that Service Bulletin DC9–53–268 R01, Revision 01 states, ''No additional work is required by this revision for aircraft modified by prior issue of this service bulletin.'' We infer that the commenter believes that paragraph (j) is unnecessary and is requesting us to eliminate paragraph (j) from the AD.

We partially agree with this request. Though the requirements of paragraph (a)(1) of AD 96–11–04 apply to all airplanes identified in the original issue of Service Bulletin DC9–53–268, dated August 11, 1995, the requirements of paragraph (j) of this AD apply only to certain airplanes identified in Service Bulletin DC9–53–268 R01, Revision 01, that are also identified in Boeing Service Bulletin DC9–53–179, Revision 2, dated May 27, 2004. Airplanes already modified as specified in Service Bulletin DC9–53–268 (the appropriate source of service information for doing the requirements of paragraph (a)(1) of AD 96–11–04), are in compliance with paragraph (j) of this AD. However, to prevent any confusion, we have revised paragraph (j) to clarify that only certain airplanes are subject to the requirements of paragraph (j).

Request To Eliminate Inspection

The same commenter requests that we eliminate the one-time visual inspection of the overwing door seal assemblies proposed by paragraph (g) of the NPRM. The commenter states that this inspection is required by paragraph (a)(2) of AD 96–11–04, in accordance with McDonnell Douglas Service Bulletin DC9–53–268, dated August 11, 1995. The commenter also states that Service Bulletin DC9–53–268 and Service Bulletin DC9–53–179, Revision 2, both state that this inspection is to be accomplished in accordance with Chapter 52–21–00 of the Boeing MD–80 AMM or Chapter 52–21–0 of the Douglas DC–9 AMM, as applicable. The commenter believes that the inspection requirements of paragraph (g) were previously addressed by AD 96–11–04 and should not be repeated here.

We agree that both service bulletins refer to the same AMM chapter for performing the inspection required by paragraph (a)(2) of AD 96–11–04 and paragraph (g) of this AD. However, the inspection required by paragraph (g) of this AD is intended only for airplanes identified in the applicability of Service Bulletin DC9–53–179, Revision 2, and not for airplanes identified in the applicability of Service Bulletin DC9–53–268. In addition, even if certain airplanes should be identified in both service bulletins, paragraph (e) of this AD states ''unless the actions have already been done.'' This statement means that, if any visual inspection of

any overwing door seal assembly has been performed before the effective date of this AD in accordance with either service bulletin or paragraph (a)(2) of AD 96–11–04, no further visual inspection of that assembly is required by this AD. However, we have revised paragraph (h) of this AD to state that inspections done in accordance with paragraph (a)(2) of AD 96–11–04 are acceptable for compliance with the corresponding actions of this AD.

Request To Supersede Additional AD

One commenter requests that we revise the NPRM to supersede AD 96–11–04 as well as AD 93–13–07. The commenter states that paragraphs (g) and (j) of this AD constitute the same inspections and modifications as those required by AD 96–11–04 to be accomplished in accordance with Service Bulletin DC9–53–268 or DC9–53–268 R01, Revision 01. The commenter asserts that those inspections should be considered acceptable for compliance with the inspections required by paragraphs (g) and (j) of this AD. The commenter further asserts that the AMOC approved according to AD 96–11–04 should be approved as an AMOC for this AD.

We partially agree with this request. As already discussed, the inspections required by paragraph (a)(2) of AD 96–11–04 and paragraph (g) of this AD refer to the same AMM chapter; therefore, we have given credit for inspections done in accordance with paragraph (a)(2) of AD 96–11–04. Further, as already discussed and as specified in paragraph (j) of this AD, airplanes which have been modified in accordance with Service Bulletin DC9–53–268 as required by paragraph (a)(1) of AD 96–11–04 require no additional modification. Therefore, we will not supersede AD 96–11–04. However, we agree that AMOCs approved according to AD 96–11–04 also are acceptable for compliance with the requirements of this AD. Therefore, we have revised paragraph (k)(2) of the NPRM to state that AMOCs previously approved according to AD 96–11–04 are approved as AMOCs for the corresponding requirements of this AD; and, due to clarification of the AMOC paragraph as discussed below, we have re-identified paragraph (k)(2) of the NPRM as paragraph (k)(3) of the AD.

Clarification of AMOC Paragraph

We have added new paragraph (k)(2) to this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

We have carefully reviewed the available data, including the comments that have been received, and determined that air safety and the public interest require adopting the AD with the changes described previously as well as certain minor editorial changes that do not affect the legal or technical content of the AD. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

There are about 2,025 airplanes of the affected design in the worldwide fleet. This AD affects about 1,131 airplanes of U.S. registry. The following table provides the estimated costs, using an average labor rate of $65 per hour, for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Fleet cost
Install water drain system (required by AD 93–13–07)	8	$613	$1,133	$1,281,423
Inspect overwing emergency exit door seal assemblies (new action)	1	N/A	65	73,515
Modify insulation blankets of slant pressure panel (new action for certain airplanes only)	8	N/A	520	588,120
Check auto drain valve of slant pressure panel water drain system (new action)	1	N/A	[1]65	[1]73,515

[1] Per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–8620 (58 FR 38511, July 19, 1993) and by adding

the following new airworthiness directive (AD):

2006–06–04 McDonnell Douglas: Amendment 39–14512. Docket No. FAA–2005–22121; Directorate Identifier 2004–NM–128–AD.

Effective Date

(a) This AD becomes effective April 20, 2006.

Affected ADs

(b) This AD supersedes AD 93–13–07.

Applicability

(c) This AD applies to McDonnell Douglas Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–33F, DC–9–34, DC–9–34F, DC 9–32F (C–9A, C–9B), DC–9–41, DC–9–51, DC–9–81 (MD–81), and DC–9–82 (MD–82) airplanes; as identified in Boeing Service Bulletin DC9–53–179, Revision 2, dated May 27, 2004; certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports of water runoff from the slant pressure panels in the left and right main landing gear (MLG) wheel wells, which subsequently froze on the lateral control mixer and control cable assemblies. We are issuing this AD to prevent ice from forming on the lateral control mixer and control cable assemblies, which could reduce controllability of the airplane.

Compliance

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

Restatement of Requirements of AD 93–13–07

Installation of Water Drain System

(f) Within 24 months after August 18, 1993 (the effective date of AD 93–13–07), install a water drain system in the slant pressure panel, in accordance with McDonnell Douglas DC–9 Service Bulletin 53–179, dated January 18, 1985, as amended by Service Bulletin Change Notification 53–179 CN1, dated February 28, 1985, and Service Bulletin Change Notification 53–179 CN2, dated May 30, 1985; McDonnell Douglas Service Bulletin DC9–53–179, Revision 01, dated March 30, 1999; or Boeing Service Bulletin DC9–53–179, Revision 2, dated May 27, 2004. After the effective date of this AD, only Boeing Service Bulletin DC9–53–179, Revision 2, dated May 27, 2004, may be used.

New Requirements of This AD

Inspection of Door Seal Assemblies

(g) For all airplanes: Within 24 months after the effective date of this AD, perform a general visual inspection of the seal assemblies of the overwing emergency exit doors for defects and constant gap, and, before further flight, replace any defective door seal with a new door seal; in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC9–53–179, Revision 2, dated May 27, 2004.

Note 1: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Inspections Already Accomplished

(h) Inspections accomplished before the effective date of this AD in accordance with McDonnell Douglas Service Bulletin DC9–53–179, Revision 01, dated March 30, 1999; or McDonnell Douglas Service Bulletin DC9–53–268, dated August 11, 1995, as referenced in paragraph (a)(2) of AD 96–11–04; are considered acceptable for compliance with the requirements of paragraph (g) of this AD.

Operational Check of Drain Valve

(i) For any airplane which is equipped with an auto drain valve of the slant pressure panel water drain system: Within 24 months after the effective date of this AD, perform an operational check of the auto drain valve and repeat this check at intervals not to exceed 24 months. If any auto drain valve is found to be obstructed or inoperative, before further flight, replace the auto drain valve with a new auto drain valve according to a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Chapter 51–10–01 of the Boeing MD–80 Aircraft Maintenance Manual (AMM) or Chapter 51–00–01 of the Douglas DC–9 AMM, as applicable, is one approved method of performing the operational check and replacement of the auto drain valve.

Note 2: After an operator complies with the requirements of paragraph (i) of this AD, paragraph (i) does not require that operators subsequently record accomplishment of those requirements each time an auto drain valve is checked or replaced according to that operator's FAA-approved maintenance inspection program.

Concurrent Service Bulletin for Certain Airplanes Only

(j) For airplanes identified in Boeing Service Bulletin DC9–53–179, Revision 2, dated May 27, 2004, that are also identified in McDonnell Douglas Service Bulletin DC9–53–268 R01, Revision 01, dated July 18, 1996: At the applicable compliance time specified in paragraph (j)(1) or (j)(2) of this AD, modify the insulation blankets on the slant pressure panels in the left and right wheel wells of the MLG, in accordance with Boeing Service Bulletin DC9–53–268 R01, Revision 01, dated July 18, 1996. Modifications accomplished before the effective date of this AD as specified in McDonnell Douglas Service Bulletin DC9–53–268, dated August 11, 1995, are acceptable for compliance with this paragraph.

(1) For airplanes that have been modified, as specified in paragraph (f) of this AD, prior to the effective date of this AD: Within 24 months after the effective date of this AD.

(2) For airplanes that have not been modified, as specified in paragraph (f) of this AD, prior to the effective date of this AD: Prior to or concurrently with the accomplishment of paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Los Angeles ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) AMOCs approved previously in accordance with AD 93–13–07 and AD 96–11–04 are approved as AMOCs for the corresponding requirements of this AD.

Material Incorporated by Reference

(l) You must use the service information listed in Table 1 of this AD, as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Service information	Revision level	Date
Boeing Service Bulletin DC9–53–179	2	May 27, 2004.
McDonnell Douglas DC–9 Service Bulletin 53–179	Original	January 18, 1985.
McDonnell Douglas Service Bulletin DC9–53–179	01	March 30, 1999.
McDonnell Douglas Service Bulletin DC9–53–268 R01	01	July 18, 1996.
Service Bulletin Change Notification 53–179 CN1 for McDonnell Douglas DC–9 Service Bulletin 53–179, dated January 18, 1985.	Original	February 28, 1985.
Service Bulletin Change Notification 53–179 CN2 for McDonnell Douglas DC–9 Service Bulletin 53–179, dated January 18, 1985.	Original	May 30, 1985.

(1) The Director of the Federal Register approved the incorporation by reference of McDonnell Douglas Service Bulletin DC9–53–179, Revision 01, dated March 30, 1999; Boeing Service Bulletin DC9–53–179, Revision 2, dated May 27, 2004; and McDonnell Douglas Service Bulletin DC9–53–268 R01, Revision 01, dated July 18, 1996; in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On August 18, 1993 (58 FR 38511, July 19, 1993), the Director of the Federal Register approved the incorporation by reference of McDonnell Douglas DC–9 Service Bulletin 53–179, dated January 18, 1985; and Service Bulletin Change Notification 53–179 CN1, dated February 28, 1985, and Service Bulletin Change Notification 53–179 CN2, dated May 30, 1985, for McDonnell Douglas DC–9 Service Bulletin 53–179, dated January 18, 1985.

(3) Contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024), for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 3, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2409 Filed 3–15–06; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23648; Directorate Identifier 2006–CE–07–AD; Amendment 39–14514; AD 2006–06–06]

RIN 2120–AA64

Airworthiness Directives; The Cessna Aircraft Company Models 208 and 208B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) to supersede AD 2005–07–01, which applies to all The Cessna Aircraft Company (Cessna) Models 208 and 208B airplanes. AD 2005–07–01 currently requires you to incorporate information into the applicable section of the Airplane Flight Manual (AFM). This AD is the result of several accidents/incidents with the affected airplanes during operations in icing conditions, FAA evaluation of Cessna flight test data, Cessna issuing AFM revisions, and FAA determining these revisions are necessary for safe operation. Consequently, this AD updates the actions of AD 2005–07–01 that require incorporation of text in the AFM and requires the insertion of new text in the AFM, and the fabrication and installation of placards. We are issuing this AD to assure that the pilot has enough information to prevent loss of control of the airplane while in-flight during icing conditions.

DATES: This AD becomes effective on March 24, 2006.

We must receive any comments on this AD by May 22, 2006.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *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.

To get the service information identified in this proposed AD, contact The Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277–7706; telephone: (316) 517–5800; facsimile: (316) 942–9006.

To view the comments to this AD, go to *http://dms.dot.gov.* The docket number is FAA–2006–23648; Directorate Identifier 2006–CE–07–AD.

FOR FURTHER INFORMATION CONTACT: Robert P. Busto, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4157; facsimile: (316) 946–4107.

SUPPLEMENTARY INFORMATION: *Has FAA taken any action to this point?* Several accidents/incidents with Cessna Models 208 and 208B airplanes during operations in icing conditions, including six accidents in the 2003/2004 and 2004/2005 icing seasons, and nine events in the 2004/2005 icing season caused us to issue AD 2005–07–01, Amendment 39–14025 (70 FR 15223, March 25, 2005). AD 2005–07–01 currently requires you to incorporate information into the applicable section of the Airplane Flight Manual (AFM) on Cessna Models 208 and 208B. This accident/incident data and the evaluation of recent Cessna flight test data prompted us to issue AD 2006–01–11, Amendment 39–14450 (71 FR 1941). AD 2006–01–11 requires the installation of a pilot assist handle, pneumatic deicing boots on the cargo pod and landing gear struts, and changes to the Limitations section of AFM if the airplane is to be operated in ground icing conditions and approved for flight into known or forecast icing conditions.

What has happened since AD 2005–07–01 to initiate this AD action? So far for the icing season of 2005/2006, the FAA is aware of the following:

- On October 6, 2005, a fatal accident occurred shortly after takeoff in which the pilot reported a failure to maintain altitude while in icing conditions and a subsequent loss of control.
- On November 19, 2005, a Model C208 experienced a loss of controlled flight while in icing conditions during descent that resulted in a fatal accident.
- On November 22, 2005, an incident occurred in which a Model C208 suffered a loss of control during climb with the autopilot engaged in icing conditions.
- On December 5, 2005, Cessna published revisions to the AFM Icing Supplement. These revisions incorporated climb performance data in icing based on a natural icing encounter in moderate, mixed conditions.
- Cessna briefed the FAA that flight testing with ice shapes representing intercycle ice in a moderate, clear ice encounter showed the actual climb performance is lower than the data published in the AFM Icing Supplement revision, dated December 5, 2005, and that the aural stall warning system will not activate prior to stall in some icing conditions.
- The AFM Icing Supplement, dated December 5, 2005, contained incorrect maximum weight limits for the 600 HP versions of the Model 208.

In summary, for the nine events that occurred during the 2004/2005 icing season, airplane performance was degraded to a point in which altitude could not be maintained or the airplane could not climb to exit icing conditions. In one accident and one incident this 2005/2006 icing season, inadequate situational awareness may have contributed to a loss of controlled flight

and in the one case may have resulted in an accident.

What is the potential impact if FAA took no action? If the pilot does not have enough information to conduct safe flight into icing conditions in the AFM, then loss of control of the airplane could occur.

Is there service information that applies to this subject? Cessna has developed revisions to the FAA-approved AFM to address this issue, as follows:

Document	Affects
Temporary Revision 208PHTR05, dated June 27, 2005, to the FAA-approved Airplane Flight Manual.	Cessna Model 208, all models and serial numbers.
Revision 6 of the 208 (675 SHP) FAA-approved Flight Manual Supplement 1 ''Known Icing Equipment'', Cessna document D1352–S1–06, dated June 27, 2005.	Cessna Model 208 airplanes with a Pratt & Whitney of Canada Ltd., PT6A–114 turboprop engine installed (675 SHP) or FAA-approved engine of equivalent horsepower installed, except airplanes modified by Supplemental Type Certificate SA00892WI.
Revision 6 of the 208 (600 SHP) FAA–SHP) FAA-approved Flight Manual Supplement S1 ''Known Icing Equipment'', Cessna document D1307–S1–06, dated June 27, 2005.	Cessna Model 208 airplanes with a Pratt & Whitney of Canada Ltd., PT6A–114 turboprop engine installed (600 SHP) or FAA-approved engine of equivalent horsepower installed, except airplanes modified by Supplemental Type Certificate SA00892WI.
Revision 7 of the 208B (675 SHP) FAA-approved Flight Manual Supplement S1 ''Known Icing Equipment'', Cessna document D1329-S1–07, dated June 27, 2005.	Cessna Model 208B airplanes with a Pratt & Whitney of Canada Ltd., PT6A–114A turboprop engine installed (675 SHP) or FAA-approved engine of equialent horsepower installed, except airplanes modified by Supplemental Type Certificate SA00892WI.
Revision 6 of the 208B (600 SHP) FAA-approved Flight Manual Supplement S1 ''Known Icing Equipment'', Cessna document D1309–S1–06, dated June 27, 2005.	Cessna Model 208B airplanes with a Pratt & Whitney of Canda Ltd., OT6A–114 turboprop engine installed (600 SHP) or FAA-approved engine of equivalent horsepower installed, except airplanes modified by Supplemental Type Certificate SA00892WI.

FAA's Determination and Requirements of the AD

What has FAA decided? We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other Cessna Models 208 and 208B airplanes of the same type design. Therefore, we are issuing this AD to assure that the pilot has enough information to prevent loss of control of the airplane while in-flight during icing conditions.

What does this AD require? This AD supersedes AD 2005–07–01 with a new AD that requires the incorporation of later revisions to the FAA-approved AFM and FAA-approved AFM Supplement S1 ''Known Icing Equipment'', requires the incorporation of new text in the Limitations Section of the AFM and AFM Supplement, requires the incorporation of new text in the Performance Section of the AFM Supplement, and the fabrication and installation of placards.

In preparing this rule, we contacted type clubs and aircraft operators last winter to get technical information and information on operational and economic impacts. We received comments on the performance of the airplane in moderate icing conditions, however we did not receive any comments related to the low speed annunciation system. Although we have not previously proposed limitations on autopilot use in icing, the limitation on autopilot use is an interim action until an acceptable low speed annunciation system is developed and installed on the airplane. We have included a discussion of information that may have influenced this action in the rulemaking docket.

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Comments Invited

Will I have the opportunity to comment before you issue the rule? This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2006–23648; Directorate Identifier 2006–CE–07–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it. If a person contacts us through a nonwritten communication, and that contact relates to a substantive part of this AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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 AD.

Regulatory Findings

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

responsibilities among the various levels of government.

Will this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this AD:

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

2. Is not a ''significant rule'' under 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 summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket FAA–2006–23648; Directorate Identifier 2006–CE–07–AD'' in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2005–07–01, Amendment 39–14025 (70 FR 15223, March 25, 2005), and by adding a new AD to read as follows:

2006–06–06 The Cessna Aircraft Company: Amendment 39–14514; Docket No. FAA–2006–23648; Directorate Identifier 2006–CE–07–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on March 24, 2006.

Are Any Other ADs Affected By This Action?

(b) Yes. This AD supersedes AD 2005–07–01; Amendment 39–14025.

What Airplanes Are Affected by This AD?

(c) This AD affects Models 208 and 208B, all serial numbers, that are certificated in any category.

What is the Unsafe Condition Presented in This AD?

(d) This AD is the result of several accidents/incidents with the affected airplanes during operations in icing conditions, FAA evaluation of Cessna flight test data, Cessna issuing service information, and FAA evaluating the service information. We are issuing this AD to assure that the pilot has enough information to prevent loss of control of the airplane while in-flight during icing conditions.

What Must I Do To Address This Problem?

(e) No later than March 27, 2006 (3 days after the effective date of this AD of March 24, 2006), incorporate the following revisions into the Airplane Flight Manual (AFM):

Affected airplanes	Incorporate the following AFM revision document
(1) Cessna Model 208 airplanes and Model 208B airplanes, all serial numbers.	Section 2: Limitations and Section 4: Normal Procedures: Temporary Revision 208PHTR05, dated June 27, 2005, to the Pilots Operating Handbook (POH) and FAA-approved Airplane Flight Manual (AFM).
(2) Cessna Model 208 airplanes with a Pratt & Whitney of Canada Ltd., PT6A–114A turboprop engine installed (675 SHP) or FAA-approved engine of equivalent horsepower installed, equipped with airframe deicing pneumatic boots, that are not currently prohibited from flight in known or forecast icing.	Section 9: Optional Systems Description and Operating Procedures: Revision 6 of the 208 (675 SHP) POH/FAA-approved AFM Supplement S1 ''Known Icing Equipment'', Cessna document D1352–S1–06, dated June 27, 2005.
(3) Cessna Model 208 airplanes with a Pratt & Whitney of Canada Ltd., PT6A–114 turboprop engine installed (600 SHP) or FAA-approved engine of equivalent horsepower installed, equipped with airframe deicing pneumatic boots, that are not currently prohibited from flight in known or forecast icing.	Section 9: Optional Systems Description and Operating Procedures: Revision 6 of the Cessna Model 208 (600 SHP) POH/FAA-approved AFM Supplement S1 ''Known Icing Equipment'', Cessna document D1307–S1–06, dated June 27, 2005.
(4) Cessna Model 208B airplanes with a Pratt & Whitney of Canada Ltd., PT6A–114A turboprop engine installed (675 SHP) or FAA-approved engine of equivalent horsepower installed, equipped with airframe deicing pneumatic boots, that are not currently prohibited from flight in known or forecast icing.	Section 9: Optional Systems Description and Operating Procedures: Revision 7 of the 208B (675 SHP) POH/FAA-approved AFM Supplement S1 ''Known Icing Equipment'', Cessna document D1329–0S1–007, dated June 27, 2005.
(5) Cessna Model 208B airplanes with a Pratt & Whitney of Canada Ltd., PT6A–114 turboprop engine installed (600 SHP) or FAA-approved engine of equivalent horsepower installed, equipped with airframe deicing pneumatic boots, that are not of the currently prohibited from flight in known or forecast icing.	Section 9: Optional Systems Description and Operating Procedures: Revision 6 208B (600 SHP) POH/FAA-approved AFM Supplement S1 ''Known Icing Equipment'', Cessna document D1309–0S1–006, dated June 27, 2005.

(f) You must do the following, unless already done. These changes are to the Pilots Operating Handbook (POH) and FAA-approved AFM and to the POH/FAA-approved AFM Supplement S1 ''Known Icing Equipment'' mandated in paragraph (e) of this AD:

Actions	Compliance	Procedures
(1) For Cessna Model 208 airplanes and Model 208B airplanes, all serial numbers, equipped with airframe deicing pneumatic boots, that are not currently prohibited from flight in known or forecast icing: You are prohibited from continued flight after encountering moderate or greater icing conditions. The airplane can dispatch into forecast areas of icing but must exit moderate or greater icing conditions if encountered.	No later than March 27, 2006 (3 days after the effective date of this AD of March 24, 2006).	Not Applicable.

Actions	Compliance	Procedures
(2) For Cessna Model 208 airplanes and Model 208B airplanes, all serial numbers, equipped with airframe deicing pneumatic boots, that are not currently prohibited from flight in known or forecast icing: (i) Insert the text in Appendix 1 of this AD preceding the KINDS OF OPERATION LIMITS paragraph in the LIMITATIONS section of the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-approved Airplane Flight Manual (AFM). (ii) Insert the text in Appendix 2 of this AD in the LIMITATIONS section of the Cessna Models 208 or 208B POH and FAA-approved AFM KNOWN ICING EQUIPMENT SUPPLEMENT S1 at the beginning of the paragraph ''REQUIRED EQUIPMENT''.	No later than March 27, 2006 (3 days after the effective date of this AD of March 24, 2006).	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the information into the POH as specified in paragraph (f)(2) of this AD. You may insert a copy of this AD into the appropriate sections of the POH to comply with this action. Make an entry into the aircraft records showing compliance with portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(3) For Cessna Model 208 airplanes and Model 208B airplanes, all serial numbers, equipped with airframe deicing pneumatic boots, that are not currently prohibited from flight in known or forecast icing: Install 3 placards with black letters on a white background. The placards shall be located on the instrument panel in one of the following areas: under the radio stack, immediately above the pilot's flight instruments, or below the pilot's vertical speed indicator. Lettering on the placard shall be a minimum height of ⅛-inch. (i) Placard 1 shall include the text of Appendix 3 of this AD. (ii) Placard 2 shall include the following text: ''120 KIAS Minimum in Icing Flaps UP except 110 KIAS if Climbing to Exit Icing''. (iii) Placard 3 shall include the following text: ''Disconnect autopilot at first indication of ice accretion''.	No later than March 27, 2006 (3 days after the effective date of this AD of March 24, 2006).	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may install the placards as specified in paragraph (f)(3) of this AD. You may insert a copy of this AD into the appropriate sections of the POH to comply with this action. Make an entry into the aircraft records showing compliance with portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(4) For Cessna Model 208 airplanes and Model 208B airplanes, all serial numbers, equipped with airframe deicing pneumatic boots, that are not currently prohibited from flight in known or forecast icing: (i) Insert the text in Appendix 4 of this AD under the ''AIRSPEED LIMITATIONS'' paragraph in the LIMITATIONS section of the Cessna Models 208 or 208B POH and FAA-approved AFM. (ii) Replace the text in the KNOWN ICING EQUIPMENT SUPPLEMENT S1 UNDER THE ''MINIMUM SPEED IN ICING CONDITIONS'' paragraph with the text in Appendix 4. (iii) Insert the following text in the LIMITATIONS section of the POH/AFM under the ''OTHER LIMITATIONS'' paragraph and in the LIMITATIONS section of the KNOWN ICING EQUIPMENT SUPPLEMENT S1 under the ''AUTOPILOT OPERATIONS IN ICING CONDITIONS'' paragraph: ''Disconnect autopilot at first indication of ice accretion''.	No later than March 27, 2006 (3 days after the effective date of this AD of March 24, 2006).	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the information into the POH as specified in paragraph (f)(4) of this AD. You may insert a copy of this AD into the appropriate sections of the POH to comply with this action. Make an entry into the aircraft records showing compliance with portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

Actions	Compliance	Procedures
(5) For Cessna Model 208 airplanes and Model 208B airplanes, all serial numbers, equipped with airframe deicing pneumatic boots, that are not currently prohibited from flight in known or forecast icing:. (i) Replace the text in the PERFORMANCE section of the Cessna Models 208 or 208B POH and FAA-approved AFM KNOWN ICING EQUIPMENT SUPPLEMENT S1 UNDER THE ''STALL SPEEDS'' paragraph with the text in Appendix 5. (ii) Replace the ''WARNING'' text in the LIMITATIONS section of the Cessna Models 208 or 208B POH and FAA-approved AFM KNOWN ICING EQUIPMENT SUPPLEMENT S1 under ''ENVIRONMENTAL CONDITIONS'' with: ''FLIGHT IN THESE CONDITIONS ARE PROHIBITED''. (iii) Replace the last two sentences in the LIMITATIONS section of the Cessna Models 208 or 208B POH and FAA-approved AFM KNOWN ICING EQUIPMENT SUPPLEMENT S1 under ''ENVIRONMENTAL CONDITIONS'' with the following text: ''Exit strategies should be determined during preflight planning''.	No later than March 27, 2006 (3 days after the effective date of this AD of March 24, 2006).	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the information into the POH as specified in paragraph (f)(5) of this AD. You may insert a copy of this AD into the appropriate sections of the POH to comply with this action. Make an entry into the aircraft records showing compliance with portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

How Do I Remove the Icing Prohibition of Paragraph (f)(1) of This AD?

(g) The prohibition from continued flight after encountering moderate or greater icing conditions (the prohibition of paragraph (f)(1) of this AD) may be removed when all of the following occurs:

(1) The FAA, with Cessna's assistance, determines that the aircraft models can operate safely in icing conditions, and any required information from this activity is made available to operators;

(2) The FAA approves a Low Speed Awareness System, that as a minimum incorporates an aural warning and activates at a minimum of 110 KIAS, and it is scheduled for installation on your aircraft within an acceptable amount of time;

(3) You comply with AD 2006–01–11, Amendment 39–14450 (71 FR 1941) (or later revised AD), as required for your aircraft, and

(4) The FAA will notify operators about paragraphs (g)(1) and (g)(2) of this AD by either distribution of a special airworthiness information bulletin (SAIB) such that operators can apply for an alternative method of compliance and/or through a revision of this AD.

May I Request an Alternative Method of Compliance?

(h) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Wichita Aircraft Certification Office (ACO), FAA. The alternative method of compliance to AD 2005–07–01, dated June 22, 2005 has now been incorporated into the rule. For information on any already approved alternative methods of compliance, contact Robert P. Busto, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4157; facsimile: (316) 946–4107.

May I Get Copies of the Document Referenced in This AD?

(i) You may obtain the service information referenced in this AD from The Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277–7706; telephone: (316) 517–5800; facsimile: (316) 942–9006. 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 FAA–2006–23648; Directorate Identifier 2006–CE–07–AD.

Appendix 1 to AD 2006–06–06—Changes to the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual

Affected Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual (AFM)

Insert the following text at the beginning of the KINDS OF OPERATION LIMITS paragraph in the LIMITATIONS section of the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual (AFM). This may be done by inserting a copy of this AD into the POH/AFM:

''Continued flight after encountering moderate or greater icing conditions is prohibited. One or more of the following defines moderate icing conditions for this airplane:

Indicated airspeed in level cruise flight at constant power decreases by 20 knots.

Engine torque required to maintain airspeed increases by 400 ft. lbs.

Airspeed of 120 KIAS cannot be maintained in level flight.

An accretion of ¼-inch of ice is observed on the wing strut.

Disregard any mention of approval for flight in icing conditions within the POH/AFM.''

Appendix 2 to AD 2006–06–06—Changes to the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual

Affected Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA–Approved Airplane Flight Manual (AFM)

Insert the following text in the LIMITATIONS section of the POH and FAA-approved AFM KNOWN ICING EQUIPMENT SUPPLEMENT S1, at the beginning of the paragraph ''REQUIRED EQUIPMENT''. This may be done by inserting a copy of this AD into the POH/AFM:

''Continued flight after encountering moderate or greater icing conditions is prohibited. One or more of the following defines moderate icing conditions for this airplane:

Indicated airspeed in level flight at constant power decreases by 20 knots.

Engine torque required to maintain airspeed increases by 400 ft. lbs.

Airspeed of 120 KIAS cannot be maintained in level flight.

An accretion of ¼-inch of ice is observed on the wing strut.

Disregard any mention of approval for flight in icing conditions within the POH/AFM.''

Appendix 3 to AD 2006–06–06—Cessna Model 208 Airplanes and Model 208B Airplanes, Equipped With Airframe Deicing Pneumatic Boots, That Are Not Currently Prohibited From Flight in Known or Forecast Icing

Install a placard with black letters on a white background. The placard shall be located on the instrument panel in one of the following areas: Under the radio stack, immediately above the pilot's flight instruments, or below the pilot's vertical speed indicator. Lettering on the placard shall be a minimum ⅛-inch tall and state the following:

''Continued flight after encountering moderate or greater icing conditions is prohibited. One or more of the following defines moderate icing conditions for this airplane:

Airspeed in level flight at constant power decreases by 20 KIAS.
Engine torque required to maintain airspeed increases by 400 ft. lbs.
120 KIAS cannot be maintained in level flight.
Ice accretion of ¼ inch observed on the wing strut.''

Appendix 4 to AD 2006–06–06—Changes to the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual Supplement S1

Affected Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual (AFM) and FAA-Approved Supplement S1

Insert the following text into the LIMITATIONS section under the ''AIRSPEED LIMITATIONS'' paragraph of the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual (AFM), and Replace the text in the KNOWN ICING EQUIPMENT SUPPLEMENT S1 under the ''MINIMUM SPEED IN ICING CONDITIONS'' paragraph with the following text. This may be done by inserting a copy of this AD into the POH/AFM:

Minimum airspeed in icing conditions, for all flight phases including approach, except takeoff and landing:

Flaps up: 120 KIAS
Flaps 10°: 105 KIAS
Flaps 20°: 95 KIAS

Exception for flaps up: when climbing to exit icing conditions airspeed can be reduced to 110 KIAS minimum.

Flaps must be extended during all phases (takeoff and landing included) at airspeeds below 110 KIAS, except adhere to published AFM procedures when operating with ground deicing/anti-icing fluid applied.

WARNING

The aural stall warning system does not function properly in all icing conditions and should not be relied upon to provide adequate stall warning when in icing conditions.''

Note: These are minimum speeds for operations in icing conditions. Disregard any reference to the original speeds within the POH/AFM.

Appendix 5 to AD 2006–06–06—Changes to the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual Supplement S1

Replace the text in the PERFORMANCE section of the POH/AFM KNOWN ICING EQUIPMENT SUPPLEMENT S1 under the ''STALL SPEEDS'' paragraph with the following text:

''Ice accumulation on the airframe may result in a 20 KIAS increase in stall speed. Either buffet or aural stall warning should be treated as an imminent stall.''

''WARNING—The aural stall warning system does not function properly in all icing conditions and should not be relied upon to provide adequate stall warning when in icing conditions.''

Issued in Kansas City, Missouri, on March 10, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2544 Filed 3–15–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21275; Directorate Identifier 2005–CE–28–AD; Amendment 39–14515; AD 2006–01–11 R1]

RIN 2120–AA64

Airworthiness Directives; The Cessna Aircraft Company Models 208 and 208B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document clarifies the intent of AD 2006–01–11, which was published in the **Federal Register** on January 12, 2006 (71 FR 1941). AD 2006–01–11 applies to Cessna Models 208 and 208B airplanes and requires the installation of a pilot assist handle and deicing boots on the cargo pod and landing gear fairings; and the incorporation of changes to the Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual (AFM). The compliance time for the AFM/POH change currently reads ''prior to further flight'' after the installation of the pilot assist handle, which is required within 125 days after the effective date. The AFM/POH change is related to operation in ground icing conditions and should not be attributed to the pilot assist handle installation. Therefore, the compliance time should also be within 125 days after the effective date. Additionally, the requirement of installing the accessory kit or installing a placard should only apply to those airplanes equipped with a cargo pod and pneumatic deicing boots. The way it currently is written makes it apply to all airplanes equipped with pneumatic deicing boots. This AD action rewords the compliance time and the wording for the installation or placard requirement to reflect the above concerns.

DATES: The effective date of this AD remains February 22, 2006.

As of February 22, 2006, the Director of the Federal Register previously approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: To get the service information identified in this AD, contact The Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277–7706; telephone: (316) 517–5800; facsimile: (316) 942–9006.

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 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2005–21275; Directorate Identifier 2005–CE–28–AD.

FOR FURTHER INFORMATION CONTACT: Paul Pellicano, Aerospace Engineer (Icing), FAA, Small Airplane Directorate, c/o Atlanta Aircraft Certification Office (ACO), One Crown Center, 1985 Phoenix Boulevard, Suite 450, Atlanta, GA 30349; telephone: (770) 703–6064; facsimile: (770) 703–6097; or Robert P. Busto, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4157; facsimile: (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Discussion

What Prior Action Did FAA Take on This Subject?

On January 5, 2006, FAA issued AD 2006–01–11, Amendment 39–14450 (71 FR 1941, January 12, 2006), which applies to certain Cessna Models 208 and 208B airplanes.

AD 2006–01–11 requires:

• Installation of a pilot assist handle (part number (P/N) SK208–146–2) (or FAA-Approved equivalent part number)

and deicing boots on the cargo pod and landing gear fairings (part number (P/N) AK208–6C) (or FAA-approved equivalent part number); and

• Incorporation of changes to the Pilot's Operating Handbook (POH) and FAA-approved Airplane Flight Manual (AFM).

Why Is It Necessary To Change AD 2006–01–11?

The compliance time for the AFM/POH change currently reads ''prior to further flight'' after the installation of the pilot assist handle, which is required within 125 days after the effective date. The AFM/POH change is related to operation in ground icing conditions and should not be attributed to the pilot assist handle installation. Therefore, the compliance time should also be within 125 days after the effective date. Additionally, the requirement of installing the accessory kit or installing a placard should only apply to those airplanes equipped with a cargo pod and pneumatic deicing boots. The way it currently is written makes it apply to all airplanes equipped with pneumatic deicing boots. This installation is not possible for those airplanes that are not equipped with a cargo pod and pneumatic deicing boots.

Correction of Publication

What Is the Purpose of This Document?

This document clarifies AD 2006–01–11 to allow compliance with the AD and assure the intent of the current AD is clear. It also adds the amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

We are clarifying and re-issuing the AD in its entirety to help eliminate any confusion that AD 2006–01–11 may have created.

Is It Necessary To Seek Public Input?

Since this action only clarifies the intent, it has no adverse economic impact and imposes no additional burden on any person than would have been necessary to comply with AD 2006–01–11. Therefore, FAA has determined that prior notice and opportunity for public comment are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. FAA amends § 39.13 by removing Airworthiness Directive (AD) 2006–01–11, Amendment 39–14450 (71 FR 1941, January 12, 2006), and by adding a new AD to read as follows:

2006–01–11 R1 The Cessna Aircraft Company: Amendment 39–14515; Docket No. FAA–2005–21275; Directorate Identifier 2005–CE–28–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on February 22, 2006. The effective date of this AD is retained from AD 2006–01–11.

What Other ADs Are Affected by This Action?

(b) This AD revises AD 2006–01–11, Amendment 39–14450.

What Airplanes Are Affected by This AD?

(c) This AD affects Models 208 and 208B, all serial numbers, that are certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of reports of several accidents involving the affected airplanes during operations in-flight and in ground icing conditions. We are issuing this AD to provide a safe method to detect ice, snow, frost, or slush adhering to the upper wing (a critical surface) prior to takeoff; and to reduce drag in-flight by shedding ice on the cargo pod and landing gear fairings. Ice adhering to the upper wing surface, cargo pod, or landing gear fairings could result in a reduction in airplane performance with the consequences that the airplane cannot perform a safe takeoff or climb or maintain altitude.

What Must I Do To Address This Problem?

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

Actions	Compliance	Procedures
(1) Install the pilot assist handle SK208–146–2 subkit (part number (P/N) SK208–146–2) (or FAA-approved equivalent part number) if the airplane will be operated in the ground icing conditions defined under ''Visual/Tactile Check'' in the LIMITATIONS section of the AFM after the compliance time.	Within the next 125 days after February 22, 2006 (the effective date of this AD), unless already done.	Install the pilot assist handle SK208–146–2 subkit (part number (P/N) SK208–146–2) (or FAA-approved equivalent part number) following step 4 of the Accomplishment Instructions of Cessna Caravan Service Kit No. SK208–146, dated October 4, 2004.
(2) 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 parts to correct the unsafe condition under PMA (other than identicality). 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.

Actions	Compliance	Procedures
(3) Insert the text in Appendix 1 of this AD after the ''OTHER LIMITATIONS'' in the LIMITATIONS section of the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-approved Airplane Flight Manual (AFM).	Within the next 125 days after February 22, 2006 (the effective date of this AD) unless already done.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the information into the POH as specified in paragraph (e)(3) of this AD. You may insert a copy of this AD into the appropriate sections of the POH to comply with this action. Make an entry into the aircraft records showing compliance with portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(4) For Cessna Model 208B with Pratt & Whitney of Canada Ltd., PT6A–114 Turbo Prop engine installed (600 SHP) or equipped with a cargo pod and pneumatic deicing boots, do one of the following: (i) Install Cessna Accessory Kit AK208–6C per Cessna Service Bulletin CAB95–19; or. (ii) Install a placard in view of the pilot which states ''This airplane is prohibited from flight in known or forecast icing''.	Within the next 125 days after February 22, 2006 (the effective date of this AD), unless already done.	Install the cargo pod and landing gear fairing deice kit (part number (P/N) AK208–6C2) (or FAA-approved equivalent part number) following the Installation Instructions of Cessna Caravan Service Bulletin No. CAB95–19, dated October 13, 1995, and Cessna Caravan Accessory Kit No. AK208–6C, Revision C, dated August 27, 1993. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may install the placard as specified in paragraph (e)(4) of this AD. You may insert a copy of this AD into the appropriate sections of the POH to comply with this action. Make an entry into the aircraft records showing compliance with portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(5) For all Cessna Model 208 and 208B airplanes equipped with a cargo pod and pneumatic deicing boots and not included in paragraph (e)(4) of this AD, do one of the following: (i) Install Cessna Accessory Kit AK208–6C per Cessna Service Bulletin CAB93–20 Revision 1; or (ii) Install a placard in view of the pilot with the following words: ''This airplane is prohibited from flight in known or forecast icing''.	Within the next 125 days after February 22, 2006 (the effective date of this AD), unless already done.	Do the installation following the Installation Instructions of Cessna Caravan Service Bulletin No. CAB93–20, Revision 1, dated October 13, 1995, and Cessna Caravan Accessory Kit No. AK208–6C, Revision C, issued August 27, 1993. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may install the placard as specified in paragraph (e)(5)(ii) of this AD. Make an entry into the aircraft records showing compliance with portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(6) Insert the text in Appendix 2 of this AD in the ''KINDS OF OPERATION LIMITS'' in the LIMITATIONS section of the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-approved Airplane Flight Manual (AFM).	Before further flight after compliance to paragraph (e)(4)(i) or (e)(5)(i) of this AD.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the information into the POH as specified in paragraph (e)(3) of this AD. You may insert a copy of this AD into the appropriate sections of the POH to comply with this action. Make an entry into the aircraft records showing compliance with portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(7) Delete the text in Appendix 3 of this AD from the ''REQUIRED EQUIPMENT'' in the LIMITATIONS section of the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-approved Airplane Flight Manual (AFM) Supplement S1 ''Known Icing Equipment''.	Before further flight after compliance to paragraph (e)(4)(i) or (e)(5)(i) of this AD.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the information into the POH as specified in paragraph (e)(3) of this AD. You may insert a copy of this AD into the appropriate sections of the POH to comply with this action. Make an entry into the aircraft records showing compliance with portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

Note: Cessna Caravan Service Bulletin No. CAB04–9, dated October 4, 2004, also addresses the installation of the pilot assist handle.

May I Request an Alternative Method of Compliance?

(f) The Manager, Wichita Aircraft Certification Office (ACO), 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, contact Paul Pellicano, Aerospace Engineer (Icing), FAA, Small Airplane Directorate, c/o Atlanta ACO, One Crown Center, 1985 Phoenix Boulevard, Suite 450, Atlanta, GA 30349; telephone: (770) 703–6064; facsimile: (770) 703–6097; or Robert P. Busto, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4157; facsimile: (316) 946–4107.

Does This AD Incorporate Any Material by Reference?

(g) You must do the actions required by this AD following the instructions in Cessna Caravan Service Kit No. SK208–146, dated October 4, 2004, and Cessna Caravan Accessory Kit No. AK208–6C, Revision C, dated August 27, 1993.

(1) On February 22, 2006 (71 FR 1941, January 12, 2006), and in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, the Director of the Federal Register previously approved the incorporation by reference of Cessna Caravan Service Kit No. SK208–146, dated October 4, 2004, and Cessna Caravan Accessory Kit No. AK208–6C, Revision C, dated August 27, 1993.

(2) To get a copy of this service information, contact The Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277–7706; telephone: (316) 517–5800; facsimile: (316) 942–9006. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. 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 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2005–21275; Directorate Identifier 2005–CE–28–AD.

Appendix 1 to AD 2006–01–11 R1 Changes to the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual

Affected Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual (AFM)

Insert the following text after the ''OTHER LIMITATIONS'' in the LIMITATIONS section of the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual (AFM): COLD WEATHER OPERATIONS.

The airplane must be equipped with the following equipment when operating at an airport in the ground icing conditions defined under ''Visual/Tactile Check'' in the LIMITATIONS section:

1. Pilot assist handle, Cessna P/N SK208–146–2 (or FAA-approved equivalent part number).

Appendix 2 to AD 2006–01–11 R1 Changes to the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual

Affected Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual (AFM)

Add the following to the equipment listed under ''FLIGHT INTO KNOWN ICING'' in the ''KINDS OF OPERATION LIMITS'' in the LIMITATIONS section of the FAA-Approved Airplane Flight Manual:

Lower main landing gear leading edge deice boots

Cargo pod nosecap deice boot

Appendix 3 to AD 2006–01–11 R1 Changes to the Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual Supplement S1

Affected Cessna Models 208 or 208B Pilot's Operating Handbook (POH) and FAA-Approved Airplane Flight Manual (AFM) Supplement S1

Remove the paragraph under ''REQUIRED EQUIPMENT'' in the Limitations section of the FAA-Approved Flight Manual Supplement S1 ''Known Icing Equipment'', that currently reads as follows:

''The following additional equipment is not required for flight into icing conditions as defined by FAR 25, but may be installed on early serial airplanes by using optional accessory Kit AK208–6. On later serial airplanes, this equipment may be included with the flight into known icing package. If installed, this equipment must be fully operational:''

Issued in Kansas City, Missouri, on March 10, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2546 Filed 3–15–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 524, and 529

New Animal Drugs; Change of Sponsor's Drug Labeler Code

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of drug labeler code for Med-Pharmex, Inc.

DATES: This rule is effective March 16, 2006.

FOR FURTHER INFORMATION CONTACT: Charles Eastin, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9077, e-mail: *charles.eastin@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: FDA has found that the animal drug regulations do not reflect the correct drug labeler code for Med-Pharmex, Inc. Accordingly, the agency is amending the regulations in 21 CFR 510.600, 520.1044a, 520.1195, 520.1484, 520.1485, 520.2220a, 520.2345d, 522.900, 524.1044b, 524.1044f, 524.1044g, 524.1193, 524.1443, 524.1580b, 524.1580e, 524.1600a, 524.2481, and 529.1044b to correct this error. In addition, 21 CFR 524.1044b, 524.1044f, 524.1443, and 524.2481 are being revised to reflect a current format.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, 524, and 529

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, 524, and 529 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. Amend § 510.600 in the table in paragraph (c)(1) in the entry for ''Med-Pharmex, Inc.'' by removing ''051259'' and by adding in its place ''054925''; and in the table in paragraph (c)(2) by removing the entry for ''051259'' and by

numerically adding a new entry for ''054925'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(2) * * *

Drug labeler code	Firm name and address
* *	* * *
054925	Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767–1861
* *	* * *

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1044a [Amended]

■ 4. In paragraph (b) of § 520.1044a, remove ''051259'' and add in its place ''054925''.

§ 520.1195 [Amended]

■ 5. In paragraph (b)(2) of § 520.1195, remove ''051259'' and add in its place ''054925''.

§ 520.1484 [Amended]

■ 6. In paragraph (b)(1) of § 520.1484, remove ''051259'' and add in its place ''054925''.

§ 520.1485 [Amended]

■ 7. In paragraph (b) of § 520.1485, remove ''051259'' and add in its place ''054925''.

§ 520.2220a [Amended]

■ 8. In paragraphs (a)(1) and (a)(2) of § 520.2220a, remove ''051259'' and add in its place ''054925''.

§ 520.2345d [Amended]

■ 9. In paragraphs (b)(5), (d)(1)(iii), and (d)(2)(iii) of § 520.2345d, remove ''051259'' and add in its place ''054925''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 10. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.900 [Amended]

■ 11. In paragraph (b)(1) of § 522.900, remove ''051259'' and add in its place ''054925''.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 12. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 13. Revise § 524.1044b to read as follows:

§ 524.1044b Gentamicin sulfate, betamethasone valerate otic solution.

(a) *Specifications.* Each milliliter of solution contains gentamicin sulfate equivalent to 3 milligrams (mg) gentamicin base and betamethasone valerate equivalent to 1 mg betamethasone alcohol.

(b) *Sponsors.* See Nos. 000061 and 054925 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amounts and indications for use*—(i) For the treatment of acute and chronic otitis externa caused by bacteria sensitive to gentamicin in dogs, instill three to eight drops of solution into the ear canal twice daily for 7 to 14 days.

(ii) For the treatment of infected superficial lesions caused by bacteria sensitive to gentamicin in dogs and cats, apply a sufficient amount of the drug to cover the treatment area twice daily for 7 to 14 days.

(2) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 14. Revise § 524.1044f to read as follows:

§ 524.1044f Gentamicin sulfate, betamethasone valerate topical spray.

(a) *Specifications.* Each milliliter of spray contains gentamicin sulfate equivalent to 0.57 milligram (mg) gentamicin base and betamethasone valerate equivalent to 0.284 mg betamethasone.

(b) *Sponsors.* See Nos. 000061 and 054925 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Hold bottle upright 3 to 6 inches from the lesion and depress the sprayer head twice. Administer two spray actuations two to four times daily for 7 days.

(2) *Indications for use.* For the treatment of infected superficial lesions caused by bacteria sensitive to gentamicin.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 524.1044g [Amended]

■ 15. In paragraph (b)(2) of § 524.1044g, remove ''051259'' and add in its place ''054925''.

§ 524.1193 [Amended]

■ 16. In paragraph (b)(2) of § 524.1193, remove ''051259, 051311'' and add in its place ''051311, 054925''.

■ 17. Revise § 524.1443 to read as follows:

§ 524.1443 Miconazole.

(a) *Specifications*—(1) Each gram of cream contains miconazole nitrate equivalent to 20 milligrams miconazole base.

(2) Each gram of lotion or spray contains miconazole nitrate equivalent to 1 percent miconazole base.

(b) *Sponsors.* See § 510.600(c) of this chapter for use as in paragraph (c) of this section:

(1) No. 000061 for use of cream, lotion, and spray;

(2) Nos. 054925 and 058829 for use of lotion and spray.

(c) *Conditions of use in dogs and cats*—(1) *Amount.* Apply once daily by rubbing into or spraying a light covering on the infected site and the immediate surrounding vicinity. Continue treatment for 2 to 4 weeks until infection is completely eradicated as determined by appropriate laboratory examination.

(2) *Indications for use.* For topical treatment of infections caused by *Microsporum canis*, *Microsporum gypseum*, and *Trichophyton mentagrophytes*.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 524.1580b [Amended]

■ 18. In paragraph (b)(1) of § 524.1580b, remove ''051259'' and add in its place ''054925''.

§ 524.1580e [Amended]

■ 19. In paragraph (b) of § 524.1580e, remove ''051259'' and add in its place ''054925''.

§ 524.1600a [Amended]

■ 20. In paragraph (b) of § 524.1600a, remove both occurrences of ''051259, and 053501'' and add in their places ''053501, and 054925''.

■ 21. Revise § 524.2481 to read as follows:

§ 524.2481 Triamcinolone cream.

(a) *Specifications.* The vanishing cream contains 0.1 percent triamcinolone acetonide.

(b) *Sponsor.* See Nos. 053501 and 054925 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount*. Rub into affected areas two to four times daily for 4 to 10 days.

(2) *Indications for use*. As an anti-inflammatory, antipruritic, and antiallergic agent for topical treatment of allergic dermatitis and summer eczema.

(3) *Limitations*. Federal law restricts this drug to use only by or on the order of a licensed veterinarian.

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 22. The authority citation for 21 CFR part 529 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 529.1044b [Amended]

■ 23. In paragraph (b) of § 529.1044b, remove ''*Sponsor*. See Nos. 000061 and 051259'' and add in its place ''*Sponsors*. See Nos. 000061 and 054925''.

Dated: March 7, 2006.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 06–2554 Filed 3–15–06; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–8022–1]

Approval and Promulgation of Air Quality Implementation Plans; Arkansas Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Notice of administrative change.

SUMMARY: EPA is updating the materials submitted by the State of Arkansas that are incorporated by reference (IBR) into the State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by Arkansas and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office.

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

ADDRESSES: SIP materials incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733; the EPA, Air and Radiation Docket and Information Center, Air Docket (Mail Code 6102T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Carl Young, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–6645; fax number 214–665–7263, e-mail address *young.carl@epa.gov.*

SUPPLEMENTARY INFORMATION: Each State has an extensive SIP containing the control measures and strategies—such as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms—used to attain and maintain the national ambient air quality standards (NAAQS).

Each State must formally adopt the control measures and strategies after the public has had an opportunity to comment on them and then must submit them to EPA for approval. Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52, ''Approval and Promulgation of Implementation Plans'', Title 40 of the Code of Federal Regulations (40 CFR part 52). The full texts of a State's control measures and strategies approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are ''incorporated by reference.'' This means that EPA has approved the identified State control measures and strategies, each with a specific effective date. The public is referred to the locations of the full text versions should they want to know which measures are contained in a given SIP. The information provided in 40 CFR part 52 allows EPA and the public to monitor a State's progress in implementing its SIP (and thus in attaining and maintaining the NAAQS) and to take enforcement action if necessary.

The SIP is a living document that the State can revise as necessary to address the unique air pollution problems in the State. Therefore, to incorporate the State's revisions into the federally approved SIP, EPA from time to time must take action on SIP revisions containing new and/or revised measures. On May 22, 1997. (62 FR 27968), EPA revised the procedures for incorporating by reference federally approved SIPs into the Code of Federal Regulations. These procedural revisions changed the format for the identification of a SIP in 40 CFR part 52, revised the mechanisms for announcing EPA approval of revisions to an applicable SIP, and revised the mechanisms for EPA's updating of both the IBR document (or SIP compilation) and the CFR. The SIP compilations contain the full text of the federally approved materials (including regulations, source-specific permits, and nonregulatory provisions and quasi-regulatory measures) submitted by each State agency, whereas the ''Identification of plan'' sections in 40 CFR part 52 merely identify the submitted materials incorporated by reference into the applicable SIP. Under the revised IBR procedures, EPA periodically publishes an informational document in the rules section of the **Federal Register** when updates are made to a State's SIP compilation. EPA's 1997 revised IBR procedures were formally applied to Arkansas on October 23, 1998 (63 FR 56824).

This action notifies the public of an update to the Arkansas SIP compilation, available for public inspection at the locations listed in the **ADDRESSES** section of this **Federal Register** notice, and updates the Arkansas ''Identification of plan'' section, appearing in 40 CFR part 52 (subpart E). The Arkansas SIP compilation, which consists of submitted materials incorporated by reference into the Arkansas SIP, is being updated to include EPA-approved revisions to Arkansas' SIP that have occurred since EPA's revised IBR procedures were applied to Arkansas on October 23, 1998 (63 FR 56824); specifically, the SIP compilation update includes revisions to Arkansas Regulation 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control, which we approved on October 16, 2000 (65 FR 61103), and revisions to Arkansas Regulation 26, Regulations of the Arkansas Operating Permit Program, which we approved on October 9, 2001 (66 FR 51312). These revisions have previously undergone notice and comment rulemaking and are, therefore, already in effect as a matter of law; thus this SIP compilation update does not affect the substance of those rulemaking actions nor does it change the rights or obligations of any party.

The update to the Arkansas ''Identification of plan'' section (40 CFR 52.170) is twofold: First, we are making changes in § 52.170(b) to update the description of materials incorporated by reference and the location where the full text of those materials may be viewed for public inspection; and, second, we are making six ministerial corrections to the tables in § 52.170(c) and (e). The corrections to the tables include the following: (1) All **Federal Register** citations in the tables in § 52.170 are revised to cite the first page of the **Federal Register** action rather than the page of that action on which the amendatory language begins because EPA has revised its **Federal Register** citation practice to make electronic document searches easier; (2) in the § 52.170(c) table, the **Federal Register** citation, which was inadvertently omitted in the original action, is added after the date in the EPA approval date entries for sections 26.501 and 26.602; (3) in the § 52.170(c) table, the EPA approval date entries under the heading ''Arkansas Regulation No. 9: Permit Fees'', which previously provided the incorrect approval date of the **Federal Register** action, are corrected from '' 11/26/86'' to ''11/12/86''; (4) in the § 52.170(c) table, the parts entitled ''Prevention of Significant Deterioration Supplement to the Arkansas Plan of Implementation for Air Pollution Control'' and ''Regulations for the Control of Volatile Organic Compounds'', which were made obsolete by EPA's approval of Arkansas SIP revisions on October 16, 2000 (65 FR 61103), but which we inadvertently retained in the October 16, 2000, action, are removed; (5) in the § 52.170(e) table, under the heading ''EPA Approved Control Measures in the Arkansas SIP'', the entries for ''Air Quality Surveillance Network'' and ''Air Quality Surveillance Data Reporting'', which we neglected to consolidate in our October 23, 1998, action revising the format of 40 CFR part 52 (subpart E) (65 FR 61103), are now consolidated into a single entry titled ''Air Quality Surveillance'' as the first entry under that heading; and (6) in the § 52.170(e) table, under the heading ''EPA Approved Control Measures in the Arkansas SIP'', the entry for ''Stack Height Negative Declaration'' is replaced with an entry for ''Good Engineering Practice Stack Height Regulations'' because we incorrectly identified the Negative Declaration as Arkansas' EPA-approved control measure concerning stack height when we applied the IBR revised procedures to Arkansas on October 23, 1998 (63 FR 56824). This CFR update, including all six ministerial corrections to the tables in 40 CFR 52.170(c) and (e), merely reflects previous EPA rulemaking actions; therefore, this update does not affect the substance of those actions nor does it change the rights or obligations of any party.

EPA has determined that today's action falls under sections 553(b)(3)(B) (the ''good cause'' exemption) and 553(d)(3) of the Administrative Procedure Act (APA). The ''good cause'' exemption authorizes an agency to dispense with public participation upon finding ''good cause'' and section 553(d)(3) allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Under section 553(b)(3)(B) of the APA, an agency may find good cause where procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Public comment for today's administrative action, which updates a SIP compilation already in effect as a matter of law and updates CFR provisions already in effect as a matter of law, is ''unnecessary'' and ''contrary to the public interest'' because the updates merely reflect existing law. Thus we find this constitutes good cause for making the updates final without prior proposal and opportunity for comment. Further, pursuant to APA section 553(d)(3), making today's action immediately effective benefits the public by immediately updating both the SIP compilation and the CFR ''Identification of plan'' section (which includes updating the description of materials incorporated by reference, correcting **Federal Register** citations, adding inadvertently omitted table entries, consolidating table entries, correcting table entries, and removing outdated citations).

Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this administrative action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. This action 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. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This administrative action also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 administrative action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant. This administrative action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This administrative action also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In this administrative action, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of this administrative action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This administrative action does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these Statutes and Executive Orders for the underlying rules is discussed in previous actions taken on the State's rules.

B. Submission to Congress and the Comptroller General

The Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808(2) allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. Today's administrative action simply updates and corrects provisions that are already in effect as a matter of law in Federal and federally approved State programs. These announced actions were effective when EPA approved them through previous rulemaking actions. EPA will submit a report containing this action 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 this action in the **Federal Register**. Neither this update to Arkansas's SIP compilation nor this update to the Arkansas ''Identification of plan'' section in 40 CFR part 52 is a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. This action is simply an announcement of prior rulemakings that have already undergone notice and comment rulemaking. Prior EPA rulemaking actions for each individual component of the Arkansas SIP compilation previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action.

List of Subjects in 40 CFR Part 52

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

Dated: December 27, 2005.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart E—Arkansas

■ 2. Section 52.170 is amended as follows:

■ a. By revising paragraph (b).

■ b. By revising paragraph (c).

■ c. By revising paragraph (e).

52.170 Identification of plan.

* * * * *

(b) Incorporation by reference. (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to December 1, 2005, was approved for incorporation by reference by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after December 1, 2005, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 6 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations that have been approved as part of the State implementation plan as of December 1, 2005.

(3) Copies of the materials incorporated by reference may be inspected at the Region 6 EPA Office at 1445 Ross Avenue, Suite 700, Dallas, Texas, 75202–2733; the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M St., SW., Washington, DC 20460; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) EPA approved regulations.

EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP

State citation	Title/subject	State submittal/effective date	EPA approval date	Explanation
Regulation 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control				
Chapter 1: Title, Intent and Purpose				
Section 19.101	Title	01/22/99	10/16/00 (65 FR 61103).	
Section 19.102	Applicability	01/22/99	10/16/00 (65 FR 61103).	
Section 19.103	Intent and Construction	01/22/99	10/16/00 (65 FR 61103).	
Section 19.104	Severability	01/22/99	10/16/00 (65 FR 61103).	
Chapter 2: Definitions				
Chapter 2	Definitions	01/22/99	10/16/00 (65 FR 61103).	
Chapter 3: Protection of the NAAQS				
Section 19.301	Purpose	01/22/99	10/16/00 (65 FR 61103).	
Section 19.302	Department Responsibilities	01/22/99	10/16/00 (65 FR 61103).	
Section 19.303	Regulated Sources Responsibilities.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.304	Delegated Federal Programs	01/22/99	10/16/00 (65 FR 61103).	

EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP—Continued

State citation	Title/subject	State submittal/effective date	EPA approval date	Explanation
Chapter 4: Minor Source Review				
Section 19.401	General Applicability	01/22/99	10/16/00 (65 FR 61103).	
Section 19.402	Approval Criteria	01/22/99	10/16/00 (65 FR 61103).	
Section 19.403	Owner/Operator's Responsibilities.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.404	Required Information	01/22/99	10/16/00 (65 FR 61103).	
Section 19.405	Action on Application	01/22/99	10/16/00 (65 FR 61103).	
Section 19.406	Public Participation	01/22/99	10/16/00 (65 FR 61103).	
Section 19.407	Permit Amendments	01/22/99	10/16/00 (65 FR 61103).	
Section 19.408	Exemption from Permitting	01/22/99	10/16/00 (65 FR 61103).	
Section 19.409	Transition	01/22/99	10/16/00 (65 FR 61103).	
Section 19.410	Permit Revocation and Cancellation.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.411	General Permits	01/22/99	10/16/00 (65 FR 61103).	
Section 19.412	Dispersion Modeling	01/22/99	10/16/00 (65 FR 61103).	
Section 19.413	Confidentiality	01/22/99	10/16/00 (65 FR 61103).	
Chapter 5: General Emission Limitations Applicable to Equipment				
Section 19.501	Purpose	01/22/99	10/16/00 (65 FR 61103).	
Section 19.502	General Regulations	01/22/99	10/16/00 (65 FR 61103).	
Section 19.503	Visible Emission Regulations	01/22/99	10/16/00 (65 FR 61103).	
Section 19.504	Stack Height/Dispersion Regulations.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.505	Revised Emission Limitation	01/22/99	10/16/00 (65 FR 61103).	
Chapter 6: Upset and Emergency Conditions				
Section 19.601	Upset Conditions	01/22/99	10/16/00 (65 FR 61103).	
Section 19.602	Emergency Conditions	01/22/99	10/16/00 (65 FR 61103).	
Chapter 7: Sampling, Monitoring, and Reporting Requirements				
Section 19.701	Purpose	01/22/99	10/16/00 (65 FR 61103).	
Section 19.702	Air Emission Sampling	01/22/99	10/16/00 (65 FR 61103).	
Section 19.703	Continuous Emission Monitoring.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.704	Notice of Completion	01/22/99	10/16/00 (65 FR 61103).	
Section 19.705	Recordkeeping and Reporting Requirements.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.706	Public Availability of Emissions Data.	01/22/99	10/16/00 (65 FR 61103).	
Chapter 9: PSD				
Section 19.901	Title	01/22/99	10/16/00 (65 FR 61103).	
Section 19.902	Purposes	01/22/99	10/16/00 (65 FR 61103).	
Section 19.903	Definitions	01/22/99	10/16/00 (65 FR 61103).	
Section 19.904	Adoption of Regulations	01/22/99	10/16/00 (65 FR 61103).	
Chapter 10: Regulations for the Control of Volatile Organic Compounds				
Section 19.1001	Title	01/22/99	10/16/00 (65 FR 61103).	
Section 19.1002	Purpose	01/22/99	10/16/00 (65 FR 61103).	
Section 19.1003	Definitions	01/22/99	10/16/00 (65 FR 61103).	
Section 19.1004	General Provisions	01/22/99	10/16/00 (65 FR 61103).	
Section 19.1005	Provisions for Specific Processes.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.1006	Severability	01/22/99	10/16/00 (65 FR 61103).	
Chapter 11: Major Source Permitting Procedures				
Chapter 11	Major Source Permitting Procedures.	01/22/99	10/16/00 (65 FR 61103).	
Appendix A: Insignificant Activities List				
Appendix A	Insignificant Activities List	01/22/99	10/16/00 (65 FR 61103).	

EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP—Continued

State citation	Title/subject	State submittal/effective date	EPA approval date	Explanation
Regulation 26: Regulations of the Arkansas Operating Permit Program				
Chapter 3: Requirements for Permit Applicability				
Section 26.301	Requirement for a permit	08/10/00	10/9/01 (66 FR 51312).	
Section 26.302	Sources subject to permitting	08/10/00	10/9/01 (66 FR 51312).	
Chapter 4: Applications for Permits				
Section 26.401	Duty to apply	08/10/00	10/9/01 (66 FR 51312).	
Section 26.402	Standard application form and required information.	08/10/00	10/9/01 (66 FR 51312).	
Section 26.407	Complete application	08/10/00	10/9/01 (66 FR 51312).	
Section 26.409	Applicants duty to supplement correct application.	08/10/00	10/9/01 (66 FR 51312).	
Section 26.410	Certification by responsible official.	08/10/00	10/9/01 (66 FR 51312).	
Chapter 5: Action on Application				
Section 26.501	Action on part 70 permit applications.	08/10/00	10/9/01 (66 FR 51312)	Subsection B Not in SIP.
Section 26.502	Final action on permit application.	08/10/00	10/9/01 (66 FR 51312).	
Chapter 6: Permit Review by the Public, Affected States, and EPA				
Section 26.601	Untitled introduction to Chapter 6.	08/10/00	10/9/01 (66 FR 51312).	
Section 26.602	Public participation	08/10/00	10/9/01 (66 FR 51312)	Only Subsection A(1), A(2), A(5) and D in SIP.
Section 26.603	Transmission of permit information to the Administrator.	08/10/00	10/9/01 (66 FR 51312).	
Section 26.604	Review of draft permit by affected States.	08/10/00	10/9/01 (66 FR 51312).	
Arkansas Regulation No. 9: Permit Fees				
Section 1	Purpose	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 2	Short Title	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 3	Definitions	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 4	Applicability	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 5	Maximum Fees	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 6	Retroactivity	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 7	Permit Fee Payment	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 8	Refunds	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 9	Solid Waste Fee			NOT IN SIP.
Section 10	Fee Schedule	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 11	Review of Fees	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 12	Severability	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 13	Appeals	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).
Section 14	Effective Date	12/16/85	11/12/86 (51 FR 40975)	Ref 52.200(c)(24).

* * * * *

(e) EPA-approved nonregulatory provisions and quasi-regulatory measures.

EPA-APPROVED STATUTES IN THE ARKANSAS SIP

State citation	Title/subject	State submittal/effective date	EPA approval date	Explanation
Arkansas Water and Air Pollution Control Act—Part I				
82.1901	Title of Act	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82.1902	Definitions	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).

EPA-APPROVED STATUTES IN THE ARKANSAS SIP—Continued

State citation	Title/subject	State submittal/ effective date	EPA approval date	Explanation
82.1903	Pollution Control Commission	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82.1904	Powers and Duties of Commission	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82.1905	Persons Operating Disposal System—Furnishing Information and Permitting Examinations and Surveys.	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82.1906	Hearing Before Commission or Member—Appeal Procedure.	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82.1907	Co-operation with Agency of Another State or United States.	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82.1908	Actions Declared Public Nuisance—Permit to Construct, Make Changes in or Operate Disposal System—Submission of Plans.	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82.1909	Violation of Act a Misdemeanor—Pollution a Nuisance—Abatement.	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
Arkansas Environmental Permit Fees Act (Act 817 of 1983)				
82–1916 thru 82–1921.	Permit Fees Act	12/16/85	11/12/86 (51 FR 40975)	Ref 522.200(c)(24).
Arkansas Water and Air Pollution Control Act—Part II				
82–1931	Air Pollution-State Policy	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82–1932	Purpose of Act	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82–1933	Definitions	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82–1934	Exemptions	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82–1935	Powers of Commission	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82–1936	Factors in Exercise of Commission Powers.	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82–1937	Industrial Secrets Confidential—Revealing a Misdemeanor.	11/25/85	08/04/86 (51 FR 27840)	Ref 52.200(c)(23).
82–1938	Unlawful Acts	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82–1939	Variance from Regulations	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82–1940	Application of Water Pollution Provisions.	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82–1941	Political Subdivision Forbidden to Legislate on Air Pollution.	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82–1942	Radiation Control Law Not Amended or Repealed—No Authority to Commission Over Employer-Employee Relationships.	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
82–1943	Private Rights Unchanged	01/28/72	05/31/72 (37 FR 10841)	Ref 52.200(a) & (b).
Small Business Assistance Program Act (Act 251 of 1993)				
Act 251	SBAP Act	02/26/93	03/08/95 (60 FR 12691)	Ref 52.200(c)(31).

EPA-APPROVED CONTROL MEASURES IN THE ARKANSAS SIP

Control measures	Applicable geographic or non-attainment area	State submittal/ effective date	EPA approval date	Explanation
Air Quality Surveillance	Statewide	04/24/80	08/06/81 (46 FR 40005)	Ref 52.200(c)(6) & (20).
Lead SIP	Statewide	12/10/79	04/16/82 (47 FR 16328)	Ref 52.200(c)(17).
Protection of Visibility in Mandatory Class I Federal Areas.	Statewide	06/12/85	02/10/86 (51 FR 4910)	Ref 52.200(c)(22).
Part II of the Visibility Protection Plan	Statewide	10/09/87	07/21/88 (53 FR 27514)	Ref 52.200(c)(25).
Good Engineering Practice Stack Height Regulations.	Statewide	06/1/87	02/23/89 (54 FR 7764)	Ref 52.200(c)(26).
Small Business Stationary Source Technical and Environmental Compliance Assistance Program.	Statewide	11/06/92	03/08/95 (60 FR 12691)	Ref 52.200(c)(31).

[FR Doc. 06–2481 Filed 3–15–06; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06–OAR–2005–TX–0016; FRL–8045–5]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Permits by Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision for the State of Texas. This action removes a provision from the Texas SIP which provided public notice for concrete batch plants which were constructed under a permit by rule (PBR). On September 1, 2000, Texas replaced the PBR for concrete batch plants with a standard permit for concrete batch plants. The standard permit for concrete batch plants also requires public notice for concrete batch plant subject to the standard permit. Texas maintained the public notice requirements of its PBR to assure that proper procedures were followed for concrete batch plants that were permitted under the PBR prior to the effective date of the standard permit. All authorization requests for concrete batch plants which were constructed under the PBR have now been resolved and the public notice and comment provisions under the PBR are no longer needed.

DATES: This rule is effective on April 17, 2006.

ADDRESSES: EPA has established a docket for this action under Regional Material in EDocket (RME) Docket ID No. R06–OAR–2005–TX–0016. All documents in the docket are listed in the Regional Material in EDocket (RME) index at *http://docket.epa.gov/rmepub/,* once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Although listed in the index, some information is not publicly available, i.e, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Air Permit Sections (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

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

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

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

I. What Action Are We Taking?
II. What Is a State Implementation Plan?
III. What Does Federal Approval of a SIP Mean to Me?
IV. What Is the Background for This Action?
V. Why Are We Approving the Removal of Section 106.5?
VI. What Comment Did We Receive and What Is Our Response to the Comment?
VII. Final Action
VIII. Statutory and Executive Order Reviews

I. What Action Are We Taking?

This action removes 30 Texas Administrative Code (TAC), section 106.5 from the Texas SIP. This section provided public notice for concrete batch plants that were constructed under a PBR.[1] On September 1, 2000, Texas replaced the PBR for concrete batch plants with a standard permit[2] for concrete batch plants. The standard permit for concrete batch plants also requires public notice for concrete batch plants which are subject to the standard permit. Texas had maintained the public notice requirements of section 106.5 to assure that proper procedures were followed for concrete batch plants that were permitted under the PBR process prior to the effective date of the standard permit. All authorization requests for concrete batch plants that were constructed under the PBR have now been resolved and section 106.5 is no longer needed. Texas submitted a SIP revision to remove section 106.5.

II. What Is a State Implementation Plan?

Section 110 of the Act requires States to develop air pollution regulations and control strategies to ensure that the state air quality meets the National Ambient Air Quality Standards (NAAQS) that EPA has established. Under section 109 of the Act, EPA established the NAAQS to protect public health. The NAAQS address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the federally enforceable SIP. Each state has a SIP designed to protect air quality. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

III. What Does Federal Approval of a SIP Mean to Me?

A state may enforce state regulations before and after we incorporate those regulations into a federally approved SIP. After we incorporate those regulations into a federally approved SIP, both EPA and the public may also take enforcement action against violators of these regulations.

[1] A PBR is a permit which is adopted under 30 TAC Chapter 106, which provides an alternative process for approving the construction of new and modified facilities which Texas Commission on Environmental Quality has determined will not make a significant contribution of air contaminants to the atmosphere. These provisions provide a streamlined mechanism for approving the construction of certain small sources that would otherwise be required to apply for and receive a permit before commencing construction or modification. For further description of Texas regulations concerning PBRs, see the discussion in our November 14, 2003 approval (68 FR 64544–64545).

[2] A standard permit is a permit which is adopted under 30 TAC Chapter 116, Subchapter F, which provides an alternative process for approving the construction of certain categories of new and modified sources for which the TCEQ has adopted a standard permit. These provisions provide a streamlined mechanism for approving the construction of certain sources within categories that contain numerous similar sources. For further description of Texas regulations concerning standard permits, see the discussion in our November 14, 2003 approval (68 FR 64546–64547).

IV. What Is the Background for This Action?

This action addresses the SIP submittal by Texas to EPA by letter dated June 28, 2004. In the submittal, Texas submitted its repeal of section 106.5—Public Notice, which it had adopted June 9, 2004.

At this time, the Texas has resolved all of the outstanding authorization requests as explained above; the maintenance of section 106.5 is no longer needed.

On September 28, 2005 (70 FR 56566), we published a direct final rule approving the plan revisions that Texas submitted June 28, 2004. We concurrently published a proposed rulemaking with the direct final rule (70 FR 56612) and stated that if we received any adverse comment by the end of the comment period we would withdraw the direct final rule. We would then respond to the comments when we take final action on the proposed approval. We received an adverse comment on the direct final rule before the end of the comment period and consequently withdrew our direct final rule on November 23, 2005 (70 FR 70736).

V. Why Are We Approving the Removal of Section 106.5?

40 CFR 51.161 requires public notice prior to approval of any new or modified source. The process for issuing, revising and removing PBRs is through rulemaking. A new or revised PBR must undergo public notice and a 30-day comment period in order to satisfy the requirements of 40 CFR 51.161. The basis for approval of the Texas program for PBR with regards to these requirements is discussed in our approval of Chapter 106 on November 14, 2003.

With the creation of the concrete batch plant standard permit, concrete batch plants are no longer authorized by PBR under Chapter 106. The public notice requirements for concrete batch plants are now contained in the standard permit, therefore section 106.5 is no longer needed. The removal of section 106.5 will not affect the obligation for Texas to provide for public notice when it issues new or revised PBR.

The standard permit for concrete batch plants was originally issued in 2000 (effective September 1, 2000) and was later revised in 2003 (effective July 10, 2003). The standard permit for batch concrete plants contains a provision which requires public notice for concrete batch plants. This requirement for public participation under the standard permit satisfies the requirements under 40 CFR 51.161. Our approval of the public notice provisions for the standard permit for Texas concrete batch plants is discussed in greater detail in our FR notice of November 14, 2003. See 68 FR 64547. We found that public notice provisions in standard permits meet the requirements of 40 CFR 51.161. See 68 FR 64545 and 64547. In addition, the public participation requirements of the standard permit for concrete batch plants are reinforced by an additional statutory public notice requirement under Texas Health and Safety Code, section 382.058. Consequently, our approval of the removal of section 106.5 is based on the fact that Texas has provided sufficient regulatory and statutory safeguards in its standard permit process to provide ample opportunity for public comment and satisfy the applicable Federal requirements.

VI. What Comment Did We Receive and What Is Our Response to the Comment?

Comment

In response to the parallel proposal to our direct final rule, we received an adverse comment from the public. A citizen commented that EPA is about to implement a rule that will limit the public notice with regard to proposed construction of concrete batch plants. The commenter further stated that this is a violation of his right to know about things that may affect his life (health), liberty and pursuit of happiness—a violation of the Constitution of the United States. He inquired concerning what authority EPA has in this matter and what he can do to stop this encroachment on public notice.

Response

Section 110 of the CAA provides for state submission and EPA review of new and revised SIP submissions. Under section 110(l), a SIP revision may not be approved if it will interfere with attainment, reasonable further progress or any other requirement of the Act. The removal of section 106.5 from the SIP will not interfere with attainment, reasonable further progress or any other requirement of the Act. As explained in more detail in the September 2005 direct final rule, concrete batch plants are no longer subject to the PBR in Chapter 106. Rather, these facilities are subject to a standard permit adopted by Texas in 2000 and revised in 2003. This standard permit establishes public participation requirements for concrete batch plants and EPA has previously found that those public participation requirements are consistent with what is required by our new source review regulations in 40 CFR 51.161. See 68 FR 64547 (November 14, 2003). All future actions will be subject to public participation requirements in the standard permit and all past actions taken under the PBR have been resolved. Furthermore, the public participation procedures under the standard permit will allow the same level of public involvement as the public participation procedures in section 106.5. Thus, the removal of section 106.5 from the approved SIP will not interfere with attainment, reasonable further progress or any other applicable requirement of the Act.

For these reasons, the commenter is incorrect that this action will limit public notice regarding the proposed construction of concrete batch plants. As discussed in detail in the September 2005, direct final rule and in our November 2003 action approving the standard permit, the standard permit requires public participation prior to its application to a specific facility.

VII. Final Action

On the basis of the above analysis and evaluation we conclude that we can remove the provisions of section 106.5 from the SIP on the basis that Texas replaced the PBR for concrete batch plants which required public notice, with a standard permit for concrete batch plants that also requires public notice for concrete batch plants that are subject to the standard permit.

VIII. 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 May 15, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 6, 2006.

Richard E. Greene,

Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart SS—Texas

§ 52.2270 [Amended]

■ 2. The table in § 52.2270(c) entitled ''EPA Approved Regulations in the Texas SIP'' is amended under Chapter 106, Subchapter A, by removing the entry for section 106.5, ''Public Notice.''

[FR Doc. 06–2478 Filed 3–15–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2005–GA–0005–200601; FRL–8045–4]

Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is correcting the State Implementation Plan (SIP) for the State of Georgia to remove a provision relating to a Georgia general ''nuisance'' rule. EPA has determined that this provision relating to Georgia Rule 391–3–1.02(2)(a)1, was erroneously incorporated into the SIP. EPA is removing this rule from the approved Georgia SIP because the Georgia rule is not related to the attainment and maintenance of the national ambient air quality standards (NAAQS). This final rule addresses comments made on the proposed rulemaking EPA previously published for this action.

DATES: *Effective Date:* This rule will be effective April 17, 2006.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2005–GA–0005. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What Action Is EPA Taking?
II. What Is the Background for the Action?
III. Response to Comments
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V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

EPA is taking final action to remove Georgia Rule 391–3–1.02(2)(a)1, a general ''nuisance'' provision, from the Georgia SIP. EPA has determined that this rule was erroneously incorporated into the SIP. EPA is removing this rule from the approved Georgia SIP, because the rule is not related to the attainment and maintenance of the NAAQS.

II. What Is the Background for the Action?

The first significant amendments to the Clean Air Act (CAA) occurred in 1970 and 1977. Following these amendments, a large number of SIPs were submitted to EPA to fulfill new Federal requirements. In many cases, states and districts submitted their entire programs, including many elements not required pursuant to the CAA. Due to resource constraints during this timeframe, EPA's review of these submittals focused primarily on the required technical, legal, and enforcement elements of the submittals. At the time, EPA did not perform a detailed review of the numerous provisions submitted to determine if each provision was related to the attainment and maintenance of the NAAQS. However, provisions approved by EPA as part of states' SIPs should generally be related to attainment and maintenance of the NAAQS, consistent with the authority in section 110 of the CAA under which these plans are approved by EPA.

During the process of responding to a recent citizen petition of a title V operating permit in Georgia, EPA determined that a provision of the State's rules, approved as part of the SIP on January 3, 1980 (45 FR 780), is not related to the attainment and maintenance of the NAAQS. This State rule, ''Georgia Air Quality Control Rule 391–3–1.02(2)(a)1,'' is a general nuisance provision. Georgia has never used this rule as part of a Federal air quality standard attainment or maintenance plan. Georgia has also not relied on or attributed any emission reductions from this rule to any such plans (October 31, 2005, e-mail from Ron Methier, Georgia Environmental Protection Division, to Dick Schutt, U.S. Environmental Protection Agency.) For these reasons, EPA's 1980 approval of this provision into the Georgia SIP was in error. EPA is therefore removing the provision from the approved SIP under the authority of section 110(k)(6) of the CAA. Section 110(k)(6) provides: ''Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation, revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.''

On November 29, 2005 (70 FR 71446), EPA proposed to remove the provision from the approved SIP under the authority of section 110(k)(6) of the CAA. EPA subsequently received both supporting and adverse comments. At the request of several commenters, EPA reopened and extended the comment period through January 23, 2006 (71 FR 2177, January 13, 2006). In this action, EPA is addressing the adverse comments received and taking final action as described in Section I and Section IV.

III. Response to Comments

EPA received comments from three commenters who were in favor of the proposed change, five commenters who asked general questions, and two commenters who opposed the proposed change to the Georgia SIP. A summary of the adverse comments received on the proposed rule, published November 29, 2005 (70 FR 71446) and EPA's response to these comments is presented below.

Comment: The commenter asserts that the purpose of the rule change proposed in the November 29, 2005 **Federal Register** notice (70 FR 71446) is to thwart citizen efforts to end hazardous air releases that they assert are a threat to their children, health, and economy.

Response: The purpose of SIPs, approved pursuant to section 110 of the CAA, is to implement a program to attain and maintain the NAAQS. The Georgia nuisance rule is not directed at either attainment or maintenance of any NAAQS. Therefore, through this action EPA is removing it from the federally approved Georgia SIP. The effect of this action is to remove the Georgia Rule for Air Quality Control, 391–3–1.02(2)(a)1, as a federally enforceable element of the state program to attain and maintain the NAAQs. However, EPA's action does not affect the enforceability of the rule as a matter of state law. Nothing in today's action affects citizens' ability to use state law provisions to enforce the rule in state court.

Comment: The commenter asserts that ''EPA did not provide any supporting documentation in the **Federal Register** to support their contention that the Georgia Rule for Air Quality Control, 391–3–1.02(2)(a)1 is reiterated in Georgia Code Title 41-Nuisance Rule, or that the same protections from the release of hazardous air pollutants listed in CAA Title 1, section 112 can be obtained under the Georgia Nuisance Rule.''

Response: The commenter seems to show some confusion over the two different provisions of the CAA (section 110 and section 112). The commenter also seems to misunderstand the focus of SIPs and section 110 of the CAA. Section 110 focuses on attainment and maintenance of the NAAQS, while section 112 focuses on hazardous air pollutants. A SIP is a mechanism provided under the Act to ensure states attain and maintain national ambient air quality standards. Other provisions of the Act, such as section 112 provide for the direct Federal regulation of hazardous air pollutants. Whether the Georgia rule provides the same or similar protections against hazardous air pollutants as provided under the Federal program provided under section 112 of the Act is not relevant for EPA's determination that the rule should not be included as part of a plan to address the NAAQS.

Comment: Several commenters assert the CAA requires state SIPs to contain enforceable emissions limitations and other control measures as may be necessary or appropriate to meet the applicable requirements and that the intent of the CAA was to provide states flexibility in creating their SIPs, as long as the state's rules and regulations were at least as stringent as the CAA. Furthermore, the commenters assert the proposed rule seeks to overturn the Georgia Rule for Air Quality Control, 391–3–1.02(2)(a)1, which could be interpreted to be more protective of human health than provisions in the CAA.

Response: Section 116 of the CAA states that, ''Nothing in this Act shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 111 or 112, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan or section.'' Section 116 of the CAA thus explains that unless pre-empted under one of several

enumerated provisions of the Act, the state may adopt regulations more stringent than those required under the Act. It does not, however, as the commenter suggests, require that any ''more stringent'' state regulations be included as part of the federally enforceable SIP. EPA policy is that nuisance provisions unrelated to attainment and maintenance of the NAAQS should not be included as part of the SIP. (see 64 FR 7790, 66 FR 53657 and 69 FR 54006.)

Comment: Several commenters asserted that ''EPA is overstepping its authority when proposing a rule change without a vote from the governing body, the Georgia Board of Natural Resources, which would also include the public participation provisions in CAA section 110.''

Response: Although the commenters are correct in their assertion that public participation is a prerequisite to SIP revision submissions under the CAA section 110(a)(2), this stipulation applies to implementation plans submitted by a State under the CAA. The proposed correction invokes CAA section 110(k)(6), which states, ''Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.'' Since the approval of the Georgia Rule for Air Quality Control 391–3–1.02(2)(a)1 into the State of Georgia's SIP was in error, EPA is well within its authority to remove this component from the Georgia SIP without first requiring a SIP submission from the State. On November 29, 2005, notice of the proposed removal of the rule from the state SIP, including a 30-day comment period, was published in the **Federal Register.** On January 13, 2006, the comment period was extended through January 23, 2006.

Comment: The commenter asserts that the proposed rule, published on November 29, 2005 (70 FR 71446), is not supported by documentation of EPA's determination that the Georgia Rule for Air Quality Control, 391–3–1.02(2)(a)1, was erroneously incorporated into the State of Georgia's SIP.

Response: The proposed rule published on November 29, 2005 (70 FR 71446), states, ''since the State's ''nuisance'' provision is not directed at the attainment and maintenance of the NAAQS, EPA has found that its prior approval of this particular rule (into the SIP) was in error.'' This statement was supported by an examination of the SIP and an email exchange with the State, which confirmed that the provision at issue had not been relied on for purposes of attainment or maintenance of any NAAQS. EPA's exclusion from the SIP of a nuisance provision unrelated to attainment and maintenance of the NAAQS is consistent with previous Agency practice. EPA removed nuisance provisions from the SIPs of the State of Michigan, 64 FR 7790, Commonwealth of Kentucky (Jefferson County portion), 66 FR 53657, and the State of Nevada, 69 FR 54006. Additionally, EPA has issued final rules declining to approve nuisance provisions into SIPs. (see 45 FR 73696, 46 FR 11843, 46 FR 26303 and 63 FR 51833.)

Comment: The commenter asserts that the ''rule change proposed in EPA–R04–OAR–2005–GA–0005–0001 is intended to circumvent agency responsibility to implement strategies to address disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income population in Brunswick, Georgia,'' Executive Order 12898—Environmental Justice and Executive Order 13045—Protection of Children from Environmental Health Risks and Safety Risks.

Response: The CAA aims to ''protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population * * * and to encourage and assist the development and operation of regional air pollution prevention control programs.'' 42 U.S.C. 7401(b)(1). Section 110 of the CAA requires states to adopt a plan which provides for implementation, maintenance, and enforcement of the national ambient air quality standards, including carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter and sulfur oxides. The purpose of this rulemaking action is to remove Georgia Air Quality Control Rule 391–3–1.02(2)(a)1 from the Georgia SIP, because it does not support the attainment and maintenance of the NAAQS. This rulemaking action does not invalidate the Georgia law or affect its applicability to Georgia sources. Facilities located in Georgia are still subject to the state nuisance provision. EPA supports programs and activities that promote enforcement of health and environmental statutes in areas with minority populations and low-income populations and the protection of children. The purpose of the SIP is to address attainment and maintenance of the NAAQS in all areas of the country. Other programs under the CAA address hazardous air pollutants (see CAA section 112). The State of Georgia has adopted Maximum Achievable Control Technology (MACT) and National Emission Standards for Hazardous Air Pollutants (NESHAP) standards that reflect the federal standards, and these standards are enforceable through other mechanisms that do not include the Georgia SIP, which is affected by this rulemaking.

Comment: The commenter asserts that the ''rule change proposed in EPA–R04–OAR–2005–GA–0005–0001, is intended to circumvent Executive Order 12866—Regulatory Planning and Review by not allowing for a comment period of at least 60 days.'' Several commenters requested that the comment period be extended. One commenter requested an extension of 60 days from the date the EPA ''formally notified its legal counsel of the proposed rule,'' which it asserts was on December 15, 2005.

Response: SIPs are rulemakings under the Administrative Procedure Act, which does not specify a period for public comment. However, a 30-day period is consistent with most SIP actions proposed by EPA. 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. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.'' We note that in response to comments received, EPA extended the comment period for the proposed rule change through January 23, 2006. See 71 FR 2177. It should be noted that EPA is not required to notify any entity of its rulemaking actions; notification of all parties is accomplished through publications in the **Federal Register.**

Comment: The commenter asserts that it followed the public participation requirements set forth for the title V permitting process and that through this action to remove 391–3–1–.02(2)(a)1 from the Georgia SIP, EPA is frustrating that process. A commenter further asserts that the purpose of the rule change proposed in EPA–OAR–2005–GA–0005–0001 is to thwart citizen efforts to end hazardous air releases that it claims are a ''threat to our children, our health, and our economy.''

Response: Although title V permits are required to contain conditions that

are necessary to assure compliance with all the applicable requirements of the CAA, including the requirements of the applicable SIP, the title V permit may also contain state-only enforceable requirements. Once the final rule takes effect, Georgia Rule 391–3–1–.02(2)(a)1 will become a state-only enforceable rule that will continue to be applicable to facilities in Georgia. For the reasons provided above, however, EPA believes this action to remove the nuisance provision from the SIP is appropriate.

Comment: The commenter asserts that ''proposed rule R04–OAR–2005–GA–0005–0001 is not supported by documentation of EPA's determination that the rule, Georgia Rule for Air Quality Control, 391–3–1.02(2)(a)1, was erroneously incorporated into the Georgia SIP.'' Furthermore, the commenter alleges that ''without supporting documentation, the EPA's action in adopting this rule is arbitrary and capricious, and violates every aspect of the Administrative Procedures Act.''

Response: In support of its decision to remove Georgia Air Quality Control Rule 391–3–1–.02(2)(a)1 from the Georgia SIP, EPA determined that this is a general nuisance provision that is not related to the attainment and maintenance of the NAAQS. Georgia has never used this rule as part of a federal air quality standard attainment or maintenance plan. In addition, Georgia has not relied on or attributed any emission reductions from this rule to any such plans. 70 FR 71447 (November 29, 2005). In support of these conclusions, EPA relied on an email from Georgia that indicated it had checked its records and made these findings. As explained above, EPA's action to exclude from the SIP a nuisance provision unrelated to attainment or maintenance of any NAAQS is consistent with prior Agency practice.

Comment: The commenter asserts that the Georgia Environmental Protection Division (EPD) has a history of allowing unregulated and unpermitted hazardous air releases from certain facilities. Furthermore, the commenter alleges that some permit applications had remained un-acted upon by the Georgia EPD since 1986, and that without valid permits, emission control equipment operations are not enforceable by either the Georgia EPD or the EPA.

Response: Our action to exclude the nuisance provision from the Georgia SIP does not affect the enforceability of the rule as a matter of state law. The issue of whether Georgia adequately enforces or permits hazardous air pollutants has no bearing on whether the nuisance provision should be part of a plan to attain and maintain standards for NAAQS.

Comment: The commenter questions the legal basis of the proposed action and whether there is a compelling reason to change the rule.

Response: In the **Federal Register** Notice proposing to remove the Georgia nuisance rule, 391–3–1.02(2)(a)1, from the Georgia SIP, 70 FR 71446, EPA cited the basis for its action. First, the Agency explained that the purpose of the SIP is to provide for how the state will attain and maintain the NAAQS. EPA then explained that because the nuisance rule is unrelated to attainment and maintenance of the NAAQS, ''EPA's 1980 approval of this provision into the Georgia SIP was in error and EPA is, therefore, proposing to remove the provision from the approved SIP under the authority of section 110(k)(6) of the CAA. Section 110(k)(6) provides: 'Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.' '' 70 FR 71447 (Nov. 29, 2005).

Comment: The commenter alleges that a ''reasonable person could easily find that the EPA blatantly misrepresented the purpose of the proposed rule change. At a minimum, the EPA is misusing their powers to propose rule changes in the **Federal Register**, and the case might actually be that the information presented in the **Federal Register** is fraudulent.''

Response: EPA vigorously disagrees with the commenter's allegation that the Agency misrepresented, misused, or engaged in any other fraudulent practice in proposing this rule change. As provided above, EPA has an established history of removing and excluding state nuisance rules, which are unrelated to attaining or maintaining the NAAQS, from the SIP.

Comment: The commenter asked how the citizen's petition of a Title V operating permit in Georgia led EPA to find an erroneously approved rule.

Response: The citizen's petition of the Title V operating permit for the Hercules Corporation, in the State of Georgia, specifically cites the Georgia Rule for Air Quality Control, 391–3–1.02(2)(a)1 as a rule of which the Hercules Corporation is in violation. Hence, through this petition, it was brought to EPA's attention that this particular rule was incorporated into the Georgia SIP. Because EPA has concluded that this rule is unrelated to attainment or maintenance of any NAAQS and thus was erroneously approved into the SIP, EPA is using section 110(k)(6), error correction, to remove the rule from the approved SIP.

Comment: A commenter asked whether EPA had done any research to determine how many erroneous laws were approved by the EPA in their rush to approve SIPs.

Response: EPA has many rulemaking and other activities that are required under the CAA or that are otherwise a priority under the Act, and thus has not had the time or resources to perform an extensive review of the SIPs to determine if any rules are erroneously incorporated. However where, through other means errors in the SIPs come to light, it is appropriate for EPA to correct the errors.

Comment: The commenter asserts that the CAA requires states to hold public hearings when revising a SIP and that EPA should hold a public hearing on the removal of the ''nuisance'' rule from the SIP. The commenter also asserts that this is ''particularly troublesome given that the SIP contained the nuisance rule for over 25 years and the proposed elimination was prompted only after a lawsuit was filed regarding the nuisance rule.''

Response: As outlined above, section 110(k)(6) does not require a public hearing when making a correction to a SIP. Section 110(k)(6) of the CAA states that ''whenever'' the Administrator determines that the Administrator's action approving any plan ''was in error,'' the Administrator may in the same manner as the approval, revise such action as appropriate. By this action EPA is removing the provision from the Georgia SIP in the same manner as EPA approves SIPs.

IV. Final Action

Since Georgia Rule 391–3–1–.02(2)(a)1 is not directed at the attainment and maintenance of the NAAQS, EPA has found that its prior approval of this particular rule (into the SIP) was in error. Consequently, in order to correct this error, EPA is removing Georgia Rule 391–3–1–.02(2)(a)1 from the approved Georgia SIP pursuant to section 110(k)(6) of the CAA, and codifying this deletion by revising the appropriate paragraph under 40 CFR part 52, subpart L, section 52.570 (Identification of Plan).

V. 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 corrects an error 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 corrects an error 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 corrects an error, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable VCS. This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 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 May 15, 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: March 6, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart L—Georgia

■ 2. Section 52.570 is amended in the table to paragraph (c) by revising the entry for ''391–3–1–.02(2)(a) General Provisions'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
391–3–1–.02(2)(a)	General Provisions	01/09/91	3/16/06 [Insert first page of publication].	Except for paragraph 391–3–1–.02(2)(a)1.
*	*	*	*	*

* * * * *

[FR Doc. 06–2479 Filed 3–15–06; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 71, No. 51
Thursday, March 16, 2006

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

FEDERAL ELECTION COMMISSION

11 CFR Part 100

[Notice 2006–4]

Rulemaking Petition: Exception for Certain ''Grassroots Lobbying'' Communications From the Definition of ''Electioneering Communication''

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition: Notice of availability.

SUMMARY: On February 16, 2006, the Commission received a Petition for Rulemaking (''Petition'') from the AFL-CIO, the Alliance for Justice, the Chamber of Commerce of the United States, the National Education Association, and OMB Watch. The Petition asks the Commission to revise its regulations by exempting certain communications consisting of ''grassroots lobbying'' that otherwise meet the definition of an ''electioneering communication'' under the Federal Election Campaign Act of 1971, as amended. The Petition is available for inspection in the Commission's Public Records Office and on its website, *http://www.fec.gov.* Further information is provided in the supplementary information that follows.

DATES: Statements in support of, or in opposition to, the Petition must be submitted on or before April 17, 2006.

ADDRESSES: All comments must be in writing, must be addressed to Mr. Brad C. Deutsch, Assistant General Counsel, and must be submitted in either e-mail, facsimile, or paper copy form. Commenters are strongly encouraged to submit comments by e-mail or fax to ensure timely receipt and consideration. E-mail comments must be sent to either *GRLECNOA@fec.gov* or submitted through the Federal eRegulations Portal at *http://www.regulations.gov.* If e-mail comments include an attachment, the attachment must be in either Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments must be sent to (202) 219–3923, with paper copy follow-up. Paper comments and paper copy follow-up of faxed comments must be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of the commenter or they will not be considered. The Commission will post comments on its website after the comment period ends.

FOR FURTHER INFORMATION CONTACT: Mr. Brad C. Deutsch, Assistant General Counsel, or Ms. Cheryl A.F. Hemsley, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Bipartisan Campaign Reform Act of 2002 (''BCRA''), Public Law 107–55, 116 Stat. 81 (2002), added ''electioneering communications'' to the communications already regulated by the Federal Election Campaign Act of 1971, as amended (''FECA''). *See* 2 U.S.C. 434(f)(3). Electioneering communications are television and radio communications that refer to a clearly identified candidate for Federal office, are publicly distributed within 60 days before a general election or 30 days before a primary election, and are targeted to the relevant electorate. *See* 2 U.S.C. 434(f)(3)(A)(i); 11 CFR 100.29. BCRA exempts certain communications from the definition of ''electioneering communication,'' 2 U.S.C. 434(f)(3)(B)(i) through (iii), and specifically authorizes the Commission to promulgate regulations exempting other communications as long as the exempted communications do not promote, support, attack or oppose a Federal candidate. 2 U.S.C. 434(f)(3)(B)(iv), *citing* 2 U.S.C. 431(20)(A)(iii). Section 100.29(c) of the Commission's regulations contains the regulatory exemptions to the definition of ''electioneering communications.'' 11 CFR 100.29(c).

The Federal Election Commission (''Commission'') has received a Petition for Rulemaking (''Petition'') from the AFL-CIO, the Alliance for Justice, the Chamber of Commerce of the United States, the National Education Association, and OMB Watch (collectively, ''Petitioners''). The Petitioners ask the Commission to revise 11 CFR 100.29(c) to exempt from the definition of ''electioneering communication'' certain ''grassroots lobbying'' communications that reflect all of the following principles: 1. The 'clearly identified federal candidate' is an incumbent public officeholder; 2. The communication exclusively discusses a particular current legislative or executive branch matter; 3. The communication either (a) calls upon the candidate to take a particular position or action with respect to the matter in his or her incumbent capacity, or (b) calls upon the general public to contact the candidate and urge the candidate to do so; 4. If the communication discusses the candidate's position or record on the matter, it does so only by quoting the candidate's own public statements or reciting the candidate's official action, such as a vote, on the matter; 5. The communication does not refer to an election, the candidate's candidacy, or a political party; and 6. The communication does not refer to the candidate's character, qualifications or fitness for office.

The Commission seeks comments on whether the Commission should initiate a rulemaking on this proposed exception to the definition of ''electioneering communication.''

Copies of the Petition are available for public inspection at the Commission's Public Records Office, 999 E Street, NW., Washington, DC 20463, Monday though Friday between the hours of 9 a.m. and 5 p.m., and on the Commission's website, *http://www.fec.gov.*

Consideration of the merits of the Petition will be deferred until the close of the comment period. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. Any subsequent action taken by the Commission will be announced in the **Federal Register**.

Dated: March 9, 2006.

Michael E. Toner,

Chairman, Federal Election Commission.

[FR Doc. E6–3810 Filed 3–15–06; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23785; Directorate Identifier 2006–CE–10–AD]

RIN 2120–AA64

Airworthiness Directives; Twin Commander Aircraft Corporation Models 690, 690A, and 690B Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Twin Commander Aircraft Corporation (Twin Commander) Models 690, 690A, and 690B airplanes. This proposed AD would require you to inspect, visually and using fluorescent dye penetrant, the support structures for the inboard and center aileron hinge fittings on both wings for cracks and replace any cracked support structure. This proposed AD would require you to reinforce the support structures for the inboard and center aileron hinge fittings on both wings. This proposed AD results from reports that cracks were found in the support structures for the inboard and center aileron hinge fittings on both wings. We are issuing this proposed AD to detect and correct cracks in the support structures for the inboard and center aileron hinge fittings on both wings, which could result in aileron failure. This failure could lead to reduced controllability or loss of control of the airplane.

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

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- Fax: 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 Twin Commander Aircraft LLC, 19010 59th Drive, NE., Arlington, WA 98223, telephone: (360) 435–9797; facsimile: (360) 435–1112, 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: Vince Massey, Aerospace Engineer, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, WA 98055–4056; telephone: (425) 917–6475; facsimile: (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include the docket number, ''FAA–2006–23785; Directorate Identifier 2006–CE–10–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this 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 name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Examining the Dockets

You may examine the 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

The FAA has received reports that cracks were found in the support structures for the inboard and center aileron hinge fittings on both wings on Twin Commander Models 690, 690A, and 690B airplanes.

This condition, if not detected and corrected, could result in failure of the aileron. This failure could lead to reduced controllability or loss of control of the airplane.

Relevant Service Information

We have reviewed Twin Commander Aircraft LLC Alert Service Bulletin 236A and Alert Service Bulletin 238, both dated December 21, 2004.

The service information describes procedures for:

- Inspecting, visually and using fluorescent dye penetrant, the support structures for the inboard and center aileron hinge fittings on both wings for cracks;
- Replacing cracked support structures; and
- Reinforcing the support structures for the inboard and center aileron hinge fittings on both wings.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD to address an unsafe condition that we determined is likely to exist or develop on other products of this same type design. This proposed AD would require you to inspect, visually and using fluorescent dye penetrant, the support structures for the inboard and center aileron hinge fittings on both wings for cracks and replace any cracked support structure. This proposed AD would require you to reinforce the support structures for the inboard and center aileron hinge fittings on both wings. This proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD affects 275 airplanes in the U.S. registry.

We estimate the following costs to do the proposed inspection of the support structures of the inboard aileron hinge fittings on both wings:

Labor cost	Parts cost	Total cost for each airplane	Total cost on U.S. operators
10 work hours × $80 an hour = $800	Not applicable	$800	$800 × 275 = $220,000.

We estimate the following costs to do the proposed inspection of the support structure of the center aileron hinge fittings on both wings:

Labor cost	Parts cost	Total cost for each airplane	Total cost on U.S. operators
12 work hours × $80 an hour = $960	Not applicable	$960	$960 × 275 = $264,000.

We estimate the following costs to do the proposed reinforcements to the support structures of the inboard aileron hinge fittings on both wings:

Labor cost	Parts cost	Total cost for each airplane	Total cost on U.S. operators
25 work hours × $80 an hour = $2,000	$1,526	$2,000 + $1,526 = $3,526	$3,526 × 275 = $969,650.

We estimate the following costs to do the proposed reinforcement of the support structure of the center aileron hinge fittings on both wings:

Labor cost	Parts cost	Total cost for each airplane	Total cost on U.S. operators
50 work hours × $80 an hour = $4,000	$551	$4,000 + $551 = $4,551	$4,551 × 275 = $1,251,525.

We estimate the following costs to do any proposed replacements of the support structures for the inboard aileron hinge fittings on both wings that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need this replacement:

Labor cost	Parts cost	Total cost for each airplane
62 work hours × $80 an hour = $4,960	$2,320	$4,960 + $2,320 = $7,280.

We estimate the following costs to do any proposed replacements of support structure for the center aileron hinge fittings on both wings that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need this replacement:

Labor cost	Parts cost	Total cost for each airplane
176 work hours × $80 an hour = $14,080	$3,330	$14,080 + $3,330 = $17,410.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Twin Commander Aircraft Corporation: Docket No. FAA–2006–23785; Directorate Identifier 2006–CE–10–AD.

Comment Due Date

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

Affected ADs

(b) None.

Applicability

(c) This AD affects Models 690, 690A, and 690B airplanes, all serial numbers, that are certificated in any category.

Unsafe Condition

(d) This AD results from reports of cracks found in the support structures for the inboard and center aileron hinge fittings on both wings. The actions specified in this AD are intended to detect and correct cracks in the support structures for the inboard and center aileron hinge fittings on both wings, which could result in aileron failure. This failure could lead to reduced controllability or loss of control of the airplane.

Compliance

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

Actions	Compliance	Procedures
(1) Inspect, visually and using fluorescent dye penetrant, the support structures for the inboard and center aileron hinge fittings on both wings for cracks.	Within the next 150 hours time-in-service (TIS) or 12 months after the effective date of this AD, whichever occurs first.	Follow Twin Commander Aircraft LLC Alert Service Bulletin 236A and Alert Service Bulletin 238, both dated December 21, 2004, as applicable.
(2) If you do not find cracks during the inspection required in paragraph (e)(1) of this AD, reinforce the support structures for the inboard and center aileron hinge fittings on both wings that are crack free.	Before further flight after the inspection required in paragraph (e)(1) of this AD. After the reinforcement is done, no further action is required.	Follow Twin Commander Aircraft LLC Alert Service Bulletin 236A and Alert Service Bulletin 238, both dated December 21, 2004, as applicable.
(3) If you find cracks during the inspection required in paragraph (e)(1) of this AD, replace and reinforce the cracked support structure.	Before further flight after the inspection required in paragraph (e)(1) of this AD. After doing the replacement and reinforcement, no further action is required.	Follow Twin Commander Aircraft LLC Alert Service Bulletin 236A and Alert Service Bulletin 238, both dated December 21, 2004, as applicable.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Vince Massey, Aerospace Engineer, Seattle Aircraft Certification Office, 1601 Lind Avenue SW, Renton, WA 98055–4056; telephone: (425) 917–6475; fax: (425) 917–6590, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(g) To get copies of the documents referenced in this AD, contact Twin Commander Aircraft LLC, 19010 59th Drive NE, Arlington, WA 98223, telephone: (360) 435–9797; facsimile: (360) 435–1112. 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–2006–23785; Directorate Identifier 2006–CE–10–AD.

Issued in Kansas City, Missouri, on March 10, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–3798 Filed 3–15–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–133446–03]

RIN 1545–BC37

Guidance on Passive Foreign Investment Company (PFIC) Purging Elections; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing.

SUMMARY: This document provides notice of cancellation of a public hearing on a notice of proposed rulemaking by cross-reference to temporary regulations, notice of proposed rulemaking, and notice of public hearing providing certain elections for taxpayers, who in limited circumstances, continue to be subject to the excess distribution regime of section 1291 even though the foreign corporation in which they own stock is no longer treated as a PFIC under section1297(e).

DATES: The public hearing originally scheduled for Wednesday, March 22, 2006, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Richard A. Hurst of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration) at *Richard.A.Hurst@irscounsel.treas.gov* or (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking by cross-reference to temporary regulations, notice of proposed rulemaking, and notice of public hearing that appeared in the **Federal Register** on Thursday, December 8, 2005, (70 FR 72952), announced that a public hearing was scheduled for March 22, 2006 at 10 a.m., in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 1291 of the Internal Revenue Code. The public comment period for these proposed regulations expired on March 8, 2006.

A notice of proposed rulemaking by cross-reference to temporary regulations, notice of proposed rulemaking, and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of March 8, 2006, no one has requested to speak.

Therefore, the public hearing scheduled for March 22, 2006, is cancelled.

Guy R. Traynor,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 06–2533 Filed 3–15–06; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[EPA–HQ–OPPT–2006–0044; FRL–7760–3]

Lead Paint Test Kit Development; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for comments.

SUMMARY: EPA is requesting information concerning the development of test kits or similar technologies for testing lead in paint that could be used by renovators, repair persons, and painters complying with a future EPA regulation for renovation, repair, and painting activities. This information will be considered in formulating EPA's policy and research decisions regarding the development of lead paint test kits. The lead paint test kits will allow renovators, repair persons, and painters to focus resources and identify locations where lead-based paint is present and reliably determine situations where appropriate preventive actions should be undertaken.

DATES: Comments must be received on or before April 17, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2006–0044, by one of the following methods.

- *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2006–0044. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2006–0044. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through regulations.gov or in hard copy at the OPPT Docket, EPA Docket Center (EPA/DC), EPA West, Rm. B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: John Schwemberger, National Program Chemicals Division (7404T), Office Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 566–1972; e-mail address: *schwemberger.john@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture test kits or similar technologies for lead paint testing; conduct sampling or testing for lead in paint; renovate, repair, or paint in housing built before 1978; or arrange for renovation, repair, or painting of housing units built before 1978. Potentially affected entities may include, but are not limited to:

- Research and Development in Physical, Engineering, and Life Sciences (NAICS code 541710), e.g., developers of test kits or similar technologies for lead testing.
- Engineering Services (NAICS code 541330) and Building Inspection Services (NAICS code 541350), e.g., lead paint inspectors.
- Building construction (NAICS code 236), e.g., single family housing construction firms, multifamily housing construction firms, residential remodelers.
- Specialty trade contractors (NAICS code 238), e.g., plumbing, heating, and air-conditioning contractors; painting and wall covering contractors; electrical contractors; finish carpentry contractors; drywall and insulation contractors; siding contractors; tile and terrazzo contractors; glass and glazing contractors.
- Real estate (NAICS code 531), e.g., lessors of residential buildings and dwellings, residential property managers.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to

certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 745.82 of EPA's proposed regulation for Lead; Renovation, Repair, and Painting Program, published in the **Federal Register** on January 10, 2006 (71 FR 1587) (FRL–7755–5) under docket ID number EPA–HQ–OPPT–2005–0049. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

v. If you estimate potential costs or burdens, explain how you arrived at the estimate.

vi. Provide specific examples to illustrate your concerns, and suggested alternatives.

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

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

II. Background

A. What Action is the Agency Taking?

EPA is requesting information concerning the development of test kits or similar technologies for testing lead in paint that could be used by renovators, repair persons, and painters complying with a future EPA regulation for renovation, repair, and painting activities. This information will be considered in formulating EPA's policy and research decisions regarding the development of lead paint test kits. The lead paint test kits will allow renovators, repair persons, and painters to focus resources and identify locations where lead-based paint is present and reliably determine situations where appropriate preventive actions should be undertaken.

EPA's proposed regulation for renovation, repair, and painting activities published in the January 10, 2006 **Federal Register**, and is available under docket ID number EPA–HQ–OPPT–2005–0049 at *http://www.regulations.gov/*. You can also access the proposed rule directly at *http://www.epa.gov/fedrgstr/EPA-TOX/2006/January/Day-10/t071.pdf*.

The proposed regulation calls for recognizing test kits that have a demonstrated probability of a negative response no more than 5% of the time for paint at or above the regulated lead level (i.e., kits with a false negative rate of no more than 5%). Under the proposed rule, these test kits could be used by trained and certified renovators in target housing to determine that the components affected by the renovation are free of lead-based paint. The proposed regulation also envisions the development of an improved, more accurate test kit that has:

1. A demonstrated probability of a negative response no more than 5% of the time for paint at or above the regulated lead level (i.e., a false negative rate of no more than 5%).

2. A demonstrated probability of a positive response no more than 10% of the time for paint below the regulated lead level (i.e., a false positive rate of no more than 10%).

The planned effective dates of the renovation, repair, and painting regulation are based on improved test kits being commercially available approximately in 3 years. Readers seeking additional information, should refer to the proposed regulation published in the January 10, 2006 **Federal Register**.

EPA defines lead-based paint as any paint or other coating on a building component with either 1.0 milligrams or more lead per square centimeter or 0.5% or more lead by weight. The term ''regulated lead level'' refers to either of these two threshold numbers. A manufacturer, inventor, or vendor of a test kit or similar technology may choose either one of these numbers as the regulated level for demonstration and evaluation purposes. For the final regulation on renovation, repair, and painting activities, EPA would like a test kit or similar technology that meets the following specifications to be commercially available. The specifications below are consistent with those in the proposed regulation published in the January 10, 2006 **Federal Register**, and provide additional detail.

Specifications:

1. False negative rate of no more than 5% for paint above or equal to the regulated level.

2. False positive rate of no more than 10% for paint below the regulated level.

3. Cost of under $2 per test.

4. Test results to be available within an hour. Test kit includes quality control samples so users can make sure the test kit is working properly when the test is conducted.

5. The test kit can be reliably used by a renovator, repair person, or painter who has completed training in the use of the test kit, and who has been certified by an EPA, State, territorial, or tribal lead program. The test kit provides consistent results when used by any trained and certified renovator, repair person, or painter. Required test kit training is to be minimal, 2–3 hours.

In addition, EPA is interested in a test kit or similar technology that can be applied to any paint in pre-1978 housing units regardless of the type of material (wood, metal, plaster, drywall, brick, concrete, etc.) beneath the paint. EPA is requesting information on test kits and similar technologies for testing lead in paint in the form of comments provided to the Agency no later than April 17, 2006. Comments are requested on the following topics:

1. The feasibility of developing a test kit or similar technology that meets the specifications in this document.

2. Manufacturers who have or could develop a test kit or similar technology that meets the specifications in this document.

3. Current test kits or similar technologies for testing lead in paint that may meet the specifications in this document.

4. Future test kits or similar technologies for testing lead in paint that will be available in approximately the next 3 years that may meet the specifications described in this document.

B. What is the Agency's Authority for Taking this Action?

EPA is taking this action under section 3710a of the Federal Technology Transfer Act, 15 U.S.C. 3710a, and sections 10 and 405 of the Toxic Substances Control Act, 15 U.S.C. 2609 and 2685.

List of Subjects

Environmental protection, Children, Hazardous substances, Health and safety, Lead-based paint test kit.

Dated: March 9, 2006.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E6–3824 Filed 3–15–06; 8:45 am]

BILLING CODE 6560–50–S

DENALI COMMISSION

45 CFR Chapter IX

National Environmental Policy Act Implementing Procedures

AGENCY: Denali Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Denali Commission withdraws a Proposed Rule to add regulations for implementing the National Environmental Policy Act of 1969 (NEPA). The Proposed Rule was published in the **Federal Register** on August 10, 2004.

DATES: The effective date of withdrawal is March 9, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Krag Johnsen, Denali Commission; 510 L Street, Suite 410; Anchorage, AK 99501. Telephone: (907) 271–1414. E-mail: *communications@denali.gov.*

SUPPLEMENTARY INFORMATION: The Denali Commission withdraws a Proposed Rule ''* * * to establish 45 CFR Chapter IX and to add regulations for implementing the National Environmental Policy Act of 1969 (NEPA).'' The effective date of withdrawal is March 9, 2006. The Proposed Rule was published in the **Federal Register** on August 10, 2004. The Denali Commission intends to adopt guidelines for implementing NEPA provisions that are consistent with it's method of operation. Consistent with the provisions of the National Environmental Policy Act, the Commission has decided to use guidelines for its required NEPA implementation procedures instead of promulgating regulations in order to maintain greater flexibility to implement any changes to these procedures as may be necessary in the future.

Dated: March 9, 2006.

George J. Cannelos,

Federal Co-Chair.

[FR Doc. E6–3801 Filed 3–15–06; 8:45 am]

BILLING CODE 3300–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1150 and 1180

[STB Ex Parte No. 659]

Public Participation in Class Exemption Proceedings

AGENCY: Surface Transportation Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Surface Transportation Board, having assessed its procedures for transactions qualifying for the 7- and 21-day class exemptions proposes to modify the timeframes in its rules to provide greater public notice in advance of an exempt transaction. The proposed changes are intended to ensure that the public is given notice of a proposed transaction before the exemption becomes effective; and that the Board may process such notices of exemption, and related petitions for stay, if any, in an orderly and timely fashion.

DATES: Comments are due on May 15, 2006. Replies are due on June 14, 2006.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's ''*http://www.stb.dot.gov*'' Web site, at the ''E-FILING'' link. Any person submitting a filing in the traditional paper format should send an original and 10 paper copies of the filing (referring to STB Ex Parte No. 659) to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. Comments must be filed in accordance with the Board's requirements at 49 CFR part 1104.

Copies of written comments will be available from the Board's contractor, ASAP Document Solutions (mailing address: Suite 103, 9332 Annapolis Rd., Lanham, MD 20706; e-mail address: *asapdc@verizon.net;* telephone number: 202–306–4004). The comments will also be available for viewing and self-copying in the Board's Public Docket Room, Room 755, and will be posted to the Board's Web site at *http://www.stb.dot.gov.*

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

SUPPLEMENTARY INFORMATION: The purpose of this notice of proposed rulemaking (NPRM) is to obtain comments on a proposal to provide the public with additional notice that certain of the Board's class exemptions have been invoked before those exemptions become effective. These class exemptions are proposed to be modified only as described herein. The scope, purpose and effect of these rules otherwise remains the same. Thus, the Board does not propose to make any changes to situations in which a class exemption can be used, or the information that entities seeking to use a class exemption must provide. This proceeding is based on the Board's exemption authority at 49 U.S.C. 10502. The rules that are the subject of this proposal (those found at 49 CFR part 1150 subpart D (Exempt Transactions Under 49 U.S.C. 10901), 49 CFR part 1150 subpart E (Exempt Transactions Under 49 U.S.C. 10902 for Class III Rail Carriers), and 49 CFR part 1180 subpart A (General Acquisition Procedures)) were established in the following agency proceedings: *Class Exemption for the Acquisition and Operation of Rail Lines Under 49 U.S.C. 10901,* Ex Parte No. 392; *Class Exemption for the Acquisition or Operation of Rail Lines by Class III Rail Carriers Under 49 U.S.C. 10902,* STB Ex Parte No. 529; and *Railroad Consolidation Procedures,* STB Ex Parte No. 282. For administrative convenience, a single new docket number is being used to permit consolidated consideration of the proposed procedural changes in one proceeding.

Overview

Under 49 U.S.C. 10502(a), the Board may exempt individual transactions or classes of transactions from the application requirements of the statute when it finds that full regulatory scrutiny is not required and the transaction or service will be limited in scope or greater regulatory scrutiny is not needed to protect shippers from an abuse of market power. If the Board grants an exemption, it may later revoke the exemption authority if it finds that action to be necessary to carry out the rail transportation policy of 49 U.S.C. 10101 (49 U.S.C. 10502(d)), or the notice may be deemed void *ab initio* if it contains false or misleading information.

There are some situations in which Board authorization is granted so

routinely that the Board has put in place a ''class exemption'' allowing parties to use abbreviated, summary procedures for obtaining that authority, subject to after-the-fact Board review if objections are received. The Board's class exemptions provide an expedited process for railroads to obtain Board authority in routine and uncontroversial cases and some assurance that transactions qualifying for the class exemption can be consummated on a date that can be predicted in advance.

Pursuant to 49 U.S.C. 10502, the Board and its predecessor, the Interstate Commerce Commission (ICC), have exempted certain classes of transactions from the prior approval requirements of 49 U.S.C. 10901, 10902, and 11323. By this process, class exemptions have been created for the following types of transactions that are the subject of this NPRM (collectively, the Ten Exempt Transaction Types): (1) Rail line acquisitions and similar transactions involving the creation of a Class III carrier (49 CFR part 1150 subpart D); [1] (2) rail line acquisitions and similar transactions involving a Class III carrier (49 CFR part 1150 subpart E) [2] (3) acquisitions of a line authorized for abandonment that do not entail major market extensions (49 CFR 1180.2(d)(1)); [3] (4) acquisitions or continuances in control of a nonconnecting carrier or multiple nonconnecting carriers (49 CFR 1180.2(d)(2)); (5) corporate family transactions (49 CFR 1180.2(d)(3)); (6) renewals of a lease or operating agreement previously authorized (49 CFR 1180.2(d)(4)); (7) joint projects involving a rail line relocation (49 CFR 1180.2(d)(5)); (8) reincorporations in a different state (49 CFR 1180.2(d)(6)); (9) acquisitions or renewals of trackage rights (49 CFR 1180.2(d)(7)); [4] and (10) acquisitions of temporary trackage rights (49 CFR 1180.2(d)(8)).[5] The class exemptions under 49 CFR part 1150 subparts D and E also extend to transactions involving the creation of Class I and II carriers, but the procedures at 49 CFR 1150.35 and 1150.45 differ from those applicable to transactions involving Class III carriers, and will be discussed later.[6]

For each of the Ten Exempt Transaction Types, the Board's regulations currently provide that the exemption will become effective—and that the transaction may be consummated—7 calendar days after a notice invoking the class exemption is filed at the Board. *See* 49 CFR 1150.32(b), 1150.42(b), and 1180.4(g). Notice of the exemption is published in the **Federal Register** within 30 days of the filing except for acquisitions of trackage rights or temporary trackage rights, in which case notice is published within 20 days. *See* 49 CFR 1150.32(b), 1150.42(b), 1180.4(g)(1)(ii), 1180.4(g)(2)(ii), 1180.4(g)(2)(iv). Consequently, **Federal Register** notice of a transaction is published after the exemption has become effective and often after the transaction has been consummated.

The regulations at 49 CFR part 1150 governing the creation of Class I and II carriers presently require that the Board be notified of the applicant's intent to file a notice of exemption at least 14 days before the notice of exemption is filed. *See* 49 CFR 1150.35(a), 1150.45(a). These exemptions become effective 21 days after the notice of exemption is filed. Publication in the **Federal Register** takes place within 30 days after the notice is filed. *See* 49 CFR 1150.35(e), 1150.45(e). Once again, formal public notice of the transaction might not occur until after the transaction has been consummated.

To ensure that the public is given notice of proposed transactions presented under one or more of the class exemptions before the exemptions become effective, and that the Board may process such notices of exemption, and related petitions for stay, if any, in an orderly and timely fashion, the Board proposes to modify these class exemption procedures.

Proposed Procedures for the Ten Exempt Transaction Types

As set forth in the proposed regulations below, the Board would modify the procedures for the Ten Exempt Transaction Types as follows: (1) Notice of the proposed transaction would be published in the **Federal Register** within 16 days of filing; (2) stay petitions would be due at least 7 days prior to the effective date of the exemption; and (3) the exemption, if not stayed, would take effect 30 days after the notice is filed.

In arranging for **Federal Register** publication within 16 days of the filing, the Board would review the notice, determine if it is complete and qualifies for use of the exemption, prepare and/or edit a caption summary for publication, and forward the notice, in appropriate format, to the Office of the Federal Register. Requiring stay petitions to be filed no later than 7 days before the effective date of the exemption would permit more orderly handling of requests for stay.

The Board also proposes that an exemption filed under these procedures would take effect 30 days after the notice has been filed. In so doing, the Board would adhere to the well-established process of setting forth a date certain by which an exempt transaction should be able to be consummated. With such a process in place, an entity seeking to invoke a class exemption would be able to structure its transaction knowing the earliest available consummation date.

As previously noted, these modifications are purely procedural. Nothing else about these class exemptions would be changed. The types of transactions qualifying for the class exemption would not change, nor would the regulations setting forth the information to accompany a notice of exemption. Petitions to revoke an exemption could still be filed at any time.

Procedures for Transactions That Would Create a Class I or Class II Carrier

The Board proposes similar changes to the notice requirements at 49 CFR part 1150 subparts D and E for transactions involving the creation of a Class I or Class II carrier. As set forth in the proposed regulations, the Board would modify the procedures at 49 CFR 1150.35 and 1150.45 as follows: (1) Notice of a covered transaction would be published in the **Federal Register** within 16 days of filing; (2) petitions for stay would be due no later than 14 days prior to the effective date of the exemption; [7] and (3) the exemption would take effect 45 days after filing. The 14-day advance notice of intent to file requirements currently in place would not change.

[1] *Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901,* 1 I.C.C.2d 810 (1985), *aff'd, Illinois Commerce Comm'n* v. *ICC,* 817 F.2d 145 (DC Cir. 1987).

[2] *Class Exem. for Acq. or Oper. Under 49 U.S.C. 10902,* 1 S.T.B. 95 (1996) (*Class Exemption—10902*) (*reconsideration denied,* STB served November 29, 1996).

[3] The class exemptions for transactions under 49 CFR 1180.2(d)(1)–(6) were adopted in *Railroad Consolidation Procedures,* 363 I.C.C. 200 (1980), and modest modifications have been adopted thereafter. *See, e.g, Rail Consol. Proc.—Con. in Cont. of Nonconnecting Carrier,* 2 I.C.C.2d 677 (1986).

[4] *Railroad Consolidation Procedures,* 1 I.C.C.2d 270 (1985).

[5] *Railroad Consolidation Procedures,* STB Ex Parte No. 282 (Sub-No. 20) (STB served May 23, 2003, *modified,* STB served May 17, 2004).

[6] These regulations were created pursuant to *Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901,* 4 I.C.C.2d 309 (1988); and *Class Exemption—10902.*

[7] As is the case now, replies to stay petitions filed under sections 1150.35 and 1150.45 would be due 7 days after the stay petition has been filed.

In keeping with the procedural changes proposed for the Ten Exempt Transaction Types discussed above, these modifications would provide greater public notice in advance of a transaction. As now, a notice filer would have a reliable process and could predict with reasonable certainty when it should be able to consummate a transaction covered by sections 1150.35 and 1150.45. As with the proposed procedures for the Ten Exempt Transaction Types, the proposed changes to 49 CFR 1150.35 and 1150.45 are purely procedural.

Only those class exemptions specifically referenced herein are affected by the NPRM, i.e., 49 CFR part 1150 subpart D; 49 CFR part 1150 subpart E; 49 CFR 1180.2(d)(1); 49 CFR 1180.2(d)(2); 49 CFR 1180.2(d)(3); 49 CFR 1180.2(d)(4); 49 CFR 1180.2(d)(5); 49 CFR 1180.2(d)(6); 49 CFR 1180.2(d)(7); and 49 CFR 1180.2(d)(8). Other class exemptions—for example, those for exempt construction of connecting track (49 CFR 1150.36) and for exempt abandonments and discontinuances of service and trackage rights (49 CFR 1152.50)—are not affected by this NPRM because they already provide for significantly longer notice periods.

Comments

The Board invites comments on the proposed regulations. Written comments (an original and 10 copies) are due on May 15, 2006. Replies are due on June 14, 2006. All comments must comply with the Board's requirements at 49 CFR part 1104.

Regulatory Flexibility Analysis

The Board certifies that the proposed rules, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulations, while modestly increasing the lengths of the notice requirement for the applicant, would continue to benefit individuals and entities potentially affected by transactions covered by the regulations by providing exemptions from statutory approval requirements for entire classes of transactions. These exemptions may still be invoked merely by filing a notice with the Board, so long as the requirements are met and the required processes are followed. That notice will cause the exemption to become effective as to the transaction identified in the notice in a period of time specified by rule.

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

List of Subjects in 49 CFR Parts 1150 and 1180

Administrative practice and procedure, Railroads.

Authority: 49 U.S.C. 10502 and 5 U.S.C. 553.

Decided: March 9, 2006.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend parts 1150 and 1180 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES

1. The authority citation for part 1150 continues to read as follows:

Authority: 49 U.S.C. 721(a), 10502, 10901, and 10902.

2. Amend § 1150.32 as follows:

A. In paragraph (b), remove the words ''30 days'' and add, in their place the words ''16 days''.

B. In paragraph (b), remove the words ''7 days'' and add, in their place, the words ''30 days''.

C. In paragraph (c), add a new sentence to the end of the paragraph as follows:

§ 1150.32 Procedures and relevant dates—transactions that involve creation of Class III carriers.

* * * * *

(c) * * * Stay petitions must be filed at least 7 days before the exemption becomes effective.

* * * * *

3. Amend § 1150.35 as follows:

A. In paragraph (e), remove the words ''21 days'' and add, in their place, the words ''45 days''.

B. In paragraph (e), remove the words ''30 days'' and add, in their place, the words ''16 days''.

C. In paragraph (f), revise the third sentence to read as follows:

§ 1150.35 Procedures and relevant dates—transactions that involve creation of Class I or Class II carriers.

* * * * *

(f) * * * Stay petitions must be filed at least 14 days before the exemption becomes effective. * * *

* * * * *

4. Amend § 1150.42 as follows:

A. In paragraph (b), remove the words ''30 days'' and add, in their place, the words ''16 days''.

B. In paragraph (b), remove the words ''7 days'' and add, in their place, the words ''30 days''.

C. In paragraph (c), add a new sentence to the end of the paragraph as follows:

§ 1150.42 Procedures and relevant dates for small line acquisitions.

* * * * *

(c) * * * Stay petitions must be filed at least 7 days before the exemption becomes effective.

* * * * *

5. Amend § 1150.45 as follows:

A. In paragraph (e), remove the words ''21 days'' and add, in their place, the words ''45 days''.

B. In paragraph (e), remove the words ''30 days'' and add, in their place, the words ''16 days''.

C. In paragraph (f), revise the third sentence to read as follows:

§ 1150.45 Procedures and relevant dates—transactions under section 10902 that involve creation of Class I or Class II rail carriers.

* * * * *

(f) * * * Stay petitions must be filed at least 14 days before the exemption becomes effective. * * *

* * * * *

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

6. The authority citation for part 1180 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 11 U.S.C. 1172; 49 U.S.C. 721, 10502, 11323–11325.

7. Amend § 1180.4 as follows:

A. In paragraph (g)(1) introductory text, remove the words ''one week'' and add, in their place, the words ''30 days''.

B. In paragraph (g)(1)(ii), remove the words ''30 days'' and add, in their place, the words ''16 days''.

C. Redesignate paragraph (g)(1)(iii) as paragraph (g)(1)(iv) and add a new paragraph (g)(1)(iii).

D. Remove paragraph (g)(2)(ii).

E. Redesignate paragraph (g)(2)(iii) as paragraph (g)(2)(ii).

F. Remove paragraph (g)(2)(iv).

§ 1180.4 Procedures.

* * * * *

(g) * * *

(1) * * *

(iii) The filing of a petition to revoke under 49 U.S.C. 10502(d) does not stay the effectiveness of an exemption. Stay petitions must be filed at least 7 days before the exemption becomes effective.

* * * * *

[FR Doc. 06–2472 Filed 3–15–06; 8:45 am]

BILLING CODE 4915–01–P

Notices

Federal Register

Vol. 71, No. 51

Thursday, March 16, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Request an Extension, and Revision, of a Currently Approved Information Collection; Correction

AGENCY: Agricultural Research Service.

ACTION: Notice; correction.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 04–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announced the Agricultural Research Service's (ARS) intention to seek approval to collection information in support of research and related activities.

The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Jill Philpot, 301–504–5683.

Correction

In the **Federal Register** of March 6, 2006, in FR Doc. 62–2065 on page 11175, in the second paragraph, and the seventh paragraph correct the **DATES** caption to read:

DATES: Comments on this notice must be received by May 5, 2006, to be assured of consideration.

Correction

Expiration Date: May 31, 2006.

Dated: March 7, 2006.

Yvette Anderson,

ARS Federal Register Liaison Officer.

[FR Doc. 06–2597 Filed 3–14–06; 10:53 am]

BILLING CODE 3410–03–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announces adjusted income eligibility guidelines to be used by State agencies in determining the income eligibility of persons applying to participate in the Special Supplemental Nutrition Program for Women, Infants and Children Program (WIC). These income eligibility guidelines are to be used in conjunction with the WIC Regulations.

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

FOR FURTHER INFORMATION CONTACT: Debra Whitford, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305–2746.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This notice is exempt from review by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of this Act.

Paperwork Reduction Act of 1995

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29114, June 24, 1983, and 49 FR 22676, May 31, 1984).

Description

Section 17(d)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786 (d)(2)(A)) requires the Secretary of Agriculture to establish income criteria to be used with nutritional risk criteria in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be income eligible for the WIC Program only if they are members of families that satisfy the income standard prescribed for reduced-price school meals under section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)). Under section 9(b), the income limit for reduced-price school meals is 185 percent of the Federal poverty guidelines, as adjusted.

Section 9(b) also requires that these guidelines be revised annually to reflect changes in the Consumer Price Index. The annual revision for 2006 was published by the Department of Health and Human Services (HHS) at 71 FR 3848, January 24, 2006. The guidelines published by HHS are referred to as the poverty guidelines.

Section 246.7(d)(1) of the WIC regulations (Title 7, Code of Federal Regulations) specifies that State agencies may prescribe income guidelines either equaling the income guidelines established under section 9 of the Richard B. Russell National School Lunch Act for reduced-price school meals or identical to State or local guidelines for free or reduced-price health care. However, in conforming WIC income guidelines to State or local health care guidelines, the State cannot establish WIC guidelines which exceed the guidelines for reduced-price school meals, or which are less than 100 percent of the Federal poverty guidelines. Consistent with the method used to compute income eligibility guidelines for reduced-price meals under the National School Lunch Program, the poverty guidelines were multiplied by 1.85 and the results rounded upward to the next whole dollar.

At this time the Department is publishing the maximum and minimum WIC income eligibility guidelines by household size for the period July 1, 2006, through June 30, 2007. Consistent with section 17(f)(17) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(17)), a State agency may implement the revised WIC income

eligibility guidelines concurrently with the implementation of income eligibility guidelines under the Medicaid program established under Title XIX of the Social Security Act (42 U.S.C. 1396, *et seq.*). State agencies may coordinate implementation with the revised Medicaid guidelines, but in no case may implementation take place later than July 1, 2006.

State agencies that do not coordinate implementation with the revised Medicaid guidelines must implement the WIC income eligibility guidelines on July 1, 2006. The first table of this notice contains the income limits by household size for the 48 contiguous States, the District of Columbia and all Territories, including Guam. Because the poverty guidelines for Alaska and Hawaii are higher than for the 48 contiguous States, separate tables for Alaska and Hawaii have been included for the convenience of the State agencies.

BILLING CODE 3410–30–P

INCOME ELIGIBILITY GUIDELINES
(Effective from July 1, 2006 to June 30, 2007)

Household Size	Federal Poverty Guidelines- 100%					Reduced Price Meals - 185%				
	Annual	Monthly	Twice-Monthly	Bi-Weekly	Weekly	Annual	Monthly	Twice-Monthly	Bi-Weekly	Weekly
48 Contiguous States, D.C., Guam and Territories										
1	$9,800	$817	$409	$377	$189	$18,130	$1,511	$756	$698	$349
2	13,200	1,100	550	508	254	24,420	2,035	1,018	940	470
3	16,600	1,384	692	639	320	30,710	2,560	1,280	1,182	591
4	20,000	1,667	834	770	385	37,000	3,084	1,542	1,424	712
5	23,400	1,950	975	900	450	43,290	3,608	1,804	1,665	833
6	26,800	2,234	1,117	1,031	516	49,580	4,132	2,066	1,907	954
7	30,200	2,517	1,259	1,162	581	55,870	4,656	2,328	2,149	1,075
8	33,600	2,800	1,400	1,293	647	62,160	5,180	2,590	2,391	1,196
Each Add'l Member Add	+ $3,400	+ $284	+ $142	+ $131	+ $66	+ $6,290	+ $525	+ $263	+ $242	+ $121
Alaska										
1	$12,250	$1,021	$511	$472	$236	$22,663	$1,889	$945	$872	$436
2	16,500	1,375	688	635	318	30,525	2,544	1,272	1,175	588
3	20,750	1,730	865	799	400	38,388	3,199	1,600	1,477	739
4	25,000	2,084	1,042	962	481	46,250	3,855	1,928	1,779	890
5	29,250	2,438	1,219	1,125	563	54,113	4,510	2,255	2,082	1,041
6	33,500	2,792	1,396	1,289	645	61,975	5,165	2,583	2,384	1,192
7	37,750	3,146	1,573	1,452	726	69,838	5,820	2,910	2,687	1,344
8	42,000	3,500	1,750	1,616	808	77,700	6,475	3,238	2,989	1,495
Each Add'l Member Add	+ $4,250	+ $355	+ $178	+ $164	+ $82	+ $7,863	+ $656	+ $328	+ $303	+ $152
Hawaii										
1	$11,270	$940	$470	$434	$217	$20,850	$1,738	$869	$802	$401
2	15,180	1,265	633	584	292	28,083	2,341	1,171	1,081	541
3	19,090	1,591	796	735	368	35,317	2,944	1,472	1,359	680
4	23,000	1,917	959	885	443	42,550	3,546	1,773	1,637	819
5	26,910	2,243	1,122	1,035	518	49,784	4,149	2,075	1,915	958
6	30,820	2,569	1,285	1,186	593	57,017	4,752	2,376	2,193	1,097
7	34,730	2,895	1,448	1,336	668	64,251	5,355	2,678	2,472	1,236
8	38,640	3,220	1,610	1,487	744	71,484	5,957	2,979	2,750	1,375
Each Add'l Member Add	+ $3,910	+ $326	+ $163	+ $151	+ $76	+ $7,234	+ $603	+ $302	+ $279	+ $140

Authority: 42 U.S.C. 1786.

Dated: March 8, 2006.

Roberto Salazar,

Administrator.

[FR Doc. 06–2526 Filed 3–15–06; 8:45 am]

BILLING CODE 3410–30–C

DEPARTMENT OF AGRICULTURE

Forest Service

South Deep Management Project, Colville National Forest, Stevens County, WA

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: On January 2, 2002, a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) for the South Deep Management Project on the Three Rivers Ranger District of the Colville National Forest, was published in the **Federal Register** (67 FR 51). Forest Service has decided to cancel the preparation of this EIS. The NOI is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to James Parker, Environmental Coordinator, Colville National Forest, 650 East Delaware, Republic WA 99166, telephone (509) 775–7462.

Dated: March 10, 2006.

Mimi A. Tryon,

Acting Forest Supervisor.

[FR Doc. 06–2555 Filed 3–15–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funding Availability: Section 515 Multi-Family Housing Preservation and Revitalization Restructuring (MPR) Demonstration Program for Fiscal Year 2006

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

Announcement Type: Inviting applications from eligible applicants for Fiscal Year 2006 funding.

Catalog of Federal Domestic Assistance Number (CFDA): 10.447

SUMMARY: USDA Rural Development (RD) administers the programs of Rural Housing Service (RHS). RD announces the availability of funds and the timeframe to submit applications to participate in a demonstration program to preserve and revitalize existing rural rental housing projects financed by RD under section 515 of the Housing Act of 1949. The intended effect is to restructure selected existing section 515 loans expressly for the purpose of ensuring that sufficient resources are available to preserve the rental project for the purpose of providing safe and affordable housing for low-income residents. Expectations are that properties participating in this program will be able to be revitalized and extend affordable use without displacing tenants because of increased rents. No additional Rental Assistance units will be made available under this program.

DATES: The deadline for receipt of all applications in response to this Notice of Funding Availability (NOFA) is 5 p.m., Eastern Time, April 17, 2006. The application closing deadline is firm as to date and hour. The Agency will not consider any application that is received after the closing deadline. Applicants intending to mail applications must allow sufficient time to permit delivery on or before the closing deadline. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX) and postage-due applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: Carlton Jarratt, Senior Loan Specialist, Multi-Family Housing Office of Rental Housing Preservation—STOP 0782 (Room 1263–S), or Byron Ross, Director, Multi-Family Housing Office of Rental Housing Preservation—STOP 0782 (Room 1263–S), U.S. Department of Agriculture Rural Housing Service, 1400 Independence Ave. SW., Washington, DC 20250–0782 or by telephone at (804) 561–0665 or (202) 690–0669, or via e-mail, *carlton.jarratt@wdc.usda.gov* or *Byron.Ross@wdc.usda.gov*. (Please note these phone numbers are not toll free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in this Notice have received temporary emergency clearance by the Office of Management and Budget (OMB) under Control Number 0575–0190. However, in accordance with the Paperwork Reduction Act of 1995, RD will seek standard OMB approval of the reporting requirements contained in this Notice. Publication of this Notice hereby opens a 60-day public comment period.

Title: Section 515 Multi-Family Housing Preservation and Revitalization Restructuring Demonstration Program.

Type of Request: New collection.

Abstract: The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Pub. L. 109–97) provides funding for, and authorizes RD to conduct a demonstration program for the preservation and revitalization of the section 515 multi-family housing portfolio. The section 515 multi-family housing program is authorized by section 515 of the Housing Act of 1949 (42 U.S.C. 1485) and provides RD the authority to make loans for low-income multi-family housing and related facilities.

RD refers to this program as Multi-Family Housing Preservation and Revitalization Restructuring Program (MPR). This NOFA sets forth the eligibility and application requirements. Information will be collected from applicants and grant recipients by Rural Development staff in its Local, Area, State, and National offices. This information will be used to determine applicant eligibility for this demonstration program. If an applicant proposal is selected, that applicant will be notified of the selection and given the opportunity to submit a formal application.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.26 hours per response.

Respondents: Individuals, partnerships, public and private nonprofit corporations, agencies, institutions, organizations, and Indian tribes.

Estimated Number of Respondents: 710.

Estimated Number of Responses per Respondent: 1.01.

Estimated Number of Responses: 1520.

Estimated Total Annual Burden on Respondents: 1940 hours.

Copies of this information collection can be obtained from Tracy Givelekian, Regulations and Paperwork Management Branch, at (202) 692–0039.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the RD, including whether the information will have practical utility; (b) the accuracy of the RD'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 Tracy Givelekian, 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.

Overview

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Pub. L. 109–97), November 10, 2005, provides funding for, and authorizes RD to conduct a demonstration program for the preservation and revitalization of the section 515 multi-family housing portfolio. The section 515 multi-family housing program is authorized by section 515 of the Housing Act of 1949 (42 U.S.C. 1485) and provides RD the authority to make loans for low-income multi-family housing and related facilities.

Program Administration

I. Funding Opportunities Description

This NOFA requests applications from eligible borrowers/applicants to restructure existing multi-family housing within the Agency's section 515 multi-family housing portfolio for the purpose of revitalization and preservation. The demonstration program shall be referred to in this notice as the Multi-Family Housing Preservation and Revitalization Restructuring Demonstration (MPR) program. Agency regulations for the section 515 multi-family housing program are published at 7 CFR part 3560. The MPR is intended to assure that existing rental projects will be able to continue to deliver decent, safe, and sanitary affordable rental housing for the lesser of the remaining term of the loan or 20 years from the date of the MPR transaction closing. Once an applicant and project have been selected in the process described in this notice, confirmed eligible by the Agency, and agree to participate in the MPR demonstration by written notification to the Agency, an independent third party capital needs assessment (CNA) will be conducted to provide a fair and objective review of projected capital needs. The Agency shall implement this NOFA through an MPR Conditional Commitment (MPRCC) with the eligible borrower, which will include all the terms and conditions under this NOFA, including the MPR Debt Deferral Agreement.

The primary restructuring tool to be used in this program will be up to a 20-year debt deferral of the payment on 1% section 515 loans. The cash flow from the deferred payment will be re-directed to reserve account deposits to help meet the physical needs of the property. If the resulting cash flow is not adequate to address the long-term needs of the project, other Agency restructuring tools and resources from third party sources including loans made with Agency guarantees under section 538 of the Housing Act of 1949 and 7 CFR part 3560, may be used to supplement the deferral. For the purposes of the MPR, the potential restructuring transactions will be identified in three categories:

(1) SIMPLE transactions will consist of a debt deferral only.

(2) MODERATE transactions will consist of a deferral and the use of at least one other Agency restructuring tool.

(3) COMPLEX transactions will consist of a MODERATE transaction that also includes the use of funding sources provided by a third party. Section 538 guarantees may be available to third party lenders.

Restructuring tools that may be used during the MPR demonstration based on the underwriting feasibility determination of the Agency include:

(1) A deferral of the existing Agency debt for the lesser of the remaining term of the loan or 20 years. All terms and conditions of the deferral will be described in the MPR Debt Deferral Agreement. A balloon payment of accrued principal and interest will be due at the end of the deferral period.

(2) A revitalization grant, limited to no more than $5,000 per unit will be available to fund immediate capital or reserve needs determined by the capital needs assessment process. The grant administration will be in accordance with 7 CFR part 3015.

(3) A section 515 rehabilitation loan at zero percent interest that will be amortized over 30 years.

(4) A soft mortgage will be available in limited situations to address capital needs. This will be accomplished by the use of a subordinate 1 percent section 515 rehabilitation loan that will have its interest and principal deferred, to a balloon payment, under the same terms as the longest remaining 515 debt. The total principal amount of the senior RD section 515 loan and the soft second mortgage may exceed the market value of the property. Payment of the subordinate debt will not be required from normal project operation income, but from excess cash after all other secured debts are satisfied.

(5) A subsequent section 515 rehabilitation loan at traditional rates and terms.

(6) Transfers, subordinations, and consolidations may be approved as part of a MPR transaction in accordance with existing servicing authorities of the Agency as available in 7 CFR part 3560.

Using the results of the CNA to help identify the need for resources and information regarding anticipated or available third party financing, the Agency will determine the financial feasibility of each potential transaction, using restructuring tools available either through existing regulatory authorities or specifically authorized through this demonstration program.

Project financial feasibility is determined when a property can provide affordable, safe, decent, sanitary housing for 20 years or the remaining term of the loan whichever is less, by using the authorities of this program while minimizing the cost to the Agency and without increasing rents for tenants, except when necessary to meet normal and necessary operating expenses. If the transaction is determined financially feasible by the Agency, the borrower will be offered a restructuring proposal, which will include a restrictive use covenant consistent with 7 CFR 3560.662.

If accepted by the borrower, the Agency and applicant will enter into a MPRCC. The applicant must also agree to a maximum of 20 years restricted use, pursuant to 7 CFR 3560.662 for the property when the MPR transaction is closed.

The MPR may be conducted with a stay-in owner or may involve a change in ownership. Any housing or related facilities that is constructed or repaired must meet the Agency design and construction standards and the development standards contained in 7 CFR part 1924, subparts A and C, respectively. Once constructed, section 515 multi-family housing must be managed in accordance with the, 7 CFR part 3560. Tenant eligibility will be limited to persons who qualify as a very low-, low-, or moderate-income household under Agency regulations or who are eligible under the requirements established to qualify for housing benefits provided by sources other than the Agency, such as U.S. Department of Housing and Urban Development Section 8 assistance or Low Income Housing Tax Credit Assistance, when a tenant receives such housing benefits. Additional tenant eligibility requirements are contained in 7 CFR 3560.152.

II. Award Information

Public Law 109–97 makes funding available to the Secretary of Agriculture for RD to provide the restructuring tools of the MPR demonstration. Based on the planned use of a combination of MPR tools, the Agency anticipates that the total amount of funding available for this program is $173,951,000. The types

and amount of assistance the Agency anticipates are: $165,894,000 in deferred debt, $210,000 in grants, $280,000 in zero percent loans, and $7,571,000 in soft mortgage loans. The Agency anticipates the ability to revitalize approximately 200 properties (5,400 units) with the funds available. Funding levels may differ from above when necessary to assure all funds are used.

All funding must be approved no later than September 15, 2006, and obligated by the Agency not later than September 29, 2006.

III. Eligibility Information

Applicants (and principals) must demonstrate:

(1) Eligibility under 7 CFR 3560.55 with the exception of the requirement described in 7 CFR 3560.55(a)(6) (have or able to obtain 2% of the total development costs for use as initial operating capital).

(2) That the project is needed in the market as evidenced by an average physical vacancy rate over the last twelve months of no more than 10% for projects of 16 units or more and 15% for projects under 16 units, except that the Agency may consider and accept documentation submitted by the applicant that demonstrates the occupancy standard will be met once a restructuring is performed.

(3) Ownership of, and the ability to operate, the facility after the transaction is completed.

(4) Compliance with any commitment to contribute funds to pay transaction costs as represented at the time of application for the MPR program.

Further, a CNA and Agency financial evaluation must demonstrate the MPR program is financially feasible and necessary for the revitalization and preservation of the property for affordable housing.

IV. Equal Opportunity and Nondiscrimination Requirements

(1) In accordance with the Fair Housing Act, title VI of the Civil Rights Act of 1964, the Equal Credit Opportunity Act, the Age Discrimination Act of 1975, Executive Order 12898, the Americans with Disabilities Act, and section 504 of the Rehabilitation Act of 1973, neither the Applicant nor the Agency will discriminate against any employee, proposed intermediary or proposed ultimate recipient on the basis of sex, marital status, race, color, religion, national origin, age, physical or mental disability (provided the proposed intermediary or proposed ultimate recipient has the capacity to contract), because all or part of the proposed intermediary's or proposed ultimate recipient's income is derived from public assistance of any kind, or because the proposed intermediary or proposed ultimate recipient has in good faith exercised any right under the Consumer Credit Protection Act, with respect to any aspect of a credit transaction anytime Agency loan funds are involved.

(2) The policies and regulations contained in 7 CFR part 1901, subpart E and RD Instruction 2006–P (available in any Rural Development Office) apply to this program.

(3) The Administrator will assure that equal opportunity and nondiscrimination requirements are met in accordance with the Fair Housing Act, title VI of the Civil Rights Act of 1964, the Equal Credit Opportunity Act, the Age Discrimination Act of 1975, Executive Order 12898, the Americans with Disabilities Act, and section 504 of the Rehabilitation Act of 1973.

(4) All housing must meet the accessibility requirements found at 7 CFR 3560.60(d).

V. Authorities Available for MPR

MPR tools will be used in accordance with 7 CFR part 3560 and its associated handbooks (available in any Rural Development office). The program will be administered within the resources and authorities made available to the Agency through Public Law 109–97 for the preservation and revitalization of section 515 financed properties. In the event that provisions of 7 CFR part 3560 conflicts with this demonstration program, the provisions of the MPR will take precedence.

VI. Application and Submission Information

(1) The application submission and scoring process will be completed in two phases in order to avoid unnecessary effort and expense on the part of interested borrowers/applicants and to allow additional points to be added to applicants that propose a transfer of a troubled project to an eligible owner.

The first phase is the application process, the applicant must submit a complete application no later than 30 days from the date of this publication. The applicant's submission will be classified complete when they submit a ''MPR Application'' for each MPR transaction they wish to be considered for in the demonstration. The MPR Application is the form attached at the end of this Notice. An electronic version of the application may be found on the Internet at *http://www.rurdev.usda.gov/rd/nofas/index.html.*

The second phase will be completed by the Agency and based on Agency records. Points will be assigned to each application when a proposal involving a transfer to a new eligible owner indicates that the property is currently classified by the Agency as a troubled project.

All complete and timely filed applications will then be scored and ranked based on points received during the two phase application process. Further, the Agency will categorize each MPR proposal as being potentially SIMPLE, MODERATE, or COMPLEX based on the information submitted on the application and in accordance with the category description provided in Section I of this Notice.

(2) Applications can be submitted either electronically or in hard copy. The time electronic filings will be considered received by the Agency is the actual time the transmission is received in the website mail box. The Agency will give preference to applications received electronically by using the close of business as the time a hardcopy application is received. Assistance for filing electronic and hard copy applications can be obtained from any Rural Development State Office.

The application is stored in the form of a .pdf format and may be completed as a fillable form. The form contains a button labeled ''Submit by Email.'' Clicking on the button will result in an e-mail containing a completed application being sent to the Multi-Family National Office for consideration.

Application forms may be downloaded from the site above or obtained by contacting the State Office in the state the project is located. Hard copy applications should be submitted to USDA Rural Housing Service; Attention: Carlton Jarratt, Senior Loan Specialist, Multi-Family Housing Office of Rental Housing Preservation—STOP 0782 (Room 1263–S), or Byron Ross, Director, Multi-Family Housing Office of Rental Housing Preservation—STOP 0781 (Room 1263–S), U.S. Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Washington, DC 20250–0781.

VII. Selection Process

Application ranking points will be based on information, provided during the submission process. Applicants will need to provide reasonable evidence that the items have a high probability of being accomplished at the time the formal application is submitted. Points will be awarded as follows:

(1) Ownership of the property. The maximum points awarded for this

criterion is 25 points. These points will be awarded in the following manner:

(i) Owner will continue ownership—25 points.

(ii) Transfer to a new eligible owner with site control as evidenced by a binding purchase agreement—20 points.

(iii) Transfer to a new owner without site control—10 points.

(2) Contribution of non-agency third party funds. Points awarded are to be based on documented written evidence that the funds are available. The maximum points awarded for this criterion is 25 points. These points will be awarded in the following manner:

(i) Owner contribution sufficient to pay transaction costs (those soft costs required to complete the transaction and include but are not limited to CNA, legal costs, appraisals and filing fees) expected to be a minimum of $5,000 that will be deposited in the property reserve account prior to closing—5 points, and

(ii) At least $3,000 to $5,000 per unit from other sources—15 points, or

(iii) Greater than $5,000 per unit from other sources—20 points.

(3) Age of Project. Since the age of the project and date that the loan was made are directly related to physical needs, a maximum of 25 points will be awarded on the following criteria:

(i) Initial loans made prior to December 21, 1979—25 points.

(ii) Initial loans made on or after December 21, 1979, but before December 15, 1989—20 points.

(iii) Initial loans made on or after December 15, 1989, but before October 1, 1991—15 points.

(iv) Initial loans made on or after October 1, 1991—10 points.

(4) Troubled Project Points. The Agency may award up to 25 additional points to facilitate the transfer and revitalization of troubled projects with an Agency classification of ''C'' or ''D'' according to HB 2–3560, Paragraph 9.7 (available at *http://www.rurdevusda.gov/regs/hblist.html*). These projects may be troubled due to an act of nature or physical or financial deterioration or to correct management issues. Points will be awarded in the following manner:

(i) If the Agency servicing classification is C or D for less than 24 months—15 points.

(ii) If the Agency servicing classification is C or D for more than 24 months—25 points.

The Agency will total the selection criteria points for all applications received within the timeframes of this Notice and rank each application according to their total score. In the event that point totals are equal, the time and date the application was received by the Agency will determine the priority for selection (first come, first served).

Once priority ranking has been established, the Agency will conduct a five step process to select applicants. The five step process is needed to assure that the Agency can process the proposed transactions within available staffing resources, develop a representative sampling of revitalization transaction types, and assure an adequate pipeline of transactions to use all available funding.

Step One: The Agency will identify the highest scoring applications whose section 515 loan's unpaid principal balance total approximately $160 million.

Step Two: The Agency will identify the six states that have the most applicants identified in Step One.

Step Three: The Agency will select all the applicants identified in Step One for the six states identified in Step Two and place the applicants in funding queues by the three basic revitalization transaction types (SIMPLE, MODERATE, or COMPLEX).

Step Four: The Agency will then place the remaining applicants identified in Step One in the three funding queues. They will be placed in order of their scoring in Step One, but after the applicants placed in queue in Step Three.

Step Five: The Agency will then select the top ranked projects in each queue to result in a ratio as close as possible to 30 percent simple, 35 percent moderate and 35 percent complex. Selections will be made until the unpaid balance of selected transactions equal at least 150 percent of available deferral authority.

It is important to note that the identification of each application as being in one of the three transaction types is at the discretion of the Agency and is to be used only to attempt to develop a representative sampling of MPR transaction types. The actual transaction type that may be proposed to the applicant will be determined through the Agency underwriting process and may vary from the original transaction classification.

VIII. Processing for Selected Applications

Those proposals that are ranked and then selected for further processing will be invited to sign an agreement to proceed. In the event that a proposal is selected for further processing and the applicant declines, the next highest ranked application will be selected. Applications can be submitted either electronically or in hard copy.

If an application is accepted for further processing, the applicant will be expected to submit additional relevant information requested that is needed to demonstrate eligibility and feasibility, consistent with this NOFA and the appropriate sections of 7 CFR part 3560, prior to the issuance of a restructuring offer.

RD will work with applicants selected for further processing in accordance with the following steps:

(1) Based on the feasibility of the type of transaction that will best suit the project and the availability of funds, further eligibility confirmation determinations will be conducted by the Office of Rental Housing Preservation with the assistance of designated Multi-Family Housing Revitalization coordinators assigned by each Rural Development State Director.

(2) A CNA will be conducted in accordance with the requirements of 7 CFR 3560.103(c) and HB 3–3560, Chapter 7, Section 5 and Unnumbered Letter, dated October 22, 2005, ''Guidance on the Capital Needs Assessment Process'' (available in any Rural Development State Office). The cost of the CNA will be considered a part of the project expense and may be paid from the ''project reserve'' with prior approval of the Agency. The Agency approval for participation in this program will be contingent upon the Agency's final approval of the CNA and concurrence of the scope of work with the owner.

(3) Underwriting will be conducted by the Office of Rental Housing Preservation with the assistance of the designated Multi-Family Housing Revitalization Coordinator assigned by each Rural Development State Director. The feasibility and structure of each revitalization proposal will be determined using this underwriting process and will include a determination of the restructuring tools that will minimize the cost to the Government consistent with the purposes of this NOFA. The Agency expects that some of the transactions proposed by selected applicants will prove to be infeasible. The applicant entity may be determined to be ineligible under Section III of this Notice. If a proposed transaction is determined infeasible or the applicant determined ineligible, the Agency will then select the next highest ranked project for processing.

Each MPR offer will be approved by the Revitalization Review committee chaired by the Deputy Administrator for Multi-Family Housing. Approved MPR offers will be presented to applicants who will then have up to 15 calendar

days to accept or reject the offer in writing. Offers will expire after 15 days. The Agency will replace expired applications by selecting the next highest ranked project. Closing of MPR offers will occur within 60 days of acceptance by the applicant unless extended by the Agency.

IX. Funding Restrictions

Applicants will be selected in accordance with selection criteria and the five step process identified in Section VII of this Notice. Once selected to proceed, the Agency will provide additional guidance to the applicant and request information and documents necessary to complete the underwriting and review process. Since the character of each application may vary substantially depending on the type of transactions proposed, information requirements will be provided as appropriate. Complete project information must be submitted no later than 45 days from the date of Agency notification of the applicant's selection for further processing. Failure to submit the required information in a timely manner may result in the Agency discontinuing the processing of the request. Funding under this NOFA will be obligated under a first come, first served basis within each of the 3 funding queues described in Section VI of this Notice.

X. Application Review

All complete applications will be evaluated, ranked and selected for further processing by a review committee. The committee will make recommendations for final decision to the Agency Administrator based on the selection criteria contained in this NOFA. The Administrator will inform applicants of the status of their request within 30 days of the application closing date of the NOFA.

XI. Appeal Process

All adverse determinations regarding applicant eligibility and the awarding of points as a part of the selection process are appealable. Instructions on the appeal process will be provided at the time an applicant is notified of the adverse.

Dated: March 7, 2006.

Russell T. Davis,

Administrator, Rural Housing Service.

BILLING CODE 3410–XV–P

Form Approved
OMB No. 0575-XXXX

Multi-Family Housing Preservation and Revitalization Restructuring Program (MPR)

MPR
Preapplication

Instructions: Please provide the information by entering letters and numbers from left to right. Individuals place last name first, first name, then middle initial. Allow one space between names and do not use symbols like (-), ($), (#), and (,) when entering dollar amounts. Please note that electronic submittals are not on a secured site.

(a) Applicant's name.
__/

(b) Name of applicant's authorized representative.
__/

(c) Applicant's address.
Street__/__/__/__/__/__/__/__/__/__/__/__/__/__/__/
Secondary address__/__/__/__/__/__/__/__/__/__/__/__/__/__/
City__/
State__/__/
Zip Code__/__/__/__/__/__/__/__/__/

(d) Applicant's telephone number.
__/__/__/__/__/__/__/__/__/__/

(e) Email address.
__/

(f) Does this proposed transaction include a transfer of ownership?
Yes__/ No__/ (Check One)

If yes, can you provide evidence of site control as evidenced by a binding purchase agreement for a term sufficient to complete a transfer and assumption and loan restructuring for a period extending to November 1, 2006?

Yes__/ No__/ (Check One)

(g) Provide the following information for properties considered in this transaction:

Borrower ID No.	Project ID No.	Borrower ID No.	Project ID No.
(1) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/	(9) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/
(2) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/	(10) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/
(3) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/	(11) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/
(4) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/	(12) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/
(5) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/	(13) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/
(6) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/	(14) __/__/__/__/__/__/__/__/__/__/	__/__/__/__/

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-XXXX. The time required to complete this information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

(7) __/__/__/__/__/__/__/__/__/__ __/__/__/__ (15) __/__/__/__/__/__/__/__/__/__ __/__/__/__
(8) __/__/__/__/__/__/__/__/__/__ __/__/__/__ (16) __/__/__/__/__/__/__/__/__/__ __/__/__/__

(h) If this proposed transaction includes the use of additional Agency authorities or (committed) third party resources, please list below.

Agency loan (new) __/__/__/__/__/__/__/__/__/__
Agency grant (new) __/__/__/__/__/__/__/__/__/__
Tax Credits __/__/__/__/__/__/__/__/__/__
3rd Party Loan __/__/__/__/__/__/__/__/__/__
3rd Party Grant __/__/__/__/__/__/__/__/__/__

Are tax credits and third party funds committed?
Yes__/ No__/ (Check One)

(i) In the Text Box below, provide information to indicate the need for the housing if vacancy percentage exceeds average physical vacancy rate over the last twelve months of greater than 10% for projects of 16 units or more and 15% for projects fewer than 16 units.

Text Box

(j) The applicant will contribute and deposit in the property reserve account prior to closing at least $5,000 to defray transaction costs (those soft costs required to complete the transaction and include but are not limited to CNA, legal costs, appraisals and filing fees).

Yes__/ No__/ (Check One)

(k) The ownership of the property is currently or will be in good standing with the agency and meet the eligibility requirements as defined in Section III of the Notice of Fund Availability (NOFA).

Yes__/ No__/ (Check One)

(l) If the answer to (k) is "No", will the ownership, as of the closing of this transaction, be in good standing with the Agency and meet the eligibility requirements required in Section III of the NOFA?

Yes__/ No__/ (Check One)

[FR Doc. 06–2594 Filed 3–15–06; 8:45 am]
BILLING CODE 3410–XV–C

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Grant Application Deadlines and Funding Levels

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of solicitation of applications.

SUMMARY: USDA Rural Development administers rural utilities service through the Rural Utilities Service. USDA Rural Development announces its Public Television Digital Transition Grant Program application window for fiscal year (FY) 2006.

DATES: You may submit completed applications for grants on paper or electronically according to the following deadlines:

- Paper copies must carry proof of shipping no later than May 15, 2006 to be eligible for FY 2006 grant funding. Late applications are not eligible for FY 2006 grant funding.
- Electronic copies must be received by May 15, 2006 to be eligible for FY 2006 grant funding. Late applications are not eligible for FY 2006 grant funding.

ADDRESSES: You may obtain application guides and materials for the Public Television Station Digital Transition Grant Program via the Internet at the following Web site: *http://www.usda.gov/rus/telecom/*. You may also request application guides and materials from USDA Rural Development by contacting the appropriate individual listed in Section VII of the **SUPPLEMENTARY INFORMATION** section of this notice.

- Submit completed paper applications for grants to the USDA Rural Development, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 2845, STOP 1550, Washington, DC 20250–1550. Applications should be marked ''Attention: Director, Advanced Services Division, Telecommunications Program.''
- Submit electronic grant applications to Grants.gov at the following Web address: *http://www.grants.gov/* (Grants.gov), and follow the instructions you find on that Web site.

FOR FURTHER INFORMATION CONTACT: Orren E. Cameron III, Director, Advanced Services Division, Telecommunications, USDA Rural Development, U.S. Department of Agriculture, telephone: (202) 690–4493, fax: (202) 720–1051.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service (RUS).

Funding Opportunity Title: Public Television Station Digital Transition Grant Program.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.861.

Dates: You may submit completed applications for grants on paper or electronically according to the following deadlines:

- Paper copies must carry proof of shipping no later than May 15, 2006, to be eligible for FY 2006 grant funding. Late applications are not eligible for FY 2006 grant funding.
- Electronic copies must be received by May 15, 2006, to be eligible for FY 2006 grant funding. Late applications are not eligible for FY 2006 grant funding.

Items in Supplementary Information

I. *Funding Opportunity:* Brief Introduction to the Public Television Station Digital Transition Grant Program
II. *Award Information:* Available Funds and Maximum Amounts
III. *Eligibility Information:* Who Is Eligible, What Kinds of Projects Are Eligible, What Criteria Determine Basic Eligibility
IV. *Application and Submission Information:* Where to Get Application Materials, What Constitutes a Completed Application, How and Where to Submit Applications, Deadlines, Items That Are Eligible
V. *Application Review Information:* Considerations and Preferences, Scoring Criteria, Review Standards, Selection Information
VI. *Award Administration Information:* Award Notice Information, Award Recipient Reporting Requirements
VII. *Agency Contacts:* Web, Phone, Fax, E-mail, Contact Name

I. Funding Opportunity

As part of the nation's transition to digital television, the Federal Communications Commission (FCC) required all television broadcasters to begin broadcasting using digital signals, and to cease broadcasting in analog by December 31, 2006. As of August 2005, forty of the nation's 355 public television transmitters have not launched DTV service. In addition, the vast majority of DTV stations serving rural areas have not yet been able to build out their full digital facilities that would allow them to replicate their analog services in the digital environment. It is important for these stations to be able to cover their former analog service areas, and to tailor their programs and services (e.g., education services, public health, homeland security, and local culture) to their rural constituents, and this may require transmitter/translator upgrades and other broadcast and video. If stations cannot continue to meet their analog standards of robust service, some Public Television programming will be lost, and many school systems may be left without the educational programming they count on for curriculum compliance. With the FCC deadline of December 31, 2006, for the end of the digital transition approaching, it is vital that rural stations continue their services to rural America.

On January 20, 2006, the Rural Utilities Service issued an Interim Final Rule which defines rules for the program (71 FR 3205). This regulation incorporates new statutory requirements and updates this competitive grant program.

This notice has been formatted to conform to a policy directive issued by the Office of Federal Financial Management (OFFM) of the Office of Management and Budget (OMB), published in the **Federal Register** on June 23, 2003, (68 FR 37370). This Notice does not change the Public Television Station Digital Transition Grant Program regulation (7 CFR part 1740).

II. Award Information

A. Available Funds

1. *General.* The Administrator has determined that the following amounts are available for grants in FY 2006 under 7 CFR 1740.1.

2. *Grants*

a. $4.97 million is available for grants from FY 2006. Under 7 CFR 1740.2, the maximum amount for grants under this program is $1 million per applicant per year.

b. Assistance instrument: USDA Rural Development will execute grant documents appropriate to the project prior to any advance of funds with successful applicants.

B. Public Television Station Digital Transition Grants Cannot Be Renewed

Award documents specify the term of each award, and due to uncertainties in regulatory approvals of digital television broadcast facilities, the period during which grant funding is available will be extended upon request.

III. Eligibility Information

A. Who is eligible for grants? (See 7 CFR 1740.3.)

1. Public television stations which serve rural areas are eligible for Public Television Station Digital Transition Grants. A public television station is a

noncommercial educational television broadcast station that is qualified for Community Service Grants by the Corporation for Public Broadcasting under section 396(k) of the Communications Act of 1934.

2. Individuals are not eligible for Public Television Station Digital Transition Grant Program financial assistance directly.

B. What are the basic eligibility requirements for a project?

1. Grants shall be made to perform digital transitions of television broadcasting serving rural areas. Grant funds may be used to acquire, lease, and/or install facilities and software necessary to the digital transition. Specific purposes include:

a. Digital transmitters, translators, and repeaters, including all facilities required to initiate DTV broadcasting. All broadcast facilities acquired with grant funds shall be capable of delivering DTV programming and HDTV programming, at both the interim and final channel and power authorizations. There is no limit to the number of transmitters or translators that may be included in an application;

b. Power upgrades of existing DTV transmitter equipment;

c. Studio-to-transmitter links;

d. Equipment to allow local control over digital content and programming, including master control equipment;

e. Digital program production equipment, including cameras, editing, mixing and storage equipment;

f. Multicasting and datacasting equipment;

g. Cost of the lease of facilities, if any, for up to three years; and,

h. Associated engineering and environmental studies necessary to implementation.

2. Matching contributions: There is no requirement for matching funds in this program (see 7 CFR 1740.5) * * *

3. To be eligible for a grant, the Project must not (see 7 CFR 1740.7):

a. Include funding for ongoing operations or for facilities that will not be owned by the applicant, except for leased facilities as provided above;

b. Include costs of salaries, wages, and employee benefits of public television station personnel unless they are for construction or installation of eligible facilities;

c. Have been funded by any other source;

d. Include items bought or built prior to the application deadline specified in this Notice of Funds Availability.

C. See paragraph IV.B of this notice for a discussion of the items that make up a completed application. You may also refer to 7 CFR 1740.9 for completed grant application items.

IV. Application and Submission Information

A. Where To Get Application Information

The application guide, copies of necessary forms and samples, and the Public Television Station Digital Transition Grant Program regulation are available from these sources:

1. The Internet: *http://www.usda.gov/rus/telecom/,* or *http://www.grants.gov.*

2. Advanced Services Division, USDA Rural Development, for paper copies of these materials: (202) 690–4493.

B. What Constitutes a Completed Application?

1. Detailed information on each item required can be found in the Public Television Station Digital Transition Grant Program regulation and the Public Television Station Digital Transition Grant Program application guide. Applicants are strongly encouraged to read and apply both the regulation and the application guide. This Notice does not change the requirements for a completed application for any form of Public Television Station Digital Transition Grant Program financial assistance specified in the program regulation. The program regulation and application guide provide specific guidance on each of the items listed and the application guide provides all necessary forms and sample worksheets.

2. A completed application must include the following documentation, studies, reports and information in form satisfactory to USDA Rural Development. Applications should be prepared in conformance with the provisions in 7 CFR 1740, subpart A, and applicable USDA regulations including 7 CFR parts 3015, 3016, and 3019. Applicants must use the application guide for this program containing instructions and all necessary forms, as well as other important information, in preparing their application. Completed applications must include the following:

a. An application for federal assistance, Standard Form 424.

b. An executive summary, not to exceed two pages, describing the public television station, its service area and offerings, its current digital transition status, and the proposed project.

c. Evidence of the applicant's eligibility to apply under this Notice, proving that the applicant is a Public Television Station as defined in this Part, and that it is required by the FCC to perform the digital transition.

d. A spreadsheet showing the total project cost, with a breakdown of items sufficient to enable USDA Rural Development to determine individual item eligibility.

e. A coverage contour map showing the digital television coverage area of the application project. This map must show the counties (or county) comprising the Core Coverage Area by shading and by name. Partial counties included in the applicant's Core Coverage Area must be identified as partial and must contain an attachment with the applicant's estimate of the percentage that its coverage contour comprises the total area of the county (total area is available from American Factfinder, referenced above). If the application is for a translator, the coverage area may be estimated by the applicant through computer modeling or some other reasonable method, and this estimate is subject to acceptance by USDA Rural Development.

f. The applicant's own calculation of its Rurality score, supported by a worksheet showing the population of its Core Coverage Area, and the urban and rural populations within the Core Coverage Area. The data source for the urban and rural components of that population must be identified. If the application includes computations made by a consultant or other organization outside the public television station, the application shall state the details of that collaboration.

g. The applicant's own calculation of its Economic Need score, supported by a worksheet showing the National School Lunch Program eligibility levels for all school districts within the Core Coverage Area and averaging these eligibility percentages. The application must include a statement from the state or local organization that administers the NSLP program certifying the school district scores used in the computations.

h. If applicable, a presentation not to exceed five pages demonstrating the Critical Need for the project.

i. Evidence that the FCC has authorized the initiation of digital broadcasting at the project sites. In the event that an FCC construction permit has not been issued for one or more sites, those sites may be included in the grant, however, advance of funds for that site conditional upon the submission of a construction permit.

j. Compliance with other Federal statutes. The applicant must provide evidence or certification that it is in compliance with all applicable Federal statutes and regulations, including, but not limited to the following:

(1) Executive Order (E.O.) 11246, Equal Employment Opportunity, as

amended by E.O. 11375 and as supplemented by regulations contained in 41 CFR part 60;

(2) Architectural barriers;

(3) Flood hazard area precautions;

(4) Assistance and Real Property Acquisition Policies Act of 1970;

(5) Drug-Free Workplace Act of 1998 (41 U.S.C. 701);

(6) E.O.s 12549 and 12689, Debarment and Suspension; and

(7) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

k. Environmental impact and historic preservation. The applicant must provide details of the digital transition's impact on the environment and historic preservation, and comply with 7 CFR part 1794, which contains policies and procedures for implementing a variety of federal statutes, regulations, and executive orders generally pertaining to the protection of the quality of the human environment. This must be contained in a separate section entitled ''Environmental Impact of the Digital Transition,'' and must include the Environmental Questionnaire/Certification, available from USDA Rural Development, describing the impact of its digital transition. Submission of the Environmental Questionnaire/Certification alone does not constitute compliance with 7 CFR part 1794.

3. DUNS Number. As required by the OMB, all applicants for grants must now supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying. The Standard Form 424 (SF–424) contains a field for you to use when supplying your DUNS number. Obtaining a DUNS number costs nothing and requires a short telephone call to Dun and Bradstreet. Please see the Public Television Station Digital Transmitter Grant Program Web site or Grants.gov for more information on how to obtain a DUNS number or how to verify your organization's number.

C. How Many Copies of an Application Are Required?

1. Applications submitted on paper: Submit the original application and two (2) copies to USDA Rural Development.

2. Electronically submitted applications: Additional paper copies for USDA Rural Development are not necessary if you submit the application electronically through Grants.gov.

D. How and Where To Submit an Application

Grant applications may be submitted on paper or electronically.

1. Submitting applications on paper.

a. Address paper applications for grants to the USDA Rural Development, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 2845, STOP 1550, Washington, DC 20250–1550. Applications should be marked ''Attention: Director, Advanced Services Division, Telecommunications Program.''

b. Paper applications must show proof of mailing or shipping consisting of one of the following:

(i) A legibly dated postmark applied by the U.S. Postal Service;

(ii) A legible mail receipt with the date of mailing stamped by the USPS; or

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

c. Non-USPS-applied postage dating, i.e., dated postage meter stamps, do not constitute proof of the date of mailing.

d. Due to screening procedures at the Department of Agriculture, packages arriving via the USPS are irradiated, which can damage the contents. USDA Rural Development encourages applicants to consider the impact of this procedure in selecting their application delivery method.

2. Electronically submitted applications.

a. Applications will not be accepted via facsimile machine transmission or electronic mail.

b. Electronic applications for grants will be accepted if submitted through the Federal Government's Grants.gov initiative at *http://www.grants.gov.*

c. How to use Grants.gov:

(i) Navigate your Web browser to *http://www.grants.gov.*

(ii) Follow the instructions on that Web site to find grant information.

(iii) Download a copy of the application package.

(iv) Complete the package off-line.

(v) Upload and submit the application via the Grants.gov Web site.

d. Grants.gov contains full instructions on all required passwords, credentialing and software.

e. USDA Rural Development encourages applicants who wish to apply through Grants.gov to submit their applications in advance of the deadline. Difficulties encountered by applicants filing through Grants.gov will not justify filing deadline extensions.

f. If a system problem occurs or you have technical difficulties with an electronic application, please use the customer support resources available at the Grants.gov Web site.

g. New information for FY 2006.

(I) The scoring of Rurality and Economic Need has been simplified by changing the basis for a station's coverage area from the computer-generated Longley-Rice coverage plot to an area comprised of whole counties of which the applicant's proposed cover transmitters/transmitters at least 75% geographically. A mechanism is incorporated so that urban areas on the fringe of a station's coverage area do not diminish an applicant's score.

(iii) Economic Needs scoring is based on a project area's eligibility level in the National School Lunch Program, rather than its Per Capita Income. This change is made to capture the cost of living of the project area as well as its income level.

(ii) New purposes will be funded due to appropriations language.

E. Deadlines

1. Paper applications must be postmarked and mailed, shipped, or sent overnight no later than May 15, 2006 to be eligible for FY 2006 grant funding. Late applications are not eligible for FY 2006 grant funding.

2. Electronic grant applications must be received by May 15, 2006 to be eligible for FY 2006 funding. Late applications are not eligible for FY 2006 grant funding.

V. Application Review Information

A. Criteria

1. Grant applications are scored competitively and subject to the criteria listed below.

2. Grant application scoring criteria are detailed in 7 CFR 1740.8. There are 100 points available, broken down as follows:

a. The Rurality of the Project (up to 40 points);

b. The Economic Need of the Project's Service Area (up to 30 points); and

c. The Critical Need for the project, and of the applicant, including the benefits derived from the proposed service (up to 30 points).

B. Review Standards

1. All applications for grants must be delivered to USDA Rural Development at the address and by the date specified in this notice to be eligible for funding. Each application will be reviewed for conformance with the provisions of this part. Applicants may be contacted for additional information or clarification.

2. Incomplete applications as of the deadline for submission will not be considered. If an application is determined to be incomplete, the applicant will be notified in writing and the application will be returned with no further action.

3. Applications conforming with this part will be evaluated competitively by a panel of USDA Rural Development employees selected by the Administrator of RUS, and will be awarded points as described in the

scoring criteria in 7 CFR 1740.8. Applications will be ranked and grants awarded in rank order until all grant funds are expended.

4. Regardless of the score an application receives, if it is determined that the Project is technically or financially infeasible, the applicant will be notified, in writing, and the application will be returned with no further action.

C. Scoring Guidelines

1. The applicant's self scores in Rurality and Economic Need will be checked and, if necessary, corrected by USDA Rural Development.

2. The Critical Need score will be determined by USDA Rural Development based on information presented in the application. This score is intended to capture from the rural public's standpoint the necessity and usefulness of the proposed project. This scoring category will also recognize that some transition purchases are more essential than others, so that applications for first digital transmitter capability and transmitter power upgrades that extend coverage into rural-only areas will receive scoring advantages. Master control facilities which tailor programming to local needs will also be recognized in this category.

VI. Award Administration Information

A. Award Notices

Each funded project is unique, and, therefore, various conditions may attach to different projects' which will appear in the award documents. Generally applicants whose projects are selected for awards are final by faxing an award letter. The award letter is followed with a grant agreement that contains all the terms and conditions for the grant. An applicant must execute and return the grant agreement, accompanied by any additional items required by the grant agreement.

B. Administrative and National Policy Requirements

The items listed in the program regulation at 7 CFR 1740.9(j) implement the appropriate administrative and national policy requirements.

C. Performance Reporting

All recipients of Public Television Station Digital Transition Grant Program financial assistance must provide annual performance activity reports to USDA Rural Development until the project is complete and the funds are expended. A final performance report is also required; the final report may serve as the last annual report. The final report must include an evaluation of the success of the project.

VII. Agency Contacts

A. Web site: *http://www.usda.gov/rus/*. USDA Rural Development Web site maintains up-to-date resources and contact information for the Public Television Station Digital Transition Grant Program.

B. Phone: 202–690–4493.

C. Fax: 202–720–1051.

D. Main point of contact: Orren E. Cameron III, Director, Advanced Services Division, Telecommunications Program, USDA Rural Development, U.S. Department of Agriculture.

Dated: March 7, 2006.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. E6–3780 Filed 3–15–06; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce 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: National Oceanic and Atmospheric Administration (NOAA).

Title: Vessel Monitoring System for Atlantic Highly Migratory Species.

Form Number(s): None.

OMB Approval Number: 0648–0372.

Type of Request: Regular submission.

Burden Hours: 1,567.

Number of Respondents: 329.

Average Hours Per Response: VMS installation: 4 hours; installation checklist: 5 minutes; annual VMS maintenance: 2 hours; VMS transmissions: 0.3 seconds.

Needs and Uses: Vessels fishing for Atlantic tuna and swordfish that use pelagic longline gear and vessels fishing for sharks with bottom longline or gillnet gear are required to install and operate vessel monitoring systems. Automatic position reports are submitted on an hourly basis whenever the vessel is at sea. NMFS proposes to revise the current requirements to add an installation checklist that vessel operators would follow and then submit to NMFS. The checklist provides information on the hardware and communications service selected by each vessel. NMFS will use the returned checklists to ensure that position reports are received and to aid NMFS in troubleshooting problems.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

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 David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: March 10, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–3767 Filed 3–15–06; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No.: 060309060–6060–01]

Gulf Coast Business Investment Mission

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce publishes this notice to invite applications to participate in a business investment mission to the Gulf Coast Region. Secretary of Commerce Carlos M. Gutierrez in coordination with Federal Coordinator Donald E. Powell, Gulf Coast Rebuilding, Department of Homeland Security, will lead a senior-level business delegation to the Gulf Coast, with stops in Louisiana and Mississippi, on May 4–5, 2006. The focus of the trip will be to highlight opportunities for investment in the Gulf Coast, including the incentives in the recently-enacted Gulf Opportunity Zone Act of 2005. During this trip, business delegation members will be briefed by ranking federal, state, and local officials on the opportunities available for investment in the Gulf Coast, including the advantages of using the region as a platform for export production or shipping. This mission is geared specifically to businesses with a strong interest in, and capable of, making capital investments (of at minimum $5

Million) in the Gulf Coast region and companies which already have significant (at least $5 Million) investments in the region.

DATES: Applications should be submitted to the Department of Commerce's Office of Business Liaison by COB, Tuesday, April 11, 2006. Applications received after that date will be considered only if space and scheduling constraints permit.

FOR FURTHER INFORMATION CONTACT: To request an application, or to obtain further information, please contact, the Office of Business Liaison, Department of Commerce, Room 5062, Washington, DC 20230, tel: (202) 482–1360; Fax: (202) 482–4054, *obl@doc.gov,* or visit the following Web site: *http://www.gulfcoastopportunity.gov.*

SUPPLEMENTARY INFORMATION: Gulf Coast Business Investment Mission, May 4–5, 2006. Participants for this mission will be selected by the Department of Commerce on the basis of applicability towards the goal of fostering business investment in the Gulf Coast region and U.S. exports in accordance with the criteria set forth in this announcement.

The participation fee for this mission is approximately $1,000 per company/consortium. Only one representative from the company/consortium can apply for participation in the business mission. Expenses for travel to and from the Gulf Coast region, lodging, and incidentals will be the responsibility of each mission participant.

Any partisan political activities (including political contributions) of an applicant are entirely irrelevant to the selection process.

Mission Description

Secretary of Commerce Carlos M. Gutierrez in coordination with Federal Coordinator Donald E. Powell, Gulf Coast Rebuilding, Department of Homeland Security, will lead a senior-level business delegation to the Gulf Coast, including Baton Rouge and New Orleans, Louisiana and Biloxi, Mississippi on May 4–5, 2006, to highlight opportunities for business investment in the Gulf Coast—specifically in Louisiana and Mississippi.

The Gulf Coast Business Investment Mission will target, but not be limited to, the following industry sectors: Agricultural Processing, Biotechnology, Chemicals, Energy, Commercial Construction, Fisheries, Information Communication Technology, Petrochemicals, Shipbuilding, Real Estate Investment and Financing, Capital Financing, Transportation, Manufacturing, Retail, and Travel & Tourism.

In order to qualify for this mission, applicants should be a senior company manager with the ability to make or recommend corporate capital allocation decisions. Applicants must also have over $5 million invested in the region already or be seriously considering and having the financial capacity to invest $5 million in the region. Selection for this mission will emphasize in particular those companies with new capital to invest in the region, whose investments will ultimately lead to economic growth, job creation in the region, and export development.

Commercial Setting

Over the past six months, Congress and the President have worked together to provide approximately $87 billion in total federal assistance for the Gulf Region. A crucial component of these efforts has been to provide tax relief to the private sector in order to encourage business development and job creation. In December of 2005, the President signed the Gulf Opportunity Zone Act, which provides $8 billion in tax relief to individuals, states, and businesses. The GO Zone Act will boost the private sector and revive the spirit of entrepreneurship across Louisiana and Mississippi. This mission will focus on the GO Zone Act's goals of Gulf private sector investment and economic development.

The Gulf Coast represents approximately 28% of U.S. domestic crude oil production and approximately 15% of U.S. national refining capacity. Additionally, trade flows between the U.S. and over 190 countries through Gulf Coast ports. The Port of New Orleans is the country's top port for imported natural rubber and coffee. Across the board, the Gulf Coast ports are national leaders in shipping agricultural products such as corn, soybeans, wheat and rice. Other leading exports from the region include chemicals, petroleum and coal products, processed foods, and transportation equipment. Additionally, the local history, arts, and cuisine of the Gulf Coast make the area a world-class travel destination. The Gulf Coast region traditionally has boasted a strong tourism industry that generates income and creates jobs.

Tax Incentives

- *Bonus Depreciation:* The GO Zone Act provides significant acceleration of bonus depreciation, where businesses can claim a depreciation deduction in the first year if the property used is equal to 50% of its cost.
- *Small businesses:* For small businesses in the affected area, the GO Zone Act will double expensing for investments and new equipment from $100,000 to $200,000.
- *Education tax relief:* The GO Zone Act doubles the Hope Scholarship and Lifetime Learning Credits for students attending colleges and graduate schools in the Go Zone, bolstering workforce skills of the private sector for years to come.
- *Work Opportunity Tax Credit:* A work-opportunity tax credit is available for employers hiring individuals located in the Go Zone.
- *Employer-Provided Housing Incentives:* For a six-month period, the GO Zone Act provides employers with a monthly capped 30% tax credit for the cost of employer-provided housing. In addition, up to $600 per month of such costs would be excluded from the employee's income.

Mission Goals

The Gulf Coast Business Investment Mission will highlight nationally the investment opportunities available in the Gulf Coast following the passage of the GO Zone Act of 2005. The mission will specifically offer a program where delegation members will be briefed by leading Federal, state, and local decision-makers on the economic and business landscape in the Gulf States following Hurricanes Katrina and Rita and the opportunities available to businesses who invest in the area now. Mission members interested in exporting or developing export infrastructure will receive briefings targeted specifically at these interests. This mission is designed to highlight the opportunities for companies to invest in the Gulf Coast to foster economic growth, job creation, and export development.

Mission Scenario

The Gulf Coast Business Investment Mission will include stops in three cities: Baton Rouge and New Orleans, LA and Biloxi, MS. In each city, business delegation participants will be briefed by key federal, state, and local government officials capable of speaking to the general economic and business landscape in the Gulf Coast today, including export potential and export infrastructure, as well as the various government programs (including GO Zone and other incentives) geared towards promoting investment in the region. In addition, mission participants will hear from representatives from leading Gulf Coast businesses and business organizations.

Timetable, May 4–5, 2006, Baton Rouge and New Orleans, LA and Biloxi, MI

- Briefing on the Business and Economic Landscape in Louisiana conducted by key federal, state, and local government officials.
- Tour, by motor coach, from Baton Rouse to New Orleans with stops in industrial centers, residential areas and the New Orleans Commercial District.
- Travel to Biloxi via motor coach.
- Briefing on the Business and Economic Landscape in Mississippi conducted by key federal, state, and local government officials.

Criteria for Participant's Selection

- Relevance of a company's business line to mission goals.
- Company's primary business objectives for participating on this mission.
- Capacity and intent to invest $5 million or more in the region and /or current investment of $5 million or more in the Gulf Coast region.
- Rank of company official proposed for mission; participating company official should have capacity to make or recommend investment decisions.
- Timeliness of the company's signed application and supporting materials.
- Minimum of 10 and maximum of 30 participating companies on the mission.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department's Web site (*http://www.doc.gov*) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade association and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. The Department of Commerce will explore and welcome outreach assistance from other interested organizations, including other U.S. Government agencies.

Applications for the Mission will be made available March 7, 2006 through April 11, 2006. Applications can be obtained from the U.S. Department of Commerce Office of Business Liaison (202) 482–1360 or from the mission Web site at *http://www.gulfcoastopportunity.gov.* The application deadline is COB, Tuesday, April 11, 2006. Completed applications should be submitted to the Office of Business Liaison. Applications received after that date will be considered only if space and scheduling constraints permit.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of the Business Mission Application form has been approved by OMB under control number 6900–0023. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with a collection of information subject to the Paperwork Reduction Act unless that collection displays a currently valid OMB control number.

Nat Wienecke,

Office of Legislative and Intergovernmental Affairs.

[FR Doc. E6–3849 Filed 3–15–06; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 04–BIS–14]

Action Affecting Export Privileges; Sunford Trading, Ltd., Sunford (China) Trading Ltd., Sunford Trading Ltd., Hero Peak Ltd., Joanna Liu, Portson Trading, Ltd., Gold Technology Limited, Sunford Technology Development Ltd., Beijing Gold Technology Ltd., Sunford (International) Technology, Ltd., and Sunford Macau Commercial Offshore, Ltd., In the Matter of: Sunford Trading, Ltd., Room 2208, 22/F, 118 Connuaght Road West, Hong Kong, China, Respondent, et al.

Order Making Denial of Export Privileges Against Sunford Trading, Ltd. Applicable to Related Persons

Pursuant to section 766.23 of the Export Administration Regulations (''EAR''), the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), has requested that I make the denial order that was imposed against Sunford Trading, Ltd. on August 25, 2005 applicable to the following entities, as persons related to Sunford Trading, Ltd:

(1) Sunford (China) Trading Ltd., Room 588, Site B, Zhong Ding Building, No. A 18, North San Huan West Road, Haidian District, Beijing 100086, People's Republic of China
(2) Sunford Trading Ltd., Room 711, 7/F, HSH Mongkok Plaza, 800 Nathan Road, Mongkok, Kowloon, Hong King
(3) Hero Peak Ltd., Room D, 11/F, Fui Nam Building, 48–51 Connaught Road West, Hong Kong
(4) Hero Peak Ltd., Flat C, Block 4, 11/F Golden Bldg., 146 Fuk Wa Street, Sham Shui Po, Kowloon, Hong Kong
(5) Joanna Liu, Flat C, Block 4, 11/F Golden Bldg, 146 Fuk Wa Street, Sham Shui Po, Kowloon, Hong Kong
(6) Joanna Liu, Flat 23C, 97 High Street, Hong Kong
(7) Portson Trading, Ltd., Unit D, 8/F., No. 217–223 Tung Choi Street, Mong Kok, Kowloon, Hong Kong
(8) Gold Technology Limited, 20 FuKang Road, ChangPing Science Park, Beijing 102200, People's Republic of China
(9) Gold Technology Limited, Flat 23C, 97 High Street, Hong Kong
(10) Gold Technology Limited, Room 408, Site B, Zhong Ding Building, No. A 18 North San Huan West Road, Haidian District, Beijing 100086, People's Republic of China
(11) Sunford Technology Development Ltd., British Virgin Islands
(12) Beijing Gold Technology Ltd., Beijing, People's Republic of China
(13) Sunford (International) Technology, Ltd., Macau, People's Republic of China
(14) Sunford Macau Commercial Offshore, Ltd., Macau, People's Republic of China (hereinafter collectively referred to as the ''Related Persons'')

On August 25, 2005, an order was published in the **Federal Register** that imposed a three year denial of export privileges against Sunford Trading, Ltd., Room 2208, 22/F, 118 Connaught Road West, Hong Kong, China (70 FR 49910, August 25, 2005) resulting from the settlement of administrative charges that were pending against Sunford related to its involvement in the illegal export of an industrial hot press furnace to the People's Republic of China.

BIS has presented evidence that indicates that the Related Persons are related to Sunford Trading, Ltd. by ownership control, position of responsibility, affiliation, or other connection in the conduct of trade or business, and that it is necessary to add these persons to the denial order against Sunford Trading, Ltd. in order to avoid evasion of that order.

BIS has notified all Related Persons of this action in accordance with the requirements of sections 766.23 and 766.5(b) of the Export Administration Regulations and has not received any response in opposition. Accordingly, I find that it is necessary to make the Order imposed against Sunford Trading, Ltd. applicable to the above-named Related Persons to prevent the evasion of that Order.

It Is Now Therefore Ordered,

First, that having been provided notice and opportunity for comment as provided in section 766.23 of the Export Administration Regulations (hereinafter, the ''Regulations''), the following parties (hereinafter, ''Related Persons'') have been determined to be related to Sunford Trading, Ltd., Room 2202, 22/F, 118 Connaught Road West, Hong Kong, by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services, and it has been deemed necessary to make the Order denying the export privileges of Sunford Trading, Ltd. applicable to these Related Persons in order to prevent evasion of the Order:

A. Sunford (China) Trading Ltd., Room 588, Site B, Zhong Ding Building, No. A 18 North San Huan West Road, Haidian District, Beijing 100086, People's Republic of China
B. Sunford Trading Ltd., Room 711, 7/F, HSH Mongkok Plaza, 800 Nathan Road, Mongkok, Kowloon, Hong Kong
C. Hero Peak Ltd., Room D, 11/F, Fui Nam Building, 48–51 Connaught Road West, Hong Kong
D. Hero Peak Ltd., Flat C, Block 4, 11/F Golden Bldg, 146 Fuk Wa Street, Sham Shui Po, Kowloon, Hong Kong
E. Joanna Liu, Flat C, Block 4, 11/F Golden Bldg, 146 Fuk Wa Street, Sham Shui Po, Kowloon, Hong Kong
F. Joanna Liu, Flat 23C, 97 High Street, Hong Kong
G. Portson Trading, Ltd., Unit D, 8/F, No. 217–223 Tung Choi Street, Mong Kok, Kowloon, Hong Kong
H. Gold Technology Limited, 20 FuKang Road, ChangPing Science Park, Beijing 102200, People's Republic of China
I. Gold Technology Limited, Flat 23C, 97 High Street, Hong Kong
J. Gold Technology Limited, Room 408, Site B, Zhong Ding Building, No. A 18 North San Huan West Road, Haidian District, Beijing 100086, People's Republic of China
K. Sunford Technology Development Ltd., British Virgin Islands
L. Beijing Gold Technology Ltd., Beijing, People's Republic of China
M. Sunford (International) Technology, Ltd., Macau, People's Republic of China
N. Sunford Macau Commercial Offshore, Ltd., Macau, People's Republic of China

Second, that the denial of export privileges described in the Order against Sunford Trading, Ltd., which was published in the **Federal Register** on August 25, 2005, shall be made applicable to the Related Persons until August 25, 2008 as follows:

I. The Related Persons, their successors or assigns, and when acting for or on behalf of the Related Persons, their officers, representatives, agents, or employees (collectively, ''Denied Persons'') may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Persons any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Persons of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Persons of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Persons in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Persons, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Persons if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that is accordance with the provisions of section 766.23(c) of the Export Administration Regulations, any of the Related Persons may, at any time, make an appeal related to this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that this Order shall be published in the **Federal Register** and a copy provided to each of the Related Persons.

This Order, is effective on March 10, 2006.

Entered this 9th day of March, 2006.

Wendy Wysong,

Deputy Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 06–2484 Filed 3–15–06; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–822]

Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: On September 9, 2005, the Department of Commerce (Department) published the preliminary results of its administrative review of the antidumping duty order on certain corrosion-resistant carbon steel flat products (CORE) from Canada. *See Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 53621 (September 9, 2005) (*Preliminary Results*). The review covers shipments of this merchandise to the United States for the period August 1, 2003, through July 31, 2004, made by Dofasco Inc., Sorevco Inc. (Sorevco), and Do Sol

Galva Ltd. (collectively Dofasco), and by Stelco Inc.

We gave interested parties an opportunity to comment on our *Preliminary Results*. Based on our analysis of comments, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. For the final dumping margins, see the ''Final Results of Review'' section below.

DATES: *Effective Date:* March 16, 2006.

FOR FURTHER INFORMATION CONTACT: Douglas Kirby or Joshua Reitze, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3782 or (202) 482–0666, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 9, 2005, the Department published the *Preliminary Results*. The Department verified questionnaire responses from respondents. For Dofasco, the Department conducted verification of Sorevco and Dofasco only, as Do Sol Galva did not ship subject merchandise during the POR. *See Preliminary Results*. From October 20 through October 21, 2005, the Department conducted verification of the sales questionnaire responses provided by Sorevco for this antidumping administrative review. From October 26 through October 28, 2005, the Department conducted a verification of the sales questionnaire responses submitted by Dofasco Inc. In addition, from October 24 through October 25, 2005, the Department conducted verification of the sales questionnaire responses submitted by Stelco. Our verification results are outlined in the public and proprietary versions of the Memorandum to the File: *Administrative Review of Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Verification of Sorevco Inc.* (*Sorevco Verification Report*), Memorandum to the File: *Report on the Sales Verification of Dofasco Inc. in the Eleventh Antidumping Duty Administrative Review for Certain Corrosion-Resistant Carbon Steel Flat Products from Canada* (*Dofasco Verification Report*), and Memorandum to the File: *Administrative Review of Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Verification of Stelco Inc.* (*Stelco Verification Report*), which are on file in the Central Records Unit (CRU), room B–099 of the Main Commerce Building.

Scope of the Review

The product covered by this antidumping duty order is certain corrosion-resistant steel, and includes flat-rolled carbon steel products, of rectangular shape, either clade, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.3000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Include in this order are corrosion-resistant flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Excluded from this order are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin-free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from this order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from this order are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

Analysis of Comments Received

We gave interested parties an opportunity to comment on our *Preliminary Results* following the release of our verification results for Dofasco, Sorevoco, and Stelco. The issues raised in all case and rebuttal briefs by parties to this administrative review are addressed in the *Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from Canada*, from Stephen J. Claeys to David M. Spooner, dated March 8, 2006 (*Decision Memorandum*), which is hereby adopted by this notice. A list of the issues discussed in the *Decision Memorandum* is appendid to this notice. The *Decision Memorandum* is on file in the CRU, and can be accessed directly on the Web at *http://ia.ita.doc.gov*.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have corrected certain ministerial errors and made minor adjustments in the methodology that was used in the *Preliminary Results* concerning SAS programming errors for both Dofasco and Stelco, and disregarded Stelco's sales of off-spec, excess prime material sold through public offerings since we found them outside the ordinary course of trade. the adjustments are discussed in detail in the *Decision Memorandum*.

Final Results of Review

As a result of this review, we determine that the following weighted-average dumping margins exist for the period August 1, 2003, through July 31, 2004:

Manufacturer/exporter	Weighted average margin (percent)
Dofasco Inc., Sorevco, Inc., Do Sol Galva Ltd	2.96
Stelco Inc	3.08

Assessment

The Department will determine, and U.S. Customs and Border Protection

(CBP) shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). The Department calculated importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these final results of reviews for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). In accordance with 19 CFR 356.8(a), the Department will issue appropriate assessment instructions directly to CBP on or after 41 days following the date of publication of these final results of review.

Cash Deposits

Furthermore, the following deposit requirements will be effective upon publication of the final results of this adminisrative review for all shipments of corrosion-resistant carbon steel flat products from Canada entered, or withdrawn 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 investigation, but the producer is, the cash deposit rate will be that established for the producer of the merchandise in these final results of review, a prior review, or in the final determination; and (4) if neither the exporter nor the producer is a firm covered in this review, a prior review, or the investigation, the cash deposit rate will be 18.71 percent, the ''All Others'' rate established in the less-than-fair-value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Reimbursement

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred, and in the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice is the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 8, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

List of Issues

1. Stelco's Sales of ''Excess Prime'' Merchandise in the Home Market.
2. Level of Trade Analysis for Dofasco.
3. Stelco's Margin Calculation Errors.
4. Dofasco's Margin Calculation Errors.

[FR Doc. 06–2508 Filed 3–15–06; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

(A–475–818)

Certain Pasta from Italy: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review

EFFECTIVE DATE: March 16, 2006.

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

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Brian Ledgerwood (202) 482–5973 or (202) 482–3836, respectively, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 29, 2005, the U.S. Department of Commerce (''the Department'') published a notice of initiation of the administrative review of the antidumping duty order on certain pasta from Italy, covering the period from July 1, 2004, to June 30, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 51009 (August 29, 2005). The preliminary results of this review are currently due no later than April 3, 2006.

Extension of Time Limit of Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. Consistent with section 751(a)(3)(A) of the Act, the Department may extend the 245-day period to 365 days if it is not practicable to complete the review within a 245-day period.

We determine that completion of the preliminary results of this review within the 245-day period is not practicable because additional time is needed by the Department to gather supplemental responses from the companies participating in the review. In order to obtain and analyze necessary additional information, and in accordance with section 751(a)(3)(A) of the Act, we are extending the time period for issuing the preliminary results of review by 45 days to May 18, 2006. Therefore, the preliminary results are now due no later than May 18, 2006. The final results continue to be due 120 days after publication of the preliminary results.

This notice is published in accordance with sections 751(a)(3)(A) and 777(I) of the Act.

Dated: March 10, 2006.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E6–3816 Filed 3–15–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Region Permit Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 15, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, (907) 586–7008 or *patsy.bearden@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Fishermen and processors wishing to participate in regulated fisheries in the Exclusive Economic Zone off the coast of Alaska must obtain a Federal Fisheries Permit, a Federal Processor Permit, or an Exempted Fisheries Permit. The application information is used to identify participants in the fishery, aid enforcement of fishery regulations, and analyze activity within the fisheries.

II. Method of Collection

Paper applications are required from participants, and methods of submittal include e-mail and facsimile transmission of paper forms.

III. Data

OMB Number: 0648–0206.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations, individuals or households, and not-for-profit institutions.

Estimated Number of Respondents: 889.

Estimated Time Per Response: 21 minutes for Federal Fisheries Permit application; 21 minutes for Federal Processor Permit application; and 35 hours for Exempted Fisheries Permit application.

Estimated Total Annual Burden Hours: 483.

Estimated Total Annual Cost to Public: $1,330.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 10, 2006

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–3766 Filed 3–15–06; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Reporting Requirements for Commercial Fisheries Authorization Under Section 118 of the Marine Mammal Protection Act

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 15, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patricia Lawson, (301) 713–2289 or at *Patricia.Lawson@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Reporting injury to and/or mortalities of marine mammals is mandated under section 118 of the Marine Mammal Protection Act. This information is required to determine the impacts of commercial fishing on marine mammal populations. This information is also used to categorize commercial fisheries into Categories I, II, or III. The participants in the first two categories have to be authorized to take marine mammals, while those in Category III are exempt from that requirement. All categories must report injuries or mortalities on a National Marine Fisheries Service form.

II. Method of Collection

Reports are required from participants, and methods of submittal include Internet, mail and facsimile transmission of paper forms.

III. Data

OMB Number: 0648–0292.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions; and business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 50.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 10, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–3768 Filed 3–15–06; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031306B]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meetings of its Standardized Bycatch Reporting Methodology (SBRM) Committee in April, 2006, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Monday, April 3, 2006, at 1 p.m.

ADDRESSES: *Meeting address*: The meeting will be held at the Hilton Mystic Hotel, 20 Coogan Boulevard, Mystic, CT 06355; telephone: (860) 572–0731.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will receive a report from the Fishery Management Action Team (FMAT) on the status of the Omnibus SBRM Amendment to the Council's FMPs. The Committee will review the background, purpose and need for the amendment. The Committee will also review the proposed structure for the amendment and discuss and review (as available) the information necessary to complete the amendment. The Committee will identify any additional issues to be addressed in the amendment and its recommendations will be reported to the Council at its April 4–5, 2006 meeting.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 listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at 978–465–0492, at least 5 days prior to the meeting date.

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

Dated: March 13, 2006.

Tracey L. Thompson,

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

[FR Doc. E6–3823 Filed 3–15–06; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Request to Revoke Commercial Availability Designation under the United States-Caribbean Basin Trade Partnership Act (CBTPA) and the Andean Trade Promotion and Drug Enforcement Act (ATPDEA)

March 14, 2006.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA).

ACTION: Denial of the request to revoke commercial availability designation for certain compact, plied, ring-spun cotton yarn under the CBTPA and ATPDEA.

SUMMARY: On January 10, 2006, the Chairman of the Committee for the Implementation of Textile Agreements (CITA) received a petition from The National Council of Textile Organizations (NCTO), alleging that a substitutable product for certain compacted, plied, ring-spun cotton yarns, with yarn counts in the range from 42 to 102 metric, classified in subheadings 5205.42.0020, 5205.43.0020, 5205.44.0020, 5205.46.0020, 5205.47.0020 of the Harmonized Tariff Schedule of the United States, can be supplied by the domestic industry in commercial quantities in a timely manner. The petition requested that CITA revoke its previous commercial availability designation regarding these yarns under the CBTPA and the ATPDEA (70 FR 58190, October 5, 2005). CITA has determined that the subject yarns cannot be supplied by the domestic industry in commercial quantities and in a timely manner and that the petitioner has not substantiated that ring spun yarns currently produced by the domestic industry are substitutable for the subject compact, plied yarns. Therefore, CITA denies the request to revoke its designation made on October 5, 2005, for such yarns under the CBTPA and the ATPDEA.

FOR FURTHER INFORMATION CONTACT: Richard Stetson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001; Presidential Proclamation 7351 of October 2, 2000; Section 204 (b)(3)(B)(ii) of the ATPDEA; Presidential Proclamation 7616 of October 31, 2002, Executive Order 13277 of November 19, 2002, and the United States Trade Representative's Notice of Further Assignment of Functions of November 25, 2002.

BACKGROUND:

The CBTPA and ATPDEA provide for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns and fabrics formed in the United States or a beneficiary country. The CBTPA and ATPDEA also provide for duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA and ATPDEA beneficiary countries from fabric or yarn that is not formed in the United States or a

beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and ATPDEA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests (66 FR 13502).

On October 5, 2005, following a determination that certain compacted, plied, ring spun cotton yarns could not be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and ATPDEA, CITA designated certain apparel made from U.S. formed fabric containing such yarns as eligible for duty-free treatment under the CBTPA and ATPDEA. On January 10, 2006, the Chairman of CITA received a petition from The National Council of Textiles Organizations (NCTO) alleging that yarns substitutable for these yarns can be supplied by the domestic industry in commercial quantities in a timely manner, and requesting that CITA revoke its previous designation regarding these yarns. On January 17, 2006, CITA published a Federal Register notice requesting public comments on NCTO's request (71 FR 3057).

The Industry Trade Advisory Committees (ITACs) charters and members' appointments expired on February 5, 2006, and have not yet been renewed. Therefore, CITA was not able to seek ITAC advice on this request. USTR requested the advice of the U.S. International Trade Commission (ITC) on the probable economic effects on the domestic industry of granting the request.

On February 6, 2006, CITA and USTR offered to hold consultations with the Senate Finance Committee and the House Ways and Means Committee. The Senate Finance Committee responded with general procedural questions, but provided no substantive comments. CITA met with the House Ways and Means Committee on March 9, 2006, and discussed CITA's authority to revoke a prior designation and discussed the substance of the case.

CITA carefully reviewed the request, the comments, advice received, and met with interested parties on February 22, 2006. Based on our review of the information provided, the ITC report, the public comments received, and our knowledge in the industry, CITA finds that the subject yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. CITA also finds that the petitioner has not substantiated its claim that ring spun yarns currently produced by the domestic industry are substitutable for the subject compact, plied yarns.

On the basis of currently available information and our review of this request, CITA has determined that the domestic industry cannot supply the subject fabrics in commercial quantities in a timely manner. Therefore, CITA is denying the request to revoke its previous designation.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 06–2610 Filed 3–14–06; 2:20 pm]

BILLING CODE 3510–DS

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, April 7, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 06–2612 Filed 3–14–06; 1:18 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, April 14, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 06–2613 Filed 3–14–06; 1:18 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, April 21, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 06–2614 Filed 3–14–06; 1:18 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, April 28, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 06–2615 Filed 3–14–06; 1:18 pm]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted a public information collection request (ICR) entitled Collection of State Service Plans from State Commissions, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Corporation for National and Community Service, AmeriCorps, Amy Borgstrom, Associate Director of Policy, (202) 606–6930, or by e-mail at *ABorstrom@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 606–3472 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

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

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

(b) Electronically by e-mail to: *Rachel_F._Potter@omb.eop.gov.*

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

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

Comments

A 60-day public comment Notice was published in the **Federal Register** on November 25, 2005. This comment period ended January 24, 2006. No public comments were received from this notice.

Currently, the Corporation is soliciting comments concerning its proposed collection of State Service Plans from State Commissions. These plans are submitted by State Commissions as required by statute. The plans are elicited in order to assure that national service and volunteer service entities within a state are aware of each other and are coordinating activities to maximize their ability to leverage both human and financial resources in order to address significant unmet community needs.

This new proposed information collection consists of the following instruction:

In 2006, the Corporation requests that you address the following questions in order to comply with the statutory requirement to provide a State Service Plan:

1. Please describe your projected program focus for the next three years of planned state service activities.

2. Please describe ongoing efforts or special initiatives that involve collaborating with the Corporation State Office, State Education Agencies, state networks of volunteer centers, Campus Compacts, National Direct grantees and/or other service organizations within the state.

3. What non-monetary support do you believe you need from the Corporation (Headquarter Offices and/or your State Office) in order for your State Plan to be successful (such as training and technical assistance, for example)?

Your State Service Plan may also include other elements that you and your service partners find useful.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: State Service Plans.

OMB Number: None.

Agency Number: None.

Affected Public: State Service Commissions.

Total Respondents: 54.

Frequency: Once every three years.

Average Time Per Response: 24 hours.

Estimated Total Burden Hours: 1296 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: March 10, 2006.

Mark Abbott,

Senior Advisor, Office of the Chief Operating Officer, Corporation for National and Community Service.

[FR Doc. E6–3837 Filed 3–15–06; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted a public information collection request (ICR) entitled the National Evaluation of Youth Corps to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Ms. Lillian Dote at (202) 606–6984. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 606–3472 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

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

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

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

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

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Propose ways to enhance the quality, utility, and clarity of the information to be collected; and

• Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Comments

A 60-day public comment Notice was published in the **Federal Register** on January 4, 2006. This comment period ended March 6, 2006. No public comments were received from this notice.

Description: The Corporation is seeking approval of the National Evaluation of Youth Corps which will be used to learn about the effects of national service on youth corps participants. The study uses an experimental design to assess the outcomes associated with participation in national service. The information collection will be completed by individuals applying to Youth Corps programs.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: National Evaluation of Youth Corps.

OMB Number: None.

Agency Number: None.

Affected Public: Applicants to Youth Corps programs.

Total Respondents: 7,500.

Frequency: On occasion.

Average Time Per Response: 35 minutes.

Estimated Total Burden Hours: 4,375 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: March 10, 2006.

Robert Grimm,

Director, Office of Research and Policy Development.

[FR Doc. E6–3838 Filed 3–15–06; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register.**

DATES: Wednesday, April 12, 2006, 6 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov* or check the Web site at *http://www.oakridge.doe.gov/em/ssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Oak Ridge Reservation Planning—Integrating Multiple Land Uses

Public Participaton: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Center at 475 Oak Ridge Turnpike, Oak Ridge, TN between 8 a.m. and 5 p.m., Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC on March 13, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6–3817 Filed 3–15–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC06–88–000, et al.]

ArcLight Energy Partners Fund III, L.P., et al.; Electric Rate and Corporate Filings

March 8, 2006.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. ArcLight Energy Partners Fund III, L.P.

[Docket No. EC06–88–000]

Take notice that on March 2, 2006 ArcLight Energy Partners Fund III, L.P. filed an Application, pursuant to section 203(a) of the Federal Power Act, for authorization to acquire indirectly 50% equity interest in Sabine Cogen, L.P from AL Cogen, Inc. and Al Cogen Partner, Inc.

Comment Date: 5 p.m. Eastern Time on March 23, 2006.

2. Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, Entergy Nuclear Generation Company, Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Power Marketing, LLC

[Docket No. EC06–89–000]

Take notice that on March 3, 2006, Entergy Services, Inc. (Entergy Services), as agent for Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, Entergy Nuclear Generation Company, Entergy Nuclear FitzPatrick LLC, Entergy Nuclear Vermont Yankee, LLC (ENIP2, ENIP3, ENG, ENF and VY are collectively Entergy Northeast Nuclear Generating Companies), and Entergy Nuclear Power Marketing, LLC (ENPM), submitted an application pursuant to section 203 of the Federal Power Act to the Federal Energy Regulatory Commission requesting authorization for the Entergy Northeast Nuclear Generating Companies to transfer several power sales agreements to ENPM.

Comment Date: 5 p.m. Eastern Time on March 24, 2006.

3. Allegheny Energy, Inc., Monongahela Power Company, The Potomac Edison Company, West Penn Power Company

[Docket No. EL06–54–000]

Take notice that on February 28, 2006, Allegheny Energy, Inc., Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (collectively, Allegheny

Energy Companies) submitted a petition requesting that the Commission issue a declaratory order approving proposed incentive rate treatments for a new 500 k V transmission project that the Allegheny Energy Companies propose to construct across the ''APS Zone'' of PJM Interconnection, Inc.. The proposed construction will be undertaken by one or more of Monongahela Power Company, The Potomac Edison Company, or West Penn Power Company, a subsidiary of one or more of the Allegheny Power companies, or a subsidiary of Allegheny Energy, Inc. The Allegheny Energy Companies state the proposed project will run from the existing Wylie Ridge Substation on the western side of the AP Zone to a proposed Kemptown Substation, to be located on the eastern side of the AP Zone.

Comment Date: 5 p.m. Eastern Time on March 29, 2006.

4. ANP Blackstone Energy Company, LLC, ANP Marketing Company, ANP Funding I, LLC, Milford Power Limited Partnership, ANP Bellingham Energy Company, LLC

[Docket Nos. ER00–2118–004; ER00–1828–004; ER00–3751–004; ER93–493–016; ER00–2117–004]

Take notice that on March 6, 2006, ANP Blackstone Energy Company, LLC; ANP Marketing Company; ANP Funding I, LLC; Milford Power Limited Partnership; and ANP Bellingham Energy Company, LLC tendered for filing an amendment to its Rate Schedule FERC No. 1.

Comment Date: 5 p.m. Eastern Time on March 14, 2006.

5. BIV Generation Company, L.L.C.

[Docket No. ER06–474–001]

Take notice that on March 3, 2006, BIV Generation Company, L.L.C. filed with the Commission revised sheets to its market-based rate tariff pursuant to section 205 of the Federal Power Act.

Comment Date: 5 p.m. Eastern Time on March 14, 2006.

6. MGE Energy, Inc.

[Docket No. PH06–11–000]

Take notice that on March 2, 2006, MGE Energy, Inc. filed a Notice of Waiver of the Requirements of The Public Utility Holding Company Act of 2005 pursuant to 18 CFR 366.3 and 366.4 of the Commission's regulations on the basis that substantially all of the its public utility operations occur in the state of Wisconsin.

Comment Date: 5 p.m. Eastern Time on March 23, 2006.

7. DTE Energy Company

[Docket No. PH06–12–000]

Take notice that on March 2, 2006, DTE Energy, Inc., on behalf of its wholly-owned subsidiary, Michigan Consolidated Gas Company, filed a Notice of Exemption from the Requirements of The Public Utility Holding Company Act of 2005 pursuant to 18 CFR 366.4 of the Commission's regulations.

Comment Date: 5 p.m. Eastern Time on March 23, 2006.

8. MGE Energy, Inc.

[Docket No. PH06–13–000]

Take notice that on March 2, 2006, MGE Energy, Inc. filed a Notice of Exemption from the Requirements of The Public Utility Holding Company Act of 2005 pursuant to 18 CFR 366.4 of the Commission's regulations.

Comment Date: 5 p.m. Eastern Time on March 23, 2006.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3760 Filed 3–15–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8045–8]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq*). 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 OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Susan Auby (202) 566–1672, or e-mail at *auby.susan@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1613.02; Data Reporting Requirements for State and Local Vehicle Emission Inspection and Maintenance (I/M) Programs (Reinstatement); in 40 CFR part 51, subpart S; was approved February 22, 2006; OMB Number 2060–0252; expires February 28, 2009.

EPA ICR No. 1852.03; Exclusion Determinations for New Non-road Spark-ignited Engines at or Below 19 Kilowatts, New Non-road Compression-ignited Engines, New Marine Engines, and New On-road Heavy Duty Engines (Renewal); in 40 CFR part 85, subpart R; 40 CFR part 89, subpart A; 40 CFR part 90, subpart J; 40 CFR part 91, subpart K; was approved February 22, 2006; OMB Number 2060–0395; expires February 28, 2009.

EPA ICR No. 2186.01; National Emissions Standards for Hazardous Air Pollutants from Plating and Polishing Operations; was approved February 22,

2006; OMB Number 2060–0577; expires February 28, 2009.

EPA ICR No. 1801.04; NESHAP for Portland Cement (Renewal); in 40 CFR part 63, subpart LLL; was approved February 22, 2006; OMB Number 2060–0416; expires February 28, 2009.

EPA ICR No. 1867.03; Voluntary Aluminum Industrial Partnership (VAIP) (Renewal); was approved February 17, 2006; OMB Number 2060–0411; expires February 28, 2009.

EPA ICR No. 1856.05; NESHAP for Primary Lead Smelters (Renewal); in 40 CFR part 63, subpart TTT); was approved February 10, 2006; OMB Number 2060–0414; expires February 28, 2009.

EPA ICR No. 0983.08; NSPS for Equipment Leaks of VOC in Petroleum Refineries (Renewal); in 40 CFR part 60, subpart GGG; was approved February 14, 2006; OMB Number 2060–0067; expires February 28, 2009.

EPA ICR No. 1060.13; NSPS for Steel Plants; Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels (Final Rule Amendments); in 40 CFR part 60, subparts AA and AAa); was approved February 10, 2006; OMB Number 2060–0038; expires November 30, 2006.

EPA ICR No. 1821.05; NESHAP for Steel Pickling (Renewal); in 40 CFR part 63, subpart CCC); was approved February 10, 2006; OMB Number 2060–0419; expires February 28, 2009.

EPA ICR No. 1363.14; Toxic Chemical Release Reporting (Form R) (Renewal); in 40 CFR part 372; was approved March 3, 2006; OMB Number 2070–0093; expires January 31, 2008.

EPA ICR No. 1704.08; Toxic Chemical Release Reporting, Alternate Threshold for Low Annual Reportable Amounts (Form A) (Renewal); in 40 CFR part 372; was approved March 3, 2006; OMB Number 2070–0143; expires January 31, 2008.

EPA ICR No. 1871.04; NESHAP for Source Categories (Renewal); Generic Maximum Achievable Control Technology Standards; in 40 CFR part 63, subpart YY; was approved March 3, 2006; OMB Number 2060–0420; expires March 31, 2009.

EPA ICR No. 0660.09; NSPS for Metal Coil Surface Coating (Renewal); in 40 CFR part 60, subpart TT; was approved February 17, 2006; OMB Number 2060–0107; expires February 28, 2009.

EPA ICR No. 1788.06; NESHAP for Oil and Natural Gas Production (Renewal); in 40 CFR part 63, subpart HH; was approved March 3, 2006; OMB Number 2060–0417; expires March 31, 2009.

EPA ICR No. 2163.02; NSPS: Other Solid Waste Incineration (OSWI) Units (Final Rule); in 40 CFR part 60, subpart EEEE; was approved March 6, 2006; OMB Number 2060–0563; expires March 31, 2009.

EPA ICR No. 2164.02; Emission Guidelines for Existing Other Solid Waste Incineration (OSWI) Units (Final Rule); in 40 CFR part 60, subpart FFFF; was approved March 6, 2006; OMB Number 2060–0562; expires March 31, 2009.

EPA ICR No. 1591.16; Regulation of Fuels and Fuel Additives (Direct Final and Proposed Rules for Butane and Attest Engagements); was approved March 6, 2006; OMB Number 2060–0277; expires October 31, 2007.

EPA ICR No. 1964.03; NESHAP for Wet-formed Fiberglass Mat Production (Renewal); in 40 CFR part 63, subpart HHHH; was approved March 6, 2006; OMB Number 2060–0496; expires March 31, 2009.

EPA ICR No. 2180.02; Recordkeeping and Reporting for the Performance-Based Qualification of Test Methods for Diesel Fuel (Renewal); in 40 CFR 80.29; 40 CFR 80.240; 40 CFR 80.530–80.532; 40 CFR 80.535–80.536; 40 CFR 80.550–80.555; 40 CFR 80.560–80.561; 40 CFR 80.590–80.594; 40 CFR 80.597; 40 CFR 80.600–80.604; 40 CFR 80.607; 40 CFR 80.620; was approved March 6, 2006; OMB Number 2060–0566; expires March 31, 2009.

Short Term Extensions

EPA ICR No. 0575.09; Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies; OMB Number 2070–0004; on February 22, 2006 OMB extended the expiration date to May 31, 2006.

Comment Filed

EPA ICR No. 0783.48; Fuel Economy Labeling of Motor Vehicles (Proposed Rule); OMB Number 2060–0104; OMB filed comments on March 6, 2006.

Dated: March 8, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–3814 Filed 3–15–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Regional Docket No. V–2005–1, FRL–8045–7]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Onyx Environmental Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to a title V operating permit.

SUMMARY: This document announces that the EPA Administrator has responded to a citizen petition asking EPA to object to a Clean Air Act (Act) title V operating permit proposed by the Illinois Environmental Protection Agency (IEPA). Specifically, the Administrator has partially granted and partially denied the petition submitted by the Sierra Club and American Bottom Conservancy to object to the proposed operating permit for Onyx Environmental Services.

Pursuant to section 505(b)(2) of the Act, a petitioner may seek in the United States Court of Appeals for the appropriate circuit judicial review of those portions of the petition which EPA denied. Any petition for review shall be filed within 60 days from the date a notice appears in the **Federal Register**, pursuant to section 307 of the Act.

ADDRESSES: You may review copies of the final orders, the petitions, and other supporting information at the EPA Region 5 Office, 77 West Jackson Boulevard, Chicago, Illinois 60604. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. Additionally, the final order for Onyx Environmental Services is available electronically at: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb2004.htm.*

FOR FURTHER INFORMATION CONTACT: Pamela Blakley, Chief, Air Permitting Section, Air Programs Branch, Air and Radiation Division, EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 886–4447.

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review, and to object to as appropriate, a title V operating permit proposed by a state permitting authority. Section 505(b)(2) of the Act, 42 U.S.C. 7661d(b)(2), authorizes any person to petition the EPA Administrator within 60 days after the expiration of the EPA review period to object to a title V operating permit if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise the issues during the comment period, or the grounds for the issues arose after the public comment period.

On February 18, 2004, the EPA received from the Sierra Club and American Bottom Conservancy a

petition requesting that EPA object to the proposed title V operating permit for Onyx Environmental Services. The Sierra Club and American Bottom Conservancy alleged that the proposed permit (1) violates EPA's commitments and obligations to address environmental justice issues; (2) lacks a compliance schedule and certification of compliance; (3) does not address modifications Onyx allegedly took that triggered new source review requirements; (4) is based on an eight-year old application; (5) lacks practically enforceable conditions; (6) contains a permit shield that broadly insulates it from ongoing and recent violations; (7) fails to include conditions that meet the legal requirements for monitoring; (8) does not contain a statement of basis; (9) does not require prompt reporting of violations; and (10) fails to establish annual mercury and lead limits.

On February 1, 2006, the Administrator signed an order partially granting and partially denying the petition. The order explains the reasons behind EPA's conclusion that the IEPA must: (1) Address the significant comments concerning the possible need for a compliance schedule in the proposed permit; (2) require Onyx Environmental Services to submit a current compliance certification; (3) address comments concerning modifications made at the Onyx facility and the potential applicability of new source review requirements; (4) require Onyx Environmental Services to submit an updated application that reflects all applicable requirements for the source; (5) make clear either in the permit or statement of basis what constitutes ''normal'' operating conditions; (6) amend the permit to limit Onyx Environmental Service's election to regulatory requirements applicable to hazardous waste incinerators; (7) define the terms ''container'' and ''containerized solids,'' or explain in the statement of basis where the terms are defined; (8) provide information on where the applicable specifications pertaining to ''manufacturer's specifications'' can be located; (9) provide a statement of basis that complies with the requirements of EPA regulations and post its statement of basis on a Web site, or make available to the public on the Web site a notice telling the public where it can obtain the statement of basis; and (10) explain how a thirty day reporting requirement for all deviations is prompt or require a shorter reporting period for deviations as is provided for in 40 CFR part 71. The order also explains the reasons for denying Sierra Club and American Bottom Conservancy's remaining claims.

Pursuant to sections 505(b)(2) and 307 of the Act, Petitioners have 60 days from the date that this notice appears in the **Federal Register** to petition the United States Court of Appeals for the Seventh Circuit for review of the portions of the petition which EPA denied.

Dated: March 2, 2006.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E6–3812 Filed 3–15–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0094; FRL–8045–6]

Proposed Approval of Central Characterization Project's Transuranic Waste Characterization Program at the Savannah River Site

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (''EPA'' or ''we'') is announcing the availability of, and soliciting public comments for 45 days on, the proposed approval of the waste characterization program implemented by the Central Characterization Project (''CCP'') to characterize transuranic (''TRU'') radioactive waste at the Savannah River Site (SRS) proposed for disposal at the Waste Isolation Pilot Plant (''WIPP''). In accordance with the WIPP Compliance Criteria, EPA evaluated the CCP's characterization of TRU debris waste and soils/gravel from SRS during an inspection conducted October 31–November 3, 2005. Using the systems and processes developed as part of the Department of Energy's (''DOE's'') Carlsbad Field Office (''CBFO'') CCP, EPA verified whether DOE could adequately characterize TRU waste consistent with the Compliance Criteria. The results of EPA's evaluation of the SRS CCP program and the proposed approval are described in EPA's inspection report, which is available for review in the public dockets listed in **ADDRESSES**. We will consider public comments received on or before the due date mentioned in **DATES**.

This notice summarizes the waste characterization processes EPA evaluated, the ''tier'' EPA assigned to each waste characterization process component, and the TRU waste categories proposed for approval. As required by the 40 CFR 194.8 changes promulgated in July 2004, at the end of a 45-day comment period EPA will evaluate public comments received, finalize the report responding to the relevant public comments, and issue the final report and an approval letter to DOE's Carlsbad Field Office. Waste that is characterized by the SRS CCP is *not* eligible for disposal at WIPP until EPA formally grants its approval.

DATES: Comments must be received on or before May 1, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0094, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: to *a-and-r-docket@epa.gov.*
- Fax: 202–566–1741.
- Mail: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Instructions: Direct your comments to Attn: Docket ID No. EPA–HQ–OAR–2006–0094. The Agency's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information

about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742. These documents are also available for review in hard-copy form at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10 a.m.–9 p.m., Friday–Saturday, 10 a.m.–6 p.m., and Sunday, 1 p.m.–5 p.m., phone number: 505–885–0731; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: Vary by semester, phone number: 505–277–2003; and in Santa Fe at the New Mexico State Library, Hours: Monday–Friday, 9 a.m.–5 p.m., phone number: 505–476–9700. As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT:

Rajani Joglekar, Radiation Protection Division, Center for Federal Regulations, Mail Code 6608J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number: 202–343–9601; fax number: 202–343–2305; e-mail address: *joglekar.rajani@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

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

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

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

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Pub. L. 102–579), as amended (Pub. L. 104–201), TRU waste consists of materials containing processes having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C.

The final WIPP certification decision includes conditions that (1) prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratories (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of Appendix A to 40 CFR part 194); and (2) (with the exception of specific, limited waste streams and equipment at LANL) prohibit shipment of TRU waste for disposal at WIPP (from LANL or any other site) until EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of Appendix A to 40 CFR part 194). The EPA's approval process for waste generator sites is described in § 194.8.

In July 2004, EPA promulgated changes to the ''Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance with Disposal Regulations'' (69 FR 42571–42583, July 16, 2004). These changes went into effect October 14, 2004, which modified the EPA approval of waste characterization (''WC'') programs at DOE's TRU waste sites. These revisions provide equivalent or improved oversight and better prioritization of technical issues in EPA inspections to evaluate WC activities at DOE WIPP waste generator sites, and also offer more direct public input into the Agency's decisions about what waste can be disposed of at WIPP. They do not modify the technical approach that EPA has employed since the 1998 WIPP Certification Decision.

Condition 3 of the WIPP Certification Decision requires that EPA conduct independent inspections at DOE's waste generator/storage sites of their TRU waste characterization capabilities before approving their program and the waste for disposal at the WIPP. The revised inspection and approval process gives EPA greater (a) discretion in establishing technical priorities, (b) ability to accommodate variation in the site's waste characterization capabilities, and (c) flexibility in scheduling site WC inspections. The § 194.8 changes require that EPA conduct a baseline inspection at every previously approved TRU site (such as SRS CCP). EPA expects that within two years after the effective date of October 2004 most of the previously approved TRU sites (such as Hanford, Los Alamos

CCP, and Savannah River Site CCP) will undergo EPA baseline inspections. Following these inspections, the Agency will issue a new baseline compliance decision for these sites.

As part of the baseline inspection, EPA must evaluate each WC process component (equipment, procedures, and personnel training/experience) for its adequacy and appropriateness in characterizing TRU waste destined for the disposal at WIPP. During the inspection, the site demonstrates its capabilities to characterize TRU waste(s) and its ability to comply with the regulatory limits and tracking requirements under § 194.24. The baseline inspection can result in approval with limitations/conditions or may require follow-up inspection(s) before approval. The approval must specify what subsequent WC program changes or expansion should be reported to EPA. The Agency is required to assign Tier 1 (''TI'') and Tier 2 (''T2'') to the reportable changes depending on their potential impact on data quality. A T1 designation requires that the site must notify EPA of proposed changes to the approved components of an individual WC process (such as radioassay equipment or personnel), and EPA must also approve the change before it can be implemented. A WC element with a T2 designation allows the site to implement changes to the approved components of individual WC processes (such as visual examination procedures) but requires EPA notification. The Agency may choose to inspect the site to evaluate technical adequacy before approval. EPA inspections conducted to evaluate T1 or T2 changes are follow-up inspections under the authority of § 194.24(h). In addition to the follow-up inspections, if warranted, EPA may opt to conduct continued compliance inspections at TRU waste sites with a baseline approval under the authority of § 194.24(h).

The revisions to the site inspection and approval process outlined in § 194.8 require EPA to issue a **Federal Register** notice proposing the baseline compliance decision, docket the inspection report for public review, and seek public comment on the proposed decision for a period of 45 days. The report must describe the WC processes EPA inspected at the site, as well as their compliance with § 194.24 requirements.

III. Proposed Baseline Compliance Decision

From October 31–November 3, 2005, EPA performed a baseline inspection of TRU waste characterization activities of the DOE's CCP staff at SRS (EPA Inspection No. EPA–SRS–CCP–10.05–8). This inspection is the second baseline inspection that EPA has performed under the § 194.8 regulatory changes promulgated in July 2004.

The CCP is a mobile characterization program that assists TRU waste generator sites with complex waste characterization activities. At some sites (such as Los Alamos National Laboratory and Savannah River Site) and small TRU waste generator sites (such as Argonne National Laboratory and Lawrence Livermore National Laboratory) the CCP has the sole responsibility to characterize contact-handled (''CH''), retrievably-stored TRU waste destined for the disposal at the WIPP.

The purpose of EPA's inspection was to verify that CCP is characterizing CH TRU retrievably-stored debris waste (S5000) and soils/gravel (S4000) from SRS properly and in compliance with the regulatory requirements at 40 CFR 194.24. EPA did not evaluate the characterization of solid waste (S3000) at this time and will inspect this at a later date. During the inspection, EPA also evaluated CCP's use of the WIPP Waste Information System (''WWIS'') for tracking the contents of CH TRU waste containers destined for disposal at WIPP. This tracking ensures that the volume emplaced in the WIPP repository and characteristics of the emplaced wastes conform to the requirements of the WIPP LWA and the specific conditions of the WIPP Certification Decision.

During the inspection, EPA evaluated the adequacy, implementation, and effectiveness of SRS–CCP's waste characterization activities. The Agency's evaluation focused on the individual components—equipment, procedures, and personnel training/experience of the following waste characterization processes: Acceptable knowledge (''AK''), nondestructive assay (''NDA''), visual examination techniques (''VET''), visual examination/real-time radiography (''VE/RTR''), load management, and the WWIS. The overall program adequacy and effectiveness of SRS–CCP was based on the following DOE-provided upper-tier documents: (1) CCP–PO–001—Revision 11, 3/10/05—CCP Transuranic Waste Characterization Quality Assurance Project Plan and (2) CCP–PO–002—Revision 12, 3/10/05—CCP Transuranic Waste Certification Plan.

EPA evaluated the CCP-implemented waste characterization processes at SRS for specific CH TRU waste categories, as follows:

- Acceptable knowledge (AK) and load management for contact-handled (''CH'') retrievably-stored and newly-generated TRU debris waste (S5000) and soil/gravel waste (S4000).
- Visual examination techniques (''VET'') for CH newly-generated debris waste (S5000) and soil/gravel waste (S4000).
- Visual examination (''VE'') as a quality control check of real-time radiography (''RTR'') for CH retrievably-stored TRU debris waste (S5000) and soil/gravel waste (S4000).
- RTR for CH retrievably-stored TRU debris waste (S5000) and soil/gravel waste (S4000).
- Nondestructive assay (''NDA'') and the WIPP Waste Information System (''WWIS'') for CH retrievably-stored and newly-generated TRU debris waste (S5000) and soil/gravel waste (S4000).

Two NDA systems (Imaging Passive-Active Neutron/Gamma Energy Analysis [''IPAN/GEA''] system and the MCS IQ3 gamma system) were evaluated for characterizing debris (S5000) and soil/gravel (S4000) wastes.

In addition to reviewing individual components (namely, procedures, and equipment) of each of the WC processes (AK, NDA, VET, VE/RTR, load management, and the WWIS), the Agency interviewed and reviewed training records of personnel responsible for compiling data, analyzing waste contents, operating equipment, and preparing data for WWIS tracking. EPA also required radioassay replicate analysis on selected containers from the population of previously analyzed waste containers on the same system or instrument for the two different waste categories. The purpose of this replicate testing is to provide EPA with an independent means to verify that the radioassay equipment being assessed for approval can provide consistent, reproducible results for the determination of the quantity of 10 WIPP-tracked radionuclides (241Am, 137Cs, 238Pu, 239Pu, 240Pu, 242Pu, 90Sr, 233U, 234U, and 238U) as well as TRU alpha concentration. The results of the replicate analysis help EPA to determine whether:

- The instrument produces results consistent with the reported total measurement uncertainty (''TMU'') by comparing the sample standard deviation for a number of replicate measurements taken over several hours or days to the reported TMU.
- The instrument provides reproducible results over longer periods of time, such as weeks or months, by comparing the results of the replicate

measurement(s) to the original reported values.

EPA's inspection team identified one finding and five concerns. The one finding and two of the concerns required a response from DOE. All concerns and findings are documented on EPA Inspection Issue Tracking Forms (see Attachments C.1 through C.6 of the baseline Inspection Report available in the EPA Docket). The Agency received responses to the one finding and two concerns which required responses and, upon further evaluation, concluded that the responses were adequate. As a result, there are no open issues resulting from this inspection.

EPA's inspection team determined that SRS–CCP's WC program activities were technically adequate. EPA is proposing to approve the SRS–CCP WC program in the configuration observed during this inspection and described in this report and in the checklists in Attachment A. This proposed approval includes the following waste characterization activities:

(1) The AK and load management process for CH retrievably-stored TRU debris and soil/gravel,

(2) The IPAN and IQ3 NDA systems for assaying soil/gravel and debris waste,

(3) VE as a QC check of the RTR process for retrievably-stored soil/gravel and debris waste,

(4) The VET process for newly-generated debris and soil/gravel wastes,

(5) The nondestructive examination process of RTR for retrievably-stored soil/gravel and debris wastes, and

(6) The WWIS process for tracking of waste contents of debris and soil/gravel wastes. As required by the new (194.8 revisions, EPA has assigned specific ''tiers'' to the different waste characterization processes. As seen from the table below, both T1 and T2 changes are reportable changes. A T1 change requires EPA approval prior to implementation of the change and may require EPA inspection to determine technical adequacy. A T2 change may be implemented prior to EPA approval; however, this type of change must be reported to EPA quarterly. Any changes to WC activities from the date of the baseline inspection must be reported to and, if applicable, approved by EPA, according to the following table:

PROPOSED TIERING OF TRU WC PROCESSES IMPLEMENTED BY SRS–CCP

[Based on October 31–November 3, 2005, Baseline Inspection]

WC process elements	SRS–CCP WC process specific T1 changes	SRS–CCP WC process specific T2 changes*	SRS-CCP general T2 changes*
AK including Load Management.	Any new waste category Changes to WWIS algorithms specific to load management.	WSPFs, including updates or additions to waste stream(s) within an approved waste category (see Section 8.1). Changes in load management status of approved waste stream(s).	Changes to site procedures requiring CBFO approvals and other changes as discussed in Section 8.1 of this report.
NDA	New equipment or physical modifications to approved equipment.**. Changes to approved calibration range for approved equipment (see Section 8.2).	Changes to software for approved equipment (see Section 8.2). Changes to operating range(s) upon CBFO approval.	Changes to site procedures requiring CBFO approvals and other changes as discussed in Section 8.2 of this report.
RTR	N/A	New equipment or changes to approved equipment.	Changes to site procedures requiring CBFO approvals and other changes as discussed in Section 8.3 of this report.
VE and VET	Changes in vendor performing VE and/or VET.	N/A	Changes to site procedures requiring CBFO approvals and other changes as discussed in Section 8.4 of this report.
WWIS	N/A	N/A	Changes to site procedures requiring CBFO approvals and other changes as discussed in Section 8.5 of this report.

* Upon receiving EPA approval, SRS–CCP will report all T2 changes to EPA every three months.

** Modifications to approved equipment include all changes with the potential to affect NDA data relative to waste isolation and exclude minor changes, such as the addition of safety-related equipment.

EPA will notify the public of the results of its evaluations of proposed T1 and T2 changes through the WIPP Website and by sending messages via the WIPP–NEWS e-mail listserv. All T1 changes must be submitted for approval before their implementation and will be evaluated by EPA. Upon approval, EPA will post the results of the evaluations via the WIPP Website and the WIPP–NEWS listserv, as described above. The Agency will post T2 changes approximately every three months beginning with the date of EPA's approval of the TRU WC program implemented at SRS–CCP. EPA expects the first report of SRS–CCP's T2 changes approximately three months from the date of EPA's approval of the TRU WC program implemented at SRS–CCP.

The scope of the proposed site baseline compliance decision is based on EPA's inspection completed on November 3, 2005. The Agency will not approve any changes to the SRS–CCP program until this proposed baseline approval is finalized. Based on prior approvals, SRS–CCP is currently approved to dispose of debris waste (S5000) at the WIPP. SRS–CCP is permitted to continue WC and disposal of debris waste while EPA evaluates public comment to this proposed approval and establishes a final approval.

IV. Availability of the Baseline Inspection Report for Public Comment

EPA has placed the report discussing the results of EPA's inspection of the CCP at SRS in the public docket as described in **ADDRESSES**. In accordance with 40 CFR 194.8, EPA is providing the public 45 days to comment on these documents. The Agency requests comments on the tiering designations

and the proposed approval decision. EPA will accept public comment on this notice and supplemental information as described in Section 1.B. above. The EPA will not make a determination of compliance before the 45-day comment period ends. At the end of the public comment period, EPA will evaluate all relevant public comment and revise the inspection report as necessary. The Agency will then issue an approval letter and the final inspection report, both of which will be posted on the WIPP Web site. The letter of approval will allow CCP to use the approved TRU waste characterization processes to characterize TRU waste at SRS.

Information on the certification decision is filed in the official EPA Air Docket, Docket No. A–93–02 and is available for review in Washington, DC, and at the three EPA WIPP informational docket locations in New Mexico (as listed in **ADDRESSES**). The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: March 9, 2006.

William L. Wehrum,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. E6–3813 Filed 3–15–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

[Docket No. 06–04]

Revocation of Licenses for Failure To Comply With the Financial Responsibility Requirements of the Shipping Act of 1984; Order To Show Cause

Since enactment of the Shipping Act of 1984 (''1984 Act''), 46 U.S.C. app. §§ 1701–1721, section 19 [1] of the statute set forth the licensing and bonding requirements applicable to ocean freight forwarders, while section 23 of the 1984 Act established separate bonding requirements for non-vessel-operating common carriers (''NVOCCs''). Effective May 1, 1999, the 1984 Act was modified and updated by the passage of the Ocean Shipping Reform Act of 1998 (''OSRA''), Public Law 105–258, 112 Stat. 1902. OSRA delineated a new category of regulated the entities called an ocean transportation intermediary (''OTI''), defined to include both freight forwarders and NVOCCs. While continuing the statutory requirements of the 1984 Act that all OTIs submit a surety bond as proof of financial responsibility, a revised section 19 for the first time required that NVOCCs operating in the United States be licensed by the Federal Maritime Commission (''Commission'').

Concurrent with the effective date of OSRA, the Commission prescribed new regulations at 46 CFR Part 515 (*Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries*), implementing those revisions to the 1984 Act with respect to OTI licensing and financial responsibility (64 FR 11156, March 8, 1999). The Commission's OTI regulations specify that each OTI must establish its financial responsibility by furnishing the Commission a surety bond, evidence of insurance or evidence of guaranty to provide coverage for damages, reparations or penalties arising from the OTI's transportation-related activities. *See* 46 CFR 515.22. In the case of surety bonds, the regulations specify that such bonds must be issued by a surety company found acceptable by the Secretary of the Treasury. 46 CFR 515.22(a).[2]

By notice issued June 23, 2003, the Department of Treasury terminated the Certificate of Authority issued to American Motorists Insurance Company, which had qualified that company as an acceptable surety on Federal bonds. Under the Treasury program, bonds that are continuous in nature remain valid and effective for the purposes issued, but may no longer be renewed. Commencing with the anniversary date of such termination, OTIs holding surety bonds issued by American Motorists Insurance Company were obligated to replace their OTI bond with a valid bond issued by a surety company currently certified by Treasury.

Contacts by Commission staff over an extended period have resulted in licensees voluntarily furnishing replacement evidence of financial responsibility with respect to all but 21 of the licensees previously covered by American Motorists Insurance Company bonds. In October and November 2005, the Commission contacted the licensees by phone and by formal letter, notifying each remaining licensee that continued failure to comply with bonding requirements placed them at risk of license revocation or other action to suspend such OTI's right to continue operations in the U.S. trades. Following direct notice to the affected parties and an extended period to bring themselves into compliance, it appears that the 8 OTIs listed in the attached Schedule A no longer meet the requirements for demonstrating financial responsibility imposed by section 19 of the 1984 Act.

Now therefore, it is ordered that pursuant to section 11 of the Shipping Act of 1984, 46 U.S.C. app. 1710, the entities listed in Schedule A to this Order are directed to show cause why the Commission should not revoke their licenses for failure to comply with section 19 of the Shipping Act of 1984, 46 U.S.C. app. 1718, as amended, and 46 CFR 515.22(a).

It is further ordered that pursuant to section 11 of the Shipping Act of 1984, the entities listed in Schedule A to this Order are directed to show cause why the Commission should not order each of them to cease and desist from operating as an ocean transportation intermediary in the foreign trade of the United States, for failure to comply with section 19 of the Shipping Act of 1984, as amended, and 46 CFR Part 515;

It is further ordered that this proceeding is limited to the submission of affidavits of facts and memoranda of law;

It is further ordered that any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72. Such petition shall be accompanied by the petitioner's memorandum of law and affidavits of fact, if any, and shall be filed no later than the day fixed below;

It is further ordered that the entities listed in Schedule A to this Order are named as Respondents in this proceeding. Affidavits of fact and memoranda of law shall be filed by Respondents and any intervenors in support of Respondents no later than April 17, 2006;

It is further ordered that the Commission's Bureau of Enforcement be made a party to this proceeding;

It is further ordered that reply affidavits and memoranda of law shall be filed by the Bureau of Enforcement and any intervenors in opposition to Respondents no later than May 17, 2006;

It is further ordered that rebuttal affidavits and memoranda of law shall be filed by Respondents and intervenors in support no later than June 1, 2006;

It is further ordered that:

(a) Should any party believe that an evidentiary hearing is required, that party must submit a request for such

[1] 46 U.S.C. app. 1718 (1984).

[2] The Department of Treasury maintains an extensive list of approved surety bonding companies, known as Circular 570. Circular 570 is published on Treasury's Web site at:*http://www.fms.treas.gov/c570/index.html.*

hearing together with a statement setting forth in detail the facts to be proved, the relevance of those facts to the issues in this proceeding, a description of the evidence which would be adduced, and why such evidence cannot be submitted by affidavit;

(b) Should any party believe that an oral argument is required, that party must submit a request specifying the reasons therefore and why argument by memorandum is inadequate to present the party's case; and

(c) Any request for evidentiary hearing or oral argument shall be filed no later than May 17, 2006;

It is further ordered that notice of this Order to Show Cause be published in the **Federal Register**, and that a copy thereof be served upon each respondent at its last known address;

It is further ordered that all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and be mailed directly to all parties of record;

Finally, it is ordered that pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the final decision of the Commission in this proceeding shall be issued by October 31, 2006.

By the Commission.

Bryant L. VanBrakle,

Secretary.

SCHEDULE A.—LICENSEES IN THE UNITED STATES

Organization No.	Name
004278	Cambell & Gardiner, Inc.
008727	Ken Lehat & Associates, Inc.
015494	Ocean Transportation Services, LLC.
011405	Interfreight, Inc.
016391	Caribbean American Shipping Corp.
008751	Ford International Forwarding, Inc.
016817	Independence Shipping Lines, Ltd.
017387	S & B International Freight Forwarders, Inc.

[FR Doc. E6–3789 Filed 3–15–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 31, 2006.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. W.C. Martin, Jr.; Jean Wood Martin; Donald Wayne Sanders; Mary Martin Noland; Donald Martin Sanders; Rebecca Martin Sanders; William Matthew Sanders, all of Aliceville, Alabama; Alice Susan Martin, Chattanooga, Tennessee, Milton Barrett Noland, Carrollton, Alabama; and Karrie Noland Beasley, Tuscaloosa, Alabama, to retain voting shares of First National Bancshares of Central Alabama, Inc., and thereby indirectly retain voting shares of First National Bank of Central Alabama, both of Aliceville, Alabama.

Board of Governors of the Federal Reserve System, March 13, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–3811 Filed 3–15–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP), NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM); Notice of Availability of a Revised List of Recommended Reference Substances for Validation of In Vitro Estrogen and Androgen Receptor Binding and Transcriptional Activation Assays: Request for Comments and Submission of In Vivo and In Vitro Data

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Request for Comments and Submission of Data.

SUMMARY: The National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) announces the availability of an addendum to the report entitled, ''Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) Evaluation of *In Vitro* Test Methods for Detecting Potential Endocrine Disruptors: Estrogen Receptor and Androgen Receptor Binding and Transcriptional Activation Assays'' [NIH Publication 03–4503]. The addendum describes the rationale for proposed revisions to the original list of recommended reference substances for validation of *in vitro* estrogen receptor (ER) and androgen receptor (AR) binding and transcriptional activation (TA) assays. The original list was made publicly available in June 2003 (**Federal Register**, Vol. 68, No. 106, pp. 33171–33172, June 3, 2003). NICEATM requests public comments on the substances proposed as substitutes for six of the 78 substances in the original list. Data are also requested from *in vitro* and *in vivo* studies evaluating the estrogenic and androgenic activity of the 78 substances in the revised list of reference substances.

DATES: Comments and data submissions should be received by May 1, 2006.

ADDRESSES: Correspondence should be sent by mail, fax, or e-mail to Dr. William S. Stokes, NICEATM Director, NIEHS, P. O. Box 12233, MD EC–17, Research Triangle Park, NC, 27709, (phone) 919–541–2384, (fax) 919–541–0947, (e-mail) *niceatm@niehs.nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

In April 2000, the Environmental Protection Agency (EPA) asked ICCVAM to evaluate the validation status of *in vitro* ER and AR binding and TA assays that were proposed as possible components of the EPA Endocrine Disruptor Screening Program Tier 1 screening battery. ICCVAM agreed to evaluate these test methods based on their potential interagency applicability and public health significance. NICEATM, which administers and provides scientific support for ICCVAM, subsequently compiled available data and information on in vitro ER and AR binding and TA assays in four draft Background Review Documents (BRDs) (available at *http://iccvam.niehs.nih.gov/methods/endocrine.htm*).

In collaboration with the ICCVAM Endocrine Disruptor Working Group, NICEATM organized an independent scientific evaluation of the validation status of the four types of in vitro endocrine disruptor screening test

methods on May 20–21, 2002, in Research Triangle Park, NC (**Federal Register**, Vol. 66, No. 57, pp. 16278–16279, March 23, 2001 and **Federal Register**, Vol. 66, No. 67, pp. 16415–16416, April 5, 2002) (available at *http://iccvam.niehs.nih.gov/methods/endocrine.htm*).

The final BRDs and the ICCVAM Test Method Evaluation Report, which includes the expert panel report, public comments, and other relevant documents, were published in May 2003 and announced in a **Federal Register** notice (Vol. 68, No. 106, pp. 33171–33172, June 3, 2003) (available at *http://iccvam.niehs.nih.gov/methods/endocrine.htm*).

NICEATM recently reviewed the commercial availability and cost for the 78 substances recommended by ICCVAM for use in *in vitro* ER and AR binding and TA validation studies. A minimum of 44 substances are recommended for AR binding and TA assays, while a minimum of 53 substances are recommended for ER binding and TA assays. This review indicated that three substances [anastrazole, CGS 18320B, fadrozole] are not commercially available, one substance has restricted commercial availability [ICI 182,780] and six others [actinomycin D, hydroxyflutamide, 4-hydroxytamoxifen, methyltrienolone, 12-O-tetradecanoylphorbol-13-acetate, zearalenone] have costs that are considered excessive. ICCVAM proposes replacing the four substances that are not commercially available or have restricted availability with ones having similar ER and AR activity profiles [4-hydroxyandrostenedione, chrysin, dicofol, raloxifene HCl]. Suitable replacements (19-nortestosterone and resveratrol) were identified for metyltrienolone and zearalenone, respectively, for two of the expensive substances. NICEATM would also prefer to replace four of the highly priced substances [actinomycin D, hydroxyflutamide, 4-hydroxytamoxifen, 12-O-tetradecanoy.lphorbol-13-acetate], but has been unable to identify suitable replacements because of their unique activity profiles and/or chemical/physical properties. The revised list of 78 substances and a discussion about the proposed revisions are included and discussed in the ''Addendum to the ICCVAM Evaluation of In Vitro Test Methods for Detecting Potential Endocrine Disruptors: Estrogen Receptor and Androgen Receptor Binding and Transcriptional Activation Assays,'' (available at *http://iccvam.niehs.nih.gov* see ''Test Method Evaluations'') or by contacting NICEATM (see **ADDRESSES** above.) ICCVAM will finalize this list after considering any public comments received and forward it to U.S. Federal agencies for their information and consideration.

Request for Comments and Request for Data

NICEATM requests public comments on the four substances (listed above) proposed as replacements for substances on the list that are not readily commercially available. NICEATM also requests public comments on the proposed replacements for the two expensive substances for which replacements have been identified, and suggestions for replacements for the four expensive substances that remain on the recommended list.

In order to update the reference substance database, NICEATM request data from completed *in vitro* studies using or evaluating ER and AR binding and/or TA assays, and information about ongoing or planned studies using or evaluating these test methods. NICEATM also requests the submission of data from animal studies that have evaluated the endocrine activity of chemicals using, for example, the uterotropic, Hershberger, intact male, or male/female pubertal assays. NICEATM is especially interested in receiving additional data or information on any of the 78 substances included in the reference list. NICEATM previously requested data from completed studies using or evaluating ER and AR binding and/or TA assays, and information about ongoing or planned *in vitro* or *in vivo* studies using or evaluating these test methods (**Federal Register**, Vol. 66, No. 57, pp. 16278–16279, March 23, 2001). Submitted data will be used to update and supplement the existing NICEATM database; the current database can be accessed in the ICCVAM Test Method Evaluation Report [NIH Publication No. 03–4503] and the four final BRDs on ER and AR binding and TA assays [NIH Publication No. 03–4504, 03–4505, 03–4506, and 03–4507] (available at *http://iccvam.niehs.nih.gov/methods/endocrine.htm*).

When submitting chemical and protocol information/test data, please reference this **Federal Register** notice and provide appropriate contact information (name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization, as applicable).

NICEATM prefers data to be submitted as copies of pages from study notebooks and/or study reports, if available. Raw data and analyses available in electronic format may also be submitted. If data are published in the peer-reviewed literature, citations should be provided. Each submission for a chemical should preferably include the following information, as appropriate:

- Common and trade name
- Chemical Abstracts Service Registry Number (CASRN)
- Chemical class
- Product class
- Commercial source
- *In vitro* test protocol used
- *In vitro* test results
- *In vivo* test protocol used
- *In vivo* test results
- The extent to which the study complied with national or international Good Laboratory Practice (GLP) guidelines
- Date and testing organization

Background Information on ICCVAM and NICEATM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that use or generate toxicological information. ICCVAM conducts technical evaluations of new, revised, and alternative methods with regulatory applicability and promotes the scientific validation and regulatory acceptance of toxicological test methods that more accurately assess the safety and hazards of chemicals and products and that refine, reduce, or replace animal use. The ICCVAM Authorization Act of 2000 (Pub. L. 106–545) establishes ICCVAM as a permanent interagency committee of the NIEHS under the NICEATM. NICEATM administers the ICCVAM and provides scientific and operational support for ICCVAM-related activities. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods applicable to the needs of Federal agencies. Additional information about ICCVAM and NICEATM can be found at the following Web site: *http://www.iccvam.niehs.nih.gov.*

Dated: March 7, 2006.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. E6–3763 Filed 3–15–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panels (SEP): Emerging Infections Sentinel Network Research, Request for Applications CI 06–002

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Emerging Infections Sentinel Network Research, Request for Applications CI 06–002.

Time and Date: 12 p.m.–4 p.m., April 11, 2006 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Emerging Infections Sentinel Network Research, Request for Applications CI 06–002.

Contact Person for More Information: Chris Langub, Ph.D., Scientific Review Administrator, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road NE, Mailstop E74, Atlanta, GA 30333, Telephone 404.498.2531.

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: March 10, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–3793 Filed 3–15–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0081]

Agency Information Collection Activities: Proposed Collection; Comment Request; Prescription Drug Marketing Act of 1987

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting and recordkeeping requirements contained in the regulations implementing the Prescription Drug Marketing Act of 1987 (PDMA).

DATES: Submit written or electronic comments on the collection of information by May 15, 2006.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.fda.gov/dockets/ecomments.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Prescription Drug Marketing Act of 1987; Administrative Procedures, Policies, and Requirements—21 CFR Part 203 (OMB Control Number 0910–0435)—Extension

FDA is requesting OMB approval under the PRA for the reporting and recordkeeping requirements contained in the regulations implementing the Prescription Drug Marketing Act of 1987 (PDMA) (Public Law 100–293). PDMA was intended to ensure that drug products purchased by consumers are safe and effective and to avoid an unacceptable risk that counterfeit, adulterated, misbranded, subpotent, or expired drugs are sold.

PDMA was enacted by Congress because there were insufficient safeguards in the drug distribution system to prevent the introduction and retail sale of substandard, ineffective, or counterfeit drugs, and that a wholesale drug diversion submarket had developed that prevented effective control over the true sources of drugs.

Congress found that large amounts of drugs had been reimported into the United States as U.S. goods returned causing a health and safety risk to U.S. consumers because the drugs may become subpotent or adulterated during foreign handling and shipping. Congress also found that a ready market for prescription drug reimports had been the catalyst for a continuing series of frauds against U.S. manufacturers and

had provided the cover for the importation of foreign counterfeit drugs.

Congress also determined that the system of providing drug samples to physicians through manufacturers' representatives had resulted in the sale to consumers of misbranded, expired, and adulterated pharmaceuticals.

The bulk resale of below wholesale priced prescription drugs by health care entities for ultimate sale at retail also helped to fuel the diversion market and was an unfair form of competition to wholesalers and retailers who had to pay otherwise prevailing market prices.

FDA is requesting OMB approval for the following reporting and recordkeeping requirements:

TABLE 1.—REPORTING REQUIREMENTS

21 CFR Section	Reporting Requirements
203.11	Applications for reimportation to provide emergency medical care
203.30(a)(1) and (b)	Drug sample requests (drug samples distributed by mail or common carrier)
203.30(a)(3), (a)(4), and (c)	Drug sample receipts (receipts for drug samples distributed by mail or common carrier)
203.31(a)(1) and (b)	Drug sample requests (drug samples distributed by means other than the mail or a common carrier)
203.31(a)(3), (a)(4), and (c)	Drug sample receipts (drug samples distributed by means other than the mail or a common carrier)
203.37(a)	Investigation of falsification of drug sample records
203.37(b)	Investigation of a significant loss or known theft of drug samples
203.37(c)	Notification that a representative has been convicted of certain offenses involving drug samples
203.37(d)	Notification of the individual responsible for responding to a request for information about drug samples
203.39(g)	Preparation by a charitable institution of a reconciliation report for donated drug samples

TABLE 2.—RECORDKEEPING REQUIREMENTS

21 CFR Section	Recordkeeping Requirements
203.23(a) and (b)	Credit memo for returned drugs
203.23(c)	Documentation of proper storage, handling, and shipping conditions for returned drugs
203.30(a)(2) and 203.31(a)(2)	Verification that a practitioner requesting a drug sample is licensed or authorized to prescribe the product
203.31(d)(1) and (d)(2)	Contents of the inventory record and reconciliation report required for drug samples distributed by representatives
203.31(d)(4)	Investigation of apparent discrepancies and significant losses revealed through the reconciliation report
203.31(e)	Lists of manufacturers' and distributors' representatives
203.34	Written policies and procedures describing administrative systems
203.37(a)	Report of investigation of falsification of drug sample records
203.37(b)	Report of investigation of significant loss or known theft of drug samples
203.38(b)	Records of drug sample distribution identifying lot or control numbers of samples distributed. (The information collection in 21 CFR 203.38(b) is already approved under OMB Control Number 0910–0139)
203.39(d)	Records of drug samples destroyed or returned by a charitable institution
203.39(e)	Record of drug samples donated to a charitable institution

TABLE 2.—RECORDKEEPING REQUIREMENTS—Continued

21 CFR Section	Recordkeeping Requirements
203.39(f)	Records of donation and distribution or other disposition of donated drug samples
203.39(g)	Inventory and reconciliation of drug samples donated to charitable institutions
203.50(a)	Drug origin statement
203.50(b)	Retention of drug origin statement for 3 years
203.50(d)	List of authorized distributors of record

The reporting and recordkeeping requirements are intended to help achieve the following goals:

1. To ban the reimportation of prescription drugs produced in the United States, except when reimported by the manufacturer or under FDA authorization for emergency medical care;

2. To ban the sale, purchase, or trade, or the offer to sell, purchase, or trade, of any prescription drug sample;

3. To limit the distribution of drug samples to practitioners licensed or authorized to prescribe such drugs or to pharmacies of hospitals or other health care entities at the request of a licensed or authorized practitioner;

4 To require licensed or authorized practitioners to request prescription drug samples in writing;

5. To mandate storage, handling, and recordkeeping requirements for prescription drug samples;

6. To prohibit, with certain exceptions, the sale, purchase, or trade of, or the offer to sell, purchase, or trade, prescription drugs that were purchased by hospitals or other health care entities, or which were donated or supplied at a reduced price to a charitable organization;

7. To require unauthorized wholesale distributors to provide, prior to the wholesale distribution of a prescription drug to another wholesale distributor or retail pharmacy, a statement identifying each prior sale, purchase, or trade of the drug.

FDA estimates the burden of this collection of information as follows:

TABLE 3.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
203.11	12	1	12	.5	6
203.30(a)(1) and (b)	61,961	12	743,532	.06	44,612
203.30(a)(3), (a)(4), and (c)	61,961	12	743,532	.06	44,612
203.31(a)(1) and (b)	232,355	135	31,367,925	.04	1,254,717
203.31(a)(3), (a)(4), and (c)	232,355	135	31,367,925	.03	941,038
203.37(a)	25	1	25	6.00	150
203.37(b)	200	1	200	6.00	1,200
203.37(c)	50	1	50	1.00	50
203.37(d)	2,208	1	2,208	.08	177
203.39(g)	3,221	1	3,221	2.00	6,442
Total Reporting Burden Hours					2,293,004

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 4.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	No. of Responses per Recordkeeper	Total Annual Records	Hours per Record	Total Hours
203.23(a) and (b)	31,676	5	158,380	.25	39,595
203.23(c)	31,676	5	158,380	.08	12,670
203.30(a)(2) and 203.31(a)(2)	2,208	100	220,800	.50	110,400

TABLE 4.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]—Continued

21 CFR Section	No. of Recordkeepers	No. of Responses per Recordkeeper	Total Annual Records	Hours per Record	Total Hours
203.31(d)(1) and (d)(2)	2,208	1	2,208	40.00	88,320
203.31(d)(4)	442	1	442	24.00	10,608
203.31(e)	2,208	1	2,208	1.00	2,208
203.34	2,208	1	2,208	40.00	88,320
203.37(a)	25	1	25	18.00	450
203.37(b)	200	1	200	18.00	3,600
203.39(d)	65	1	65	1.00	65
203.39(e)	3,221	1	3,221	.50	1,610
203.39(f)	3,221	1	3,221	8.00	25,768
203.39(g)	3,221	1	3,221	8.00	25,768
203.50(a)	0	0	0	0	0
203.50(b)	0	0	0	0	0
203.50(d)	0	0	0	0	0
Total Recordkeeping Burden Hours					409,409

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 10, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–3818 Filed 3–15–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0426]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Notice of Participation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 17, 2006.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Notice of Participation—(OMB Control Number 0910–0191)—Extension

Section 12.45 (21 CFR 12.45), issued under section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371), sets forth the format and procedures for any interested person to file a petition to participate in a formal evidentiary hearing, either personally or through a representative. Section 12.45 requires that any person filing a notice of participation state their specific interest in the proceedings, including the specific issues of fact about which the person desires to be heard. This section also requires that the notice include a statement that the person will present testimony at the hearing and will comply with specific requirements in § 12.85, or, in the case of a hearing before a Public Board of Inquiry (21 CFR 13.25). In accordance with § 12.45(e) the presiding officer may omit a participant's appearance.

The presiding officer and other participants will use the collected information in a hearing to identify specific interests to be presented. This preliminary information serves to expedite the pre-hearing conference and commits participation.

The respondents are individuals or households, State or local governments, not for profit institutions, and businesses, or other for profit groups and institutions.

In the **Federal Register** of November 1, 2005 (70 FR 65904), FDA published a 60-day notice requesting public comment on the information collection provisions to which one comment was received. However, it was not related to the information collection.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
12.45	264	1	264	3	792

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 10, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–3819 Filed 3–15–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0422]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Emergency Shortages Data Collection System (Formerly the Emergency Medical Device Shortage Program Survey)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 17, 2006.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Emergency Shortages Data Collection System (Formerly the Emergency Medical Device Shortage Program Survey)—(OMB Control Number 0910–0491)—Extension

Under section 903(d)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 393(d)(2)), the Commissioner of Food and Drugs is authorized to implement general powers (including conducting research) to carry out effectively the mission of FDA. Section 510 of the act (21 U.S.C. 360) requires that domestic establishments engaged in the manufacture, preparation, propagation, compounding, assembly, or processing of medical devices intended for human use and commercial distribution register their establishments and list the devices they manufacture with FDA. Section 522 of the act (21 U.S.C. 360(l)) authorizes FDA to require manufacturers to conduct postmarket surveillance of medical devices. Section 705(b) of the act (21 U.S.C. 375(b)) authorizes FDA to collect and disseminate information regarding medical products or cosmetics in situations involving imminent danger to health, or gross deception of the consumer. These sections of the act enable FDA to enhance consumer protection from risks associated with medical device usage that are not foreseen or apparent during the premarket notification and review process.

Subsequent to the events of September 11, 2001, FDA's Center for Devices and Radiological Health (CDRH) began planning for handling medical device shortage issues associated with counter-terrorism. One of the activities related to the planning was that CDRH would establish a data collection system as a supplemental source for available product. Because of events on September 11, 2001, local and State governments have obtained stockpiles of backup supplies within their jurisdiction to cover an emergency for the first 12 hours following a terrorist attack. The second 12 hours will have additional medical devices supplied by the Centers for Disease Control's Strategic National Stockpile and the National Acquisition Center. However, if additional supplies are needed in the first 12 hours, the Department of Health and Human Services (HHS) will request that FDA provide the number of medical devices readily available to meet demands. HHS has an established transportation and delivery mechanism in place to provide these emergent needs to the local and State authorities.

The Emergency Medical Device Shortage Survey was established in 1992 to collect data to assist FDA in implementing an emergency medical device shortage program that would find resources to supplement the needed supplies. In 2004, CDRH changed the process for the data collection and the name was changed to the Emergency Shortages Data Collection System. Because of the confidentiality aspect of the information, the information is only available to those on FDA's Emergency Shortage Team (EST) and senior management with a need-to-know. The need-to-know personnel include five EST members, the EST leader, the EST data entry technician, and five senior managers.

The Emergency Shortages Data Collection System will be updated every 4 months to keep information current. CDRH learned that medical device manufacturers have a high rate of turnover in personnel and in corporate structures due to mergers with larger companies. In addition, with the constant advances in technology, some of these manufacturers are forced to discontinue product lines or add product lines to their inventory. This new data collection system process will update information on a regular basis ensuring more accurate information in an emergency/disaster.

The process consists of one scripted telephone call to the designated shortage person at the four or five largest manufacturers of specific medical devices that may be needed by first responders in a national emergency. At the current time, the list contains 67 products from 65 manufacturers. If other products or new technology are deemed necessary to add at a later date, then the EST will conduct the appropriate search to find the four or five largest manufacturers of that product line and request the manufacturer's voluntary inclusion into the program.

The Emergency Shortages Data Collection System will only include

those medical devices that are expected to be in demand but in short supply in an emergency/disaster. The data collection system includes life-saving and life-sustaining products (i.e., mechanically powered ventilators) as well as products that would require frequent changes resulting in rapidly depleted supplies (i.e., face masks and gloves).

In the **Federal Register** of November 4, 2005 (70 FR 67177), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
65	3	195	.5	98

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA based these estimates on past experience with direct contact with the medical device manufacturers. FDA estimates that approximately 65 manufacturers would be contacted by electronic mail three times per year to get updated information at their facilities. Further, it is estimated that the manufacturers may require up to 30 minutes to check if information received previously is still current and send electronic mail back to FDA.

Dated: March 10, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–3820 Filed 3–15–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005E–0238]

Determination of Regulatory Review Period for Purposes of Patent Extension; TYSABRI

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for TYSABRI and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human biological product.

ADDRESSES: Submit written or electronic comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–013), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 240–453–6681.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human biological product TYSABRI (natalizumab). TYSABRI is indicated for the treatment of patients, with relapsing forms of multiple sclerosis, to reduce the frequency of clinical exacerbations. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for TYSABRI (U.S. Patent No. 5,840,299) from Athena Neurosciences, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 8, 2005, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of TYSABRI represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for TYSABRI is 2,924 days. Of this time, 2,740 days occurred during the testing phase of the regulatory review period, while 184 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: November 23, 1996. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on November 23, 1996.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262)*: May 24, 2004. FDA has verified the applicant's claim that the product license application (BLA) for TYSABRI (BLA 125104) was initially submitted on May 24, 2004.

3. *The date the application was approved*: November 23, 2004. FDA has verified the applicant's claim that BLA 125104 was approved on November 23, 2004.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and

Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,189 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by May 15, 2006. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 12, 2006. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 13, 2006.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E6–3781 Filed 3–16–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of the Committee: Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 27, 2006, from 10 a.m. to 5:45 p.m., and on March 28, 2006, from 8 a.m. to 3 p.m.

Location: Gaithersburg Hilton, Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD.

Contact: Michael Bailey, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1180, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512524. Please call the Information Line for up-to-date information on this meeting.

Agenda: On March 27, 2006, the committee will discuss, make recommendations, and vote on a premarket approval application for a post-surgical adhesion prevention device for use in patients undergoing gynecological laparoscopic surgical procedures. On March 28, 2006, the committee will have a general topic discussion of clinical trial design issues for new devices intended to treat symptomatic uterine fibroids. Background information, including the agenda and questions for the committee, will be available to the public, 1 business day before the meeting, on the Internet at *http://www.fda.gov/cdrh/panelmtg.html*.

Procedure: On March 27, 2006, from 10 a.m. to 5:45 p.m., and on March 28, 2006, from 9 a.m. to 3 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by March 20, 2006. Oral presentations from the public will be scheduled on March 27, 2006, between approximately 10:10 a.m. and 10:40 a.m. and between approximately 4:15 p.m. and 4:45 p.m., and on March 28, 2006, between approximately 10:15 a.m. and 11:15 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 20, 2006, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On March 28, 2006, from 8 a.m. to 9 a.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)) regarding pending and future device issues.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 240–276–0450, ext. 113, at least 7 days in advance of the meeting.

FDA regrets that it was unable to publish this notice 15 days prior to the Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app.2).

Dated: March 7, 2006.

Jason Brodsky,

Acting Associate Commissioner for External Relations.

[FR Doc. E6–3786 Filed 3–15–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005D–0103]

Guidance for Industry on Using a Centralized IRB Process in Multicenter Clinical Trials; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Using a Centralized IRB Process in Multicenter Clinical Trials.'' The guidance is intended to assist sponsors, institutions, institutional review boards (IRBs), and clinical investigators involved in multicenter clinical research in meeting the requirements of FDA regulations by

facilitating the use of a centralized IRB review process.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Nancy Stanisic, Center for Drug Evaluation and Research (HFD–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1660, or

Steve Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration,1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210, or

David Lepay, Good Clinical Practice Program, Office of Science and Health Coordination (HF–34), 5600 Fishers Lane, Rockville, MD 20857, 301–827–3340.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 28, 2005 (70 FR 15635), FDA published a notice announcing the availability of a draft guidance entitled ''Using a Centralized IRB Process in Multicenter Clinical Trials.'' The notice gave interested persons an opportunity to submit comments by May 27, 2005. The agency received only a small number of comments, and we carefully considered the received comments as we finalized the draft guidance. Other than minor editorial changes and some clarifications, no substantive changes were made to the draft guidance.

This guidance is intended to assist sponsors, institutions, IRBs, and clinical investigators involved in multicenter clinical research in meeting the requirements of 21 CFR part 56 by facilitating the use of a centralized IRB review process. The guidance does the following: (1) Describes the roles of the participants in a centralized IRB review process, (2) offers guidance on how a centralized IRB review process might consider the concerns and attitudes of the various communities participating in a multicenter clinical trial, (3) makes recommendations about documenting agreements between a central IRB and the IRBs at institutions involved in the centralized IRB review process concerning the responsibilities of a central IRB and each institution's IRB, and (4) discusses IRB procedures for implementing a centralized review process. Finally, the guidance recommends how to ensure effective IRB review for clinical trial sites not already affiliated with an IRB. This guidance applies to clinical investigations conducted under 21 CFR part 312 (investigational new drug application or IND regulations).

This level 1 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. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the guidance. Submit a single copy of electronic comments or two paper copies, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. 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 *http://www.fda.gov/cder/guidance/index.htm*. *http://www.fda.gov/cber/guidelines.htm*, or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: March 7, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–3785 Filed 3–15–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–06–8000]

Confidentiality Arrangement Between the United States Food and Drug Administration and the French Health Products Safety Agency

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a confidentiality arrangement between the United States Food and Drug Administration and the French Health Products Safety Agency. The purpose of this confidentiality arrangement is to establish mutual commitments to retain the confidentiality of non-public information shared between the agencies.

DATES: The agreement became effective February 8, 2006.

FOR FURTHER INFORMATION CONTACT: Matthew E. Eckel, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville MD, 20857, 301–827–4480, FAX: 301–480–0716.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and understandings between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this confidentiality arrangement.

Dated: March 7, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

BILLING CODE 4160–01–S

CONFIDENTIALITY ARRANGEMENT

BETWEEN

THE UNITED STATES FOOD AND DRUG ADMINISTRATION

AND

THE FRENCH HEALTH PRODUCTS SAFETY AGENCY

The United States Food and Drug Administration (USFDA) and the French Health Products Safety Agency (Afssaps) (hereinafter the Participants) consider it to be a necessity to establish and maintain a high level of co-operation between USFDA and Afssaps in order to increase medical safety and the protection of public health. In order to attain that high level of co-operation, it is essential to be able to share information that is protected from public disclosure by French or U.S. law (non-public information) as part of cooperative law enforcement or regulatory activities.

Such non-public information includes documents held or prepared by the USFDA or Afssaps, whether final or pre-decisional, containing: 1) information the public disclosure of which would be likely to harm the personal privacy of an individual or the secrecy of personal files or would constitute a clearly unwarranted invasion of personal privacy, such as medical files; 2) trade secret information, including any commercially valuable plan, formula, "recipe," process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort, for example, information relating to the manufacturing process; 3) confidential commercial or financial information of a type that the submitter would customarily not release to the public or the disclosure of which would be likely to cause substantial harm to the competitive position of the submitter; 4) information compiled during or about an investigation for purposes of conducting any potential or actual enforcement activities; or 5) internal, pre-decisional information, for example opinions and recommendations that are part of agency deliberations. Such information may be in statistical, technical, legal, or operational form and shared either orally or in writing, whatever the medium used for the capture, storage, or transmission of the information.

Both Participants consider that such information is shared in confidence, consider it critical that the other maintains the confidentiality of such information, and recognize that public disclosure of this information could seriously jeopardize any further scientific and regulatory interactions between the Participants.

The Participants commit as follows:

1. The Participants have the authority to protect from public disclosure the above-mentioned non-public information without prejudice to the application of legal provisions currently in force under which the courts may order the Participants to release a given document. The Participants will ensure that such information that is received from the other Participant will only be made available to employees or contractors of the Participants who have a

need to know for the purpose of achieving the Participants' missions of medical safety and who are bound by an obligation to maintain the confidentiality of the information.

2. The Participants will not publicly disclose such non-public information without written authorization from the owner of the information, written authorization from the individual who is the subject of the personal privacy information, or a written statement from the other Participant that the information no longer has non-public status;

3. Each Participant will inform the other promptly of any effort made by judicial or legislative mandate to obtain non-public information received from the other Participant. If such judicial or legislative mandate orders disclosure of such non-public information, the Participant will take all appropriate legal measures in an effort to ensure that the information will be disclosed in a manner that protects the information from public disclosure.

4. Each Participant will promptly inform the other of any changes to the Participant's laws, regulations, or any relevant policies or procedures that would affect the Participant's ability to honor the commitments in this document.

5. Requests for non-public information will be made in written form (mail, electronic mail, telefax. etc.) and the documents requested pursuant to this agreement will be supplied in language of the Participant supplying the information.

6. This agreement shall become effective on the date of the signature of both Participants and shall thereafter continue for 5 years, renewable upon mutual written consent.

Agreed and accepted on behalf of USFDA:

Andrew C. von Eschenbach, M.D. for

Acting Commissioner of Food and Drugs
Food and Drug Administration
Department of Health and Human Services
United States of America

Date: 30 Jun 06

Agreed and accepted on behalf of Afssaps:

Jean MARIMBERT

Directeur Général
Agence française de sécurité sanitaire des produits de santé (Afssaps)
FRANCE

Date: 08 Fe. 06

[FR Doc. 06–2539 Filed 3–15–06; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (''the Program''), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact the Clerk, United States Court of Federal Claims, 717 Madison Place, NW., Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Acting Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857; (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at Section 2114 of the PHS Act or as set forth at 42 CFR 100.3, as applicable. This Table lists for each covered childhood vaccine the conditions which may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by HRSA on October 1, 2005, through December 31, 2005.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

(a) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Table but which was caused by'' one of the vaccines referred to in the Table, or

(b) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Acting Director, Division of Vaccine Injury Compensation Program, Healthcare Systems Bureau, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Anna and Robert Perkins on behalf of Jason Perkins, Chicago, Illinois, Court of Federal Claims No: 05–1057V.
2. Ingrid Bianco on behalf of Frank John Bianco, Somers Point, New Jersey, Court of Federal Claims No: 05–1059V.
3. Patricia and Chris Riggle on behalf of Joseph William Riggle, Greenland, New Hampshire, Court of Federal Claims No: 05–1062V.
4. Barbara and John Murphy on behalf of Michael Murphy, West Friendship, Maryland, Court of Federal Claims No: 05–1063V.
5. Alisha Shepperson on behalf of Jordan Taylor Shepperson, Fort Walton Beach, Florida, Court of Federal Claims No: 05–1064V.
6. Darren McDonough on behalf of Garrett Patrick McDonough, Greensboro, North Carolina, Court of Federal Claims No: 05–1077V.
7. Mary and Michael Schoeppner on behalf of Mary Schoeppner, Tampa, Florida, Court of Federal Claims No: 05–1080V.
8. Suzanne and John Davis on behalf of Spencer Davis, Lewiston, Maine, Court of Federal Claims No: 05–1084V.
9. Leslie Wilson and Akira Ueno on behalf of Nathan Ueno, Portland, Oregon Court of Federal Claims No: 05–1102V.
10. Melissa and John Wallace on behalf of Madilyn Wallace, Boston, Massachusetts, Court of Federal Claims No: 05–1104V.
11. Jestine Lachapelle on behalf of Joshua Lachapelle, Deceased, Dover, Delaware, Court of Federal Claims No: 05–1106V.
12. Stephen Lieurance, Andover, Kansas, Court of Federal Claims No: 05–1107V.
13. Pamela and Ronald Smith on behalf of Takashi Jesse Smith, San Jose, California, Court of Federal Claims No: 05–1108V.
14. Asa and Leondra McMahon on behalf of Asa McMahon, Ithaca, New York, Court of Federal Claims No: 05–1110V.
15. James Grassman, Deceased Rancho Mirage, California, Court of Federal Claims No: 05–1114V.
16. Jorge Alberto Carcamo, Simi Valley, California, Court of Federal Claims No: 05–1116V.
17. Kristi and Scott Getson on behalf of Edward Matthew Getson,

Philadelphia, Pennsylvania, Court of Federal Claims No: 05–1117V.

18. Nicole Schwartz on behalf of Alexander Schwartz, Somers Point, New Jersey, Court of Federal Claims No: 05–1118V.

19. Scott Berger, Commack, New York, Court of Federal Claims No: 05–1120V.

20. Sonali and Darryl Tang on behalf of Arman Sebastian Tang, La Mesa, California, Court of Federal Claims No: 05–1122V.

21. Roger Siekbert on behalf of Chloe Siekbert, Blue Creek, Ohio, Court of Federal Claims No: 05–1124V.

22. Julie Clinton on behalf of John Clinton, Memphis, Tennessee, Court of Federal Claims No: 05–1126V.

23. Yanitza and Joel Jimenez on behalf of Jeilynne Jimenez, Somers Point, New Jersey, Court of Federal Claims No: 05–1127V.

24. Andrea and Mitchell Mitchell on behalf of Jack Mitchell, Carmel, Indiana, Court of Federal Claims No: 05–1128V.

25. William Taylor on behalf of Joseph Taylor, Boston, Massachusetts, Court of Federal Claims No: 05–1133V.

26. Sheri and Steven Zettle on behalf of Quaid Zettle, Boston, Massachusetts, Court of Federal Claims No: 05–1134V.

27. Marcia and Joseph Ferraro on behalf of Anthony Ferraro, Boston, Massachusetts, Court of Federal Claims No: 05–1135V.

28. Kerrie and Paul Ferrara on behalf of Paul Ferrara, Boston, Massachusetts, Court of Federal Claims No: 05–1136V.

29. Ishrat and Ahmad Ahsan on behalf of Ariana Ahsan, Boston, Massachusetts, Court of Federal Claims No: 05–1137V.

30. Nicole and Bret Cochran on behalf of Jake Cochran, Boston, Massachusetts, Court of Federal Claims No: 05–1138V.

31. Lisa and James Glover on behalf of Chloe Glover, Boston, Massachusetts, Court of Federal Claims No: 05–1139V.

32. Paula Kelley, Clairton, Pennsylvania, Court of Federal Claims No: 05–1140V.

33. Renda Sue Mace and Billy Oliphant on behalf of Renda Sue Mace, Clinton, Oklahoma, Court of Federal Claims No: 05–1146V.

34. Heidi and Roderick Conner on behalf of Maryah M. Conner, Twin Falls, Idaho, Court of Federal Claims No: 05–1149V.

35. Louise Habakus on behalf of Nicholas Habakus, Red Bank, New Jersey, Court of Federal Claims No: 05–1150V.

36. Marlo Thomas, Goldsboro, North Carolina, Court of Federal Claims No: 05–1151V.

37. Marcy Miles on behalf of Sean Miles, Norwich, New York, Court of Federal Claims No: 05–1152V.

38. Jerry Fridley, Fontana, California, Court of Federal Claims No: 05–1153V.

39. Janelle and M. Thomas Jones on behalf of Benjamin Jones, Ft. Wayne, Indiana, Court of Federal Claims No: 05–1154V.

40. Linda Burton on behalf of Evan Burton, Philadelphia, Pennsylvania, Court of Federal Claims No: 05–1155V.

41. Luke James Lewis, Lackland, Texas, Court of Federal Claims No: 05–1160V.

42. Michelle and Trever Anderson on behalf of Aidan Bae Schulte Anderson, Augusta, Georgia, Court of Federal Claims No: 05–1162V.

43. Pamela Haynes on behalf of John Haynes, Boston, Massachusetts, Court of Federal Claims No: 05–1164V.

44. Theresa Lux on behalf of Katharine Lux, Boston, Massachusetts, Court of Federal Claims No: 05–1165V.

45. Christine and Cody Bielawa on behalf of Matthew Bielawa, New York, New York, Court of Federal Claims No: 05–1168V.

46. Joyce and Carl Schwenk on behalf of Justin Schwenk, Lansdale, Pennsylvania, Court of Federal Claims No: 05–1169V.

47. Don Kostenbader, Pottsville, Pennsylvania, Court of Federal Claims No: 05–1171V.

48. Theresa Cangialosi on behalf of Alexandra Coen, Philadelphia, Pennsylvania, Court of Federal Claims No: 05–1174V.

49. Kimberly and Kieran Bastible on behalf of Luke Xavier Bastible, Lake Success, New York, Court of Federal Claims No: 05–1176V.

50. Lesley Ann Jones on behalf of Jade Christine Dollar, Morton, Illinois, Court of Federal Claims No: 05–1178V.

51. Ann and Keith Dronen on behalf of Anastasia C. Dronen, Wimette, Illinois, Court of Federal Claims No: 05–1181V.

52. Joseph Demko, Sherman, Texas, Court of Federal Claims No: 05–1190V.

53. Shirley and Clarence McKinnon on behalf of Deontay Perry, Baltimore, Maryland, Court of Federal Claims No: 05–1194V.

54. Stacey and David Lavely on behalf of Jagger Lavely, Philadelphia, Pennsylvania, Court of Federal Claims No: 05–1195V.

55. Kevin Wayne Stead, Fort Bragg, North Carolina, Court of Federal Claims No: 05–1196V.

56. Lorraine and Gregory Sissons on behalf of Lauren Sissons, Philadelphia, Pennsylvania, Court of Federal Claims No: 05–1197V.

57. Tammi Halvorson on behalf of Patrick Halvorson, Boston, Massachusetts, Court of Federal Claims No: 05–1198V.

58. Roseann Havers on behalf of Mikayla Havers, Boston, Massachusetts, Court of Federal Claims No: 05–1199V.

59. Michelle Mouille on behalf of Maurice Lamkin, San Antonio, Texas, Court of Federal Claims No: 05–1204V.

60. Philip Carter, Costa Mesa, California, Court of Federal Claims No: 05–1206V.

61. Lori Bedrio on behalf of Samantha Bedrio, La Mesa, California, Court of Federal Claims No: 05–1207V.

62. Jeffrey House on behalf of Logan House, Boston, Massachusetts, Court of Federal Claims No: 05–1210V.

63. Nanette and Jeff Cunningham on behalf of Zoe Rose Cunningham, Sulphur Springs, Texas, Court of Federal Claims No: 05–1212V.

64. Charlene French, Tacoma, Washington, Court of Federal Claims No: 05–1213V.

65. Linda Reno on behalf of Connor Reno, Boston, Massachusetts, Court of Federal Claims No: 05–1214V.

66. Jenny and Glenn Hess on behalf of Jackson Connor Hess, Flint, Michigan, Court of Federal Claims No: 05–1216V.

67. Lauren and Louis Matto on behalf of Louis Matto, IV, Somers Point, New Jersey, Court of Federal Claims No: 05–1221V.

68. Carrie Ruth Brake on behalf of Stephen Joseph Brake, Winchester, Kentucky, Court of Federal Claims No: 05–1228V.

69. Brenda Deiuliis on behalf of Anthony N. Deiuliis, Pittsburgh, Pennsylvania, Court of Federal Claims No: 05–1230V.

70. Robert Smith, Dickinson, Texas, Court of Federal Claims No: 05–1231V.

71. Carrie Ruth Brake on behalf of Phillip Brake, Winchester, Kentucky, Court of Federal Claims No: 05–1233V.

72. Pamela and Greg Giacchi on behalf of Anthony Giacchi, Pompton, New Jersey, Court of Federal Claims No: 05–1235V.

73. Laurie and John M. Lupo on behalf of Jonathan David Lupo, Basking Ridge, New Jersey, Court of Federal Claims No: 05–1238V.

74. Jonathan Corneil, Wahpeton, North Dakota, Court of Federal Claims No: 05–1239V.

75. Tina L. Goodlock, Adrian, Michigan, Court of Federal Claims No: 05–1240V.

76. Lydia Cisneros and Alejandro Rodriguez on behalf of Britney Rodriguez Cisneros, Deceased, Los Angeles, California, Court of Federal Claims No: 05–1241V.

77. Joanne Arnoult on behalf of Jordan Arnoult, Marrero, Louisiana, Court of Federal Claims No: 05–1247V.

78. Janice Crabtree and Jeffery Ambroziak on behalf of William

Ambroziak, Boston, Massachusetts, Court of Federal Claims No: 05–1256V.

79. Pamela and David Goggins on behalf of Allston Goggins, Boston, Massachusetts, Court of Federal Claims No: 05–1257V.

80. Michael Peace on behalf of Anaya Shanelle Peace, Dallas, Texas, Court of Federal Claims No: 05–1258V.

81. Lujene and Alan Clarke on behalf of Devon Chandler Clarke, Lake Success, New York, Court of Federal Claims No: 05–1260V.

82. Francis Perez on behalf of Mario Perez, Deceased, Willingboro, New Jersey, Court of Federal Claims No: 05–1261V.

83. Theodore W. Porada, Middleburg Heights, Ohio, Court of Federal Claims No: 05–1262V.

84. Shawnte Ayalew on behalf of Sydney Jones, Redwood City, California, Court of Federal Claims No: 05–1266V.

85. Frederick and Betty Brady on behalf of Frederick Brady Ashville, North Carolina, Court of Federal Claims No: 05–1267V.

86. Khudeza Begum on behalf of Mehabub Bhuiyan, New York, New York, Court of Federal Claims No: 05–1269V.

87. Natasha Malone on behalf of Jazmon Malone, Dallas, Texas, Court of Federal Claims No: 05–1270V.

88. Liz Warren on behalf of Milo Zada, San Francisco, California, Court of Federal Claims No: 05–1271V.

89. Alexandra and Donald Mazziotti on behalf of Gabriella Mazziotti, Portland, Oregon, Court of Federal Claims No: 05–1274V.

90. Leilani and Gary Gross on behalf of Talia Gross, Huntington Beach, California, Court of Federal Claims No: 05–1275V.

91. Mary and Joseph Hostetler on behalf of Matthew Hostetler, Apple Creek, Ohio, Court of Federal Claims No: 05–1276V.

92. John Crouch on behalf of Cody Crouch Boston, Massachusetts, Court of Federal Claims No: 05–1279V.

93. David Dearinger on behalf of George Dearinger, Everett, Washington, Court of Federal Claims No: 05–1280V.

94. Karrie and Len Jennings on behalf of Tristin Robert Jennings, Minneapolis, Minnesota, Court of Federal Claims No: 05–1283V.

95. Latricia Hewings on behalf of Miles Lee Williams, Deceased, Milwaukee, Wisconsin, Court of Federal Claims No: 05–1292V.

96. David Dearinger on behalf of Jack Dearinger, Everett, Washington, Court of Federal Claims No: 05–1293V.

97. Maloree McDonough, Little Rock, Arkansas, Court of Federal Claims No: 05–1294V.

98. Frederick James Vondrak, III on behalf of Frederick James Vondrak, IV, Novi, Michigan, Court of Federal Claims No: 05–1310V.

99. Andrew Collier on behalf of Michael Collier, Brookfield, Missouri, Court of Federal Claims No: 05–1314V.

100. Donna and Ed Iarrapino on behalf of Joseph Andrew Iarrapino, Lake Success, New York, Court of Federal Claims No: 05–1350V.

101. Denise and Michael Smith on behalf of Alexander Hunter Smith, Lake Success, New York, Court of Federal Claims No: 05–1351V.

102. Alan Peltes St. Louis, Missouri, Court of Federal Claims No: 05–1352V.

103. Jeannine and Dominic Pernice on behalf of Nicholas Pernice, Philadelphia, Pennsylvania, Court of Federal Claims No: 05–1358V.

104. Amy Sauter on behalf of Jack Sauter, Philadelphia, Pennsylvania, Court of Federal Claims No: 05–1359V.

105. Michael W. Collier, Sr. on behalf of Benjamin D. Collier, Lake Success, New York, Court of Federal Claims No: 05–1370V.

106. Melissa Steinberg, Frenchtown, New Jersey, Court of Federal Claims No: 05–1377V.

107. Karen Dola-Fein and Gregory Fein on behalf of Daniel Fein, West Hills, California, Court of Federal Claims No: 05–1379V.

108. Renee and Brendon Deyo on behalf of Bryan Deyo, Washington, DC, Court of Federal Claims No: 05–1385V.

109. Melissa Guffey on behalf of Kimberly Warfle, Paris, Tennessee, Court of Federal Claims No: 05–1399V.

110. Kimberly and Stephen Benson on behalf of Mackenzie Benson, Doyleston, Pennsylvania, Court of Federal Claims No: 05–1400V.

111. Tresa and Steven Kinzer on behalf of Samuel Kinzer, Cleveland, Tennessee, Court of Federal Claims No: 05–1401V.

Dated: March 9, 2006.

Elizabeth M. Duke,

Administrator.

[FR Doc. E6–3791 Filed 3–15–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Organ Procurement and Transplantation Network Status of Living Donor Guidelines

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notification of Review and Access of Public Comments.

SUMMARY: **Federal Register** Notice (volume 71, number 14, pp 3519–3520) published on January 23, 2006, inadvertently omitted information on the review and access of the material received in response to the solicitation of comments to assist HRSA in determining whether criteria developed by the Organ Procurement and Transplantation Network (OPTN) concerning organs procured from living donors, including those concerning the allocation of organs from living donors, should be given the same status, and be subject to the same enforcement actions, as other OPTN policies.

Docket: For access to the docket to read background documents or comments received, go to the Division of Transplantation, Healthcare Systems Bureau, Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 12C–06, Rockville, Maryland 20857 weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m. To schedule an appointment to view public comments, phone (301) 443–7757.

FOR FURTHER INFORMATION CONTACT: Jim Burdick, M.D. at the above address; telephone number (301) 443–7577.

Dated: March 9, 2006.

Elizabeth M. Duke,

Administrator.

[FR Doc. E6–3790 Filed 3–15–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

[Funding Announcement Number: HHS–2006–IHS–EPI–0001]

Division of Epidemiology and Disease Prevention; Epidemiology Program for American Indians/Alaska Natives and Urban Indian Communities; Announcement Type: Competing Renewal

Catalog of Federal Domestic Assistance Numbers: 93.231

Dates: Key Dates:

Application Deadline Date: June 30, 2006;

Anticipated Application Review: August 16, 2006;

Application Notification: September 1, 2006;

Anticipated Start Date: September 16, 2006.

I. Funding Opportunity Description

The Department of Health and Human Services (HHS) Indian Health Service (IHS) announces that competitive cooperative agreement applications are now being accepted by the Division of Epidemiology and Disease Prevention for American Indians/Alaska Natives (AI/AN) and Urban Indian Communities for Tribal Epidemiology Centers.

This program is authorized under section 214(b)(1) of the Indian Health Care Improvement Act, 25 U.S.C. 1621(m), Public Law 94–437, as amended by Public Law 102–573. This program is described in section 93.231 in the Catalog of Federal Domestic Assistance. There will be only one funding cycle during Fiscal Year (FY) 2006. These cooperative agreements will be awarded and administered in accordance with this announcement, Department of Health and Human Service (HHS) at 45 CFR part 92, HHS Uniform Administrative Requirements for Grants and Cooperative Agreements to State, local, and Tribal governments, or 45 CFR part 74, Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Non-profit Organizations and Commercial Organizations; the Public Health Service (PHS) Grant Policy Statement; and applicable Office of Management and Budget Circulars.

The PHS urges applicants submitting an application to address specific objectives of *Healthy People 2010.* Interested applicants may obtain a copy of *Healthy People 2010 in print* (Summary Report; Stock No. 017–001–00547–9) or on CD–ROM (Stock No. 107–001–00549–5) through the Superintendent of Documents, Government Printing Office, P.O. Box 371954–7945, or (202) 512–1800. You may access this information via the Internet at the following Web site: *http://www.health.gov/healthypeople/publications.*

The purpose of this cooperative agreement program is to develop and support Tribal Epidemiology Centers (TEC) and public health infrastructure through the augmentation of existing programs with expertise in epidemiology and a history of regional support. Activities should include, but are not limited to, enhancement of surveillance for disease conditions; epidemiologic analysis, interpretation, and dissemination of surveillance data; investigation of disease outbreaks; developments and implementation of epidemiologic studies; development and implementation of disease control and prevention programs; and coordination of activities of other public health authorities in the region. Proposed activities are encouraged to cover large populations and/or geographical areas that do not necessarily correspond with current IHS administrative areas.

To achieve the purpose of this program, the recipient will be responsible for the activities under item number *1. Recipient Activities* and IHS will be responsible for conducting activities under item number *2. IHS Activities.*

1. Recipient Activities

(a) Assist and facilitate AI/AN communities, Tribal organizations, and urban Indian organizations in implementing and enhancing disease surveillance systems, identifying their highest priority health status objectives based on epidemiologic data, and monitoring progress toward meeting each of the health status objectives of IHS, the AI/AN communities, Tribal and urban Indian organizations in the region. Assist and facilitate reporting of nationally notifiable disease conditions to public health authorities in the region.

(b) Provide health specific data and community health profiles for Tribal entities their respective catchment areas.

(c) Participate in the development of systems for sharing, improving, and disseminating aggregate health data at a national level for purposes of advocacy for AI/AN communities, Government Performance and Results Act (GPRA), Healthy People 2010, and other national-level activities.

(d) Collaborate with national DHHS programs in the development of standardized health profiles, surveillance and data monitoring methods and data sets.

(e) Support responses to public health emergencies in collaboration with the IHS, Division of Epidemiology and Disease Prevention (DEDP), state, local, Tribal, and other Federal health authorities.

(f) Support the IHS Director's HP/DP Initiatives & Performance Contract. You may access this information via the Internet at the following Web site: *http://www.ihs.gov/.* At the IHS Web site, click on Go to IHS.gov Main-Page, on the right side, under *Special Announcement*, you will find the Director's Initiative.

(g) Develop and implement epidemiologic studies that have practical application in improving the health status of constituent communities. Studies may require Institutional Review Board approval if human subjects are involved.

(h) Develop and implement disease control and prevention programs in cooperation with other public health entities. Make recommendations for targeting of public health services needed by constituents.

(i) Establish a required broad-based advisory council that consists of technical experts in epidemiology and public health, community members, health care providers, and others who can provide overall program direction and guidance.

(j) Provide a mid-year report and an annual report (no more than 10 pages respectively) at the end of each project year.

2. IHS Activities

(a) Convene a Tribal Epidemiology Centers (TECs) workshop/conference of funded organizations every year for information sharing and problem solving.

(b) Provide funded TECs with ongoing consultation and technical assistance to plan, implement, and evaluate each component of the comprehensive program as described under *Recipient Activities* above. Consultation and technical assistance will include, but not be limited to, the following areas:

(1) Interpretation of current scientific literature related to epidemiology, statistics, surveillance, Health People 2010 Objectives, and other disease control activities;

(2) Design and implementation of each program component (surveillance, epidemiologic analysis, outbreak investigation, development of epidemiologic studies, development of disease control programs, and coordination of activities; and

(3) Overall operational planning and program management.

(c) Provide opportunities for training fellowship at the the DEDP and other programs in IHS, if funds permit.

(d) Conduct site visits to TECs to assess program progress and mutually resolve problems, as needed, and/or coordinate reverse site visits to IHS in Albuquerque, New Mexico.

(e) Assign Federal personnel to TECs in lieu of a portion of the financial assistance, if available.

(f) Coordinate all epidemiologic activities on a national scope.

(g) DEDP will increase funding as additional funds become available.

II. Award Information

Type of Awards: Cooperative Agreement.

Estimated Funds Available: up to $6,000,000.

The total amount of funds available for fiscal year 2006 is up to $6,000,000.

The awards are for 12 months in duration and can be reviewed during the 5-year project period. The average award is approximately $150,000 to $1,000,000 depending on the applicant's score. Awards under this announcement are subject to the availability of funds. Additional funds may become available from other HHS Operating Divisions for distribution to successful applicants within the Epidemiology Program to support the shared program objectives. If funds become available, they will be distributed on a limited competition basis.

Anticipated Number of Awards: 12.

Project Period: September 16, 2006 to September 15, 2011.

Award Amount: $150,000 and up to $1,000,000 per year**.

Funding Information:

As part of an effort to establish TECs throughout the nation, these funds will be used to support activities on a regional basis. Collaborative efforts among Tribal, local, state, Federal, and university health organizations are encouraged. It is anticipated that funding will be available ranging from $150,000 and up to $1,000,000 per year to fund each award. Applicants are encouraged to apply for sums up to $1,000,000. Awardees who were originally funded at levels lower than requested may receive additional funding, if additional funds become available in subsequent years. The awarding office has no obligation to provide future funding.

• Funding will be based on scoring levels of the review process. An example is outlined below.

Score	Funding up to amount **
90–100	$300,000–$1,000,000.
80–89	$250,000.
70–79	$200,000.
60–69	$150,000.
59–below	Not funded.

** Varies depending on scores and funds available.

Applicants may be eligible for consideration later in the fiscal year without further review if funds are available. At the request of the applicant, Federal personnel, if available, may be assigned to a project in lieu of a portion of the financial assistance.

• Only one project cooperative agreement will be funded per Indian Tribe or Indian health organization.

• Cooperative Agreements will be funded annually during the project period of five years, dependent upon the scope of work, and yearly continuation applications are required to be renewed. Renewals of cooperative agreements will be base don the following:

—Satisfactory progress.
—Availability of funds.
—Continuing need of IHS for the program.

• Awardees will be required to submit the Standard Form 424 and semi annual Progress and Financial Reports.

• Forms are available at the following Web site *http://www.grants.gov.* The progress report should provide information about changes in the program and a summary report of any evaluations. These semi-annual progress reports and financial reports will be closely monitored by the IHS Staff to ensure that the program is achieving the goals of the Divisions of the Epidemiology and Disease prevention.

• Limitations—Only one cooperative agreement project will be awarded per Tribe, Tribal or Indian organization, or intertribal consortia.

• Period of support—The project under this announcement will be awarded as a cooperative agreement for a five-year period. Due to the nature of these projects, collaboration with the DEDP is necessary to conduct the following:

(a) Coordinate activities;

(b) Participate in projects, investigations, or studies of national scope; and

(c) Share surveillance and other data collected, in compliance with the Federal Privacy Act Health Insurance Portability & Accountability Act, or similar Tribal laws. The IHS will, therefore, have substantial programmatic involvement in these projects (see *IHS Activities* above).

Programmatic Involvement: See *IHS Activities.*

III. Eligibility Information

1. Eligible Applicants.

AI/AN Tribes, Tribal organizations, and eligible intertribal consortia or Indian organizations may be eligible for a cooperative agreement. Such entities must represent or serve a population of at least 60,000 AI/AN to be eligible. An intertribal consortium or AI/AN organization is eligible to receive a cooperative agreement if it is incorporated for the primary purpose of improving AI/AN health, and represents the Tribes, AN villages, or urban Indian communities in which it is located. Collaborations with regional IHS, CDC, State, or a academic or other organizations are encouraged (letter of support and collaboration should be included in the application).

The following documentation is required:

(a) Tribal Resolution.

1. A signed and dated resolution supportive of the epidemiology cooperative agreement proposal from the Indian Tribes(s) served by the project must accompany the application.

2. Application by Tribal organizations will not require a specific Tribal resolution(s) if the current blanket Tribal resolution(s) under which they operate would encompass the proposed activities and project type.

(b) Non-profit organization—A copy of 501(c)(3) non profit certificate.

2. Cost Sharing or Matching—The Division of Epidemiology and Disease Prevention does not require matching funds or cost sharing.

IV. Application and Submission Information

1. Address and Web Site To Request Application

The entire application kit can be found in Grants.gov Web site, *http://www.grants.gov.* Information regarding the electronic application process may be obtained from either of the following persons:

Selina Keryte, Project Officer, Division of Epidemiology and Disease, Prevention, 5300 Homestead Road NE., Albuquerque, NM 87110. Phone: (505) 248–4132. Fax: (505) 248–4393. E-mail: *selina.Keryte@ihs.gov.*

Martha Redhouse, Division of Grants Operations, Indian Health Service, Twinbrook Metro Plaza, Suite 360, 801 Thompson Ave., Rockville, Maryland 20852. Phone: (301) 443–5204. Fax: (301) 443–9602. E-mail: *martha.redhouse@ihs.gov.*

The preferred method is to submit the application using Grants.gov. For some reason if you are unable to use Grants.gov, please request an application package kit including the required PHS 5161–1 (Rev. 7/00) (OMB Approval No. 0348–0043) and the U.S. Government Standard forms (SF–424 and SF–424B) from the following person, Martha Redhouse. The telephone number is not a toll-free number.

2. Content and Form of Application Submission Requirements

All applications must be double-spaced, typewritten, and have consecutively numbered pages using black type not smaller than 12 characters per one inch, with conventional one-inch border margins, on only one side of standard size 8.5 x 11 paper that can be photocopied. The application narrative (not including Abstract, Tribal Resolution, Standard Forms, Table of Contents or the

Attachments must not exceed 25 typed pages as described above. Contain a narrative that does not exceed 7 typed pages including other submission below. The 7 page narrative does not include the work plan, standard forms, Tribal resolutions (if necessary), table of contents, budget, budget justifications, and/or other appendix items. Public Policy Requirements: All Federal-wide public policies apply to IHS grants with exception of Lobbying and Discrimination. All applications must include the following in the order presented:

- Tribal Resolution(s) and documentation.
- Standard Form 424, Application for Federal Assistance.
- Standard Form 424A, Budget Information—Non-Construction Programs, Pages 1 and 2.
- Standard Form 424B, Assurances—Non-Construction Programs (front and back).
- Certification (pages 17–19).
- Checklist (pages 25–26). Note: Each standard form and checklist is contained in the PHS Grant Application, Form PHS 5161–1 (Revised 7/00).
- A one-page project Executive Summary.
- Table of Contents.
- Introduction and Need for Assistance.
- Project Objective(s) to include a spreadsheet with Objective Time-Line, Approach, and Results & Benefits.
- Project Evaluation Plan.
- Applicant's organizational capabilities addressing *Recipient's Activities* refer to Item #1. *Recipient Activities.*
- Multi-year Narratives and Budget Justifications.
- Attachments to include:
- Resume of key staff or biosketches.
- Position descriptions for key staff.
- Organizational chart.
- All letters of support from potential collaborators.
- Copy of current negotiated indirect cost rate agreement (required) in order to receive IDC.
- A map of the areas to benefit from the project.
- If applicable, application Receipt Card, IHS–815–1A.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by the close of business on Friday, June 30, 2006. If technical issues arise and the applicant is unable to successfully complete the electronic application process, the applicant must contact Grants Policy Staff fifteen days prior to the application deadline. At that time, it will be determined whether you may submit a paper application. As appropriate, paper applications are due by the date referenced above. Paper applications (original and 1 copy) shall be considered as meeting the deadline if they are received on the appropriate deadline date or postmarked on or before the deadline date. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing and will not be considered for funding. Late applications will not be accepted for processing and will be returned to the applicant and will not be considered for funding. Use the following address to send the paper application by the close of business on Friday, June 30, 2006: Division of Grants Operations, Twinbrook Metro Plaza, Suite 360, 801 Thompson Avenue, Rockville, Maryland, 20852.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restriction

Applications may request total costs from $150,000 to $1,000,000 annually for a period of 5 years.

(a) Pre-award costs are not allowable.

(b) The available funds are inclusive of direct and indirect costs.

(c) Only one cooperative agreement will be awarded per applicant.

6. Other Submission Requirements (See Below)

Beginning October 1, 2003, applicants were required to have a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is simple to obtain and there is not charge.

DUNS Number

Applicants are required to have a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a nine-digit identification number which uniquely identifies business entities. Obtaining a DUNS number is easy and there is not charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Interested parties may wish to obtain their DUNS number by phone to expedite the process. Applications submitted electronically must also be registered with the Central Contractor Registry (CCR). A DUNS number is required before CCR registration can be completed. Many organizations may already have a DUNS number. Please use the number listed above to investigate whether or not your organization has a DUNS number. Registration with the CCR is free of charge. Applicants may register by calling 1–888–227–2423. Please review and complete the CCR ''Registration Worksheet'' located on *http://www.grants.gov/CCR Register.* More detailed information regarding these registration processes can be found at *http://www.grants.gov.*

Electronic Submission: The preferred method of receipt of applications is electronic submission through Grants.gov. However, should any technical problems arise regarding the submission, please contact Grants.gov Customer Support at 1–800–518–4726 or *support@grants.gov.* The Contact Center hours of operation are Monday–Friday from 7 a.m. to 9 p.m. (Eastern Standard Time). If you required additional assistance please contact IHS Grants Policy Staff at (301) 443–6528 at least fifteen days prior to the application deadline. To submit an application electronically, please use the *http://www.Grants.gov* application site. Download a copy of the application package on the Grants.gov Web site, complete it offline and then upload and submit the application via the Grants.gov site. Do not e-mail an electronic copy of a grant application to DEDP.

Please note the following:

(a) Under the new IHS requirements, paper applications are not the preferred method. However, if you have technical problems submitted your application on-line, please contact Grants.gov Customer Support at: *http://www.grants.gov/CustomerSupport.* If you are still unable to successfully submit your application on-line, please contact Grants Policy Staff fifteen days prior to the application deadline and advise them of the difficulties you are having submitting your application on-line. At that time, it will be determined whether you may submit a paper application. At that point you have to download the application package from Grants.gov, and send it directly to the Division of Grants Operations, 801 Thompson Avenue, TMP 360, Rockville, MD 20852 by the due date, Friday, June 30, 2006.

(b) When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the deadline date

to begin the application process through Grants.gov.

(c) To use Grants.gov, you, as the applicant, must have DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of ten days to complete CCR registration. You may access this information via the Internet at the following Web site. CCR Registration: *http://www.ccr.gov,* DUNS Number: *http://www.dunandbrastreet.com.*

(d) You must submit all documents electronically, including all information typically included on the SF–424 and all necessary assurances and certifications.

(e) Your application must comply with any page limitation requirements described in the program announcement.

(f) After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Indian Health Service will retrieve your application from Grants.gov.

(g) You may access the electronic application for this program at *http://www.grants.gov.*

(h) You must search for the downloadable application kit by CFDA number.

(i) To receive an application package, the applicant must provide the Funding Opportunity Number: [HHS–2006–IHS–EPI–0001]. E-mail applications will not be accepted under this announcement.

V. Application Review Information

1. Criteria

Introduction, Current Capacity, and Need for Assistance (10 Points)

(a) Describe the applicant's current public health activities including whether the applicant has an adequate health department, how long it has been operating, what programs or services are currently provided, and interactions with other public health authorities in the regions (State, local, or Tribal), how long it has been operating, and what programs or services are currently provided. Specifically describe current epidemiologic capacity and history of support for such activities.

(b) Provide a physical location of the TEC and area to be served by the proposed project including a map (include the map in the attachments).

(c) Describe the relationship between this program and other funded work planned, anticipated, or underway.

(d) If applicable, identify the past three years of grants with current Tribal Management Grants including past awarded cooperative agreements from the DEDP, dates of funding, and project accomplishments (do not include copies of reports).

Project Objective(s) (30 Points)

Approach, Results and Benefits, for the Entire 5-year Funding Period By Year

(a) State in measurable and realistic terms the objectives and appropriate activities to achieve each objective for the projects as listed in the *Recipient Activities.*

(b) Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

(c) Include a work plan for each objective that indicates when the objectives and major activities will be accomplished and who will conduct the activities on a calendar time line.

(d) Specify who will review and accept the work to be performed by consultants or contractors.

Project Evaluation (20 Points)

(a) State how project objectives will be achieved.

(b) Define the criteria to be used to evaluate results.

(c) Explain the methodology that will be used to determine if the needs identified for the project are being met and if the outcomes identified are being achieved.

Organization Capabilities and Qualifications (25 Points)

(a) Explain the management and administrative structure of the organization including documentation of current certified financial management systems from the BIA, IHS, or a Certified Public Accountant and an updated organization chart (include chart in the attachments).

(b) Describe the ability of the organization to manage a project of the proposed scope.

(c) Provide position descriptions and resumes/biosketch of key personnel, including those of consultants or contractors in the Appendix. Position descriptions should very clearly describe each position and its duties, indicating desired qualification and experience requirements related to the project. Resumes should indicate that the proposed staff is qualified to carry out the project activities.

Budget (15 Points)

(a) Provide a detailed budget by line item and by each year.

(b) Provide a justification by line item in the budget including sufficient cost and other details to facilitate the determination of cost allowability and relevance of these costs to the proposed project. The funds requested should be appropriate and necessary for the scope of the project.

(c) Describe where the TEC will be housed, i.e., facilities and equipment available.

(d) If use of consultants or contractors are proposed or anticipated, provide a detailed scope of work that clearly defines the deliverables or outcomes anticipated.

(e) If applicant is claiming IDC, applicants must submit a negotiated indirect cost rate agreement as an attachment.

Attachments to include:

- Attached resumes/biosketch and job descriptions for the key staff.
- Current approved organizational chart.
- A map of the area to benefit from the project.
- Copy of the negotiated indirect cost rate agreement.
- If applicable, Application Receipt card, #IHS 815–1A.
- Letters of support/collaboration.

2. Review and Selection Process

Applications submitted by the closing date and verified by electronic submission or the postmark under this program announcement will undergo a review to determine that:

(a) The applicant is eligible in accordance with the Eligibility Section of this application.

(b) Letters of support/collaboration are included.

(c) The application executive summary, forms and materials submitted are adequate to allow the review panel to undertake an in-depth evaluation.

(d) The application complies with this announcement; otherwise it will be returned without consideration.

Competitive Review of Accepted Applications

Applications meeting eligibility requirements that are complete, responsive, and conform to this program announcement will be reviewed for merit by an Ad Hoc Objective Review Committee (ORC) appointed by the IHS to review and make recommendations on these applications. The reviews will be conducted in accordance with the IHS objectives review procedures. The technical review process ensures selection of quality projects in a national competition for limited funding. The ORC will include at least 60 percent non-IHS, Federal or non-Federal individuals. Applications will be evaluated and rated on the basis of the list above. These criteria are used to evaluate the quality of a proposal, to

assign a numerical score to each application, and to determine the likelihood of its success. The comments from the ORC will be advisory only.

3. Result of the Review

The results of the objective review are forwarded to the Director, Office of Public Health Support (OPHS) for final review and considerations. The OPHS Director will make recommendations for approval and funding to the IHS Director who will then make the final decision on all applications, within approximately 30 days; applicants will be notified in writing of disapproval. A brief explanation of the reasons why the application was not approved will be provided along with the name of the IHS official to contact if more information is desired.

Anticipated Announcement and Award Dates:

- *Anticipated Announcement:* March 1, 2006.
- *Award Date(s):* September 1, 2006.

The IHS Director will make the final decision on all awards.

VI. Award Administration Information

1. Award Notices

Successful applicants will be notified through the official Notice of Award. The Notice of Award will state the amount of Federal funds to be awarded, the purpose of the cooperative agreement, the terms and conditions of the award, effective date, the project, and budget period.

2. Administrative Requirements and National Policy Requirements

Cooperative agreement Administration Requirements: Cooperative agreements are administered in accordance with the following documents:

(a) 45 CFR part 92, HHS Uniform Administrative Requirements for Grants and Cooperative agreements to State, local, Tribal governments or 45 CFR part 74, Uniform Administrative Requirements for Awards and Subawards to institutions of Higher Educations, Hospital, Other Tribal Nonprofit Organization, and Commercial Organizations.

(b) PHS Grants Policy Statement;

(c) Appropriate Cost Principals: OMB Circular A–87 ''State and Local Governments,'' or OMB Circular A–122 ''Non-Profit Organization''; and

(d) OMB Circular A–133 ''Audits of States, Local Governments, and Non-Profit Organizations.''

(e) A–102 Grants and Cooperative agreements with State and Local Governments.

(f) A–110 ''Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organization. All Federal-wide public policies apply to IHS grants with the exception of Lobbying and Discrimination.''

3. Reporting Requirements

(a) Semi-annual and annual program progress reports are required. These reports will be no more than 10 pages in length and will be in accordance with a format provided by the DEDP.

(b) Financial Status Reports: The semi and annual financial status reports must be submitted within 30 days from the end of the half year. Final Financial Status Reports are due within 90 days of expiration of the budget/project period. Standard Form 269 (long form) will be used for Financial Status Report. Grantees are responsible and accountable for accurate reporting of the Progress Reports and Financial Status Reports which are generally due semi-annually. Financial Status Reports (SF–269) are due 90 days after each budget period and the final SF–269 must be verified from the grantee records on how the value was derived. Grantees must submit reports in a reasonable period of time. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports.

VII. Agency Contact(s)

Division of Epidemiology and Disease Prevention, Indian Health Service, Selina Keryte Project Officer (*selina.keryte@ihs.gov*), 5300 Homestead Road, NE., Albuquerque, NM 87110, Phone: (505) 248–4132. Fax: (505) 248–4393. Donald Reece (*donald.reece@ihs.gov*), James Cheek, M.D. (*james.cheek@ihs.gov*), Division of Grants Operations, Indian Health Service, Twinbrook Metro Plaza, Suite 360, 12300 Twinbrook Parkway, Rockville, Maryland 20852.

Dated: March 9, 2006.

Robert G. McSwain,

Deputy Director, Indian Health Service.

[FR Doc. 06–2538 Filed 3–15–06; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: February 2006

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of February 2006, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusions is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject name	Address	Effective date
PROGRAM-RELATED CONVICTIONS		
ALAS, MARIA	LOS ANGELES, CA	3/20/2006
ANDREWS, PATRICIA	SAN BERNARDINO, CA	3/20/2006
AWAN, ABDUL	BROOKLYN, NY	3/20/2006
BELLINO, THOMAS	HOBART, IN	3/20/2006

Subject name	Address	Effective date
BETHEAEPSTEIN, JAMES	MT. VERNON, NY	3/20/2006
BROWN, REGINA	ALEXANDRIA, LA	3/20/2006
BRYSON, RICK	ACCOKEEK, MD	3/20/2006
CADENAS, EDGARD	HIALEAH, FL	3/20/2006
CASTENEDA, PATRICIA	LOS ANGELES, CA	3/20/2006
CHARPENTIER, JOCELYNE	EAST MEADOW, NY	3/20/2006
CHULAK, GENADY	BRIDGETON, NJ	3/20/2006
CROSSROADS MENTAL HEALTH, LLC	PLAQUEMINE, LA	3/20/2006
DAVIS, THOMAS	TERRE HAUTE, IN	3/20/2006
DAY, SHERRIE	PORTLAND, OR	3/20/2006
DUBIN, JEFFREY	BENSALEM, PA	3/20/2006
FALL RIVER WALK-IN EMERGENCY MEDICAL OFFICE, PC.	BARRINGTON, RI	3/20/2006
FERRER, CHRISTINA	COLUMBIA, SC	3/20/2006
FRESH START TO RECOVERY	MT. VERNON, NY	3/20/2006
GALLEGOS, GERALD	ALAMOSA, CO	3/20/2006
GELLER, HOWARD	NEW YORK, NY	3/20/2006
GILLMORE, DIANE	ROCK HILL, SC	3/20/2006
GREGG, MEGHANN	ROCK HILL, SC	3/20/2006
GUPTON, HENRY	OAK RIDGE, TN	3/20/2006
HIDALGO, JOSE	MISSION HILLS, CA	3/20/2006
HORWITZ, KENNETH	RANDOLPH, NJ	3/20/2006
HUMAN SERVICE CENTERS, INC	ELMHURST, NY	3/20/2006
HUNTER, MICHELLE	DANBURY, CT	3/20/2006
KAZANCHIAN, OVSEP	SOUTH EL MONTE, CA	3/20/2006
KEE, LINDA	FRESNO, CA	3/20/2006
LAWS, TAWANDA	COLUMBUS, OH	3/20/2006
LEVY, LORI	WARREN, OH	3/20/2006
MARCKS, MAJOR	AURORA, CO	3/20/2006
McCAUGHEY, DIANA	TOWANDA, PA	3/20/2006
McKASY, ANTHONY	BARAGA, MI	3/20/2006
MITCHELL, LARRY	MULBERRY, FL	3/20/2006
MOORE, TRACIE	ANDREWS, SC	3/20/2006
MOUTON, PATRICK	KATY, TX	3/20/2006
MURADYAN, VAHE	FLORENCE, CO	3/20/2006
NEWCOMB, JENNIFER	ORLANDO, FL	3/20/2006
OKON, EFIONG	TIGARD, OR	2/28/2005
OLIVEIRA, MARIO	NEWARK, NJ	3/20/2006
PANITZ, DANIEL	ELMHURST, NY	3/20/2006
PARI, MICHELLE	NEW PORT RICHEY, FL	3/20/2006
PETERSON, JOYCELYN	HIGHLAND, CA	3/20/2006
PETERSON, RALPH	HIGHLAND, CA	3/20/2006
POINDEXTER, WILMER	SHREVEPORT, LA	3/20/2006
POLISHCHUK, VLADIMIR	TARZANA, CA	3/20/2006
REED, AMY	COLLINSVILLE, TX	3/20/2006
RIVERS, SHEILA	SAULSBURY, TN	3/20/2006
SANCHEZ, DOUGLAS	PHOENIX, AZ	3/20/2006
SANCHEZ, MELISSA	PHOENIX, AZ	3/20/2006
SANTIAGO-BERRIOS, ANGEL	BAYAMON, PR	3/20/2006
SIMMONS, AMY	ANDERSON, SC	3/20/2006
STOVEKEN, ANDREW	PLAINSBORO, NJ	3/20/2006
SU, MAGGIE	ARCADIA, CA	3/20/2006
THIBODEAUX, JO	PLAQUEMINE, LA	3/20/2006
UKO, EBONG	TAFT, CA	3/20/2006
WEST COAST MEDICAL SUPPLY, LLC	PORTLAND, OR	2/28/2005
WORSLEY, CYNTHIA	WASHINGTON, DC	3/20/2006
FELONY CONVICTION FOR HEALTH CARE FRAUD		
COHEN, BARRY	POMPANO BEACH, FL	3/20/2006
FARIES, MARSHA	BLANCHESTER, OH	3/20/2006
GOLDBERG, BRUCE	HUNTINGTON VALLEY, PA	3/20/2006
HARTLESS, BRANDI	PORTLAND, OR	3/20/2006
HAYNES, CHERISE	AKRON, OH	3/20/2006
HEFFINGTON, MARTHA	GATESVILLE, TX	3/20/2006
JONES, HOWARD	KINGMAN, AZ	3/20/2006
LANG, BRIAN	CHESTER, PA	3/20/2006
MALLELA, ROBERT	OTSIDVILLE, NY	3/20/2006
McCOY, RAYMOND	GLENDALE, AR	3/20/2006
MITCHELL, JOEL	LINDSEY, OK	3/20/2006
OERTWICH, RONDA	PENDLETON, OR	3/20/2006
PATTERSON, MISTY	FORT JONES, CA	3/20/2006
POTTLE, KIMBERLY	WATERVILLE, ME	3/20/2006
RING, CATHERINE	MIAMISBURG, OH	3/20/2006

Subject name	Address	Effective date
SIMPSON, BONNIE	TULSA, OK	3/20/2006
SMITH, ALPHONSO	WOODBURY, NJ	3/20/2006
STROHBACH, ROBERT	FONTANA, CA	3/20/2006
TAYLOR, DANIELLE	CONWAY, SC	3/20/2006
WORENT, NAMI	JENKS, OK	3/20/2006
FELONY CONTROL SUBSTANCE CONVICTION		
BOWDEN, CYNTHIA	TYLER, TX	3/20/2006
COUPER, HEATHER	THOMPSONS STATION, TN	3/20/2006
COVINGTON, MELISSA	FORESTBURG, TX	3/20/2006
DAVIDSON, FRANCINE	PUEBLO WEST, CO	3/20/2006
JONES, STEPHEN	BOUNTIFUL, UT	3/20/2006
KINDIG, CHARLES	FT. WORTH, TX	3/20/2006
OETTINGER, MURR	GOOCHLAND, VA	3/20/2006
ROTTSCHAEFER, BERNARD	OAKMONT, PA	3/20/2006
SIMMS, MARCIA	TAFT, OK	3/20/2006
STRECK, DENISE	GREENVILLE, IL	3/20/2006
WHITAKER, GEORGIA	HEMET, CA	3/20/2006
WING, ROGER	CORONADO, CA	3/20/2006
WOODLOCK, CARRIE	BURNET, TX	3/20/2006
PATIENT ABUSE/NEGLECT CONVICTIONS		
ACOBA, VIRGINIA	LAS VEGAS, NV	3/20/2006
COLLIER, STEPHEN	ENDWELL, NY	3/20/2006
FURR, STANLEY	TUPELO, MS	3/20/2006
HAWKINS, JOSHUA	NORTH LITTLE ROCK, AR	3/20/2006
JACKSON, BARBARA	VANCOUVER, WA	3/20/2006
LOCKE, HOPE	ELIOT, ME	3/20/2006
MULLINGS, CLAUDETTE	BRONX, NY	3/20/2006
POUND, SANDRICA	HELENA, GA	3/20/2006
TYCE, CHARLES	JACKSON, MS	3/20/2006
VENSON, JOHN	LOUISVILLE, KY	3/20/2006
CONVICTION FOR HEALTH CARE FRAUD		
CZYZEWSKI, NICK	CARMICHAELS, PA	3/20/2006
LICENSE REVOCATION/SUSPENSION/SURRENDERED		
ABNEY, LAKESHA	WOONSOCKET, RI	3/20/2006
ADENIYI, ANTHONY	MANTECA, CA	3/20/2006
AGUINAGA, VICTOR	CHICAGO, IL	3/20/2006
AHRENBERG, CATHY	PHOENIX, AZ	3/20/2006
ANDERSON, GAIL	HATTIESBURG, MS	3/20/2006
ANDERSON, SHARON	SARASOTA, FL	3/20/2006
ARNOLD, RICHARD	CYNTHIANA, KY	3/20/2006
BAILEY, LAROY	LOS ANGELES, CA	3/20/2006
BAILEY, STEVEN	BELLPORT, NY	3/20/2006
BAIRD, DANDRINA	TALLADEGA, AL	3/20/2006
BASHARA, KARLA	OMAHA, NE	3/20/2006
BELHON, PATRICK	SUQUAMISH, WA	3/20/2006
BELL, MARY	AVON, OH	3/20/2006
BENDERT, MICHAEL	ENDICOTT, NY	3/20/2006
BILLINGS, KIMBERLY	GLENDALE, AZ	3/20/2006
BOHANNON, STEVEN	ESCONDIDO, CA	3/20/2006
BORLAND, LUCILE	COLUMBUS, MS	3/20/2006
BOW, ROBERT	ORANGEVALE, CA	3/20/2006
BOWEN, BETTY	ST. PETERSBURG, FL	3/20/2006
BOWMAN, KIM	OCALA, FL	3/20/2006
BOYNTON, STACEY	MERIDEN, CT	3/20/2006
BRACKEN, KATHY	AURORA, CO	3/20/2006
BRADLEY, JERI	TUCSON, AZ	3/20/2006
BRADY, MARY	TUCSON, AZ	3/20/2006
BRANSFORD, BONNIE	COLORADO SPRINGS, CO	3/20/2006
BRAWN, MICHAEL	CORONA, CA	3/20/2006
BRAXTON, ANGELA	ALTHA, FL	3/20/2006
BRISTOW, CINDY	POMPANO BEACH, FL	3/20/2006
BROWN, FLOYD	DECHERD, TN	3/20/2006
BROWN, LOIS	FLAGSTAFF, AZ	3/20/2006
BROWN, RONALD	SPRING, TX	3/20/2006
BURNETT, ROBERT	SOMERVILLE, TN	3/20/2006
CARRERO, GLORIA	DEERFIELD BEACH, FL	3/20/2006

Subject name	Address	Effective date
CASTRO, JULIA	PROVIDENCE, RI	3/20/2006
CHRANE, BOBBIE	JOELTON, TN	3/20/2006
CLAY, KENDRA	GLENDALE, CA	3/20/2006
COLLINS, MELVALISA	PACOIMA, CA	3/20/2006
COLLINS, TUESDIE	NAPA, CA	3/20/2006
CONLEY, CAROL	WINTER HAVEN, FL	3/20/2006
COPELAND, CRAIG	CANTON, MI	3/20/2006
COUCH, MICHAEL	COLUMBIA, TN	3/20/2006
COWAN, LEE	DEER LODGE, MT	3/20/2006
CRAWFORD, BARBARA	SPRING HILL, FL	3/20/2006
CRITCHFIELD, LYNN	KINGSTON, TN	3/20/2006
CROOM, QUATONIA	PORT ST. JOE, FL	3/20/2006
CURTIN, ELIZABETH	WATERBURY, CT	3/20/2006
CURTIS, SANDRA	RAINBOW CITY, AL	3/20/2006
DANEK, JEANNE	REDWOOD CITY, CA	3/20/2006
DAVIS, RANDALL	RIVERVIEW, FL	3/20/2006
DECHENE, ARNOLD	CASTAIC, CA	3/20/2006
DILLON, RUTH	ARVADA, CO	3/20/2006
DODD, DEBORAH	CHESAPEAKE, VA	3/20/2006
DOE, BENETTA	PROVIDENCE, RI	3/20/2006
DOTZMAN, WILLIAM	PALM HARBOR, FL	3/20/2006
EGGENBERGER, LISA	BARTLETT, TN	3/20/2006
ELLIS, MARK	SPRING HILL, FL	3/20/2006
ENGLE, DAVID	COLORADO SPRINGS, CO	3/20/2006
ESCAMILLA, EDDIE	IMPERIAL BEACH, CA	3/20/2006
ESHELMAN, KIM	TAMPA, FL	3/20/2006
ESTRADA, ERMA	VISALIA, CA	3/20/2006
FIELD, STEVEN	TAMPA, FL	3/20/2006
FISHER, CHARLOTTE	NASHVILLE, TN	3/20/2006
FORD, AMANDA	ROSE HILL, VA	3/20/2006
FORD, LAURA	LENA, MS	3/20/2006
FOWLER, NANCY	CUMBERLAND, RI	3/20/2006
FREE, DARLENE	LANSING, IL	3/20/2006
GIBBS, SHANIEKA	JACKSONVILLE, FL	3/20/2006
GOLDEN, SARA	TUCSON, AZ	3/20/2006
GONZALEZ, MARIA	LARGO, FL	3/20/2006
GRAHAM, LILLIAN	DERBY, CT	3/20/2006
GRIFFIN, PHYLLIS	RICHMOND, KY	3/20/2006
GUTIERREZ, MARIA	BALDWIN PARK, CA	3/20/2006
HANLEY, REGINALD	GLENDALE, AZ	3/20/2006
HARMON, SHIRLEY	LAGRANGE, KY	3/20/2006
HARVEY, ANNETTE	RAIFORD, FL	3/20/2006
HATCHER, DORI	GEFF, IL	3/20/2006
HATMAN, HOLLY	PRESCOTT VALLEY, AZ	3/20/2006
HELFAND, JEFFREY	NORWALK, CT	3/20/2006
HELLEIS, JOSEPH	PERRIS, CA	3/20/2006
HELTON, DORIS	GRAY, KY	3/20/2006
HENRY, SUSAN	CROSSVILLE, TN	3/20/2006
HERRERA, PASCUAL	LEESBURG, AL	3/20/2006
HICKS, TIFFANY	BIRMINGHAM, AL	3/20/2006
HIGHT, VICTOR	GARDEN GROVE, CA	3/20/2006
HINKLE, KELLY	CHICKAMAUGA, GA	3/20/2006
HOAGLAND, ARDICE	THORNTON, CO	3/20/2006
HODGES, DAVID	NORTH HIGHLANDS, CA	3/20/2006
HORTON, NATALIE	ATHENS, TN	3/20/2006
HOWARD, LARRY	OOLTEWAH, TN	3/20/2006
HOWELL, AUDREY	HIGGANUM, CT	3/20/2006
JARBOE, ELIZABETH	LOUISVILLE, KY	3/20/2006
JOHNSON, CARLA	TUCSON, AZ	3/20/2006
JOHNSON, MAVERLYN	MIRAMAR, FL	3/20/2006
JOHNSON, MELISSA	HIALEAH, FL	3/20/2006
JONES, LOUISE	KELSEYVILLE, CA	3/20/2006
KATZ, STEVEN	SAN FRANCISCO, CA	3/20/2006
KENNEY, PATRICIA	MOUNT DORA, FL	3/20/2006
KILLINGSWORTH, CHRISTINE	LOMITA, CA	3/20/2006
KISATSKY, LAURA	CANAAN, CT	3/20/2006
KROEGER, DEBRA	PRESCOTT, AZ	3/20/2006
LANDA, ELIZABETH	BRANDON, FL	3/20/2006
LENZ, VANESSA	WRAY, CO	3/20/2006
LINTON, JAMES	LONG BEACH, CA	3/20/2006
MALIK, MUMTAZ	ELIZABETHTOWN, KY	3/20/2006
MAPES, BRANDON	TAMPA, FL	3/20/2006
MAPLE, SHARRIE	COLORADO SPRINGS, CO	3/20/2006
MARCANO, JAMI	OMAHA, NE	3/20/2006

Subject name	Address	Effective date
MATHESON, LINDA	PLANTATION, FL	3/20/2006
McCLENDON, SHANEQUA	ST. PETERSBURG, FL	3/20/2006
MELNYCZOK, SUSANNAH	MELBOURNE, FL	3/20/2006
MENDENHALL, CORRINE	GLENDALE, AZ	3/20/2006
MOOREHEAD, TRACY	CHICAGO, IL	3/20/2006
MORRISON, JAMES	CHANDLER, AZ	3/20/2006
MURTUZA, SARWAR	ELKIN, NC	3/20/2006
MUSGRAVE, DIANNA	FAIRFIELD, IL	3/20/2006
NAVARRO, CLAUDIA	WEST COVINA, CA	3/20/2006
NIPPER, PATRICIA	LOUISVILLE, KY	3/20/2006
OLIVERA, KAREN	SAN DIEGO, CA	3/20/2006
PATTERSON, WESLEY	GREENEVILLE, TN	3/20/2006
PEREZ, ANTOLIN	NORTH MIAMI, FL	3/20/2006
PERFECTO, JOSEFINA	ROSEVILLE, CA	3/20/2006
PIERRE-LOUIS, PHILIP	RIVERSIDE, CA	3/20/2006
POLLOCK, LISA	BETHLEHEM, GA	3/20/2006
PRITCHARD, TAMMY	LEBANON, TN	3/20/2006
PULAI, ANYA	WESTMINISTER, CO	3/20/2006
RADFORD, JODIE	BAILEYVILLE, ME	3/20/2006
RAIFORD, PHILLIP	PINSON, TN	3/20/2006
RAMSEY, GWENDOLYN	BEAUMONT, TX	3/20/2006
RASNIC, MARILYN	HUTCHINSON, KS	3/20/2006
RAY, FABIAN	JACKSBORO, TN	3/20/2006
RAYMOND, MARIE	PROVIDENCE, RI	3/20/2006
REDDICK, ROSEMARY	SAN DIEGO, CA	3/20/2006
REED, CINDY	HICKORY, NC	3/20/2006
REZAEI, PANTEA	MISSION VIEJO, CA	3/20/2006
RIFFLE, NICQUELINE	DAYTON, OH	3/20/2006
ROBILLARD, DANIELLE	CRANSTON, RI	3/20/2006
ROSEBERRY, MARK	CORDOVA, TN	3/20/2006
SALVADOR, SALUSTINA	OXNARD, CA	3/20/2006
SANDERS, CLARENCE	GALLATIN, TN	3/20/2006
SANDERS, JOHN	CHARLOTTESVILLE, VA	3/20/2006
SCARBOROUGH, MARCY	MEMPHIS, TN	3/20/2006
SCOTT, PATRICIA	MENDENHALL, MS	3/20/2006
SEBEL, MICHAEL	RESEDA, CA	3/20/2006
SMITH, KAREN	SPRINGFIELD, TN	3/20/2006
SMITH, PATRICIA	WARSAW, IN	3/20/2006
SMITH, PATRICIA	DEWEY, AZ	3/20/2006
SNOWDEN, GENE	CHICAGO, IL	3/20/2006
SOKOLL, GEOFFREY	ROGERSVILLE, AL	3/20/2006
SPENCER, CONSTANCE	INDIANAPOLIS, IN	3/20/2006
STEINER, ALICIA	MERIDEN, CT	3/20/2006
SWEET, DEANA	BEAVERTON, OR	3/20/2006
THIEL, ALISON	CHOWCHILLA, CA	3/20/2006
TOLBERT, MARILYN	GADSDEN, AL	3/20/2006
TSYPKIN, EVELIN	SAN FRANCISCO, CA	3/20/2006
VICKERS, LEE	LAKELAND, FL	3/20/2006
VINCELETTE, HOLLY	DEEP RIVER, CT	3/20/2006
VOWELL, ANGELA	ORANGEVALE, CA	3/20/2006
WATKINS, KATHERINE	BESSEMER, AL	3/20/2006
WELCH, JOHN	MAGEE, MS	3/20/2006
WELLS, REBEKAH	BRISTOL, CT	3/20/2006
WEST, ALISA	LONGWOOD, FL	3/20/2006
WETHERBEE, EDWARD	HOLLYWOOD, FL	3/20/2006
WILKERSON, LARAE	UNION, MS	3/20/2006
WILLIAMS, VERNA	MAGEE, MS	3/20/2006
WOHRLEY, ELIZABETH	NASHVILLE, TN	3/20/2006
YEAGER, RHONDA	WAYNESBORO, MS	3/20/2006
YEATES, SHERAN	JACKSON, TN	3/20/2006
YOUNG, ALLEN	UNION, KY	3/20/2006
FEDERAL/STATE EXCLUSION/SUSPENSION		
FUZAILOV, SHOLOM	FLUSHING, NY	3/20/2006
FRAUD/KICKBACKS/PROHIBITED ACTS/SETTLEMENT AGREEMENTS		
BUTLER, DIANE	BERKLEY, MA	1/5/2006
GAMBLE, DENNY	LONGVIEW, TX	12/16/2003
OWNED/CONTROLLED BY CONVICTED ENTITIES		
BOMAS HOUSE OF HOPE, INC	HOUSTON, TX	3/20/2006

Subject name	Address	Effective date
DIRICO	BERKLEY, MA	1/5/2006
MOUNTAIN VISTA CHIROPRACTIC CENTER, INC	LONGMONT, CO	3/20/2006
ROLANDO ROZAS, MD, PA	MIAMI, FL	3/20/2006
RURAL HEALTH NETWORKS OF FLORIDA	CITRA, FL	3/20/2006
TWILIGHT YEARS ADULT CARE, INC	MINNEAPOLIS, KS	3/20/2006
UNIVERSAL MEDICAL ASSOCIATION OF USA, INC	ROSEMEAD, CA	3/20/2006
DEFAULT ON HEAL LOAN		
COLE, MARIA	WEST PALM BEACH, FL	3/20/2006
DENSMORE, ROBERT	TAMPA, FL	3/20/2006
ETIENNE, FERNANDE	ROSELLE, NJ	3/20/2006
FENTON, MARK	VAN NUYS, CA	3/20/2006
FERNANDEZ, OCTAVIO	MIAMI, FL	3/20/2006
HUDSON, DONALD	LANSING, MI	3/20/2006
KEOSHIAN, CRAIG	VALENCIA, CA	3/20/2006
KYCYNKA, DREW	SPRING HILL, FL	3/20/2006
LARA-FULLER, ADRIENNE	OXNARD, CA	2/2/2006

Dated: March 8, 2006.

Maureen Byer,

Acting Director, Exclusions Staff, Office of Inspector General.

[FR Doc. E6–3803 Filed 3–15–06; 8:45 am]

BILLING CODE 4152–01–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.

Use of CYP1B1*3 Genotyping To Predict Survival to Docetaxel Treatment in Androgen-Independent Prostate Cancer

William D. Figg et al. (NCI).

U.S. Provisional Application No. 60/716,439 filed September 12, 2005 (HHS Reference No. E–307–2005/0–US–01).

Licensing Contact: Mojdeh Bahar; 301/435–2950; *baharm@mail.nih.gov.*

Androgen-independent prostate cancer (AIPC) remains the second leading cause of cancer death in men in developed nations, and it is estimated that one in six men will be diagnosed with prostate cancer. The use of docetaxel has been shown to prolong survival rate and improve the quality of life in patients suffering from AIPC.

Scientists at NIH have identified a genetic marker called CYP1B1*3 (4326C>G; L432V) that can predict survival in patients with prostate cancer prior to treatment with docetaxel. In a study of 25 patients suffering from AIPC, patients that were homozygous or heterozygous wild-type for the 4326C>G transition had an increased mean survival time after docetaxel treatment when compared to patients carrying the homozygous variant. These patients showed a survival rate of 15.3 months compared to 7.5 months for those homozygous with the variant CYP1B1*3.

This genetic marker (CYP1B1*3) can be measured in DNA obtained from a blood sample. This technology can be potentially used as a diagnostic tool to predict the patient's propensity to respond to docetaxel treatment when being treated for AIPC.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Adoptive Immunotherapy With Enhanced T Lymphocyte Survival

Steven A. Rosenberg et al. (NCI).

PCT Application No. PCT/US05/3640 filed October 7, 2005 (HHS Reference No. E–340–2004/2–PCT–01);

U.S. Provisional Application No. 60/617,340 filed October 8, 2004 (HHS Reference No. E–340–2004/0–US–01).

Licensing Contact: Michelle A. Booden; 301/451–7337; *boodenm@mail.nih.gov.*

Adoptive immunotherapy strategies have existed for several years now and many have proven to be highly successful in a limited subset of patients. This limited response rate among a diverse patient population may not be surprising, given the complexity of the immune system and the complicated evolution of a normal cell to a immune evading malignancy. A common observation amongst most patients that did not respond to adoptive therapy strategies is that the immune response to the cancer was not sustained.

A number of cytokines have been shown to sustain a T-cell response when administered systemically with autologous isolated T-cells. However, the systemic delivery of many cytokines, such as IL–2, will cause significant toxicity before the beneficial immunologic effects of the autologous T-cells can occur. This invention describes a method of transfecting isolated autologous T-Lymphocytes with endogenous cytokines, for example IL–7 and IL–15, to sustain an adoptive T-lymphocyte response without systemic toxicity. The invention also describes a method for improving expression of transfected cytokines via a codon optimized IL–15 vector. Applications of this technology beyond cancer include the potential use of cytokine expressing cells in treating

infectious and autoimmune diseases and vaccination.

This invention was developed at the NCI Surgery Branch. The Surgery Branch plans to initiate clinical studies utilizing this technology and collaborative opportunities may be available. Publications which may provide background information for this technology include:

1. Hsu C, Hughes MS, Zheng Z, Bray RB, Rosenberg SA, Morgan RA. Primary human T lymphocytes engineered with a codon-optimized IL–15 gene resist cytokine withdrawal-induced apoptosis and persist long-term in the absence of exogenous cytokine. *J Immunol. 2005 Dec 1;*175(11):7226–34.

2. Rosenberg, SA and Dudley, ME. Cancer regression in patients with metastatic melanoma after the transfer of autologous antitumor lymphocytes. Proc Natl Acad Sci USA 2004 Oct 5;101 Suppl 2:14639–45. Epub 2004 Sep 20.

3. Klebanoff CA, Finkelstein SE, Surman DR, Lichtman MK, Gattinoni L, Theoret MR, Grewal N, Spiess PJ, Antony PA, Palmer DC, Tagaya Y, Rosenberg SA, Waldmann TA, Restifo NP. IL–15 enhances the in vivo antitumor activity of tumor-reactive CD8+ T cells. Proc Natl Acad Sci USA 2004 Feb 17;101(7):1969–74. Epub 2004 Feb 04.

4. Dudley ME, Rosenberg SA. Adoptive-cell-transfer therapy for the treatment of patients with cancer. Nat Rev Cancer. 2003 Sep;3(9):666–75. Review.

5. Liu K, Rosenberg SA. Interleukin-2-independent proliferation of human melanoma-reactive T lymphocytes transduced with an exogenous IL–2 gene is stimulation dependent. J Immunother. 2003 May-Jun;26(3):190–201.

6. Liu K, Rosenberg SA. Transduction of an IL–2 gene into human melanoma-reactive lymphocytes results in their continued growth in the absence of exogenous IL–2 and maintenance of specific antitumor activity. J Immunol. 2001 Dec 1;167(11):6356–65.

Gene Therapy by Administration of Genetically Engineered CD34+ Obtained by Cord Blood

Robert M. Blaese (NCI), et al.
U.S. Patent No. 6,984,379 issued January 10, 2006 (HHS Reference No. E–045–1995/0–US–01).
Licensing Contact: John Stansberry, Ph.D.; 301/435–5236; *stansbej@mail.nih.gov.*

This invention provides a method of providing a therapeutic effect in human patients by administering to the patient CD34+ cells obtained from umbilical cord blood. The CD34+ cells have been engineered with at least one nucleic acid sequence encoding a therapeutic agent. Such CD34+ cells could be engineered by transducing the cells with a retroviral vector including the nucleic acid sequence encoding the therapeutic agent. This method has been applied in treating new born infants suffering from adenosine deaminase (ADA) deficiency. This application was filed pre-GATT and is therefore valid 17 years from issued date of January 10, 2006.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Dated: March 8, 2006.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6–3764 Filed 3–15–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Evaluation of the Policy Academies on Chronic Homelessness—New

The Substance Abuse and Mental Health Services Administration's (SAMHSA), Center for Mental Health Services (CMHS) and the Health Resources and Services Administration (HRSA) will fund an evaluation of the Policy Academies on Chronic Homelessness held in 2002, 2003, and 2004. These Policy Academies were sponsored by the U.S. Department of Human Services (HHS) in partnership with the U.S. Department of Veterans Affairs, U.S. Department of Labor and the U.S. Department of Housing and Urban Development. The Policy Academies were 3–4 day meetings designed to help teams of State, Territory and local policymakers develop Action Plans intended to improve access to mainstream services for people who are homeless.

This evaluation will assess the effectiveness of the Policy Academies in helping States and Territories address the problem of chronic homelessness. This evaluation has been conceptualized in two parts. The process evaluation will focus on the activities related to conducting the Policy Academies. The process evaluation interviews will focus on: (1) How the Policy Academy concept was developed, (2) how the Federal Partners implemented the Policy Academies, (3) what factors influenced the effectiveness of each step of the intervention (i.e., pre-Academy site visits, Policy Academy meetings, and post-Academy technical assistance), (4) what changes in the Policy Academy process occurred over time, (5) what challenges/barriers Federal Partners faced in the development and implementation of the Policy Academies, and (6) how future Policy Academies could be improved to better meet the needs of States and Territories. The process evaluation will include all 45 States and Territories that participated in one of the Policy Academies on Chronic Homelessness, as well as the three Pacific Territories (American Samoa, Commonwealth of the Northern Marianas Islands, and Guam,) that participated in a special series of Policy Academies on Homelessness held in American Samoa and Guam.

The second part, the outcome evaluation, will assess how successful State, Territory, and local policymakers have been in implementing the Action Plans that were developed at the Policy Academies. The outcome evaluation interviews will focus on: (1) How States and Territories put together their Policy Academy teams, (2) the content and overall quality of the Action Plans these teams developed, (3) to what extent States and Territories have been able to increase access to coordinated housing and mainstream services for persons experiencing homelessness, (4) what challenges/barriers States and Territories faced in trying to achieve short- and long-term goals, and (5) to what extent relationships among the Governor's office, legislators, key program administrators, and public and private stakeholders were created or strengthened. In order to reduce burden on informants, the outcome evaluation will focus on a sample of States and Territories (the 19 States and Territories participating in the last two Policy Academies on Chronic Homelessness and the three Pacific Territories).

Data collection will be conducted over a 12-month period and will include both telephone interviews and site visits. Data collection instruments are semi-structured and will be administered by trained evaluation staff. Telephone interviews will be conducted with state team leaders and other team members. During site visits, in-person interviews will be conducted with team leaders, other team members, and other stakeholders. Both telephone and in-person interview protocols have been adapted to reflect the slightly different Policy Academy process used in the Pacific Territories and to reflect the different needs, funding sources, resources, and service systems in these territories.

The estimated annual response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Burden/ response (hrs)	Annual burden (hrs)
Telephone Interviews (Process Evaluation)				
Team Leader Interview	48	1	2	96
Other Team Member Interview	96	1	1.5	144
In-Person Interviews (Outcome Evaluation)				
Team Leader Interview	22	1	2.25	49.5
Other Team Member Interview	154	1	1.75	269.5
Other Stakeholder Interview	110	1	1.5	165
Total Annual	430			724

Written comments and recommendations concerning the proposed information collection should be sent by April 17, 2006 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: March 9, 2006.

Anna Marsh,

Director, Office of Program Services.

[FR Doc. E6–3799 Filed 3–15–06; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[DHS–2005–0051]

Science and Technology Directorate, Office of Systems Engineering and Development; SAFECOM Interoperability Baseline Survey

AGENCY: Office of Systems Engineering and Development, DHS.

ACTION: Notice and request for comment.

SUMMARY: The Department of Homeland Security (DHS) is soliciting public comment on the Office of Systems Engineering and Development SAFECOM Interoperability Baseline Survey. This proposed information collection was previously published in the **Federal Register** on December 19, 2005 and allowed 60 days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments are encouraged and will be accepted until April 17, 2006. This process is conducted in accordance with 5 CFR 1320.10

ADDRESSES: You may submit comments, identified by docket number DHS–2005–0051, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *baseline@dhs.gov* Include docket number DHS–2005–0051 in the subject line of the message.
- Mail: Morgan Gallagher, Science and Technology Directorate, Office of Systems Engineering and Development (SED), Washington Navy Yard, 245 Murray Lane, SW., Bldg. #410, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Morgan Gallagher, 202–254–6635 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: DHS, as part of its continuing effort to reduce paperwork and respondents' burden, invites the general public to take this opportunity to comment on this proposed information collection as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). This collection is the ''SAFECOM Interoperability Baseline Survey.''

Description: SAFECOM was established as the overarching umbrella program within the Federal Government that oversees all initiatives and projects pertaining to public safety communications and interoperability. The SAFECOM Interoperability Baseline Survey is an essential step in a mission to provide public safety communications interoperability nationwide.

In developing SAFECOM, DHS has worked extensively with the public safety community to create a descriptive and measurable definition of public safety interoperability that takes into account issues of governance, procedure, technology, training, and usage. The SAFECOM Interoperability Baseline Survey, which was developed from this definition, will allow DHS to measure the current state of interoperability among state and local public safety practitioners. This will provide a baseline against which to track the future impact of Federal programs and provide a basis for identifying and executing specific projects to improve communications interoperability.

Public Participation

Interested persons are invited to participate in this Information Collection Request by submitting written data, views, or arguments on all aspects of the proposed Information Collection Request. DHS also invites comments that relate to the economic, environmental, or federalism affects that might result from this Information Collection Request. Comments that will provide the most assistance to DHS in

developing these procedures will reference a specific portion of the Information Collection Request, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and docket number DHS–2005–0051 for this Information Collection Request. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

Analysis

Agency: Department of Homeland Security, Science and Technology Directorate, Office of Systems Engineering and Development.

Title: SAFECOM Interoperability Baseline Survey.

OMB Control Number: 1640–NEW.

Frequency: On occasion.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 18,411 (increased from 18,375 to include site visit interviews and reflect those people associated with the interviews).

Estimated Time Per Response: 20 minutes per survey, one hour per interview (36 interviews altogether).

Total Burden Hours: 6,161 (increased from 6,125 in the December 19, 2005 notice in order to reflect the time involved in the interviews).

Total Cost Burden: None.

Dated: March 8, 2006.

Scott Charbo,

Chief Information Officer.

[FR Doc. E6–3822 Filed 3–15–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Mexican Wolf Blue Range Reintroduction Project 5-Year Review

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability of the Mexican Wolf Blue Range Reintroduction Project (Reintroduction Project) 5-Year Review under the authority of section 10(j) of the Endangered Species Act of 1973 (Act), as amended. The 5-Year Review was conducted by the Mexican Wolf Blue Range Adaptive Management Oversight Committee (AMOC). The 5-Year Review and public comment will inform our decision to continue, continue with modification, or terminate the Reintroduction Project. This 5-Year Review should not be confused with status reviews (also called 5-year reviews) conducted under section 4(c)(2)(A) of the Act. This 5-year program evaluation of the Reintroduction Project is conducted pursuant to a 1998 section 10(j) final rule.

DATES: The comment period for this 5-Year Review closes April 17, 2006. Comments on the 5-Year Review must be received by the closing date to assure consideration.

ADDRESSES: Mexican Wolf Recovery Coordinator, New Mexico Ecological Services Field Office, 2105 Osuna NE., Albuquerque, NM 87113. To review documents or submit comments, see ''Public Comments Solicited'' under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Mexican Wolf Recovery Coordinator, telephone: (800) 299–0196 ×4748; facsimile: (505) 346–2542; or e-mail: *FW2ESWolf5YReview@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

Mexican wolf (*Canis lupus baileyi*) reintroduction in Arizona and New Mexico is conducted under the authority of section 10(j) of the Act (16 U.S.C. 1531 *et seq.*). On January 12, 1998, the Service published a final rule (63 FR 1752) that established a nonessential experimental population of the gray wolf in Arizona and New Mexico and defined the Mexican Wolf Experimental Population Area (MWEPA) and the Blue Range Wolf Recovery Area (BRWRA) within the states of Arizona and New Mexico. Initial releases of captive-reared Mexican wolves into the BRWRA occurred in 1998, and additional initial releases and translocations have occurred annually.

The final rule states that the Service will prepare periodic progress reports, annual reports, and full evaluations after three and five years that will recommend continuation, modification, or termination of the reintroduction effort. In 2004–2005, the AMOC, which consists of the Arizona Game and Fish Department, New Mexico Department of Game and Fish, USDA-Forest Service, USDA–APHIS Wildlife Services, White Mountain Apache Tribe, and the Service, conducted the 5-Year Review of the Reintroduction Project. The AMOC transmitted a final 5-Year Review to the Service on December 31, 2005. The 5-Year Review provides synthesized information on all aspects of the Reintroduction Project, including the status of the wolf population, the social and economic impacts of wolf reintroduction on surrounding communities, and program management. This information is organized in four primary components: Administrative, Technical, Socio-economic, and Recommendations.

The Service acknowledges and commends the AMOC for its evaluation of the Reintroduction Project, and recognizes AMOC's responsiveness to the public during the development and completion of the 5-Year Review.

Public Comments Solicited

Persons wishing to review the 5-year review may request a printed copy by contacting the Mexican Wolf Recovery Coordinator (*see* **ADDRESSES**) or by downloading it from the Internet at: *http://www.fws.gov/ifw2es/mexicanwolf/MWNR_FYRD.shtml.*

Comments and materials concerning this 5-year review may be mailed to the Mexican Wolf Recovery Coordinator (*see* **ADDRESSES**), or faxed or e-mailed (*see* **FOR FURTHER INFORMATION CONTACT**).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. We will not, however, consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at our New Mexico Ecological Services Field Office (*see* **ADDRESSES**).

To ensure that we have conducted a transparent process that is based on the best available scientific and commercial information throughout the development of the 5-Year Review and to inform our subsequent decision to continue, continue with modification, or terminate the Reintroduction Project, we are soliciting written comments on the 5-Year Review from the public, concerned governmental agencies,

Tribes, the scientific community, industry, environmental entities, and any other interested parties. The Administrative, Technical, and Socioeconomic components of the 5-Year Review have undergone extensive public review under the oversight of the AMOC. The Service is specifically interested in comments from the public pertaining to the Recommendations and whether they follow logically from the background information and analyses provided in the Administrative, Technical, and Socio-economic components. However, comments on all components of the 5-Year Review received by the date specified above will be considered prior to the Service's decision to continue, continue with modifications, or terminate the Reintroduction Project. This 5-Year Review should not be confused with status reviews (also called 5-year reviews) conducted under section 4(c)(2)(A) of the Act. This is a 5-year program evaluation of the Reintroduction Project as required by the section 10(j) final rule (63 FR 1752).

Authority

The authority for this action is Section 10(j) of the Endangered Species Act, 16 U.S.C. 1539(j).

Dated: February 22, 2006.

Benjamin N. Tuggle,

Acting Regional Director, Southwest Region, Fish and Wildlife Service.

[FR Doc. E6–3800 Filed 3–15–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Draft Recovery Plan for Silene spaldingii (Spalding's Catchfly)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the Draft Recovery Plan for *Silene spaldingii* (Spalding's Catchfly) for public review and comment. *Silene spaldingii*, a plant native to portions of Idaho, Montana, Oregon, Washington, and British Columbia, Canada, was listed as a threatened species under the Endangered Species Act on October 10, 2001 (66 FR 51598).

DATES: Comments on the draft recovery plan must be received on or before May 15, 2006.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: Snake River Fish and Wildlife Office, U.S. Fish and Wildlife Service, 1387 S. Vinnell Way, Suite 368, Boise, Idaho 83709 (telephone: 208–378–5243; fax: 208–378–5262); Helena Office, U.S. Fish and Wildlife Service, 100 N. Park, Suite 320, Helena, Montana 59601 (telephone: 406–449–5322; fax: 406–449–5339); La Grande Office, U.S. Fish and Wildlife Service, 3502 Highway 30, La Grande, Oregon 97850 (telephone: 541–962–8584; fax: 541–962–8581); and Upper Columbia Fish and Wildlife Office, 11103 East Montgomery Drive, Suite 2, Spokane, Washington 99206 (telephone: 509–665–3508; fax: 509–665–3509). Requests for copies of the document should be addressed to the Field Supervisor at the above offices. An electronic copy of the draft recovery plan is also available online at *http://endangered.fws.gov/recovery/index.html#plans and at http://idahoes.fws.gov.*

For all comments submitted, a subject line must state ''Spalding's catchfly comments'' and include the name and address of the person submitting the comments. Comments may be submitted electronically at the following e-mail address: *fw1srbocomment@fws.gov.* Written comments may be sent directly to the Field Supervisor at the above Boise address or by facsimile to 208–378–5262.

FOR FURTHER INFORMATION CONTACT: Steve Duke, Division Chief, at the above Boise address (telephone: 208–387–5345; e-mail: *Steve_Duke@fws.gov*).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program. The Endangered Species Act (16 U.S.C. 1531 *et seq.*) (ESA) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Recovery plans help guide the recovery effort by describing actions considered necessary for the conservation of the species, establishing criteria for downlisting or delisting listed species, and estimating time and cost for implementing the measures needed for recovery.

Section 4(f) of the ESA requires that public notice, and an opportunity for public review and comment, be provided during recovery plan development. We will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive technical comments may result in changes to the recovery plan. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individual responses to comments will not be provided.

Silene spaldingii (Spalding's catchfly) is a long-lived perennial forb in the pink or carnation family (Caryophyllaceae) with four to seven pairs of lance-shaped leaves and small greenish-white flowers. The green portions of the plant are covered in sticky hairs that often catch debris and small insects, hence the common name of the plant, ''Spalding's catchfly.'' *Silene spaldingii* is currently known from 85 primarily small populations; only 7 of these have more than 500 individuals, and an additional 20 populations have at least 100 individuals. Occupied habitat includes five physiographic regions in Idaho, Oregon, Washington, Montana, and British Colombia. These regions are as follows: the Palouse Grasslands in west-central Idaho and southeastern Washington, the Channeled Scablands in eastern Washington, the Blue Mountain Basins in northeastern Oregon, the Canyon Grasslands of the Snake River and its tributaries in Washington and Idaho, and the Intermontane Valleys of northwestern Montana and southern British Columbia.

Silene spaldingii is impacted by habitat loss due to human development, habitat degradation associated with domestic livestock and wildlife grazing, and invasions of aggressive nonnative plants. In addition, a loss of genetic fitness is a problem for many small, fragmented populations where genetic exchange is limited. Other impacts include changes in fire frequency and seasonality, off-road vehicle use, and herbicide spraying and drift.

The objective of this recovery plan is to recover *Silene spaldingii* by protecting and maintaining reproducing, self-sustaining populations in identified key conservation areas in each of its five distinct physiographic regions. Under the draft recovery plan this would be accomplished by developing habitat management plans at those key conservation areas that provide a strategy for managing *Silene spaldingii* and effectively address the threats to the

species. Key conservation areas would need to support at least 500 reproducing individuals of *Silene spaldingii,* be composed of at least 80 percent native vegetation, have adjacent habitat to support pollinating insects, and are not small or fragmented (intact habitat, preferably at least 40 acres [16 hectares] in size). Delisting of *Silene spaldingii* would be considered when 26 populations occur rangewide at key conservation areas. Populations at these key conservation areas would have to demonstrate stable or increasing population trends for at least 20 years, nonnative plants would have to be successfully controlled, and prescribed burning must be conducted to mimic historical fire regimes and with care not to impact *Silene spaldingii* or to exacerbate invasive nonnative plant populations. Seed banking would have to also occur across the species' range, and a post-delisting monitoring program would be developed and ready for implementation at the time of delisting.

Public Comments Solicited

We solicit written comments on the draft recovery plan described. All comments received by the date specified above will be considered prior to approval of this plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 20, 2005.

David J. Wesley,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. E6–3802 Filed 3–15–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Klamath Fishery Management Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the Fish and Wildlife Service, announce a meeting of the Klamath Fishery Management Council. The meeting is open to the public. The Klamath Fishery Management Council makes recommendations to agencies that regulate harvest of anadromous fish in the Klamath River Basin. The objectives of this meeting is to hear technical reports, to discuss and develop Klamath fall Chinook salmon harvest management options for the 2006 season, and to make recommendations to the Pacific Fishery Management Council and other Fishery Management agencies.

DATES: The meeting will be from 3 p.m. to 7 p.m. on Sunday, April 2, 2006. At the April 2, 2006, meeting the Klamath Fishery Management Council may schedule short follow-up meetings to be held between April 3–7, 2006.

ADDRESSES: The April 2–7, 2006, meeting will be held at Doubletree Hotel Sacramento, 2001 Point West Way, Sacramento, California. The April 2006, meeting in Sacramento, California, is held concurrently with the meetings of the Pacific Fishery Management Council.

FOR FURTHER INFORMATION CONTACT: Phil Detrich, Field Supervisor, U.S. Fish and Wildlife Service, 1829 South Oregon Street, Yreka, California 96097, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), we announce meetings of the Klamath Fishery Management Council. This Council was established under the Klamath River Basin Fishery Restoration Act (16 U.S.C. 460ss *et seq.*).

For background information on the Council, please refer to the **Federal Register** notice of the initial meeting (52 FR 25639).

Dated: March 10, 2006.

John Engbring,

Acting Deputy Manager, California/Nevada Operations Office, U.S. Fish and Wildlife Service.

[FR Doc. E6–3795 Filed 3–15–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK961–1410–HY–P; AA–6684–A, AA–6684–B, AA–6684–A2; ALA–1]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Chaluka Corporation. The lands are located in T. 81 S., R. 133 W.; T. 82 S., Rgs. 133, 134, 135, and 136 W.; T. 83 S., Rgs. 134, 135, and 136 W.; T. 84 S., Rgs. 136 and 137 W.; and T. 85 S., R. 139 W., Seward Meridian, in the vicinity of Nikolski, Alaska, and contain approximately 14,141 acres. Notice of the decision will also be published four times in *The Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 17, 2006 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION, CONTACT: Ron Royer by phone at (907) 271–5677, or by e-mail at *Ron_Royer@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Royer.

Ronald E. Royer,

Land Law Examiner, Branch of Land Transfer Services.

[FR Doc. E6–3828 Filed 3–15–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK964–1410–HY–P; F–19573–A, F–19573–B, F–19573–C, F–19573–A2; BSA–3]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to King Island Native Corporation. The lands are located in Tps. 6, 7, 8, and 10 S., R. 37 W., Tps. 6, 7, 8, and 9 S., R. 38 W., Tps. 6, 8 and 10 S., R. 39 W., Kateel River Meridian, in the vicinity of King Island, Alaska, and contains 32,324.88 acres. Notice of the decision will also be published four times in the *Nome Nugget.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by

the decision shall have until April 17, 2006 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Jenny Anderson, by phone at (907) 271–4522, or by e-mail at *Jenny_Anderson@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Anderson.

Jenny Anderson,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E6–3827 Filed 3–15–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–920–06–1320–EL, UTU–84402]

Notice of Invitation to Participate In Coal Exploration License, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation to Participate in Coal Exploration License.

SUMMARY: Pursuant to Section 2(b) of the Mineral Leasing Act of 1920, as amended by Section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201(b), and to the regulations adopted as 43 CFR part 3410, all interested qualified parties, as provided in 43 CFR 3472.1, are hereby invited to participate with PacifiCorp on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America immediately west of the Deer Creek Mine state lease (ML–48258) in the Mill Fork West Area, in the following-described lands of Emery County, Utah:

T. 16 S., R. 6 E., SLM, Utah
Sec. 15, E½SWSE;
Sec. 22, Lot 3.

Containing 53.57 acres.

All of the coal in the above-described land consists of unleased Federal coal within the Uinta-Southwestern Utah Known Coal Production Area. This coal exploration license has been issued by the Bureau of Land Management. This exploration program will obtain coal data to supplement data from adjacent coal development. The exploration program is described in and is being conducted pursuant to an exploration plan approved by the Bureau of Land Management (BLM). The plan may be modified to accommodate the legitimate exploration needs of persons seeking to participate.

ADDRESSES: Copies of the exploration plan and license are available for review during normal business hours (serialized under the number of UTU 84402) in the public room of the BLM State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah. The written notice to participate in the exploration program should be sent to both the BLM, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145, and to Scott Child, Manager Lands & Regulatory Affairs, PacificCorp, One Utah Center, 201 South Main, Suite 2100, Salt Lake City, Utah 84111.

DATES: Any person seeking to participate in this exploration program must send written notice to both the BLM and PacifiCorp, as provided in the **ADDRESSES** section above, no later than April 13, 2006.

SUPPLEMENTARY INFORMATION: This notice of invitation to participate will be published in the Emery County Progress, once each week for two consecutive weeks beginning the second week of March, 2006 and in the **Federal Register**.

The authority for this notice is 43 CFR 3410.2–1(c)(1).

Dated: March 2, 2006.

Kent Hoffman,

Deputy State Director, Lands and Minerals.

[FR Doc. 06–2600 Filed 3–14–06; 2:40 pm]

BILLING CODE 4310–DK–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Meeting of Concessions Management Advisory Board

AGENCY: National Park Service, Interior.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), notice is hereby given that the Concessions Management Advisory Board (the Board) will hold its 15th meeting on march 22–23, 2006, in Washington, DC. The meeting will be held at the Wyndham Washington Hotel, 1400 M Street, NW., Washington, DC. The meeting will convene at 8:30 a.m. and will conclude at 4:30 p.m.

SUPPLEMENTARY INFORMATION: The Board was established by Title IV, section 409 of the National Park Omnibus Management Act of 1998, November 13, 1998 (Pub. L. 105–391). The purpose of the Board is to advise the Secretary and the National Park Service on matters relating to management of concessions in the National Park System.

The Board will meet at 8:30 a.m. for the regular business meeting for continued discussion on the following subjects:

- Leasehold Surrender Interest Status and Proposed LSI Process.
- Concession Program Human Capital Strategy.
- Federal Regulatory Process Overview.
- Iterim Commercial Use Authorization Regulations.
- Standards, Evaluations, and Rate Approval Program Report.
- Concession Contracting Status Update.
- Superintendent's Training Project.
- Electronic Annual Financial Report Project Update.

The meeting will be open to the public, however, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will require an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least 2 weeks before the scheduled meeting date. Attempts will be made to meet any request(s) we receive after that date, however, we may not be able to make the requested auxiliary aid or service available because of insufficient time to arrange for it.

Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time. Such requests should be make to the Director, National Park Service, Attention: Manager, Concession Program, at least 7 days prior to the meeting.

Further information concerning the meeting may be obtained from National

Park Service, Concession Program, 1849 C Street, NW., Washington, DC 20240, Telephone: 202/513–7144. Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting, at the Concession Program office located at 1201 Eye Street, NW., 11th Floor, Washington, DC.

Dated: February 23, 2006.

Steve Martin,

Director, National Park Service.

[FR Doc. 06–2501 Filed 3–15–06; 8:45 am]

BILLING CODE 4312–53–M

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: notice of entry of appearance as attorney or representative before the immigration court (Form EOIR–28).

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 71, Number 22, page 5690, on February 2, 2006; allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until April 17, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments also may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the agency's functions, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: EOIR–28. Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Attorneys or qualified representatives notifying the Immigration Court that they are representing an alien in immigration proceedings. Other: None. Abstract: This information collection is necessary to allow an attorney or qualified representative to notify the Immigration Court that he or she is representing an alien before the Immigration Court.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 91,700 respondents will complete the form annually with an average of six minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 9,170 total burden hours associated with this collection annually.

If additional information is required, contact: Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: March 10, 2006.

Robert B. Briggs,

Clearance Officer, United States Department of Justice.

[FR Doc. 06–2550 Filed 3–15–06; 8:45 am]

BILLING CODE 4410–30–M

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection under review: Strategic Planning Environmental Assessment Outreach.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 15, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kay Troester, Strategic Planning Office, 650 Massachusetts Avenue, NW., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Strategic Planning Environmental Assessment Outreach.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Not-for-profit institutions, Federal Government, State, Local, or Tribal Government. Under the provisions of the Government Performance and Results Act, Federal agencies are directed to improve their effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction. This act requires that agencies update and revise their strategic plans every three years. The Strategic Planning Office at ATF will use the voluntary outreach information in the development of the strategic plan.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1,500 respondents will complete a 18 minute questionnaire.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 450 annual total burden hours associated with this collection.

If additional information is required contact Brenda E. Dyer, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: March 10, 2006.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. E6–3775 Filed 3–15–06; 8:45 am]

BILLING CODE 4810–FY–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

March 9, 2006.

The Department of Labor (DOL) has submitted the following public information collection requests (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 each ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employee Benefits Security Administration (EBSA), 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: Employee Benefits Security Administration.

Type of Review: Extension of currently approved collection.

Title: Settlement Agreements Between a Plan and Party in Interest.

OMB Number: 1210–0091.

Frequency: On occasion.

Type of Response: Recordkeeping and third party disclosure.

Affected Public: Business or other for-profit; individuals or households; and not-for-profit institutions.

Number of Respondents: 4.

Number of Annual Responses: 1,080.

Estimated Time Per Response: 1 hour and 32 minutes.

Total Burden Hours: 28.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $281.

Description: Section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA) and section 4975(c)(2) of the Internal Revenue Code of 1986 (the Code) give the Secretary of Labor the authority to grant an exemption to a class or order of fiduciaries, disqualified persons, or transactions from all or part of the restrictions imposed by sections 406 and 407(a) of ERISA and from the taxes imposed by sections 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code.

This information collection request (ICR) relates to two prohibited transaction class exemptions (PTEs) that the Department of Labor (the Department) has granted, both of which involve settlement agreements. PTE 94–71 exempts from certain restrictions of the Employee Retirement Income Security Act and certain taxes of the Code, settlement agreements entered into between a plan and a party in interest resulting from an investigation of an employee benefit plan by the Department. PTE 03–39 similarly exempts from certain restrictions of ERISA and certain taxes of the Code, settlement agreements entered into between a plan and a party in interest in avoidance of litigation.

The information collections are intended to protect participants and beneficiaries under the plans that engage in settlement agreements. Without the required disclosures, the Department would be unable to enforce effectively the terms of the exemptions and ensure transactional compliance. The information collections allow the Department to monitor the settlement activities (under PTE 94–71) undertaken in connection with its own investigations and to review other settlement agreements within the scope of its investigations. The information collection under PTE 94–71 also provides participants and beneficiaries with important information about transactions affecting their plan.

Agency: Employee Benefits Security Administration.

Type of Review: Extension of currently approved collection.

Title: Notice of Blackout Period under ERISA.

OMB Number: 1210–0122.

Frequency: On occasion.

Type of Response: Third party disclosure.

Affected Public: Business or other for-profit; individuals or households; and not-for-profit institutions.

Number of Respondents: 50,680.

Number of Annual Responses: 5,400,000.

Estimated Time Per Response: 1 hour and 32 minutes.

Total Burden Hours: 187,686.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $1,407,000.

Description: Public Law 107–204 amended section 101 of the Employee Retirement Income Security Act to require plan administrators to furnish affected participants and beneficiaries of individual account pension plans with advance written notice of a ''blackout period'' during which their right to direct or diversify investments, or obtain a loan or distributions, may be temporarily suspended.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. E6–3842 Filed 3–15–06; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

March 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 contacting Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension of currently approved collection.

Title: Temporary Labor Camps (29 CFR 1910.142).

OMB Number: 1218–0096.

Frequency: On occasion.

Type of Response: Reporting and third party disclosure.

Affected Public: Business or other for-profit; not-for-profit institutions; farms; Federal Government; and State, Local, or Tribal Government.

Number of Respondents: 711.

Number of Annual Responses: 711.

Estimated Time per Response: 5 minutes.

Total Burden Hours: 57.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 29 CFR 1910.142 (the Standard) requires camp superintendents to report immediately to the local health officer the name and address of any individual in the camp known to have, or suspected of having, a communicable disease. Whenever there is a case of suspected food poisoning or an unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting or jaundice is a prominent symptom, the Standard requires the camp superintendent to report that immediately to the health authority. In addition, the Standard requires that where the toilet rooms are shared, separate toilet rooms must be provided for each sex. These rooms must be marked ''for men'' and ''for women'' by signs printed in English and in the native language of the persons occupying the camp, or marked with easily understood pictures or symbols.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. E6–3843 Filed 3–15–06; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

March 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.

Title: Foreign Labor Certification Quarterly Activity Report.

OMB Number: 1205–0NEW.

Frequency: Quarterly.
Affected Public: State, Local, or Tribal govt.
Type of Response: Reporting.
Number of Respondents: 54.
Annual Responses: 216.
Average Response time: 2 hours.
Total Annual Burden Hours: 432.
Total Annualized Capital/Startup Costs: 0.
Total Annual Costs (operating/maintaining systems or purchasing services): 0.
Description: This reporting form will be used to collect information from State Workforce Agencies on the activities they perform under the Foreign (Alien) Labor Certification reimbursable grant and will provide a sound basis for program management, including budget and workload management, and monitoring for compliance with the grant.

Ira L. Mills,
Departmental Clearance Officer.
[FR Doc. E6–3844 Filed 3–15–06; 8:45 am]
BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Office of the Secretary

Notice of Intent To Fund the International Labor Organization

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice of Intent to award up to a total of $5 million to the International Labor Organization (ILO). Up to $3 million is designated for the purpose of supporting a program to benchmark and verify progress made in building the capacity of CAFTA–DR countries to implement their labor laws consistent with international standards and up to $2 million is designated for the purpose of training labor court judges, lawyers, court administrators, and others involved in the administration of labor justice in CAFTA–DR countries.

SUMMARY: *Benchmarking/verification:* The free trade agreement between the United States and the CAFTA–DR countries establishes a commitment to effectively enforce domestic labor laws. This program will measure and evaluate progress by the CAFTA–DR countries as they strive to improve implementation of their labor laws consistent with international standards.

Specifically, the program will create a series of benchmarks and measurements related to compliance with internationally recognized labor rights. These tools will be used to evaluate the implementation of the recommendations established in the ''White Paper'' (developed by the Trade and Labor Ministry officials of the countries), as well as improvements to institutional capacities of government mechanisms for the sustainable implementation of labor law. A verification report will be produced and made publicly available on a semi-annual basis.

Labor Justice Training: Increasing knowledge throughout the judicial system of core labor standards and the laws and regulations in place to support them is critical to success. An efficient and effective labor justice system is also of great importance. Training needed to assure these outcomes may include:

- Training in internationally recognized labor standards of the International Labor Organization, as well as training on the ILO's system for overseeing labor rights;
- Training in the national level obligations entailed in country ratification of ILO conventions.
- Training in the application of ILO core labor standards through domestic legislation and regulation. This includes relevant

(a) Training in oral litigation procedures, legal writing and proper jurisprudence procedures;

(b) Training and technical assistance to support linkages between the formal court system, alternative dispute resolution systems, and the enforcement process taking place within labor ministries to ensure consistency with international standards; and

(c) Training and technical assistance to strengthen alternative dispute systems, or other arbitration and mediation mechanisms dealing with labor issues that are specifically associated with the judicial system.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Vogt, E-mail address: *Vogt.Eric@dol.gov.* Grant Officer, U.S Department of Labor, Office of the Assistant Secretary, 200 Constitution Ave, DC 20210. Telephone: (202) 693–4750.

Eric F. Vogt,
Grant Officer, U.S. Department of Labor.
[FR Doc. E6–3826 Filed 3–15–06; 8:45 am]
BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Office of the Secretary

Department of Labor's Fleet Alternative Fuel Vehicle Acquisition

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of availability of the Department of Labor's annual report on its alternative fuel vehicle acquisitions for fiscal year 2005. The Web site also contains the Department's previous annual reports for fiscal years 1999–2004.

SUMMARY: In compliance with the Energy Policy Act of 1992 and Executive Order 13149, this notice announces the availability of the 2005 report that summarizes the U.S. Department of Labor's (DOL) compliance with the annual alternative fuel vehicle acquisition requirement for its vehicle fleet. The Web site also contains the Department's annual reports for fiscal years 1999–2004. Additionally, the reports include data relative to the agency's effort in reducing petroleum consumption.

ADDRESSES: U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Business Operations Center, Office of Administrative Services, 200 Constitution Avenue, NW., Room S1524, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Al Stewart, Director of Business Operations Center at (202) 693–4021 or e-mail *Stewart.Milton@dol.gov.*

SUPPLEMENTARY INFORMATION: The Energy Policy Act of 1992 (42 U.S.C. 13211–13219) as amended by the Energy Conservation and Reauthorization Act of 1998 (Pub. L. 105–388, section 310(b)(3) and Executive Order 13149 (April 2000) were intended to decrease the country's dependence on petroleum for transportation purposes. The Energy Policy Act of 1992 requires Federal fleets to acquire 75 percent of their new covered vehicle acquisitions as alternative fuel vehicles.

Pursuant to 42 U.S.C. 13218 of the Energy Policy Act, DOL and other covered agencies are required annually to submit to Congress reports on their Energy Policy Act alternative fuel vehicle acquisition requirements. These reports must also be placed on an available Web site and their availability, including the Web site address, must be published in the **Federal Register**.

DOL reports for 1999, 2000, 2001, 2002, 2003, 2004 and 2005 may be accessed at the DOL Fleet Information and Regulations Web site at *http://www.dol.gov/oasam/programs/boc/epact.htm.*

Issued in Washington, DC, this 8th day of March, 2006.

Patrick Pizzella,
Assistant Secretary for Administration and Management.
[FR Doc. E6–3831 Filed 3–15–06; 8:45 am]
BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection; Comments: Agricultural and Food Processing Clearance Order, ETA Form 790 and the Agricultural and Food Processing Clearance Memorandum, ETA Form 795

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 May 15, 2006.

ADDRESSEES: Send comments to: Christine Kulick, U.S. Department of Labor/Employment and Training Administration, Office of Workforce Investment, Room S–4231, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–3580 (not a toll-free number) fax: (202) 693–3015 and Internet address: *kulick.christine@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Erik Lang, U.S. Department of Labor/Employment and Training Administration, Office of Workforce Investment, Room S–4231, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2916 (not a toll-free number) and Internet address: *lang.erik@dol.gov.* Copies of the Paperwork Reduction Act Submission Package, including the forms and instructions, are at this site: *http://www.doleta.gov/Performance/guidance/OMBControlNumber.cfm.*

SUPPLEMENTARY INFORMATION:

I. Background

ETA regulations at 20 CFR 653.500 established procedures for the recruitment of agricultural workers. In situations where an adequate supply of workers does not exist in the local recruiting area, out-of-area recruitment can be attempted. In order to initiate out-of-area recruitment for temporary agricultural work, agricultural employers must use the Agricultural and Food Processing Clearance Order, ETA Form 790, if they wish to list the job opening with state workforce agencies (SWAs). The Agricultural and Food Processing Clearance Memorandum, ETA Form 795 is used by SWAs to extend job orders beyond their jurisdictions, give notice of action on a clearance order, request additional information, amend the order, report results, and accept or reject the extended job order.

II. Desired Focus of Comments

Currently, ETA is soliciting comments concerning the proposed three-year extension without change of the Agricultural and Food Processing Clearance Order, ETA Form 790, and the Agricultural and Food Processing Clearance Memorandum, ETA Form 795, from the current end date of June 30, 2006, to a new end date of June 30, 2009. Comments are requested in order to achieve the following:

- 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 by including 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.

A copy of the proposed information collection request can be obtained by contacting the office listed above in the addressee section of this notice.

III. Current Actions

This is a request for Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)) to extend the collection and change of the Agricultural and Food Processing Clearance Order, ETA Form 790, and the Agricultural and Food Processing Clearance Memorandum, ETA Form 795, from the current end of date of June 30, 2006, to the new date end date of June 30, 2009.

Type of Review: Extension (without change).

Agency: Employment and Training Administration.

Title: Agricultural and Food Processing Clearance Order, ETA Form 790, and the Agricultural and Food Processing Clearance Memorandum, ETA Form 795.

OMB Number: 1205–0134.

1. Processing ETA Form 790.
Annual number of forms: 4,600.
Minutes per form: 60.
Processing hours: 4,600.
2. Processing ETA Form 795.
Annual number of forms: 1,000.
Minutes per form: 15.
Processing hours: 250.
Estimated Total Burden Hours: 4,850.
Frequency: On occasion.
Affected Public: Employers and state governments.
Number of Respondents: 3,000.
Estimated Total Burden Hours: 4,850.
Total Burden Cost (operating/maintaining): $16,800.

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: March 3, 2006.

Gay M. Gilbert,

Administrator, Office of Workforce Investment, Employment and Training Administration.

[FR Doc. E6–3829 Filed 3–15–06; 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; Extension of the Unemployment Insurance (UI) Title XII Advances and Voluntary Repayment Process

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 and Training Administration, Office of Workforce Security, is soliciting comments concerning the proposed extension of the process for requesting advances from the Federal Unemployment Account (FUA) and repayment of such advances under Title XII of the Social Security Act (SSA). Technically, there is no request for information. There is, however, a paperwork burden on states because they must prepare and transmit formal requests for advances and transfers to repay those advances. A copy of the proposed procedure can be obtained by contacting the office listed below in the addressee section of this notice or at *http://www.doleta.gov/Performance/guidance/OMBControlNumber.cfm.*

DATES: Written comments must be submitted on or before May 15, 2006.

ADDRESSES: James E. Herbert, U.S. Department of Labor, Employment and Training Administration, Room S 4231, 200 Constitution Ave, NW., Washington, DC 20210; Phone: 202–693–2926 (this is not a toll-free number); Fax: 202–693–2874; e-mail: *Herbert.James@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Title XII section 1201 of the SSA provides for advances to states from the FUA. The law further sets out specific requirements to be met by a state requesting an advance:

○ The Governor must apply for the advance;

○ The application must cover a three month period and the Secretary of Labor must be furnished with estimates of the amounts needed in each month of the three month period;

○ The application must be made on such forms and shall contain such information and data (fiscal and otherwise) concerning the operation and administration of the state unemployment compensation law as the Secretary of Labor deems necessary or relevant to the performance of his or her duties under this title;

○ The amount required by any state for the payment of compensation in any month shall be determined with due allowance for contingencies and taking into account all other amounts that will be available in the state's unemployment fund for the payment of compensation in such month;

○ The term ''compensation'' means cash benefits payable to individuals with respect to their unemployment exclusive of expenses of administration.

Section 1202(a) of the SSA provides that the Governor of any state may at any time request that funds be transferred from the account of such state to the FUA in repayment of part or all of the balance of advances made to such state under section 1201. These applications and repayments may be requested by an individual designated for that authority in writing by the Governor. The DOL proposes to extend this procedure through June, 2009. The DOL also proposes to allow states the option of submitting electronic requests for advances or continuing the current practice of submitting letters.

II. Review Focus

The Department of Labor is particularly interested in comments which:

○ Evaluate whether the proposed extension of the current procedure 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 extension of the current procedure, including the validity of the methodology and assumptions used;

○ Enhance the quality, utility, and clarity of the procedure; and

○ Minimize the burden of the procedure 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.

III. Current Actions

Type of Review: This action is requested to maintain the continuity of current procedures which have succeeded in the orderly application and repayment operations at both the state and Federal levels.

Agency: Employment and Training Administration, Department of Labor.

Title: Extension of the Unemployment Insurance (UI) Title XII Advances and Voluntary Repayment Process.

OMB Number: 1205–0199.

Affected Public: State governments.

Total Respondents: 50 states, Washington, DC, the Virgin Islands, and Puerto Rico are covered by this process.

Frequency: As needed, based on a state's discretion.

Total Responses: The DOL projects 7 states will borrow between 2006 and 2009 and that borrowing states will average 4 requests for advances and 4 requests for voluntary repayments each year. This results in 56 total responses per year.

Average Time Per Response: 1 hour.

Estimated Total Burden Hours: 56 per year.

Estimated Total Burden Cost: None.

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: March 3, 2006.

Cheryl Atkinson,

Administrator, Office of Workforce Security.

[FR Doc. E6–3840 Filed 3–15–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States: 2006 Adverse Effect Wage Rates, Allowable Charges for Agricultural and Logging Workers' Meals, and Maximum Travel Subsistence Reimbursement

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice of Adverse Effect Wage Rates (AEWRs), allowable charges for meals, and maximum travel subsistence reimbursement for 2006.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) is issuing this Notice to announce: the 2006 AEWRS for employers seeking to employ temporary or seasonal nonimmigrant alien workers to perform agricultural labor or services (H–2A workers) or logging (H–2 logging workers); the allowable charges for 2006, that employers seeking H–2A workers and H–2 logging workers may levy upon their workers when three meals a day are provided by the employer; and the maximum travel subsistence reimbursement which a worker with receipts may claim in 2006.

AEWRs are the minimum wage rates the Department has determined must be offered and paid to U.S. and alien workers by employers of H–2A workers or H–2 logging workers. AEWRs are established to prevent the employment of these aliens from adversely affecting wages of similarly employed U.S. workers. The Department announces the AEWRs for 2006.

The Department also announces the new rates for 2006, which covered agricultural and logging employers may charge their workers for three daily meals.

Under specified conditions, workers are entitled to reimbursement for travel subsistence expenses. The minimum reimbursement is the charge for three daily meals as noted above. The Department also announces the current maximum reimbursement that may be claimed in 2006, by workers with receipts.

DATES: *Effective Date:* March 16, 2006.

FOR FURTHER INFORMATION CONTACT: John R. Beverly, III, Administrator, Office of National Programs, U.S. Department of Labor, Room C–4312, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202–693–3010 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services may not approve an employer's petition for admission of H–2A workers or H–2 logging workers in the United States unless the petitioner has received from DOL an H–2A or H–2 labor certification, as appropriate. Approved labor certifications attest: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188.

DOL's regulations for the H–2A and H–2 program require covered employers to offer and pay their U.S., H–2A, and H–2 workers no less than the applicable hourly AEWR in effect at the time the work is performed. 20 CFR 655.102(b)(9) and 655.202(b)(9). *See also* 20 CFR 655.107 and 655.207. Reference should be made to the preamble of the Final Rule, 54 FR 28037 (July 5, 1989), which explains in great depth the purpose and history of AEWRs, DOL's discretion in setting AEWRs, and the AEWR computation methodology at 20 CFR 655.107(a). *See also* 52 FR 20496, 20502–20505 (June 1, 1987).

A. Adverse Effect Wage Rates for 2006

AEWRs are the minimum wage rates which DOL has determined must be offered and paid to U.S. and alien workers by employers of H–2A workers or H–2 logging workers. DOL emphasizes, however, that employers of H–2A workers must pay the highest of (i) The AEWR in effect at the time the work is performed, (ii) the applicable prevailing wage, or (iii) the statutory minimum wage, as specified in the regulations. 20 CFR 655.102(b)(9). Employers of H–2 logging workers must pay at least the AEWR. 20 CFR 655.202(b)(9).

Except as otherwise provided in 20 CFR part 655, subpart B, the region-wide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special circumstance provisions of 20 CFR 655.93) for which temporary H–2A certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the U.S. Department of Agriculture (USDA). 20 CFR 655.107(a). USDA does not provide data on Alaska. 20 CFR 655.107(a) requires the Assistant Secretary, Employment and Training Administration, to publish USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice. Accordingly, the 2006, AEWRs for agricultural work performed by U.S. and H–2A workers on or after the effective date of this notice are set forth in the table below:

TABLE.—2006 ADVERSE EFFECT WAGE RATES

State	2006 AEWR
Alabama	$8.37
Arizona	8.00
Arkansas	7.58
California	9.00
Colorado	8.37
Connecticut	9.16
Delaware	8.95
Florida	8.56
Georgia	8.37
Hawaii	9.99
Idaho	8.47
Illinois	9.21
Indiana	9.21
Iowa	9.49
Kansas	9.23
Kentucky	8.24
Louisiana	7.58
Maine	9.16
Maryland	8.95
Massachusetts	9.16
Michigan	9.43
Minnesota	9.43
Mississippi	7.58
Missouri	9.49
Montana	8.47
Nebraska	9.23
Nevada	8.37
New Hampshire	9.16
New Jersey	8.95
New Mexico	8.00
New York	9.16
North Carolina	8.51
North Dakota	9.23
Ohio	9.21
Oklahoma	8.32
Oregon	9.01

TABLE.—2006 ADVERSE EFFECT WAGE RATES—Continued

State	2006 AEWR
Pennsylvania	8.95
Rhode Island	9.16
South Carolina	8.37
South Dakota	9.23
Tennessee	8.24
Texas	8.32
Utah	8.37
Vermont	9.16
Virginia	8.51
Washington	9.01
West Virginia	8.24
Wisconsin	9.43
Wyoming	8.47

The AEWRs for all logging employment shall be the prevailing wage rates in the area of intended employment. 20 CFR 655.207(a).

B. Allowable Meal Charges

Among the minimum benefits and working conditions which DOL requires employers to offer their U.S., H–2A, and H–2 logging workers are three meals a day or free and convenient cooking and kitchen facilities. 20 CFR 655.102(b)(4) and 655.202(b)(4). Where the employer provides meals, the job offer must state the charge, if any, to the worker for meals.

DOL has published at 20 CFR 655.102(b)(4) and 655.111(a) the methodology for determining the maximum amounts that covered H–2A agricultural employers may charge their U.S. and foreign workers for meals. The same methodology is applied at 20 CFR 655.202(b)(4) and 655.211(a) to covered H–2 logging employers. These rules provide for annual adjustments of the previous year's allowable charges based upon Consumer Price Index (CPI) data.

Each year the maximum charges allowed by 20 CFR 655.102(b)(4) and 655.202(b)(4) are adjusted by the same percentage as the twelve-month percent change in the CPI for all Urban Consumers for Food (CPI-U for Food) between December of the year just concluded and December of the year prior to that. ETA may permit an employer to charge workers no more than the higher maximum amount set forth in 20 CFR 655.111(a) and 655.211(a), as applicable, for providing them with three meals a day, if justified and sufficiently documented. Each year, the higher maximum amounts permitted by 20 CFR 655.111(a) and 655.211(a) are changed by the same percentage as the twelve-month percent change in the CPI-U for Food between December of the year just concluded and December of the year prior to that. The program's regulations require DOL to make the

annual adjustments and to publish a notice in the **Federal Register** each calendar year, announcing annual adjustments in allowable charges that may be made by covered agricultural and logging employers for providing three meals daily to their U.S. and alien workers. The 2005, rates were published in the **Federal Register** Notice, 70 FR 10152, (March 2, 2005).

DOL has determined the percentage change between December of 2004, and December of 2005, for the CPI-U for Food was 2.4 percent. Accordingly, the maximum allowable charges under 20 CFR 655.102(b)(4), 655.202(b)(4), 655.111, and 655.211 were adjusted using this percentage change, and the new permissible charges for 2006, are as follows: (1) Charges under 20 CFR 655.102(b)(4) and 655.202(b)(4) shall be no more than $9.30 per day, unless ETA has approved a higher charge pursuant to 20 CFR 655.111 or 655.211; (2) charges under 20 CFR 655.111 and 655.211 shall be no more than $11.52 per day, if the employer justifies the charge and submits to ETA the documentation required to support the higher charge.

C. Maximum Travel Subsistence Expense

The regulations at 20 CFR 655.102(b)(5) establish that the minimum daily subsistence expense related to travel expenses, for which a worker is entitled to reimbursement, is equivalent to the employer's daily charge for three meals or, if the employer makes no charge, the amount permitted under 20 CFR 655.104(b)(4). The regulation is silent about the maximum amount to which a qualifying worker is entitled.

The Department, in Field Memorandum 42–94, established the maximum meals component of the standard continental United States (CONUS) per diem rate established by the General Services Administration (GSA) and published at 41 CFR Pt. 301. The CONUS meal component is now $39.00 per day.

Workers who qualify for travel reimbursement are entitled to reimbursement up to the CONUS meal rate for related subsistence when they provide receipts. In determining the appropriate amount of subsistence reimbursement, the employer may use the GSA system under which a traveler qualifies for meal expense reimbursement per quarter of a day. Thus, a worker whose travel occurred during two quarters of a day is entitled, with receipts, to a maximum reimbursement of $19.50. If a worker has no receipts, the employer is not obligated to reimburse above the minimum stated at 20 CFR 655.102(b)(4) as specified above.

Signed in Washington, DC this 7 day of March, 2006.

Emily Stover DeRocco,

Assistant Secretary, Employment and Training Administration.

[FR Doc. E6–3841 Filed 3–15–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Security Programs: Unemployment Insurance Program Letters Interpreting Federal Law, UIPL 14–05 and UIPL 14–05, Change 1

AGENCY: Employment and Training Administration.

ACTION: Notice.

SUMMARY: In December 2002, the Employment and Training Administration (ETA) began a review of the performance management system for the Unemployment Insurance (UI) program. The review addressed the following topics: (a) The performance measures; (b) the criteria used to gauge success against the measures; and (c) the administration of UI Performs. ETA conducted the review in significant consultation with State Workforce Agencies (SWAs) and indirectly through the National Association of State Workforce Agencies' Subcommittee for UI Performs. ETA contracted with Mathematica Policy Research, Inc. to assist with the data analyses.

The review resulted in a recommendation that ETA publish a guidance to streamline the UI performance management system (UI Performs) in the following three significant ways: (1) Reduce the number of performance goals to a few ''core'' measures; (2) utilize the data of the remaining measures for program management with no performance goals; and (3) streamline the State Quality Service Plan narrative. In response, on June 16, 2004, ETA published UIPL No. 21–04, which outlined the proposed changes to UI Perform and invited public comments. (69 FR 33669 (2004)).

UIPL 14–05

At the end of the comment period, ETA issued UIPL 14–05 to advise SWAs of the changes made to UI Performs based on the recommendation and data of the comprehensive review and the comments received in response to the June 2004 UIPL. UIPL 14–05 also summarized the comments that were received in response to the June 2004 publication and established the effective dates for implementing the changes.

In order to fully implement the changes outlined in UIPL 14–05, ETA collected additional data to analyze and formulate policy on the definitions and to determine the Acceptable Levels of Performance (ALPs). Through this Notice, ETA is publishing UIPL 14–05, Change 1, which describes ETA's policy on these issues and the requirements for SWAs.

UIPL 14–05, Change 1

UIPL 14–05, Change 1 identifies the methodology used to measure performance and set the ALP for the detection of overpayments. In addition, this UIPL clarifies the methods for measuring the average age of pending lower and higher authority appeals and clarifies the implementation schedule for the tax quality measure corrective action plans.

DATES: UIPL 14–05 was effective on February 18, 2005. UIPL 14–05, Change 1 was effective on October 12, 2005.

FOR FURTHER INFORMATION CONTACT: Delores Mackall, Office of Workforce Security, Employment and Training Administration, 200 Constitution Avenue, NW., Room 4231, Washington, DC 20210. Telephone (202) 693–3183 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Please go to *http://wdr.doleta.gov/directives/* to view a copy of UIPL 14–05 and UIPL 14–05, Change 1.

Signed in Washington, DC, this 8th day of March, 2006.

Emily Stover DeRocco,

Assistant Secretary of Labor, Employment and Training Administration.

[FR Doc. E6–3839 Filed 3–15–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an

opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Application for Farm Labor Contractor and Farm Labor Contractor Employee Certificate of Registration (WH–530). 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 May 15, 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:* Migrant and Seasonal Agricultural Worker Protection Act (MSPA), 29 U.S.C. 1801 *et seq.,* section 101(a) provides that no person shall engage in any farm labor contracting activity unless such person has a certificate of registration from the Secretary of Labor specifying which farm labor contracting activities such person is authorized to perform. Contracting activities include recruiting, soliciting, hiring, employing, furnishing, transporting or driving any migrant or seasonal agricultural worker and, with respect to migrant agricultural workers, providing housing. MSPA section 101(b) provides that a farm labor contractor shall not hire, employ or use any individual to perform farm labor contracting activities (i.e. recruiting, soliciting, hiring, employing, furnishing or transporting any migrant or seasonal agricultural worker) unless such individual has a certificate of registration as a farm labor contractor, or a certificate of registration as an employee of a farm labor contractor employer, which authorizes the activity for which such individual is hired, employed or used. Section 102 of MSPA provides that, after appropriate investigation and review, the Secretary shall issue a farm labor contractor certificate of registration (including a certificate of registration as an employee of a farm labor contractor) to any person who has filed with the Secretary a written application. Form WH–530 is the application form which provides the Department of Labor with the information necessary to issue certificates specifying the farm labor contracting activities authorized. 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 issue, after appropriate investigation and review, a farm labor certificate of registration, including a certificate of registration as an employee of a farm labor contractor, to any person who has filed with the Secretary a written application for a certificate.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Application for Farm Labor Contractor and Farm Labor Contractor Employee Certificate of Registration.

OMB Number: 1215–0037.

Agency Number: WH–530.

Affected Public: Individuals or household; business or other for-profit; Farms.

Total Respondents: 7,800.

Total Responses: 7,800.

Time per Response: 30 minutes.

Frequency: On Occasion (initial application); biannually (renewal).

Estimated Total Burden Hours: 3,900.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $2,130.

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: March 9, 2006.

Sue Blumenthal,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management,Office of Management, Administration and Planning, Employment Standards Aministration.

[FR Doc. E6–3830 Filed 3–15–06; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Federal Economic Statistics Advisory Committee; Notice of Renewal

The Secretary of Labor has determined that renewal of the charter of the Federal Economic Statistics Advisory Committee (FESAC) is necessary and in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1, 2, 3, 4, 5, 6, 7, 8, and 9. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Federal Economic Statistics Advisory Committee.

Purpose and Objective: The Committee presents advice and makes recommendations to the Department of Labor, Bureau of Labor Statistics and the Department of Commerce, Bureau of Economic Analysis and Bureau of the Census (the Agencies) from the perspective of the professional economics and statistics community. The Committee examines the Agencies' programs and provides advice on statistical methodology, research needed, and other technical matters related to the collection, tabulation, and analysis of Federal economic statistics.

Balanced Membership Plan: The Committee is a technical committee that is balanced in terms of the professional expertise required. It consists of approximately 14 members, appointed by the Agencies. Its members are economists, statisticians, and behavioral scientists who are recognized for their attainments and objectivity in their respective fields.

Duration: Continuing.

Agency Contact: Cheryl Kerr, 202–691–7808.

Signed at Washington, DC this 8th day of March 2006.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. E6–3825 Filed 3–15–06; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0070(2006)]

Reports of Injuries to Employees Operating Mechanical Power Presses; Extension of the Office of Management and Budget's (OMB) Approval of an Information Collection (Paperwork) Requirement

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirement specified in its provision on Reports of Injuries to Employees Operating Mechanical Power Presses (29 CFR 1910.217(g)). This provision is contained in this Agency's Standard on Mechanical Power Presses (29 CFR part 1910).[1]

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by May 15, 2006.

Facsimile and electronic transmission: Your comments must be received by May 15, 2006.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0070(2006), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., e.t.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://comments.osha.gov.* Follow instruction on the OSHA Webpage for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Webpage at *http://www.OSHA.gov.* In addition, the ICR, comments, and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Theda Kenney at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

In the event an employee is injured while operating a mechanical power press, 29 CFR 1910.217(g) requires an employer to provide information to OSHA regarding the accident within 30 days of the accident. This information includes the employer's and employee's names, workplace address, injury sustained, task being performed when the injury occurred, number of operators involved, cause of the accident, type of clutch, safeguard(s), and feeding method(s) used, and means used to actuate the press stroke. OSHA's Directorate of Safety Standards Programs (currently, the Directorate of Standards and Guidance) or the State agency administering a plan approved by the Assistant Secretary of Labor for Occupational Safety and Health collects the information. These reports are a source of up-to-date information on power press machines. Particularly, this information identifies the equipment used and conditions associated with these injuries.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirement is necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirement, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting OMB to extend their approval of the collection of information requirement contained in Reports of Injuries to Employees Operating Mechanical Power Presses (29 CFR 1910.217(g)). The Agency is requesting a decrease in burden hours for the existing collection of information requirement from 25 to 16 (a total reduction of 9 hours). This decrease is a result of the decline in the number of injury reports submitted to OSHA annually. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB.

Type of Review: Extension of currently approved information collection requirement.

Title: Reports in Injuries to Employees Operating Mechanical Power Presses (29 CFR 1910.217(g)).

OMB Number: 1218–0070.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 49.

Frequency: On occasion.

Average Time Per Response: Varies from five minutes (.08 hour) for a

[1] The Agency has additional collections of information with different OMB Control Numbers in its Standard on Mechanical Power Presses (e.g., Inspection, maintenance, and modification of presses (29 CFR 1910.217(e)(1)(i) and (ii)) (OMB Control No. 1218–0229) and Presence sensing device initiation (PSDI) (29 CFR 1910.217(h)) (OMB Control No. 1218–0143)).

secretary to prepare an envelope and mail the report to OSHA to 15 minutes (.25 hour) for an employer to obtain information and to prepare the injury report.

Estimated Total Burden Hours: 16.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA Webpage. Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery, and courier service.

All comments, submissions, and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Webpage are available at *http://www.OSHA.gov.*

Contact the OSHA Docket Office for information about materials not available through the OSHA Webpage and for assistance using the Webpage to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Webpage. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on March 13, 2006.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 06–2565 Filed 3–15–06; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

Seeks Qualified Candidates for the Advisory Committee on Reactor Safeguards

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Request for résumés.

SUMMARY: The U.S. Nuclear Regulatory Commission is seeking qualified candidates for appointment to its Advisory Committee on Reactor Safeguards (ACRS).

ADDRESSES: Submit résumés to: Ms. Sherry Meador, Administrative Assistant, ACRS/ACNW, Mail Stop T2E–26, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or e-mail *SAM@NRC.gov.*

SUPPLEMENTARY INFORMATION: Congress established the ACRS to provide the NRC independent expert advice on matters related to the safety of existing and proposed nuclear power plants and on the adequacy of proposed reactor safety standards. Of primary importance are the safety issues associated with the operation of 103 commercial nuclear units in the United States and regulatory initiatives, including risk-informed and performance-based regulations, license renewal applications, power uprates, and the use of mixed oxide and high burnup fuels. An increase emphasis is being given to safety issues associated with new reactor designs and technologies, including passive system reliability and thermal hydraulic phenomena, use of digital instrumentation and control, international codes and standards for use in multi-international design certification applications, material and structural engineering and nuclear analysis and reactor core performance.

The ACRS membership is drawn from a variety of engineering and scientific disciplines needed to conduct broadly based review for these facilities, as well as proposed standards and criteria and related research activities. The ACRS also has some involvement in security matters related to the integration of safety and security of commercial reactors. This work involves technical issues associated with consequence analysis and the assessment of effective mitigation strategies. Committee members serve a 4-year term with the possibility of reappointment up to a maximum of two terms, for a potential total service of 12 years. At this time, the Commission is specifically seeking individuals with 10 years of experience in the areas of thermal hydraulics, materials and metallurgy, plant operations, severe accident analysis, probabilistic risk assessment, design engineering, digital instrumentation and control, and nuclear analysis. Candidates with pertinent graduate level education will be given additional consideration. Individuals should have a demonstrated record of accomplishments in the area of nuclear reactor safety. It is the NRC's policy to select the best qualified applicant for the job, regardless of race, gender, age, religion, or any other non-merit factor. Consistent with the requirements of the Federal Advisory Committee Act, the Commission seeks candidates with varying views and of diverse background so that the membership on the Committee will be fairly balanced in terms of the points of view represented and functions to be performed by the Committee. It is the NRC's policy to select the best qualified applicant for the job, regardless of race, gender, age, religion, or any other non-merit factor.

Criteria used to evaluate candidates include education and experience, demonstrated skills in nuclear safety matters, and the ability to solve problems. Additionally, the Commission considers the need for specific expertise in relationship to current and future tasks. Consistent with the requirements of the Federal Advisory Committee Act, the Commission seeks candidates with varying views and of diverse backgrounds so that the membership on the Committee will be fairly balanced in terms of the points of view represented and functions to be performed by the Committee.

Because conflict-of-interest regulations restrict the participation of members actively involved in the regulated aspects of the nuclear industry, the degree and nature of any such involvement will be weighed. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations prior to final appointment. This might require divestiture of securities issued by nuclear industry entities, or discontinuance of industry-funded research contracts or grants. A security background investigation for a Q clearance (or the transfer of an up-to-date Q clearance) will also be required.

Candidates must be citizens of the United States and be able to devote approximately 80–100 days per year to Committee business. A résumé describing the educational and professional background of the candidate, including any special accomplishments, professional references, current address, and telephone number should be provided.

All qualified candidates will receive careful consideration. Applications will be accepted on an ongoing basis.

Dated: March 10, 2006.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E6–3815 Filed 3–15–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Regulation AC; SEC File No. 270–517; OMB Control No. 3235–0575.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for approval of the previously approved collection of information discussed below.

• Regulation Analyst Certification (Regulation AC)

Regulation Analyst Certification under the Securities Exchange Act of 1934 requires that any research report disseminated by broker, dealer, or person associated with a broker or dealer, include certifications by the research analyst that the views expressed in the research report accurately reflect the analyst's personal views, and whether the analyst received compensation in connection with his or her specific recommendations or views. A research analyst would also be required to provide certifications and disclosures in connection with public appearances. Although research analysts are often viewed by investors as experts and as important sources of information about the securities and companies they cover, many factors can create pressure on their independence and objectivity. By requiring these certifications and disclosures, Regulation AC should promote the integrity of research reports and investor confidence in the recommendations contained in those reports. Commission estimates that Regulation AC would result in a total annual time burden of approximately 11,296 hours (10,950 hours to comply with research report requirements + 346 hours to comply with public appearance requirements).

The collections of information under Regulation AC are necessary for covered persons to obtain certain benefits or to comply with certain requirements. The collections of information are necessary to provide investors with information with which to determine the value of the research available to them. The Commission may review this information during periodic examinations or with respect to investigations. Covered persons must also promptly provide copies of statements that the analyst is unable to provide the certifications in connection with public appearances to its examining authority, designated pursuant to Section 17(d) of the Securities Exchange Act of 1934 and Rule 17d–2 thereunder. Further, broker-dealers must keep and maintain these records pursuant to Rule 17a–4(b)(4).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a valid OMB control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

March 8, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–3805 Filed 3–15–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53467; File No. 81–935]

Notice of an Application of Peoples Financial Corporation Under Section 12(h) of the Securities Exchange Act of 1934

March 10, 2006.

The Securities and Exchange Commission gives notice that Peoples Financial Corporation has filed an application under Section 12(h) of the Securities Exchange Act of 1934, as amended, for certain relief. Peoples states that its principal executive offices are located in Biloxi, Mississippi, which is within one of the Presidentially Declared Disaster Areas where Individual Assistance has been authorized by the Federal Emergency Management Agency as a result of Hurricane Katrina, and that its sixteen branch facilities are also located in the Disaster Areas. In its application, Peoples asserts that the relief is necessary due to, among other things, the extraordinary impact of Hurricane Katrina on Peoples's facilities, personnel, customers, and independent public accountant. For example, the application indicates that: (1) Peoples, which is a bank holding company, lost six of the sixteen branch locations of its bank subsidiary, The Peoples Bank; (2) more than twenty percent of its employees lost their homes, another twenty-five percent had serious damage to their homes and several of Peoples's branches served as temporary housing for employees; and (3) company personnel have had to focus on on-going post-Katrina recovery issues such as evaluation of the loan portfolio and recovery and decontamination of items from vaults and safe deposit boxes. Further, the application states that: (1) The Biloxi, Mississippi office of Peoples's independent public accountants, which housed all of their hard copy records and computer files, was destroyed and more than twenty-five percent of their professional and support staff have relocated out of the area; and (2) Peoples was the only client of its independent public accountants that is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act. Accordingly, Peoples asks the Commission to order that Peoples be required to first include the disclosures specified in paragraphs (a) and (b) of Item 308 of Regulation S–K and first comply with Exchange Act Rule 13a–15(c) for the fiscal year ended December 31, 2006.

For a detailed statement of the information presented, all persons are referred to Peoples's application, which is on file in the Commission's Public Reference Room, Station Place, 100 F Street, NE., Washington, DC 20549.

The Commission also gives notice that any interested person may, not later than March 30, 2006, submit to the Commission in writing its views on any substantial facts bearing on the application or the desirability of a hearing thereon.

Any such communication or a request that the Commission hold a hearing on this matter may be submitted by any of the following methods:

Electronic Communications

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number 81–935 on the subject line.

Paper Communications

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number 81–935. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your communications more efficiently, please use only one method. The Commission will post all communications on the Commission's Internet Web site (*http://www.sec.gov/rules/other.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the application filed with the Commission, and all written communications relating to the application 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. All communications 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 be submitted on or before March 30, 2006.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, the Commission may issue an order granting the application upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Nancy M. Morris,

Secretary.

[FR Doc. E6–3778 Filed 3–15–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Roundtable Series on Giving Investors and Analysts Better Financial Data Via Internet

Washington, DC, March 9, 2006—The Securities and Exchange Commission announced today a series of roundtables to be held throughout 2006 at its headquarters in Washington, DC, focused on speeding the implementation of new Internet tools that will help provide investors and analysts with better financial information about companies and funds.

The roundtables will review the experiences from the first year of a pilot program to use so-called interactive data for company filings with the SEC. Interactive data permits Internet users to search for and use individual items of information from financial reports, such as net income, executive compensation, or mutual fund expenses. Today, even computer-based financial information is generally presented in the form of entire pages of data that can't easily be separated. Approximately a dozen companies participated in the voluntary program in its initial year.

The roundtables will also use the lessons learned from the pilot program in order to develop new ways to get analysts and investors significantly better information. Topics will include what investors and analysts are looking for in the new world of interactive data; how to accelerate the use of new software that permits the dissemination of interactive financial data; and how to best design the SEC's requirements for company disclosures to take maximum advantage of the potential of interactive data.

Representatives from investors, issuers, auditors, analysts, technology professionals, regulators, and others will be invited to the roundtable discussions.

The first roundtable in the series will be held on Monday, June 12, from 10 a.m.–noon, and will focus on how best to serve the needs of analysts and investors with interactive data. Subsequent roundtable discussions will be held later in the summer and fall. ''It is now within our reach to get dramatically more useful information in the hands of investors,'' said SEC Chairman Christopher Cox. ''We look forward to these discussions on implementing interactive data initiatives that can benefit investors as quickly as possible, and we welcome the opportunity to learn from investors and other users of financial information how the SEC can improve our own disclosure program.''

The Commission also announced that it is seeking written feedback from investors, registrants, auditors and others on their experiences with interactive data and XBRL The Commission welcomes feedback on any aspect of the use of interactive data. The information that is submitted will become part of the public record of the interactive data roundtables.

Members of the public are encouraged to provide feedback throughout the year as the roundtable topics and dates are announced. Submissions to the Commission may be provided by any of the following methods:

Electronic Submissions

- Use the Commission's Internet submission form at *http://www.sec.gov/news/press.shtml*; or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number 4–515 on the subject line.

Paper Submissions

- Send paper submissions 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 4–515. This file number should be included on the subject line if e-mail is used. To help process and review your submissions more efficiently, please use only one method. The Commission will post all submissions on the Commission's Internet Web site at (*http://www.sec.gov/news/press/4–515.shtml*). Please note that all submissions received will be posted without change; the SEC does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

Nancy M. Morris,

Secretary.

[FR Doc. E6–3779 Filed 3–15–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53438; File No. SR–CBOE–2006–19]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend CBOE Rule 11.1 Relating to the Exercise of Option Contracts

March 7, 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 March 3, 2006, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The CBOE filed the proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE, pursuant to section 19(b)(1) of the Act[6] and Rule 19b–4 thereunder,[7] proposes to amend CBOE Rule 11.1 relating to the exercise of option contracts. The text of the proposed rule change is available on the CBOE's Web site (*http://www.cboe.com*), at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend CBOE Rule 11.1 relating to the exercise of option contracts.

On February 13, 2006, CBOE changed its closing time for trading in equity options and options on narrow-based indices from 3:02 p.m. to 3 p.m. (Chicago time).[8] However, at that time, CBOE did not make a corresponding change to CBOE Rule 11.1 as it relates to situations where there is a modified time for the close of trading in non cash-settled equity options on the last business day before expiration will occur.

CBOE believes that, consistent with its decision to change the closing time for equity options and options on narrow-based indices to 3 p.m., the references to 1 hour and 28 minutes and 2 hours and 28 minutes in CBOE Rule 11.1(c)(1) and (2) should be changed to 1 hour 30 minutes and 2 hours 30 minutes, respectively. CBOE believes that this proposed rule change is consistent with a Commission approved amendment that the Pacific Exchange, Inc. (''PCX'') recently made to PCX Rule 6.24(g).[9] CBOE also notes that it believes that the other option exchanges intend to make similar changes as well.[10]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[11] in general, and furthers the objectives of section 6(b)(5) of the Act[12] in particular, because it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The CBOE 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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The CBOE has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the CBOE to immediately clarify its rule and conform it to the industry-wide close of trading times now in effect. Accelerating the operative date will allow for a more efficient and effective market operation by offering clarity and internal consistency with existing CBOE rules. For these reasons, the Commission designates the proposed rule change as effective and operative immediately upon filing with the Commission.[16]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] As required by Rule 19b–4(f)(6)(iii), 17 CFR 240.19b–4(f)(6)(iii), the CBOE submitted written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the date of filing.

[6] 15 U.S.C. 78s(b)(1).

[7] 17 CFR 240.19b–4.

[8] *See* Securities Exchange Act Release No. 53246 (February 7, 2006), 71 FR 8014 (February 15, 2006).

[9] *See* Securities Exchange Act Release No. 53249 (February 7, 2006), 71 FR 8035 (February 15, 2006) (order granting accelerated approval of SR–PCX–2005–138).

[10] *See* SR–ISE–2006–11 and SR–Phlx–2006–12.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] *Id.*

[16] For the purposes only of waiving the 30-day operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2006–19 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–CBOE–2006–19. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2006–19 and should be submitted on or before April 6, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3787 Filed 3–15–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53441; File No. SR–CHX–2006–03]

Self-Regulatory Organizations; the Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to the Prohibition of Trade Shredding

March 8, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended, (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 24, 2006, the Chicago Stock Exchange, Inc. (''CHX'' 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to prohibit ''trade shredding.'' The text of the proposed rule change appears below. Additions are *in italics.*

ARTICLE IX

Trading Rules

* * *

Breaking Up Orders

RULE 18. No Participant shall break customer orders into multiple smaller orders for the primary purpose of maximizing rebates or other payments to the Participant without regard for the customer's interest.

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 CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has expressed concern that participants in the U.S. securities markets may be engaging in the practice of ''trade shredding.'' ''Trade shredding'' is the practice of unbundling customer orders for securities into multiple smaller orders for the primary purpose of maximizing payments to the participant or participant firm. The Commission has noted that firms might engage in this practice to maximize the market data rebates available to them from self-regulatory organizations.[3] Unbundling customer orders also could have the effect of causing customers to pay (and participant firms to receive) excessive fees or commissions or could result in situations where customer orders are not receiving best execution.

The Commission has requested that self-regulatory organizations adopt rules to prohibit the practice of trade shredding.[4] Although the Exchange does not currently rebate market data fees to its order-sending firms—and therefore does not believe that its order-sending firms have an incentive to engage in the practice of trade shredding with respect to orders sent to the Exchange—the Exchange believes that it is appropriate to implement a rule that would prohibit this type of inappropriate practice. Specifically, new Rule 18, in Article IX of the Exchange's Rules, would prohibit an Exchange participant from breaking customer orders into smaller multiple orders for the primary purpose of maximizing rebates or other payments to the participant without regard for the customer's interest.

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[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission has noted that the changes to the market data revenue formulas as a result of Regulation NMS were developed, at least in part, to respond to concerns relating to ''trade shredding.''

[4] Other self-regulatory organizations have submitted these types of rules in response to the Commission's request. *See e.g.,* NYSE Rule 123G (approved by Securities Exchange Act Release No. 52683 (October 26, 2005), 70 FR 66480 (November 2, 2005)).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] 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 a national market system, and in general, to protect investors and the public interest by ensuring that Exchange participants, like participants in other markets, are prohibited from engaging in the practice of trade shredding.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CHX–2006–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2006–03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal offices of CHX. 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–CHX–2006–03 and should be submitted on or before April 6, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3806 Filed 3–15–06; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53439; File No. SR–ISE–2006–11]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to ISE Rule 1100(g) ''Exercise of Options Contracts''

March 7, 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 February 13, 2006, the International Securities Exchange, Inc. (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On March 3, 2006, the ISE filed Amendment No. 1 to the proposed rule change.[3] The ISE filed the proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] which renders it 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 ISE, pursuant to section 19(b)(1) of the Act[6] and Rule 19b–4 thereunder,[7] proposes to amend ISE Rule 1100(g) ''Exercise of Options Contracts'' to add two additional minutes within which one may deliver a contrary exercise advice (''CEA'')[8] or an Advice Cancel to the Exchange. The proposal is intended to conform ISE Rule 1100(g) to a recent change in the closing time for equity options and narrow-based index options

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 clarified that the Exchange is requesting that the Commission waive the 5-day pre-filing notice requirement and the 30-day operative delay period and made certain other minor clarifying changes.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] 15 U.S.C. 78s(b)(1).

[7] 17 CFR 240.19b–4.

[8] A CEA is a communication either to not exercise an option that would be automatically exercised pursuant to the Options Clearing Corporation's (''OCC'') Exercise-by-Exception (''Ex-by-Ex'') procedure, or to exercise an option that would not be automatically exercised pursuant to the OCC's Ex-by-Ex procedure.

from 4:02 p.m. to 4 p.m. (EST).[9] The text of the proposed rule change is available on the ISE's Web site (*http://www.iseoptions.com*), at the ISE's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed amendment to ISE Rule 1100(g) is to change the time for delivering a CEA or Advice Cancel to conform to the new trading hours for equity options and narrow-based index options.

The Exchange recently submitted a proposed rule change to amend ISE Rule 700 to modify the close of the normal trading hours in options on individual stocks and options on narrow-based indexes from 4:02 p.m. to 4 p.m. (EST).[10] However, that filing did not address the change that is the subject of the instant filing. Specifically, the Exchange proposes to amend ISE Rule 1100(g) in order for the rule to be consistent with respect to the new hours of trading in equity options and narrow-based index options. Accordingly, the Exchange is proposing to change all references to 28 minutes in ISE Rule 1100(g) to 30 minutes to reflect the 2 minutes change in the closing time for options on individual stocks and options on narrow-based indexes. According to the Exchange, the proposed rule change, as amended, is based on a proposed rule change submitted by the Pacific Exchange, Inc., which was recently approved by the Commission.[11]

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act[12] in general, and furthers the objectives of section 6(b)(5) of the Act[13] in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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 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 ISE has neither solicited nor received comments on the proposed rule change, as amended.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date on which it was filed, 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[14] and Rule 19b–4(f)(6) thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6)[16] normally does not become operative prior to 30-days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The ISE has asked the Commission to waive the 30-day operative delay and the 5-day pre-filing requirement. The Commission believes that waiving the 30-day operative delay and the 5-day pre-filing requirement is consistent with the protection of investors and the public interest because such waiver will allow the ISE to immediately clarify its rule and conform it to the industry-wide close of trading times now in effect. Accelerating the operative date will allow for a more efficient and effective market operation by offering clarity and internal consistency with existing ISE rules. For these reasons, the Commission designates the proposed rule change, as amended, as effective and operative immediately upon filing with the Commission.[17]

At any time within 60-days after the filing of the amended proposed rule change, the Commission may summarily abrogate the 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.[18]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–ISE–2006–11 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–ISE–2006–11. This file number should be included on the

[9] *See* Securities Exchange Act Release No. 53248 (February 7, 2006), 71 FR 8015 (February 15, 2006) (approving SR–ISE–2005–58, which amended ISE Rule 700, so that equity options and narrow-based index options may trade until 4 p.m. instead of 4:02 p.m. (EST)).

[10] *See* Securities Exchange Act Release No. 53248 (February 7, 2006), 71 FR 8015 (February 15, 2006) (order granting accelerated approval of SR–ISE–2005–58).

[11] *See* Securities Exchange Act Release No. 53249 (February 7, 2006), 71 FR 8035 (February 15, 2006) (order granting accelerated approval of SR–PCX–2005–138).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] *Id.*

[17] For the purposes only of waiving the 30-day operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] The effective date of the original proposed rule change is February 13, 2006 and the effective date of the amendment is March 3, 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 March 3, 2006, the date on which the Exchange submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2006–11 and should be submitted on or before April 6, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3788 Filed 3–15–06; 8:45 am]

BILLING CODE 8010–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53428; File No. 4–514]

Self-Regulatory Organizations; Notice of Filing of Proposed Minor Rule Violation Plan by The Nasdaq Stock Market LLC

March 7, 2006.

Pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19d–1(c)(2) thereunder,[2] notice is hereby given that on February 22, 2006, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') copies of a proposed minor rule violation plan (''MRVP'') specifying those uncontested minor rule violations with sanctions not exceeding $2,500 which would not be subject to the provisions of Rule 19d–1(c)(1) under the Act[3] requiring that a self-regulatory organization promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.[4] In accordance with paragraph (c)(2) of Rule 19d–1 of the Act, Nasdaq proposes to designate certain specified rule violations as minor rule violations, and requests that it be relieved of the reporting requirements regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis. Nasdaq proposes to include in its proposed MRVP the policies and procedures currently included in Nasdaq Rule 9216(b) (''Procedure for Violations Under Plan Pursuant to SEC Rule 19d–1(c)(2)'') and the rule violations currently included in Nasdaq Rule IM–9216 (''Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d–1(c)(2)'').[5]

According to Nasdaq's proposed MRVP, under Rule 9216(b) and IM–9216, Nasdaq or the Nasdaq Review Counsel may impose a fine (not to exceed $2,500) and/or a censure on a member or an associated person with respect to any rule listed in IM–9216. If the person against whom the fine or censure is imposed does not dispute the violation, the Department of Enforcement or the Department of Market Regulation may prepare and request that such person execute a minor rule violation plan letter.[6] In such a letter, the member or associated person accepts a finding of violation, consents to the imposition of sanctions, and agrees to waive the right to a hearing before a Hearing Panel (or, if applicable, an Extended Hearing Panel), any right of appeal to the Nasdaq Review Council, the Commission, or the courts, and any other challenge to the validity of the letter. The letter will describe the act or practice engaged in or omitted, the rule, regulation, or statutory provision violated, and the sanction or sanctions to be imposed.[7]

If a member or associated person executes a minor rule violation plan letter, the letter shall be submitted to the Nasdaq Review Council. The Office of Disciplinary Affairs may accept such letter or refer it to the Nasdaq Review Council for acceptance or rejection. Similarly, the Review Subcommittee of the Nasdaq Review Council may accept or reject such letter or refer it to the Nasdaq Review Council for acceptance or rejection. If the letter is rejected, Nasdaq may take any other appropriate disciplinary action with respect to the alleged violation or violations.

Nasdaq proposed that the quarterly report of actions taken on minor rule violations under Rule 9216(b) and IM–9216 would list for each violation: Nasdaq's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the number of times the rule violation has occurred and the date of disposition.[8]

The following Nasdaq rule violations currently are included in Rule 9216(b) and IM–9216: Rules 2210, 2211, IM–2210–1 and 2210–4 (Communications with the public); Rule 3360 (Failure to timely file reports of short positions on Form NS–1); Rule 3110 (Failure to keep and preserve books, accounts, records, memoranda, and correspondence in conformance with all applicable laws, rules, regulations and statements of policy promulgated thereunder, and with the Rules of Nasdaq); Rule 8211 (Failure to submit trading data as requested); Rule 1013 (Failure to timely submit amendments to Form BD); Rule 1031 (Failure to timely submit amendments to Form U4); Rule 1031 (Failure to timely submit amendments to Form U5); Rule 1120 (Failure to comply with the Firm Element of the continuing education requirements);

[1] 15 U.S.C. 78s(d)(1).

[2] 17 CFR 240.19d–1(c)(2).

[3] 17 CFR 240.19d–1(c)(1).

[4] The Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow self-regulatory organizations (''SROs'') to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. *See* Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with the Commission shall not be considered ''final'' for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

[5] On January 13, 2006, the Commission approved Nasdaq's application for registration as a national securities exchange, including the rules governing the Nasdaq exchange. Exchange Act Release No. 53128, 71 FR 3550 (January 23, 2006). In the approval order, the Commission noted that Nasdaq Rule 9216(b) and IM–9216 provided for the imposition of fines for minor rule violations pursuant to a minor rule violation plan. Accordingly, the Commission noted that as a condition to the operation of the Nasdaq Exchange, Nasdaq must file a minor rule violation plan with the Commission.

[6] Consistent with Nasdaq's rules, Nasdaq noted in its submission to the Commission that the Department of Enforcement, the Department of Market Regulation, and the Office of Disciplinary Affairs will be comprised of NASD Regulation, Inc. (''NASDR'') staff acting on behalf of Nasdaq pursuant to Nasdaq's contractual arrangement with NASDR. *See* Nasdaq Rule 9001 and Nasdaq Rule 9120(f), (g) and (x).

[7] Nasdaq attached a sample form of a minor rule violation letter with its submission to the Commission.

[8] Nasdaq attached a sample form of the quarterly report with its submission to the Commission.

Rule 3010(b) (Failure to timely file reports pursuant to the Taping Rule); Rule 3070 (Failure to timely file reports); Rule 4619(e) (Failure to timely file notifications pursuant to SEC Regulation M); Rules 6954 and 6955 (Failure to submit data in accordance with the Order Audit Trail System); Rule 11870 (Failure to abide by Customer Account Transfer Contracts); SEC Exchange Act Rule 604 (Failure to properly display limit orders); SEC Exchange Act Rule 602(b)(5) (Failure to properly update published quotations in certain Electronic Communication Networks); SEC Exchange Act Rule 17a–5 (Failure to timely file FOCUS reports and annual reports); and SEC Exchange Act Rule 17a–10 (Failure to timely file Schedule I). Nasdaq represented that modifications may be made to IM–9216. Nasdaq proposes that when amendments to IM–9216 are made pursuant to a rule filing submitted under Rule 19b–4 of the Act,[9] such a filing would automatically be deemed a request by Nasdaq for Commission approval of a modification to its MRVP.

I. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Nasdaq's proposed Minor Rule Violation Plan, including whether the proposed plan 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/other.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number 4–514 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090. All submissions should refer to File Number 4–514. 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/other.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan that are filed with the Commission, and all written communications relating to the proposed plan 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. 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 4–514 and should be submitted on or before April 6, 2006.

II. Date of Effectiveness of the Proposed Minor Rule Violation Plan and Timing for Commission Action

Pursuant to Section 19d–1 of the Act and Rule 19d–1(c)(2) thereunder,[10] after April 6, 2006, the Commission may, by order, declare Nasdaq's proposed Minor Rule Violation Plan effective if the plan is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act. The Commission in its order may restrict the categories of violations to be designated as minor rule violations and may impose any other terms or conditions to the proposed Minor Rule Violation Plan, File No. 4–514, and to the period of its effectiveness which the Commission deems necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3809 Filed 3–15–06; 8:45 am]

BILLING CODE 8010–01–P

[9] 17 CFR 240.19b–4.

[10] 15 U.S.C. 78s(d)(1) and 17 CFR 240.19d–1(c)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53440; File No. SR–NASD–2006–020]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Odd Lot Transactions in the Nasdaq Market Center

March 8, 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 February 6, 2006, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), 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 Nasdaq. On February 27, 2006, NASD filed Amendment No. 1 to the proposed rule change.[3] The NASD filed the proposal, as amended, pursuant to section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to amend Rule 4706(d) to permit ITS/CAES Market Makers to enter orders in increments less than 100 shares. Nasdaq expects to implement the proposed rule change, as amended, on March 27, 2006.[6]

The text of the proposed rule change is below. Proposed new language is *in italics*; proposed deletions are in brackets.[7]

* * * * *

4706 Order Entry Parameters

(a)–(c) No Change.

(d) Order Size—

(1) [In Nasdaq-listed securities, a] *A*ny order in whole shares up to 999,999 shares may be entered into the Nasdaq Market Center for normal execution processing.

(2) [Orders in ITS Securities must be entered for a minimum of one round lot,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Partial Amendment dated February 27, 2006 (''Amendment No. 1''). In Amendment No. 1, Nasdaq clarified the rationale behind the proposed rule change.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] Originally, Nasdaq stated that it would implement the proposed rule change on March 6, 2006. Later, the implementation date was changed to March 27, 2006. Telephone conversation between Jeffrey Davis, Associate Vice President, Nasdaq, and Natasha Cowen, Attorney, Division of Market Regulation, Commission, on March 7, 2006.

[7] Changes are marked to the rule text that appears in the electronic NASD Manual found at *http://www.nasd.com.* Prior to the date when The NASDAQ Stock Market LLC (''NASDAQ LLC'') commences operations, NASDAQ LLC will file a conforming change to the rules of NASDAQ LLC approved in Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131).

or in round lot multiples, or in mixed lots.] Orders in ITS Securities will be delivered to ITS Exchanges in round lots only.

(e) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq 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

Nasdaq proposes to amend Rule 4706(d) to permit ITS/CAES Market Makers to enter orders in increments less than 100 shares. This functionality has been available for several years and is widely utilized in the trading of Nasdaq-listed securities. Nasdaq has not previously made this functionality available for the trading of ITS Securities due to the limitation in the Intermarket Trading System (''ITS'') that prohibits the sending of commitments in increments smaller than 100 shares. Nasdaq has identified a method for permitting Nasdaq participants to enter trading interest into the Nasdaq Market Center in odd-lot increments and for the Nasdaq Market Center to execute transactions in odd-lot increments while leaving undisturbed the ITS limitation requiring participation in round-lot multiples.[8] In other words, Nasdaq will program its own system to use both round lots and odd lots, and continue to comply with this ITS restriction by programming its system not to send ITS commitments in increments smaller than 100 shares.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of section 15A of the Act,[9] in general, and with section 15A(b)(6) 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, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended, does not:

(1) Significantly affect the protection of investors or the public interest;

(2) Impose any significant burden on competition; and

(3) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19b(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] As required under Rule 19b–4(f)(6)(iii) under the Act,[13] the Nasdaq provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change.

At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate the 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.[14]

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–NASD–2006–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2006–020. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comment more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. 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–NASD–2006–020 and should be submitted on or before April 6, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Nancy M. Morris,

Secretary.

[FR Doc. 06–2543 Filed 3–15–06; 8:45 am]

BILLING CODE 8010–01–P

[8] *See* Amendment No. 1

[9] 15 U.S.C. 78o–3.

[10] 15 U.S.C. 78o–3(b)(6).

[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] For purposes of calculating the 30-day operative delay and the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on February 27, 2006, when Amendment No. 1 was filed.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53455; File No. SR–OCC–2005–22]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Allocations Processing

March 8, 2006.

I. Introduction

On December 13, 2005, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–OCC–2005–22 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on January 30, 2006.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

The proposed rule change relates to new Rule 405, ''Allocations,'' which governs the processing of post-trade allocation instructions by clearing members. OCC installed a new system to process post-trade allocation instructions in January 2006, and in order to accommodate the immediate use of the allocation system for commodity contracts cleared by OCC that are subject to the exclusive jurisdiction of the Commodity Futures Trading Commission (''CFTC''), OCC adopted Rule 405 by submitting File No. SR–OCC–2005–21 for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act.[3] OCC included Interpretation and Policy .02 to Rule 405 to provide that the new system could not be used for positions in contracts which are subject to the Commission's jurisdiction (*i.e.*, securities options or security futures) until the Commission issued an order approving the use of Rule 405 and the new system for processing post-trade allocations with respect to such positions. The purpose of the proposed rule change is to obtain such Commission approval and to delete Interpretation and Policy .02 to Rule 405.

The new allocation system and Rule 405 provide clearing members with a centralized system for processing allocation or ''give-up'' instructions across all exchanges for which OCC provides clearing services. Allocations are post-trade instructions entered by one clearing member (*i.e.*, an authorized ''executing'' or ''giving-up'' clearing member) that direct OCC to move a transaction or position to the account of another clearing member (*i.e.*, the ''carrying'' or ''given-up'' clearing member).

Post-trade allocations of securities options have been processed through OCC's Clearing Member Trade Assignment (''CMTA'') functionality, which normally causes a transaction to automatically be moved into an account of the carrying clearing member so long as the executing and carrying clearing members have an effective CMTA arrangement registered with OCC for the exchange submitting the matching trade information for that transaction.[4] Under the new allocation system, clearing members will be able to elect either to continue to use the existing CMTA system or to use the new allocation system for securities options.

Most post-trade allocations of commodity futures cleared through OCC have been processed through The Clearing Corporation's (''CCorp'') ''give-up'' system, which requires the given-up clearing member to affirmatively accept a transaction.[5] OCC's new allocation system has enabled clearing members to process commodity futures ''give-ups'' without going through the CCorp system.

New Rule 405 currently governs the processing of allocation instructions for contracts subject to the exclusive jurisdiction of the CFTC. As amended by this proposed rule change, Rule 405 will operate in the same fashion for contracts subject to the Commission's jurisdiction. Transactions will first clear in the designated account of the giving-up clearing member. Instructions to allocate positions may be submitted either through an exchange's system for providing matching trade information to OCC or through OCC's clearing system, ENCORE. In either case, if the given-up and giving-up clearing members are parties to an allocation agreement that has been registered with OCC, OCC will automatically allocate the positions resulting from an allocation instruction to a designated account of the given-up clearing member without further action by the clearing members.[6] If the clearing members are not parties to a registered allocation agreement, OCC will not effect the allocation instruction until the given-up clearing member gives OCC notice of its affirmative acceptance of the allocated positions. (In contrast, the CMTA system does not allow for acceptance of allocated positions without a registered CMTA agreement.) If the given-up clearing member does not give OCC notice of such acceptance by an OCC-specified deadline, the allocation instruction will not be processed, and the positions will remain in the account of the giving-up clearing member, which will remain responsible for the positions.

A given-up clearing member will be responsible for appropriately allocated positions. Given-up positions are moved to the given-up clearing member's account at the premium price in the case of options or at the contract price in the case of futures at which the positions were established by the executing clearing member. Positions that are allocated on an intraday basis will not be reflected in position reports until the following business day. However, OCC will take those positions into account in processing any intraday settlements authorized by its By-laws and Rules, including intraday margin settlements. A given-up clearing member may enter an instruction to reverse an allocation that was accepted in error. If the given-up and giving-up clearing members are parties to a registered allocation agreement, the reversing instruction will be automatically processed. If the clearing members are not parties to a registered allocation agreement, the reversing instruction must be affirmatively accepted by the original giving-up clearing member.

Allocation instructions may be for a single position (*i.e.*, a position in a given series established at a single price) or for a group of positions (*i.e.*, positions in the same series established at different prices). Allocation instructions for grouped positions must be submitted through ENCORE. For single positions, the instruction must identify the contract quantity, series, and price as specified in the matching trade information. For grouped positions, the allocation instruction must provide the same information, but the price may be an average price if not prohibited under exchange rules and applicable law.[7] For

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 53150 (January 19, 2006), 71 FR 4953.

[3] Securities Exchange Act Release No. 53151 (January 19, 2006), 71 FR 4951 (January 30, 2006).

[4] OCC Rule 403.

[5] OCC Rule 404.

[6] Unlike CMTAs, clearing members will not be required to register their allocation arrangement by exchange.

[7] Average pricing is permitted under the Commodity Exchange Act in certain circumstances. In those circumstances, a clearing member may instruct OCC to use the average price in clearing and settling the trades. Clearing members have requested that OCC provide functionality that would also permit positions in securities options and security futures to be allocated at an average price. Accordingly, OCC has developed its

the convenience of clearing members, OCC's system will produce a suggested average price for grouped allocations that clearing members may adopt for purposes of processing the instruction.

Registration of allocation agreements may be terminated either by mutual agreement or unilaterally. Mutually terminated registrations will be effected immediately in OCC's system. Unilaterally terminated registrations will be terminated in OCC's system effective as of 8 a.m. CST the business day after the termination notice is received by OCC and the other clearing member. These are the same standards currently applied to terminating CMTA arrangements under OCC Rule 403. Following termination of registration of an allocation agreement, an allocated position may be allocated to a given-up clearing member only upon its affirmative acceptance.

III. Discussion

Section 17A(b)(3)(F) of the Act provides that the rules of a clearing agency should be designed to promote the prompt and accurate clearance and settlement of securities transactions. OCC's rules permitting allocation of clearing member positions are designed to ensure that positions are carried in the appropriate clearing member account at OCC. The new allocation service offered under Rule 405 is designed to improve upon and add efficiencies to OCC's existing CMTA functionality for allocating post-trade instructions by centralizing and further automating post-trade allocations. Although OCC designed the new allocation system to be an improvement upon its current system, clearing members may choose to continue using the CMTA functionality. Accordingly, because the proposed rule change is designed to enhance OCC's service offerings and to provide efficiencies to clearing members, the Commission finds that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2005–22) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Nancy M. Morris,

Secretary.

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BILLING CODE 8010–01–P

allocation system to accommodate the use of such prices for security options and security futures, provided that such use does not violate exchange rules or applicable law.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53462; File No. SR–Phlx–2005–70]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Deletion of Phlx Rule 454

March 9, 2006.

On November 9, 2005, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] to delete Phlx Rule 454, ''Limitations on Members'' Trading Because of Options, etc.'' The proposed rule change was published for comment in the **Federal Register** on February 6, 2006.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

The Phlx proposes to delete Phlx Rule 454, which prohibits a member, while on the floor, from initiating the purchase or sale of a security on the Exchange for the member's own account or a related account if the member or a related account holds or has granted an over-the counter option on the security. The Phlx notes that it adopted Phlx Rule 454 in 1935.[4]

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Commission believes that the deletion of Phlx Rule 454 is consistent with Section 6(b)(5) of the Act because the Phlx now has in place comprehensive surveillance and oversight procedures designed to monitor trading in options and their underlying securities.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–Phlx–2005–70) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3804 Filed 3–15–06; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 53188 (January 30, 2006), 71 FR 6122.

[4] *See* Securities Exchange Act Release No. 13016 (November 29, 1976), 41 FR 53383 (December 6, 1976) (order approving File No. SR–Phlx–76–15) (amending Phlx Rule 454 to permit a Phlx member to trade an underlying security on the Phlx if the member has purchased or sold a listed option on the underlying security).

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written

comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974.

(SSA) Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

1. *Disability Report-Appeal—20 CFR 404.1512, 416.912, 404.916(c), 416.1416(c)—0960–0144*. The SSA–3441–BK is used to secure updated resource and condition information from claimants seeking reconsideration of denied disability benefits. The claimant also has the option of providing the information during a personal interview or through SSA's Internet application. This information assists the State Disability Determination Services and administrative law judges in preparing for appeals and hearings and in issuing a decision. Respondents are individuals who appeal denial of Social Security disability income and Supplemental Security Income (SSI) benefits, cessation of benefits, or who are requesting a hearing.

Type of Request: Extension of an OMB-approved information collection.

Collection method	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden
SSA–3441 (Paper Form)	404,506	1	30	202,253
Electronic Disability Collection System (EDCS)	635,873	1	30	317,937
I3441 (Internet Form)	72,341	1	60	72,341
Totals	1,112,720			592,531

Estimated Annual Burden: 592,531 hours.

2. *Third Party Liability Information Statement—42 CFR 433.136–433.139—0960–0323*. Identification of sources of third party insurance liable for medical care or services for Medicaid beneficiaries, which could be used to reduce Medicaid costs, is required under 42 U.S.C. 1396a(a)(25). Medicaid State agencies are mandated under 42 CFR 433.136–.139 to obtain this information on Medicaid applications and redeterminations as a condition of Medicaid eligibility. States are permitted to enter into agreements with the Commissioner of Social Security to make Medicaid eligibility determinations for aged, blind and disabled beneficiaries in those States. Applications for and redeterminations of SSI eligibility in jurisdictions with such agreements are also applications and redeterminations of Medicaid eligibility. Under these agreements, SSA obtains third party liability information using form SSA–8019 and provides that information to the State agencies which provide Medicaid under the terms of an approved plan in Title XIX of the Social Security Act. The Medicaid State agencies then use the information provided to attempt to bill any third parties liable for medical care, support or services for a beneficiary to guarantee that Medicaid remains the payer of last resort. The respondents are SSI applicants and beneficiaries.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 73,540.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 6,128 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Report to U.S. SSA by Person Receiving Benefits for a Child or Adult Unable to Handle Funds; & Report to U.S. SSA—0960–0049.* SSA needs the information on Form SSA–7161–OCR–SM to monitor the performance of representative payees outside the U.S and the information on Form SSA–7162–OCR–SM to determine continuing entitlement to Social Security benefits and correct benefit amounts for beneficiaries outside the U.S. The respondents are individuals outside the U.S. who are receiving benefits either for someone else, or on their own behalf, under title II of the Social Security Act.

Type of Request: Revision of an OMB-approved information collection.

Form number	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden
SSA–7161–OCR–SM	30,000	1	15	7,500
SSA–7162–OCR–SM	227,000	1	5	18,917
Totals	257,000			26,417

Estimated Annual Burden: 26,417 hours.

2. *Application for a Social Security Card—20 CFR 422.103–.110—0960–0066*. Forms SS–5 (used in the United States) and SS–5–FS (used outside the United States) are used to apply for original and replacement Social

Security cards. Changes are being made to these forms to reflect new statutory limits on the number of allowable replacement cards. The respondents are requestors of new or replacement Social Security cards.

Note: This Notice is for the full clearance of the collection, which received a temporary emergency clearance through April 2006.

Application scenario	Number of annual respondents	Completion time (minutes)	Burden hours
Respondents who do not have to provide parents' SSNs	13,000,000	8½	1,841,667
Respondents who are asked to provide parents' SSNs (for application for original SSN cards for children under age 18)	540,000	9	81,000
Applicants age 12 or older who need to answer additional questions so SSA can determine whether an SSN was previously assigned	40,000	9½	6,333
Applicants asking for a replacement SSN card beyond the new allowable limits (i.e., who must provide additional documentation to accompany the application)	4,000	60	4,000
Totals	13,584,000		1,933,000

3. *Work Activity Report—Employee—20 CFR 404.1520(b), 404.1571–.1576, 404.1584–.1593, and 416.971–.976—0960–0059.* Form SSA–821–BK collects information that provides evidence necessary to determine initial or continuing eligibility for SSI or Social Security disability benefits. An individual's entitlement to benefits ends if he/she demonstrates an ability to perform substantial gainful activity (SGA). This form is used to determine whether work an individual performs in employment is at the SGA level. The respondents are Social Security disability applicants and beneficiaries and SSI applicants and recipients.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 300,000.

Frequency of Response: 1.

Average Burden Per Response: 45 minutes.

Estimated Annual Burden: 225,000 hours.

Dated: March 9, 2006.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E6–3797 Filed 3–15–06; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Department of the Treasury, Bureau of the Public Debt (BPD))—Match 1304

AGENCY: Social Security Administration (SSA).

ACTION: Notice of an amended computer matching program, which is expected to begin April 11, 2006.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces an amendment to the computer matching program that SSA conducts with BPD.

DATES: SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 965–8582 or writing to the Associate Commissioner, Office of Income Security Programs, 252 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Income Security Programs as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records.

It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Publish notice of the computer matching program in the **Federal Register;**

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: March 9, 2006.

Martin H. Gerry,

Deputy Commissioner for Disability and Income Security Programs.

NOTICE OF COMPUTER MATCHING PROGRAM, SOCIAL SECURITY ADMINISTRATION (SSA) WITH THE BUREAU OF THE PUBLIC DEBT (BPD)

A. PARTICIPATING AGENCIES:

SSA and BPD.

B. PURPOSE OF THE MATCHING PROGRAM:

The purpose of this matching program is to establish conditions under which BPD agrees to disclose to SSA ownership of savings securities to verify an individual's self-certification of eligibility for prescription drug subsidy assistance under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA). Pursuant to section 1860D–14 of Title I of the MMA (42 U.S.C. 1395w–114), SSA will determine whether the individual is an individual described in section 1860D–14(a) (i.e., an individual with income up to 150 percent of the Federal poverty guidelines). This agreement allows SSA to conduct the match on an annual basis.

C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

The legal authority for SSA to conduct this matching activity is contained in section 1860D–14 (42 U.S.C. 1395w–114) of the Social Security Act.

D. CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCHING PROGRAM:

SSA will provide the BPD with a finder file containing Social Security Numbers (SSNs) extracted from the Medicare database, as specified in this Agreement, from the Medicare file of Part D subsidy eligibles, SSA/ORSIS 09–60–0090, as published at 66 FR 11080 (February 21, 2001) and amended at 69 FR 11693 (March 11, 2004). BPD will match the SSNs on the finder file with the SSNs on its savings-type securities (Series E, EE, and I) registration systems. These records are included under the systems of records Treasury/BPD.002, United States Savings Type Securities, and Treasury/BPD.008, Retail Treasury Securities Access Application, last published on May 22, 2001 at 66 FR 28225 and 28235, respectively. SSA will then match BPD data with the Medicare Part D and Part D Subsidy File System of Record 60–0321.

E. INCLUSIVE DATES OF THE MATCHING PROGRAM:

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. E6–3794 Filed 3–15–06; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Centers for Medicare and Medicaid Services (CMS) Match Number 1076)

AGENCY: Social Security Administration (SSA).

ACTION: Notice of renewal of an existing computer matching program which is scheduled to expire on April 17, 2006.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces the renewal of an existing computer matching program that SSA is currently conducting with CMS.

DATES: SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The renewal of the matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 965–8582 or writing to the Associate Commissioner for Income Security Programs, 245 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Income Security Programs as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub L. 100–503) amended the Privacy Act (5 U.S.C. 552a) by establishing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: March 8, 2006.

Martin H. Gerry,

Deputy Commissioner for Disability and Income Security Programs.

NOTICE OF COMPUTER MATCHING PROGRAM, SOCIAL SECURITY ADMINISTRATION (SSA) WITH THE CENTERS FOR MEDICARE AND MEDICAID SERVICES (CMS)

A. PARTICIPATING AGENCIES

SSA and CMS.

B. PURPOSE OF THE MATCHING PROGRAM

The purpose of this matching program is to identify Supplemental Security Income (SSI) recipients and Special Veterans' Benefits (SVB) beneficiaries who have been admitted to certain public institutions. The program will thereby facilitate benefit reductions required under certain provisions of title XVI of the Social Security Act (the Act) for individuals in such institutions and benefit terminations required under certain provisions of title VIII of the Act for individuals no longer residing outside the United States.

C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM)

Sections 1611(e)(1)(A) and (B), 1631(f), 801 and 806(a) and (b) of the Social Security Act (42 U.S.C. 1382(e)(1)(A) and (B), 1383(f), 1001 and 1006(a) and (b)); 20 CFR 416.211. Routine Use Number 19, effective 1/6/95, allows disclosure to Federal, state or local agencies for administering cash or non-cash income maintenance or health maintenance programs.

D. CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCHING PROGRAM

On the basis of certain identifying information regarding SSI and SVB applicants, recipients, and beneficiaries, as provided by SSA to CMS, CMS will provide SSA with electronic files containing skilled nursing facility admission and billing data from its Long-Term Care Minimum Data Set, LTC/MDS 09–70–1516, system of records. SSA will then match the CMS data with SSI and SVB payment information maintained in the Supplemental Security Income Record and Special Veterans Benefits, SSA/ODSSIS 60–0103, system of records.

E. INCLUSIVE DATES OF THE MATCHING PROGRAM

The matching program shall become effective no sooner than 40 days after notice for the program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The

matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. E6–3796 Filed 3–15–06; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5344]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Benjamin Franklin Transatlantic Fellows Initiative: Summer Institute for Youth

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–06–49.

Catalog of Federal Domestic Assistance Number: 00.000.

DATES: *Key Dates: Application Deadline:* April 27, 2006.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs (ECA) announces an open competition for the Summer Institute for Youth, a project under the Benjamin Franklin Transatlantic Fellows Initiative. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3), including accredited, post-secondary U.S. educational institutions, may submit proposals to provide a three-week U.S.-based institute in the summer of 2006 for up to 40 teenagers aged 16–19 from Europe, Eurasia, and the United States focused on civic education, leadership development, and community activism as a way to unite young adults across the Atlantic Ocean. Please note: Funding for this program will be provided from FREEDOM Support and SEED Act transfers. This program will be funded pending the successful transfer of funds to ECA.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program is provided through the Support for East European Democracy (SEED) Act (1989) and the FREEDOM Support Act (FSA) legislation of 1992.

Overview: The Benjamin Franklin Transatlantic Fellows Initiative aims to foster relationships among the younger generation of Europeans and Americans in order to advance the global freedom agenda, to serve as a basis to build strong links and awareness of shared values, and to enable youth to face together the challenges of global circumstances in the 21st Century. The initiative is named after the legendary American statesman and diplomat in honor of the inspiration his own life and career provides those who want to increase transatlantic cooperation.

The Benjamin Franklin Transatlantic Fellows Initiative: Summer Institute for Youth will enable teenagers (ages 16–19) to participate in an intensive, three-week exchange program in the United States that focuses on the global issues that European and American youth face on both sides of the Atlantic Ocean. Participants will be engaged in a variety of activities such as training sessions, workshops, community and/or school-based programs, and cultural events. Participants will work together to prepare a joint project that presents and promotes the Institute's stated goals and objectives.

Goals: The goals of the Transatlantic Fellows Program are (1) to develop a sense of civic responsibility and a commitment to transatlantic cooperation among youth; (2) to foster relationships among youth from different ethnic, religious, and national groups; (3) to promote mutual understanding between the United States and Europe/Eurasia; and (4) to develop a cadre of youth leaders who will share their knowledge and skills with their peers through positive action.

With the specific focus of this Institute, the following outcomes will indicate a successful project:

- Participants will work together to identify and overcome misunderstanding or lack of understanding among nations both during the Institute and after they return to their homes.
- Participants will develop critical thinking skills that will enable them to judge how effectively various media convey factual information to present accurate images of diverse cultures.
- Participants will demonstrate a better understanding of U.S.-Europe relations and issues.
- Participants will gain an understanding of the roles of the media and public perceptions in diplomacy.

Theme: In today's terms, Benjamin Franklin could be called a transatlantic man, someone whose career, interests, studies and life took him back and forth across the Atlantic Ocean, bringing Americans and Europeans closer in understanding. His life offers inspiration to young citizens of today in the effort to bridge the Atlantic, even 300 years later. As a diplomat and a printer, he leveraged the power of diplomacy and of the media to explore how Americans and Europeans see each other. This summer Institute will guide the participants to examine what Americans and Europeans need to know about each other to better communicate person to person, and to face the many challenges of the 21st Century together.

The Institute will also explore how young people interact with media, both as consumers and producers of information, and how freedom of expression imposes both rights and responsibilities on citizens. Increasingly young people have come to rely upon mass communication—the use of words, sounds, and images by a few to inform, educate, entertain and persuade the many—to learn about the world they inhabit. Mass media not only supplies factual information, it also expresses cultural preferences, promotes value systems, and fuels commerce through advertising and product placement. The program should provide the participants with a new perspective on their learning, networking, U.S.-Europe perceptions of each other, the communities they live in, and the broader media culture.

Who: The participants will be up to 40 students ages 16–19 from Europe, Eurasia, and the United States. One or two students will come from each participating country, except for the United States, which will have up to ten representatives. We expect that eight participants will represent SEED countries and 12 will represent FSA countries (see POGI for lists). U.S. Embassies will screen and select the overseas participants from a pool of students with whom they have contact. All countries of Europe and Eurasia will be eligible to nominate participants; the State Department will be responsible for the final selection of participants and the countries they will represent. U.S. Embassies will arrange and pay for the Europeans' international travel to and from the United States (see details in the POGI). The grant recipient will be

responsible for recruiting and selecting the U.S. participants. All students must be able to participate fully in English.

The grant recipient should also arrange for highly qualified mentors at a ratio of six students to one mentor. Mentors may serve as trainers as appropriate. The delegation should have an adult accompany them on transatlantic flights, and adult staff should be available to support the participants during the course of the Institute.

When: Applicants should propose a three-week U.S. institute that will take place between June and August 2006.

Where: The Institute will take place on a U.S. university or college campus or at a similar venue. Ideally, the venue selected will be on or near a campus with a European Studies center. Students will be housed together at a dormitory on campus, as staying together will facilitate regional cooperation on the project and training. The Bureau strongly encourages weekend homestays or home hospitality to ensure that participants get a taste of typical American family life.

A study trip should be planned to Philadelphia to visit key Benjamin Franklin commemorative sites and events. See the Benjamin Franklin Tercentenary Web site: *http://www.benfranklin300.org* The Institute may take place in one or two communities (including or in addition to the Philadelphia study trip) and should offer the participants exposure to the variety of American life.

What: The program should focus primarily on the exploration of global issues through interactive activities, practical experiences, and other hands-on opportunities, through which the participants will learn more about democratic practices, volunteer service, conflict resolution, critical thinking, tolerance and respect for diversity, and youth leadership. All programming should include additional American participants wherever possible. Cultural and recreational activities will balance the schedule.

A. Training and Joint Project

Before and during the Institute, students will gather information on Americans' views of Europeans and on Europeans' views of the United States about one or two areas of common or global interest, such as sustainable development, inter-ethnic cooperation, or world poverty. They will also identify and address stereotypes they hold of others. The students will gather information via the Internet and various forms of the media, through interviews with ordinary citizens and experts—including academics and diplomats—and by other methods, such as designing and conducting a survey. Students will focus on attitudes of their contemporaries and those closely linked, such as teachers or family members.

Training will focus on developing a critical reading of printed, broadcast, and electronic media. The students should increase their awareness of the levels of communication in news and popular media, to be able to judge the content and accuracy for themselves. The objective of this training is to enable them to gather the information needed to create the materials for the project described below. Training will cover communication skills, problem solving, and team building.

Finally, students will design simple educational materials, an outreach campaign, a newsletter, or another type of project (for example, an Internet based project linking selected American and European schools/students with each other).

B. Community Service

The participants will take part in at least one community service activity during the U.S. program to demonstrate American volunteerism. The program should provide context for the participants to undertake the service activity—identifying community needs, the nature of volunteerism, charitable giving, etc.—and a debriefing so that the service activity is not an isolated event and to help participants see how they could apply the experience at home.

In addition to this community service, the participants reach out to American youth by presenting and testing the educational materials described above to young American audiences, such as students in summer school or in another organized summer activity. Upon their return home, European participants will develop, test, and present the materials with young audiences in their home countries.

Applicant organizations must demonstrate their capacity for doing projects of this nature, focusing on three areas of competency: (1) Provision of programs that address the goals and themes outlined in this document; (2) age-appropriate programming for youth; and (3) previous experience in working in Europe and/or Eurasia. Applicant organizations should be able to help U.S. embassies support follow-on activities for the alumni of the U.S.-based Institute.

The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. The Bureau also reserves the right to renew this grant in future years contingent upon the successful performance of the grant recipient and the availability of funding.

Guidelines: Pending the transfer and availability of funds, the grant will begin on or about June 5, 2006. The grant period will be 10 to 12 months in duration, as appropriate.

The grant recipient will be responsible for the following:

- Recruitment, screening, and selection of American participants.
- Designing and planning of activities in the United States that provide a substantive program that promotes transatlantic dialogue, critical thinking, democracy and tolerance, media analysis, leadership development, civic education, and community service. Some activities should be school and/or community-based, as feasible, and the projects will involve as much interaction with American peers, even beyond those directly participating in the Institute, as possible.
- Logistical arrangements, home-stay arrangements (as appropriate) and/or other accommodation, disbursement of stipends/per diem, local travel, and travel between sites.
- Follow-on activities in the participants' home countries designed to reinforce the ideas, values, and skills imparted during the U.S. program.

Proposals must demonstrate how the stated objectives will be met. The proposal narrative should provide detailed information on the major program activities, and applicants should explain and justify their programmatic choices. Programs must comply with J–1 visa regulations for the International Visitor category. Please be sure to refer to the complete Solicitation Package—this RFGP, the Project Objectives, Goals, and Implementation (POGI), and the Proposal Submission Instructions (PSI)—for further information.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: 2006.

Approximate Total Funding: $171,750.

Approximate Number of Awards: One.

Anticipated Award Date: June 5, 2006. (Pending the transfer of funds to ECA).

Anticipated Project Completion Date: 10–12 months after start date, to be specified by applicant based on project plan.

III. Eligibility Information

III.1. *Eligible applicants:* Applications may be submitted by public and private

non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. *Cost Sharing or Matching Funds:* There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs that are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. *Other Eligibility Requirements:* (a.) Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding a grant in an amount over $60,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. *Contact Information to Request an Application Package:* Please contact the Youth Programs Division (ECA/PE/C/PY), Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone (202) 203–7505, Fax (202) 203–7529, E-mail: *LantzCS@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number (ECA/PE/C/PY–06–49) located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document, which consists of required application forms and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria, and budget instructions tailored to this competition.

Please specify Bureau Program Officer Carolyn Lantz and refer to the Funding Opportunity Number located at the top of this announcement on all other inquiries and correspondence.

IV.2. *To Download a Solicitation Package Via Internet:* The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm,* or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. *Content and Form of Submission:* Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Submission Dates and Times section'' below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 form that is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. *Adherence to All Regulations Governing the J Visa:* The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should explicitly state in writing that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.*, including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–

2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547. Telephone: (202) 203–5029. Fax: (202) 453–8640.

IV.3d.2. *Diversity, Freedom and Democracy Guidelines:* Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. *Program Monitoring and Evaluation:* Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.
2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. Awards may not exceed the amounts specified. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Please refer to the other documents in the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. *Application Deadline and Methods of Submission: Application Deadline Date:* April 24, 2006. *Reference Number:* ECA/PE/C/PY–06–49.

Methods of Submission

Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov*.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 *Submitting Printed Applications:* Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place,

centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original, one fully-tabbed copy, and six copies of the application with Tabs A–E (for a total of 8 copies) should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY–06–49, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

Applicants must also submit the executive summary, proposal narrative, budget section, and any important appendices as e-mail attachments in Microsoft Word and Excel to the following e-mail address: *LantzCS@state.gov*. In the e-mail message subject line, include the name of the applicant organization and the partner country. The Bureau will transmit these files electronically to the Public Affairs Sections of the relevant U.S. Embassies for review.

IV.3f.2 *Submitting Electronic Applications*: Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Applicants have until midnight (12 a.m.) of the closing date to ensure that their entire applications have been uploaded to the grants.gov site. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

IV.3g. *Intergovernmental Review of Applications:* Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants) resides with the Bureau's Grants Officer.

Review Criteria

Please see the review criteria in the accompanying Project Objectives, Goals, and Implementation (POGI) document.

VI. Award Administration Information

VI.1a. *Award Notices:* Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 *Administrative and National Policy Requirements:* Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants.*

http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.

VI.3. *Reporting Requirements:* You must provide ECA with a hard copy original plus one copy of the following reports:

A final program and financial report no more than 90 days after the expiration of the award;

Interim reports, as required in the Bureau grant agreement.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. *Program Data Requirements:* Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all

persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three workdays prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Carolyn Lantz, Program Officer, Youth Programs Division (ECA/PE/C/PY), Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone (202) 203–7505, Fax (202) 203–7529, E-mail: *LantzCS@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–06–49.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 10, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E6–3835 Filed 3–15–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5343]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Youth Leadership Program on Free Expression

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–06–22.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: It is anticipated that the grant period would run approximately from Summer 2006 to Summer 2007, with two iterations of the U.S. project taking place in Fall 2006 and Spring 2007. Each U.S. project will be four weeks in length.

Application Deadline: May 8, 2006.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs (ECA) announces an open competition for the Youth Leadership Program on Free Expression. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to recruit and select youth and adult participants overseas and to provide the participants with two U.S.-based exchange projects on the first amendment with a focus on free expression. The core of the Youth Leadership Program on Free Expression is a twelve-day International Free Expression Institute funded and provided by the Freedom Forum and the Close Up Foundation, with which the grantee organization must partner on this program.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Program Information

Overview: The Youth Leadership Program on Free Expression enables youth (aged 15–18 with at least one year of high school remaining following the program), and adult educators/community leaders to participate in an intensive, thematic, month-long multi-regional project in the United States that will educate highly motivated international students and adults about the value of first amendment ideals and the importance of a free press and free expression in the development of democracies throughout the world. The 50 participants will be recruited from 3–5 countries in at least three of the following world regions: Central and South America, sub-Saharan Africa, Middle East and North Africa, South and Central Asia, the Caucasus, and Southeast Asia. Participants will travel in two groups of 25 to allow for more personalized programming. Participants will be engaged in a variety of activities such as workshops, community and/or school-based programs, cultural activities, seminars and other activities designed to achieve the project's stated goals and objectives. Opportunities for participants to interact with American youth and adult educators and community leaders will be included as much as possible.

The core of the Youth Leadership Program on Free Expression is the twelve-day International Free Expression Institute provided by the Freedom Forum and the Close Up Foundation, with which the grantee organization must partner on this program. This Institute is designed to teach the principles inherent in the first amendment of the U.S. Constitution, their values in society, and their application in a variety of settings. The Institute will take place in the Washington, DC area. Applicants must contact Tim Hair, the point person for the Institute, (phone: (703) 706–3491 or e-mail: *hairt@closeup.org*) for additional information.

The goals of the Youth Leadership Program on Free Expression are:

(1) To create a cadre of active and informed youth in emerging civil societies who are capable of making meaningful contributions to democratic processes. These young people will understand and embrace the value of first amendment ideals, will affect public debate and be civically engaged, and will be part of an international network of youth activists;

(2) To foster relationships among youth from different ethnic, religious, and national groups; and

(3) To promote mutual understanding between the United States and people of other countries.

Applicants should identify their own specific objectives and measurable outcomes based on these program goals and the project specifications provided in this solicitation.

Applicants must demonstrate their capacity for conducting programs of this nature, focusing on three areas of competency: (1) Provision of programs aimed at achieving the goals and themes outlined in this document; (2) age-appropriate programming for youth; and (3) previous experience in working with the proposed countries.

Applicants need to have the necessary capacity in the geographic areas from which participants will be recruited or a partner institution with the requisite capacity to recruit and select participants for the program and to provide post-exchange follow-on activities.

Program Content: The Youth Leadership Program on Free Expression has two key components: (1) The twelve-day International Free Expression Institute in Washington, DC, provided and funded by the Freedom Forum and the Close Up Foundation followed by (2) a homestay and practicum in another locale to be organized by the grantee organization.

A team of Freedom Forum and Close Up educational specialists will develop an experiential and interactive curriculum for content-based seminars and workshops upon which the International Free Expression Institute in Washington, DC will be based. Participants will have a variety of experiential learning components including seminars and workshops conducted by First Amendment scholars, interactive discussions with Washington press corps, Members of Congress and policy-makers and onsite visits to newsrooms, Capitol Hill and think tanks. The adults will have some separate sessions designed specifically for them as educators. Program activities may include overnight visits to Williamsburg or Philadelphia. The Close Up Foundation will provide administration, logistics, and curriculum development, and will be responsible for monitoring the students and organizing the ''DC as a classroom'' sessions during the Institute. The Mission Statement for the International Freedom Expression Institute provided by the Freedom Forum and the Close Up Foundation and descriptions of these organizations follow.

''The Freedom Forum's Diversity Institute is expanding its mission to educate current and future international leaders about the central role of free expression in a democratic society. The fundamentals of free expression are found in the First Amendment to the U.S. Constitution: freedom of religion, speech, press, assembly and petition. These freedoms are not ''American'' rights; they are universal human rights as set forth in the Universal Declaration of Rights. They are not privileges granted by governments, but rather fundamental liberties founded on the inviolable dignity of the person. The Diversity Institute will teach the importance of free and diverse expression through a curriculum that encourages open and robust dialogue among people of many nationalities, cultures, races, religions and ethnicities.

The curriculum will focus on the five freedoms as humanity's ''first freedoms,'' the means by which people throughout the world seek to follow the dictates of conscience, speak out for justice, disseminate knowledge and organize for change. Through the lessons of history in the United States and other nations, the curriculum explores the advances and setbacks in the ongoing struggle to secure these basic rights.

Special emphasis is placed on learning about the role of a free press in upholding all other freedoms by ensuring a marketplace of ideas free from government control. In emerging democracies throughout the world—as in the American experience—these five rights have been both the means for winning freedom and the essential framework for ordering freedom once freedom is won.

Graduates of the program will understand that universal rights are accompanied by a universal duty to exercise those rights in ways that advance the cause of democratic freedom for all people.''

Program Partners

The Close Up Foundation

The Close Up Foundation is the nation's largest nonprofit (501(c)(3)), nonpartisan citizenship education organization. Since its founding in 1970, Close Up has worked to promote responsible and informed participation in the democratic process through a variety of educational programs. Each year, more than 20,000 students, teachers, and other adults take part in Close Up's programs in Washington, DC. Since the inception of its Washington-based programs in 1971, the Close Up Foundation has welcomed nearly 650,000 students, educators, and other adults to the nation's capital. (*http://www.closeup.org/*).

The Freedom Forum

The Freedom Forum is a non-partisan foundation dedicated to free press, free speech and free spirit. The Freedom Forum's Diversity Institute is a school with a mission to teach about diversity of thought, expression and free press. The Diversity Institute's International Free Expression Institute teaches current and future international leaders about the basics of free expression in a democratic society. (*http://www.freedomforum.org/*).

The second component, designed by the grant applicant, will allow the participants to apply what they have learned in the Institute by visiting a community elsewhere in the United States, either as one large group or divided into sub-groups. The students should work with local youth in the practical implementation of the first amendment ideals and ethics by working with newspapers, radio, or television stations based in schools, or communities and oriented toward youth, such as First Amendment Schools (*http://www.firstamendmentschools.org/*). The participants may also take part in youth activist groups. Other possibilities include the staging of a mock trial or a debate on an issue involving free speech or freedom of religion. This segment of the program should include homestays with local families. The Freedom Forum has offered to provide consultation on possible host communities based on its knowledge of schools with strong journalism programs.

The program should be designed to capitalize on group learning opportunities, providing participants numerous occasions to share their experiences and learn more about each other's cultures, allowing them to gain a better appreciation of each other and enabling them to develop their teambuilding skills. The program should also provide ample opportunities for the participants to interact with their American peers. Participants are expected to apply their newfound knowledge and skills in developing a project plan for implementation upon their return home. At the end of the program, the participants should receive a certificate of completion.

Guidelines

In pursuit of the goals outlined above, the program will include the following:

- Recruitment and selection of youth and adult educators/community leaders from the appropriate geographic regions (see below). Facilitating their travel to the U.S.
- Designing and implementing a pre-departure orientation program. Participants will have a pre-program orientation that emphasizes the goals of the program and prepares them for the activities ahead. The orientation should include a general overview of the cultures and countries participating in

this program, and provide logistical and travel information. An arrival orientation should be conducted in partnership with Freedom Forum and Close Up representatives the day before the Institute begins as well as a review session the day following the Institute's conclusion. An online tool for communication such as a listserv, bulletin board, blog, or Web site can serve as a source of information and a venue for participants to interact with each other prior to, during, and after their exchange. Another possibility for communication is via the Department of State's Alumni Web site (*https://alumni.state.gov/*).

• Working in cooperation with the Freedom Forum and Close Up Foundation, designing and planning of activities that provide a substantive program on first amendment ideals with an emphasis on freedom of expression. Some activities should be school and/or community-based, as feasible, and the projects should involve as much interaction with American peers as possible. A community service element should also be included.

• Providing logistical arrangements, homestay arrangements (as appropriate) and/or other accommodation, provisions for religious observance, disbursement of stipends/per diem, local travel, and travel between sites.

• Facilitating substantive activities that are relevant to first amendment ideals while students are living with host families in U.S. communities.

• Designing and implementing a host family/host community orientation regarding cultural background of participants, program goals and other aspects related to the participants' homestay experience.

• Providing and/or supporting follow-on activities in the participants' geographic areas designed to reinforce the ideas, values and skills imparted during the U.S. exchange.

Recruitment and Selection: The grant recipient will manage the recruitment and competitive merit-based selection of participants in consultation with the Public Affairs Sections (PAS) at the U.S. Embassies overseas. Organizers must strive for the broadest regional and ethnic diversity within each country. The Department of State reserves final approval of all selected delegations.

Participants: Each of the two delegations will be composed of 25 international participants—students (aged 15–18) and educators and/or community leaders who work with youth and who have a strong interest in learning more about the role of a free press in a democracy and the values and principles of free expression. Participants will be recruited from 3–5 countries (minimum of four students and one adult participant per country) in at least three of the following world regions: Central and South America, sub-Saharan Africa, Middle East and North Africa, South and Central Asia, the Caucasus, and Southeast Asia. In the spirit of diversity, ECA wishes to allow applicant organizations to propose countries in which they have strong partners. Applicants may present the same mix of countries for each delegation or the mix may vary.

Participants should have a strong demonstrated interest in free expression, such as journalism, communications, advocacy, debate, or civic participation. English proficiency for international participants is required. It is desirable that 2–3 participants attend the same school or live in the same community so that they can support each other upon return.

The adult participants should not only escort the students to the U.S., but also serve as adult advocates, ensuring the students take back and apply their newfound knowledge and supporting them in implementing their project ideas when they return. They should participate in program activities together with the youth.

U.S. Projects: The program will consist of two exchange delegations consisting of 25 participants each. The itineraries for the two exchange delegations may be identical or may vary. The International Free Expression Institute will be conducted in the Washington, DC metro area. The remainder of the program should take place in other sites in the United States that demonstrate its geographic diversity. The program should focus primarily on interactive activities, practical experiences, and other hands-on opportunities to learn about the fundamentals of a civil society as related to first amendment ideals. A community service element will expose participants to the important role volunteerism plays in American society. Cultural and recreational activities will balance the schedule. Participants should be provided opportunities to attend informal and formal gatherings that allow for student presentations about their countries and cultures to further the goal of promoting mutual understanding. Discussion groups or facilitated conversational exchanges with their American peers are encouraged.

Post-exchange Follow-on Activities: Follow-on programming for alumni is essential. Applicants should present creative and effective ways to address the program theme, for both program participants and their peers, as a means to amplify the program impact. The U.S. program will offer training and suggested activities to help prepare the participants for follow-on activities upon their return home. This will include training in project planning, the development of action plans and presentations, and other mechanisms that will enable alumni to effectively share and model their newly acquired knowledge and skills with their peers, schools, and communities. Plans for the participants' projects to reach the broadest and widest audiences are highly encouraged. Alumni programming in the form of seminars, newsletters, and listservs (where feasible) serves to maximize and extend the benefit of the participants' program in the United States. Examples include establishing a school or community based newspaper; advocating for a youth column in an existing publication; conducting a conference; offering small alumni grants for relevant projects; or creating web blogs, podcasts, or Web sites for teen peers about what participants learned. A strategy for continued communication and collaboration among the participants should be incorporated into the program.

Alumni tracking is crucial for the evaluation of the program and for the implementation of follow-on programs. All alumni contact information gathered by the grant recipients on behalf of Youth Leadership Programs must be made available to the Department of State.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: 2006.

Approximate Total Funding: $300,000.

Approximate Number of Awards: One or two. The Bureau reserves the right to consider supporting one grant for the administration of both projects or two separate grants for each project based on the proposals' responsiveness to the solicitation.

Approximate Average Award: One award at approximately $300,000 or two awards at approximately $150,000.

Anticipated Award Date: Grant period runs from Summer 2006 to Summer or Fall 2007, with the two U.S. projects taking place in Fall 2006 and Spring 2007. Grants should begin on or about July 31, 2006.

Anticipated Project Completion Date: Summer 2007. Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this

grant for two additional fiscal years, before openly competing it again.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

The Freedom Forum and Close Up Foundation will plan, implement, and cost share the participants' tuition for the twelve-day Institute. This includes all administrative and participant expenses related to the twelve-day Institute: Curriculum development, instructional materials, speakers' fees, ground transportation for site visits, and room and board while in Washington, DC. This cost-share is outside of the funding amount to be awarded to the grantee organization.

When cost sharing is offered by the grantee organization, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal Government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding one or two grants, in amounts that exceed this threshold to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information To Request an Application Package

Please contact the Youth Programs Division of the Office of Citizen Exchanges, ECA/PE/C/PY, Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, phone: (202) 203–7517 and fax: (202) 203–7527, e-mail: *PetersML@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/PY–06–22 located at the top of this announcement when making your request and on all other inquiries and correspondence.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document that consists of required application forms, and standard guidelines for proposal preparation.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package includes the PSI and this RFGP, and may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*. Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be sent per the instructions under IV.3f. ''Submission Dates and Times section'' below.

IV.3a. You Are Required To Have a Dun and Bradstreet Data Universal Numbering System (DUNS) Number To Apply for a Grant or Cooperative Agreement From the U.S. Government

This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All Proposals Must Contain an Executive Summary, Proposal Narrative and Budget

Please refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. You Must Have Nonprofit Status With the IRS at the Time of Application

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please Take Into Consideration the Following Information When Preparing Your Proposal Narrative

The applicant should submit a complete proposal describing the program in a convincing and comprehensive manner. The proposal should respond to the criteria set forth in the solicitation and other guidelines as clearly as possible.

The proposal should address succinctly, but completely, the elements described below and must follow all format requirements. The proposal should include the following items:

TAB A—SF–424 ''Application for Federal Assistance Cover Sheet''

TAB B—Executive Summary

In one double-spaced page, provide the following information about the project:

1. Name of applicant organization and participating institutions.
2. Participants.
3. Beginning and ending dates of the program.
4. Nature of activity and venues.

TAB C—Narrative

Within 20 double-spaced, single sided pages, provide a detailed description of the project addressing the areas listed below. In the narrative, applicants should not only describe major program activities but also explain and justify their programmatic choices.

1. Vision

Describe the project objectives and the desired outcomes, i.e., the knowledge, skills, and/or attitudinal changes that the participants will acquire. Provide rationale for country and U.S. community selection.

2. Participating Organizations

Identify any partner organizations for the program, their roles, and the applicant's reasons for including them.

3. Recruitment

Describe how the applicant will advertise the program in targeted regions and coordinate the receipt of written applications.

4. Screening and Selection

Describe in detail both the process and the criteria by which finalists will be selected. Members of the selection committee should be identified (at least by position). Provide a timetable and the specific procedures by which the applicant will notify candidates of their selection or non-selection.

5. Project Activities

Describe in sufficient detail the major components of the two U.S. projects, including project planning, orientations, educational activities, cultural activities, meetings, site visits, community service, and the closing session. Provide a tentative schedule/itinerary of the projects, supplying a more detailed outline of daily activities in an appendix.

6. Travel, Housing, and Other Logistics

Detail how the applicant will arrange international travel (in compliance with the Fly America Act); domestic travel; homestay, dormitory or other housing arrangements; ground transportation; stipend disbursement; and any other relevant administrative matters.

7. Post-Exchange Follow-on Activities

Describe a plan to provide follow-on activities to the U.S.-based projects, including both ECA-funded and privately funded activities.

8. Program Monitoring and Evaluation

The progress of the grant should be monitored closely and ECA/PAS must be kept informed of activities. In the submitted proposal, applicants should include a plan describing how success in meeting the stated goals of the program will be measured and reported. ECA recommends that the proposal include a draft survey questionnaire or other technique.

9. Diversity

Explain how the program managers will be pro-active in supporting diversity in participant selection and in program content, demonstrating how diversity can contribute to a vibrant civil society. Diversity should be defined broadly and should include geographic, urban/rural, ethnic, racial, socio-economic, and religious diversity.

10. Institutional Capacity and Project Management

Outline the applicant organization's capacity for doing projects of this nature, focusing on three areas of competency: provision of educational and thematic programs, age-appropriate programming for youth, and work in the specific countries for which you are applying. Describe the program staffing (individuals and responsibilities), qualifications, structure, and resources.

11. Work Plan/Schedule

Outline the phases of the project planning and implementation for the entire grant period.

TAB D—Budget Submission

See section IV.3e.

TAB E

Letters of endorsement from partner organizations and/or sub-contractors. Applicants must include a copy of its Memo of Understanding (a draft is acceptable at this stage of the application) with the Close Up Foundation and the Freedom Forum that outlines the organizations' responsibilities and includes cost share contributions that will be made toward the program.

Resumes of all program staff should be included in the submission. No one resume should exceed two pages. Attachments/appendices (please limit).

TAB F

Copy of IRS notification of current tax-exempt status SF–424B, ''Assurances-Nonconstruction Programs''. Other attachments, if applicable.

IV.3d.1. Adherence To All Regulations Governing The J Visa. The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR 62 *et seq.*, including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–5029, FAX: (202) 453–8640.

IV.3d.2. Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do

not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the program's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your program's objectives, your anticipated program outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your program objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of program activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a program is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.
2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please Take the Following Information Into Consideration When Preparing Your Budget

IV.3e.1. Please submit a comprehensive line item budget, as stated in the Proposal Submission Instructions. The available funding may be used to support the program and administrative costs necessary to implement the program as described in this solicitation. *An explanatory budget narrative must also be included.* For clarification, applicants may provide separate sub-budgets for each program component, phase, location, or activity.

IV.3e.2. Suggested program costs include, but are not limited to, the following:

- Staff travel.
- Application and educational materials.
- Participant travel (international, domestic, local ground transportation from/to airports and during non-Institute program period as necessary).
- Orientations.
- Cultural activities.
- Meeting costs.
- Post-exchange follow-on activities.
- Evaluation.
- Stipends or allowances.
- Other justifiable expenses directly related to supporting program activities.

The Freedom Forum and Close Up Foundation will cost share the participants' tuition for the twelve-day Institute in Washington, DC. This includes curriculum development, instructional materials, speakers' fees, ground transportation for site visits, and room and board. Therefore, the budget should not include any expenses for these twelve days of programming.

Significant cost sharing is expected and will enhance the proposal. Homestays are not allowed as a grant-funded or cost-share item. While there is no rigid ratio of administrative to program costs, the Bureau urges applicants to keep administrative costs as low and reasonable as possible. Proposals should show strong administrative cost sharing contributions from the applicant, the in-country partner, and other sources.

Maximum limits on grant funding are as follows: Books and educational materials allowance—$100 per participant; Conference room rental costs—$250 per day per room; Consultant fees and honoraria—$250/day; Cultural allowance—$150 per participant; Per diem-standard government rates; Working meals—one per project; Evaluation costs—2% to 5% of the grant. Organizations are encouraged to cost-share any rates that exceed these amounts.

The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds.

Please note that there are no fees for the J–1 visas that foreign participants will use to enter the United States; there may be visa fees for the U.S. travelers.

Applicants should budget for applicants to travel to the nearest U.S. embassy or consulate for visa interviews.

Exchange participants will be enrolled in the Bureau's Accident and Sickness Program for Exchanges (ASPE). Applicants need not include these insurance costs in their budgets.

IV.3f. Application Deadline and Methods of Submission

Application Deadline Date: Monday, May 8, 2006.

Reference Number: ECA/PE/C/PY–06–22.

Methods of Submission: Applications may be submitted in one of two ways:

(1) In hard copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov*.

Along with the Program Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications. Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

Applicants must follow all instructions in the Solicitation Package.

The original and eight copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Reference Number: ECA/PE/C/PY–06–22, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

IV.3f.2. Submitting Electronic Applications. Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the ''Get Started'' portion of the site (*http://www.grants.gov/GetStarted*).

Applicants have until midnight (12 a.m.) of the closing date to ensure that their entire applications have been uploaded to the grants.gov site. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will *not* notify you upon receipt of electronic applications.

IV.3g. Intergovernmental Review of Applications

Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards grants agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the program idea: The proposed program should be well developed, responding to the design outlined in the solicitation, and demonstrating originality. It should be clearly and accurately written, substantive, and with sufficient detail. Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. Program planning and ability to achieve program objectives: A detailed agenda and work plan should clearly demonstrate how project objectives will be achieved. The agenda and plan should adhere to the program overview and guidelines described above. The substance of workshops, seminars, presentations, school-based activities, and/or site visits should be described in detail. Objectives should be reasonable, feasible, and flexible. The proposal should clearly demonstrate how the institution will meet the program's objectives and plan.

3. Support of diversity: The proposal should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity in program content. Applicants should demonstrate readiness to accommodate participants with physical disabilities.

4. Institutional capacity and track record: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program goals. The proposal should demonstrate an institutional record, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by the Bureau's Office of Contracts. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

5. Cross-cultural sensitivity and area expertise: Applicants must demonstrate their understanding of the area in which they propose to work and should demonstrate sensitivity to participants' values, customs, and life experiences in all aspects of the program.

6. Post-exchange follow-on activities: Proposals should provide a plan for Bureau- and grantee-supported follow-on activities that insure this exchange is not an isolated event.

7. Project evaluation: The proposal should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. The proposal should include a draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives.

8. Cost-effectiveness and cost sharing: The applicant should demonstrate efficient use of Bureau funds. The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. The proposal should maximize cost-sharing through other private sector support as well as institutional direct funding contributions, which demonstrates institutional and community commitment.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants;*, *http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements

Grantee organizations must provide ECA with a hard copy original plus one copy of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award; and

(2) Quarterly program and financial reports that should include how you are meeting the goals and objectives of the program and plans for next steps.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Michele Peters, Program Officer, Office of Citizen Exchanges, ECA/PE/C/PY, Room 568, Reference Number: ECA/PE/C/PY–06–22, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, phone: (202) 203–7517 and fax: (202) 203–7527, e-mail: *PetersML@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–06–22.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 10, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 06–2561 Filed 3–15–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Delegation of Authority 290]

Delegation by the Secretary of State to Carol Rodley of Authorities Normally Vested in the Assistant Secretary for Intelligence and Research

By virtue of the authority vested in me as Secretary of State by the laws of the United States, including section 1 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2651a) and Executive Order 12333 of December 4, 1981, I hereby delegate to Carol Rodley, to the extent authorized by law, all authorities vested in the Assistant Secretary for Intelligence and Research, including all authorities that have been or may be delegated or re-delegated to the Assistant Secretary for Intelligence and Research.

Any act, executive order, regulation, or procedure subject to, or affected by, this delegation shall be deemed to be such act, executive order, regulation, or procedure as amended from time to time.

Notwithstanding this delegation of authority, the Secretary of State or Deputy Secretary of State may exercise any function delegated hereby.

This delegation shall expire upon the appointment and entry upon duty of a

new Assistant Secretary for Intelligence and Research.

This delegation of authority shall be published in the **Federal Register**.

Dated: March 9, 2006.

Condoleezza Rice,

Secretary of State, Department of State.

[FR Doc. E6–3834 Filed 3–15–06; 8:45 am]

BILLING CODE 4710–10–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–334]

WTO Dispute Settlement Proceeding Regarding Turkey—Measures Affecting the Importation of Rice

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that, in accordance with the Marrakesh Agreement Establishing the World Trade Organization (''WTO Agreement''), the United States has requested the establishment of a panel regarding Turkey's import restrictions on rice from the United States. That request may be found at *http://www.wto.org* contained in a document designated as WT/DS334/4. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute, comments should be submitted on or before May 17, 2006 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0604@ustr.gov,* with ''Turkey Rice (DS334)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above, in accordance with the requirements for submission set out below.

FOR FURTHER INFORMATION CONTACT: Jeff Weiss, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–4498.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that the United States has requested the establishment of a WTO dispute settlement panel pursuant to the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (''DSU''). Such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the United States

Under its import regime for rice, Turkey requires an import license to import rice. Turkey operates tariff-rate quotas for rice imports requiring that, in order to import specified quantities of rice at reduced tariff levels, importers must purchase specified quantities of domestic rice, including from the Turkish Grain Board, Turkish producers, or producer associations. In addition, Turkey denies or fails to grant licenses to import rice at or below the bound rate of duty without domestic purchase, including at the over-quota rate of duty.

USTR believes these measures are inconsistent with Turkey's obligations under:

1. Article 2.1 and paragraph 1(a) of Annex 1 of the TRIMs Agreement because Turkey imposes domestic purchase requirements;

2. Article III:4 of the GATT 1994 because Turkey accords imported rice less favorable treatment than domestic rice through the imposition of domestic purchase requirements ''affecting [its] internal sale, offering for sale, purchase, transportation, distribution, or use'';

3. Article XI:1 of the GATT 1994 because Turkey's (1) denial of, or failure to grant, import licenses for rice at or below the bound rate of duty, and (2) the domestic purchase requirements, both on their own and in conjunction, constitute a prohibition or restriction on imports other than in the form of duties, taxes, or other charges; and

4. Article 4.2 of the Agriculture Agreement because Turkey's (1) denial of, or failure to grant, import licenses for rice at or below the bound rate of duty, and (2) the domestic purchase requirements, both on their own and in conjunction, are ''measures of the kind which have been required to be converted into ordinary customs duties,'' such as quantitative import restrictions, discretionary import licensing, and non-tariff measures maintained through a state-trading enterprise, which Members may not resort to or maintain under that Agreement.

USTR also considers that these measures are inconsistent with Turkey's obligations under: Articles X:1, X:2, and X:3 of the GATT 1994 and Articles 1.2, 1.3, 1.4, 1.5, 1.6, 3.2, 3.3, 3.5(a), 3.5(b), 3.5(d), 3.5(e), 3.5(f), 3.5(g), 3.5(h), 5.1, 5.2, 5.3, and 5.4 of the Import Licensing Agreement.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments should be submitted (i) electronically, to *FR0604@ustr.gov,* with ''Turkey Rice (DS334)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above.

USTR encourages the submission of documents in Adobe PDF format as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly designated as such and ''BUSINESS CONFIDENTIAL'' must be marked at the top and bottom of the cover page and each succeeding page.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments

received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, the submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel and; if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS–334, Turkey Rice Dispute) may be made by calling the USTR Reading Room at (202) 395–6186.

The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E6–3783 Filed 3–15–06; 8:45 am]

BILLING CODE 3190–W6–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

WTO Dispute Settlement Proceeding Regarding Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods From Argentina

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that Argentina has requested the establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement''). That request may be found at *http://www.wto.org* contained in a document designated as WT/DS268/16. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute, comments should be submitted on or before May 19, 2006, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0609@ustr.gov.eop,* Attn: ''Argentina OCTG'' in the subject line, or (ii) by fax, to Sandy McKinzy at 202–395–3640, with a confirmation copy sent electronically to the e-mail address above.

FOR FURTHER INFORMATION CONTACT: Elizabeth V. Baltzan, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–3582.

SUPPLEMENTARY INFORMATION: If a dispute settlement panel is established, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within 90 days after referral of the matter to it.

Major Issues Raised by Argentina

In its panel request, Argentina alleges that the United States had not fully complied with the recommendations and rulings of the Dispute Settlement Body from the original dispute. Those recommendations and rulings stem from the panel and Appellate Body reports which may be found at *http://www.wto.org* designated as WT/DS268/R and WT/DS268/AB/R, respectively.

In particular, Argentina contends that the U.S. Department of Commerce erred by developing new factual information and that the reasoning in the redetermination made pursuant to section 129 of the Uruguay Round Agreements Act is not consistent with Articles 11.1, 11.3, and 11.4 of the Antidumping Agreement. Argentina also considers that the redetermination was inconsistent with a number of procedural obligations in the Antidumping Agreement, including Articles 6.1, 6.2, 6.4, 6.5.1, 6.6, 6.8, 6.9, 12.2, and Annex II. Argentina also alleges that USTR was required to direct Commerce to implement the redetermination in order to avoid a breach of Article 13 of the Antidumping Agreement. Argentina further contends that Commerce was required to amend or repeal the statute and that the amended regulation is inconsistent with the obligation to arrive at a reasoned conclusion on the basis of positive evidence, as well as Articles 6.1, 6.2, 6.6, 11.1, and 11.3 of the Antidumping Agreement.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395–3640, or transmit a copy electronically to *FR0609@ustr.gov.eop,* with ''Argentina OCTG'' in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of each page of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, the submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel and; if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS–268, Sunset Reviews of Anti-dumping Measures on Oil Country Tubular Goods from Argentina) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public

from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E6–3784 Filed 3–15–06; 8:45 am]

BILLING CODE 3190–W6–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Gary/Chicago International Airport; Gary, IN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from civilian aeronautical use to military aeronautical use and to authorize the lease of the airport property. The area is a twenty-five acre parcel located in the southwest quadrant of the airport south of Runway 12/30 and west of Runway 2/20. The land is vacant and is used as a stockpile area for various construction materials and was the former site of a Nike missile silo battery. The land had been transferred to the City of Gary in 1947 by Quitclaim Deed from the Reconstruction Finance Corporation as non-surplus property as defined by section 16 of the Federal Airport Act of 1946. Public Law 102–148, dated October 10, 1991 released the land from the section 16 restriction requiring Congressional action for land releases and authorized the FAA to administer land releases. There are no adverse impacts to the airport by allowing the airport to lease the property. The land is not needed for civilian aeronautical use and a Limited Army Aviation Support Facility helicopter base, which will be operated by the Indiana National Guard, will be constructed on the property. A Joint-Use Agreement will be negotiated between the Indiana National Guard and the airport that will address all fees, charges, and assessments for services such as snow removal, fire fighting and fueling. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the lease of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before April 17, 2006.

FOR FURTHER INFORMATION CONTACT: Gregory N. Sweeny, Airports Engineer, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Telephone Number (847) 294–7526/Fax Number (847) 294–7046. Documents reflecting this FAA action may be reviewed at this same location or at Gary/Chicago International Airport, Gary, Indiana.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Gary, Lake County, Indiana, and described as follows:

A parcel of land in the east half of section 35, Township 37 North, Range 9 West of the second principal meridian, in the City of Gary, Lake County, Indiana, being a part of those premises now commonly known as the Gary/Chicago International Airport, said parcel being more particularly described as follows: Commencing at a concrete monument at the center of said Section 35, thence South 89°49′11″ East (all bearings in this description are based on the true bearing of North 55°49′59″ West for the center line of Runway 12/30) along the east and west center line of said Section 35 a distance of 71.64 feet to a point; thence North 00°56′07″ East a distance of 42.41 feet to the true point of beginning of the tract herein described; thence continuing North 00°56′07″ East a distance of 545.92 feet to a point; thence North 44°07′06″ East a distance of 375.73 feet to a point in a line which is 600.00 feet distant and parallel with the center line of Runway 12/30 aforesaid; thence South 55°49′59″ East along said parallel line a distance of 860.84 feet to a point; thence South 29°28′52″ East a distance of 349.36 feet to a point which is 625.00 feet distant and parallel with the center of Runway 2/20; thence South 21°11′05″ West along said parallel line a distance of 754.45 feet to a point; thence North 68°45′22″ West a distance of 419.05 feet to a point; thence South 77°38′14″ West a distance of 134.67 feet to a point in a non-tangent circular curve concave to the west and having a radius of 1,061.90 feet and a chord bearing of North 33°05′02″ West for a distance of 659.34 feet; thence northerly and northwesterly along said curve an arc distance of 670.41 feet to the true point of beginning, and containing 25.01 acres, more or less, and subject to all easements and restrictions of record.

Issued in Des Plaines, Illinois on February 27, 2006.

Larry H. Ladenforf,

Acting Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 06–2489 Filed 3–15–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2004–16944]

Operating Limitations at Chicago O'Hare International Airport

ACTION: Notice of order to show cause and request for information.

SUMMARY: The FAA has issued an order to show cause which solicits the views of interested persons on the FAA's tentative determination to extend through October 28, 2006, an August 18, 2004, order limiting the number of scheduled aircraft arrivals at O'Hare International Airport during peak operation hours. The text of the order to show cause is set fourth in this notice.

DATES: Any written information that responds to the FAA's order to show cause must be submitted by March 22, 2006.

ADDRESSES: You may send comments [identified by Docket Number FAA–2004–16944] using any of the following methods:

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *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.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://*

dms.dot.gov, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

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 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gerry Shakley, System Operations Services, Air Traffic Organization; Telephone: (202) 267–9424; E-mail: *gerry.shakley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Order To Show Cause

The Federal Aviation Administration's (FAA's) August 18, 2004, order limiting scheduled operations at O'Hare International Airport expires on April 1, 2006. The FAA has tentatively determined that it will extend the order through October 28, 2006. This order to show cause invites air carriers and other interested persons to submit comments in Docket No. FAA–2004–16944 on this proposal to extend the duration of the August 2004 order.

If the FAA were to allow the August 2004 order to expire as presently scheduled, the FAA anticipates a return of the congestion-related delays that precipitated the voluntary schedule reductions and adjustments reflected in the August 2004 order. The FAA has adopted a rule limiting unscheduled flights at O'Hare,[1] but it has applied no limits on scheduled flights at O'Hare, other than the August 2004 order. In a separate docket, the FAA solicited public comment on a proposed rule that would limit the number of scheduled arrivals at O'Hare.[2] The comment period for the proposed rule ended on May 24, and the FAA and the Office of the Secretary of Transportation have evaluated the comments filed in that proceeding and expect to issue a final rule shortly. It is not possible, however, to implement a final rule in time for the beginning of the summer scheduling season.[3] The FAA expects that the extension of the August 2004 order will permit the order's expiration to coincide with the effective date of the final rule.

The FAA's authority to extend the August 2004 order is the same as the authority cited in that order. The FAA proposes to extend the August 2004 order under the agency's broad authority in 49 U.S.C. 40103(b) to regulate the use of the navigable airspace of the United States. This provision authorizes the FAA to develop plans and policy for the use of navigable airspace and, by order or rule, to regulate the use of the airspace as necessary to ensure its efficient use.

Background

On August 18, 2004, the FAA issued an order limiting the number of scheduled arrivals that air carriers conduct at O'Hare during peak hours. The August 2004 order followed a period during which O'Hare operated without any regulatory constraint on the number of aircraft operations, and O'Hare experienced significant congestion-related delay. According to the Bureau of Transportation Statistics, in November 2003, O'Hare ranked last among the nation's thirty-one major airports for on-time arrival performance, with on-time arrivals 57.26% of the time. O'Hare also ranked last in on-time departures in November 2003, yielding on-time departures 66.94% of the time. The data for December 2003 reflected a similar performance by O'Hare—ranking last with 60.06% of arrivals on time and 67.23% of departures on time. Despite the high proportion of delayed flights, when the air carriers published their January and February 2004 schedules in the Official Airline Guide, the schedules revealed that the air carriers intended to add still more flight operations to O'Hare's schedule.

In January 2004, the two air carriers conducting most of the scheduled operations at O'Hare—together accounting for about 88% of O'Hare's scheduled flights—agreed to a temporary 5% reduction of their proposed peak-hour schedules at the airport. When the voluntarily reduced schedules failed to reduce sufficiently O'Hare's congestion-related flight delays, the two air carriers agreed to a further 2.5% reduction of their scheduled peak-hour operations at O'Hare. The FAA captured the voluntary schedule reductions in FAA orders, and the orders were effective through October 30, 2004.

By the summer of 2004, it was apparent that the schedule reductions agreed to in the first half of the year, which were made by only two of the many air carriers conducting scheduled operations at O'Hare, were unlikely to be renewed after the orders expired on October 30, 2004. In the absence of a voluntary constraint, the industry's proposed schedules for November, as reported in the preliminary Official Airline Guide in July 2004, indicated that the number of scheduled arrivals during several hours would approach or exceed O'Hare's highest possible arrival capacity. During one hour, the number of scheduled arrivals would have exceeded by 32% O'Hare's capacity under ideal conditions.

Therefore, the FAA invited all scheduled air carriers to an August 2004 scheduling reduction meeting to discuss overscheduling at O'Hare, voluntary schedule reductions, and retiming flights to less congested periods. The August 2004 meeting and subsequent negotiations led the FAA to issue the August 2004 order, which limited the number of scheduled arrivals conducted by U.S. and Canadian air carriers at O'Hare during peak operating hours. The order also defined opportunities for new entry and for growth by limited incumbent air carriers at O'Hare. The order took effect November 1, 2004, was previously extended on March 21 and October 2, 2005, and in the absence of a further extension, it will expire on April 1, 2006.

The flight limits implemented by the August 2004 order have been effective. Delays have decreased, and customers have seen improved on-time arrival performance as a result of the depeaked flight schedules. For the period from November 2004 through June 2005, the average minutes of arrival delay decreased by approximately 27% when compared to the same period last year. This level of delay reduction is somewhat better than the 20% reduction in delays that the FAA's computer modeling anticipated. We attribute this primarily to weather conditions that were more favorable than average and to certain peak hours in which the arrivals actually scheduled have been below the hourly limit adopted in the August 2004 order.

During the first 12 months that the order was in effect (November 2004 through October 2005), the average minutes of arrival delay at O'Hare have decreased by approximately 24 percent when compared to the same 12-month period the year before. The longer arrival delays lasting more than one hour have decreased by 28 percent. Overall, the on-time arrival performance at O'Hare has increased by almost 7 percentage points. As a result, O'Hare performed near the average for the rest of the National Airspace System (NAS), which is a dramatic improvement over the airport's bottom-tier performance during much of 2004. Performance since November 2005 declined by some measures due to the normal impact of winter weather on O'Hare and the NAS.

[1] 70 FR 39610 (July 8, 2005).

[2] 70 FR 15520 (Mar. 25, 2005).

[3] We note that carriers customarily use 90- to 120-day lead time in establishing their operating schedules.

However, we continue to show overall improvement compared to the same period before the schedule adjustments.

Order To Show Cause

The FAA has issued a notice of proposed rulemaking to address appropriate limitations on scheduled operations at O'Hare. The comment period for the proposed rule closed on May 24, and the FAA and the Office of the Secretary of Transportation are completing the rulemaking process. However, the FAA cannot implement a final rule sufficiently in advance of the August 2004 order's current expiration date.

To prevent a recurrence of overscheduling at O'Hare during the interim between the expiration of the August 2004 order on April 1, 2006, and the expected effective date of the rule, the FAA tentatively intends to extend the August 2004 order. The limits on arrivals and the allocation of arrival authority embodied in the August 2004 order reflect the FAA's agreements with U.S. and Canadian air carriers. As a result, maintaining the order through the summer scheduling season constitutes a reasonable approach to preventing unacceptable congestion and delays at O'Hare. In addition, we find that it is reasonable to match this proposed extension of the August 2004 order with the scheduling cycle for summer 2006. The August 2004 order, as extended, would expire on October 28, 2006.

Independence Air, which was assigned ten arrivals in the August 2004 order, ceased all operations at O'Hare on January 5, 2006. The August 2004 order does not include a mechanism to reallocate such unused capacity; however, it does not appear that the arrival authority assigned to Independence Air is excess capacity. The principal premise for the August 2004 order was the FAA's determination that O'Hare at present can accommodate 88 scheduled arrivals per hour in average meteorological conditions without triggering intolerable congestion-related delays. In negotiating the schedule adjustments among individual air carriers for the August 2004 order, however, several peak afternoon and evening hours received scheduled arrivals that exceed the agency's preferred limit of 88 scheduled arrivals per hour. Accordingly, the unused arrival times assigned to Independence Air under the order would offset the hours that were scheduled above the preferred limit, and we tentatively conclude that it is operationally beneficial not to reallocate the arrival times formerly used by Independence Air at this time.

Accordingly, the FAA directs all interested persons to show cause why the FAA should not make final its tentative findings and tentative decision to extend the August 2004 order through October 28, 2006, by filing their written views in Docket No. FAA–2004–16944 on or before March 22, 2006. The FAA is not soliciting views on the issues separately under consideration in the proposed rulemaking. Therefore, any submissions to the current docket should be limited to the issue of extending the August 2004 order.

Issued in Washington, DC, on March 13, 2006.

Rebecca Byers MacPherson,

Assistant Chief Counsel for Regulation.

[FR Doc. 06–2595 Filed 3–14–06; 11:16 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–04–18858; Notice 2]

Pipeline Safety: Grant of Waiver; Duke Energy Gas Transmission Company

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice; Grant of Waiver.

SUMMARY: Duke Energy Gas Transmission Company (DEGT) petitioned the Pipeline and Hazardous Materials Safety Administration (PHMSA) for a waiver of compliance with 49 CFR 192.611, which requires natural gas pipeline operators to confirm or revise the maximum allowable operating pressure of a pipeline after a change in class location. DEGT requested the waiver for certain segments of its natural gas pipeline located in Tennessee and Kentucky that have changed, and for segments that may change from Class 1 to Class 2 in the future. Under the pipeline safety regulations, class location indicates the population density near a pipeline. As the population along a pipeline increases, the class location increases. DEGT proposed to conduct a set of alternative risk control activities, in lieu of pipe replacement or pressure reduction, on all the segments requested in the waiver.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 49 U.S.C. 60126, PHMSA established the Risk Management Demonstration Program (RMDP) in partnership with operators of natural gas and hazardous liquid pipeline facilities. The RMDP determines how risk management principles can be used to compliment and improve the existing Federal pipeline safety regulatory process. Under the RMDP, pipeline operators proposed risk management projects to demonstrate how a structured and formalized risk management process could enable a company to customize its safety program to allocate resources for its pipeline's particular risks, which would lead to an enhanced level of safety and environmental protection. DEGT and 11 other pipeline companies were selected as potential candidates for RMDP projects.[1] In evaluating DEGT as a RMDP candidate, PHMSA and DEGT engaged in a consultation process in which DEGT's safety practices and pipeline risk management program were scrutinized. During this consultation process, DEGT identified 21 sites where the class location had changed from Class 1 to Class 2 along the pipeline route of 2 compressor station discharges—1 located in Tennessee and the other in Kentucky. These segments include DEGT's 3 parallel natural gas pipelines, Lines 10, 15, and 25, which are part of its Texas Eastern Pipeline System.

While awaiting approval of its risk demonstration project, on October 5, 2000, DEGT requested a waiver of compliance from 49 CFR 192.611, for the 15 pipe segments located in Tennessee that had changed from Class 1 to Class 2. The Federal pipeline safety regulations at § 192.609 require a gas pipeline operator to complete a class location change study whenever they believe an increase in population density may have caused a change in class location as defined in § 192.5. If a new class location is confirmed, the operator is required to either reduce pressure or replace the pipe in compliance with § 192.611.

Section 192.5(a)(1) defines a ''class location unit'' as an onshore area extending 220 yards (200 meters) on either side of the centerline of any continuous one mile length of pipeline. The class location for any unit is determined according to the following criteria in § 192.5(b):

Class 1—an offshore area or 10 or fewer buildings intended for human occupancy;

[1] *''Candidates for the Pipeline Risk Management Demonstration Program''* (62 FR 143; July 25, 1997); *''Pipeline Safety: Remaining Candidates for the Pipeline Risk Management Demonstration Program''* (62 FR 197; October 10, 1997).

Class 2—more than 10 but less than 46 buildings intended for human occupancy;

Class 3—46 or more buildings intended for human occupancy, or areas where a pipeline lies within 100 yards (91 meters) of either a building or a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period;

Class 4—buildings with four or more stories above ground are prevalent (e.g, large office buildings).

Pipeline safety regulations impose more stringent design and operation requirements as the class location increases. When a class location changes to a higher class (*e.g.*, from Class 1 to Class 2), § 192.611 requires the operator to reduce the pressure on the pipeline to provide an additional margin of safety. The operator may be able to avoid the pressure reduction if a pressure test on the pipe confirms that the prescribed safety margin exists. If a previous pressure test has not confirmed the prescribed safety margin, the operator must test the pipe to confirm the margin, reduce the pressure, or replace the pipe with new pipe. DEGT proposed to conduct alternative risk control activities in lieu of compliance with § 192.611 and asserted that the alternative risk control activities would provide a level of safety equivalent to that required by § 192.611.

On December 11, 2000, PHMSA published a notice in the **Federal Register** seeking comments on its intent to grant DEGT the waiver (65 FR 77419); no comments were received. On March 9, 2001, PHMSA granted and published the waiver for the 15 pipe segments in Tennessee (66 FR 14256).

On June 1, 2004, DEGT submitted a second petition for waiver of § 192.611. DEGT requested the waiver apply to the 21 pipe segments located in Tennessee and Kentucky that changed from Class 1 to Class 2 and to segments that may change from Class 1 to Class 2 in the future. These were the segments initially identified for DEGT's Risk Demonstration project, including the 15 segments on which PHMSA had granted the waiver in March 2001. DEGT also requested the waiver apply to all pipeline segments that may, in the future, change from Class 1 to Class 2. These pipeline segments are found at DEGT's Mt. Pleasant, Tennessee compressor station discharge, Gladeville compressor station, and the pipeline segments between its Owingsville, Kentucky compressor station discharge and Wheelersburg compressor station.

On August 16, 2004, PHMSA published a notice in the **Federal Register** requesting public comments on DEGT's June 1, 2004 request for waiver (69 FR 50438); PHMSA did not receive any comments.

DEGT's Waiver Request

DEGT's waiver request involves 3 parallel pipelines in its Texas Eastern Pipeline System, Lines 10, 15, and 25: (1) 3 line segments running downstream of its Mt. Pleasant, Tennessee compressor station discharge to its Gladeville compressor station, each approximately 63.6 miles; and (2) 3 line segments running downstream of its Owingsville, Kentucky compressor station discharge to its Wheelersburg compressor station, each approximately 60.5 miles (collectively, the ''waiver sites'').

Within the waiver sites are 21 pipe segments (identified in the following table) that have changed from Class 1 to Class 2:

	County & State	Line number	Begin mile-post	End mile-post
Mt. Pleasant Station Discharge:				
Site #1	Maury Co., Tennessee	10	226.88	227.35
		15	226.90	227.50
		25	227.05	227.50
Site #2	Maury Co., Tennessee	10	228.49	229.07
		15	228.65	229.21
		25	228.63	229.22
Site #3	Maury Co., Tennessee	10	238.01	239.19
		15	238.17	239.34
		25	238.17	239.36
Site #3A	Maury Co., Tennessee	25	241.69	241.72
Site #4	Maury Co., Tennessee	10	247.79	247.88
		15	247.94	248.04
		25	247.94	248.03
Site #5	Williamson Co., Tennessee	10	264.03	265.31
		15	264.19	265.49
		25	264.24	265.48
Owingsville Station Discharge:				
Site #6	Fleming Co., Kentucky	10	514.78	514.98
		25	515.25	515.28
Site #7	Lewis Co., Kentucky	10	531.10	533.33
		15	531.54	533.75
		25	531.54	533.76

DEGT requested that the waiver granted on March 9, 2001 for the 15 segments be extended to include the 6 segments in Kentucky that have changed from Class 1 to Class 2. This request would include the segments within both the Mt. Pleasant compressor station discharge and the Owingsville compressor station discharge that may change from Class 1 to Class 2 in the future.

DEGT has implemented the alternative risk control activities that were outlined in the waiver issued on March 9, 2001. DEGT noted that it has also implemented the following risk control activities on the above identified 15 segments in Tennessee and the six segments in Kentucky:

• Conducted internal inspections on the entire length of the waiver segments using geometry and magnetic flux leakage in-line inspection tools. These tools were used to identify indications of wall loss (*e.g.*, corrosion), as well as dents and gouges from initial construction damage or damage from third party excavators working along the pipeline right-of-way. The internal

inspection included Lines 10, 15, and 25 in the Mt. Pleasant compressor station discharge covering approximately 190 miles of pipe, and Lines 10, 15, and 25 in the Owingsville compressor station discharge covering approximately 185 miles of pipe. The results of the inspection were provided to PHMSA's Southern Region.

• Repaired indications of corrosion, existing construction damage, and existing outside force damage identified by the internal inspection tools using conservative investigation and repair criteria.

• Hydrostatically tested portions of Line 10 that previously had not been tested to 100 percent of the specified minimum yield strength. This includes 2 sites in Tennessee (2.5 miles northwest of Rally Hill in Maury County and 3.5 miles east-northeast of Arrington in Williamson County) and 1 site in Kentucky (4.4 miles southeast of Kinniconick in Lewis County). The results of the inspection were provided to PHMSA's Southern Region.

• Performed enhanced third-party damage prevention activities. This included installation, for a one-year trial period, of a TransWave monitoring system on the full length of pipeline within the Mt. Pleasant discharge (63.6 miles on each line). The TransWave system was used to monitor the change in waveform of small currents that may be caused by disturbances created by excavation or other third-party activities. The TransWave system was employed to determine its reliability and usefulness at detecting third-party encroachments (construction, excavation, etc.) in the pipeline right-of-way. At the conclusion of the one-year trial period, DEGT submitted the final test results to PHMSA's Southern Region.

PHMSA has determined that these activities provide an equivalent level of protection and safety as that provided by 49 CFR § 192.611.

Grant of Waiver

In light of the aforementioned, PHMSA finds that granting DEGT a waiver from complying with 49 CFR 192.611 for the entire 21 pipeline segments located along certain segments of its natural gas pipeline in Tennessee and Kentucky that have changed from Class 1 to Class 2 and for those segments that may change from Class 1 to Class 2 in the future, is not inconsistent with pipeline safety regulations. The alternative activities DEGT conducted on the 21 segments where a class location change occurred provides an equivalent level of safety and protection to that provided by the regulations at 49 CFR 192.611. The actions required by this waiver for future class location sites will also provide equivalent safety and protection. The grant of this waiver will conclude all PHMSA action on DEGT's projects under the RMDP.

Under 49 CFR 192.611, PHMSA grants DEGT's request for a waiver for the 21 segments on Lines 10, 15, and 25 within its Mt. Pleasant, Tennessee compressor station discharge to its Gladeville compressor station discharge and within its Owingsville, Kentucky compressor station discharge to its Wheelersburg compressor station discharge that has changed from Class 1 to Class 2. This waiver supersedes the waiver granted on March 9, 2001.

PHMSA further grants DEGT's request for waiver of the requirements of 49 CFR 192.611 for the segments on Lines 10, 15, and 25 within its Mt. Pleasant, Tennessee compressor station discharge to its Gladeville compressor station discharge and within its Owingsville, Kentucky compressor station discharge to its Wheelersburg compressor station discharge that may change from Class 1 to Class 2 in the future.

This waiver may change certain line segments from Class 1 to Class 2. This will be contingent upon DEGT providing information and notification to PHMSA, and PHMSA not objecting to including the line segments. DEGT will not be allowed to apply the waiver to any site that PHMSA objects to.

Should DEGT fail to comply with any terms of the waiver, or should PHMSA determine that the terms of this waiver are no longer appropriate or that the waiver is inconsistent with pipeline safety, PHMSA may revoke this waiver and require DEGT to comply with the regulatory requirements of 49 CFR 192.611 and any other applicable regulations.

This waiver is granted on the condition that DEGT complies with the following requirements:

1. DEGT must meet the technical criteria of the PHMSA Class Change Waiver Protocol or other criteria for class location waivers that PHMSA may adopt for any future class change sites within the waiver segments that change from Class 1 to Class 2.

2. DEGT must provide prior notice to PHMSA's Southern Region of its intent to rely on this waiver, rather than replace pipe, in any future class change sites along the waiver segments so that PHMSA can independently verify that the criteria have been met. This notice must include a schedule of any remedial measures to be performed in future waiver sites. PHMSA may request additional information or clarification before allowing DEGT to apply the waiver to any future site. DEGT may proceed with the waiver on the future site unless PHMSA objects.

3. DEGT must conduct additional public information activities in the populated areas along all waiver segments. This should include providing information to local emergency response personnel/agencies about the operation of the pipeline, the possibility of accidents, and actions that must be taken in the event of an accident on the pipeline.

4. DEGT must conduct future inspections of the waiver segments and remediate any defects identified in the waiver segments in accordance with subpart O of 49 CFR part 192.

5. Subsequent in-line inspections for the waiver sites must be scheduled in accordance with 49 CFR part 192, subpart O.

6. The waiver sites must be in compliance with American Society of Mechanical Engineer's standard B31.8S criteria for stress corrosion cracking site identification and site investigation/testing.

7. DEGT must provide the PHMSA's Southern Region with sufficient advance notice to enable PHMSA staff to attend and participate in all significant risk assessment activities involving the waiver segments.

8. Within the three months following approval of this waiver and annually thereafter, DEGT is required to report the following information to PHMSA's Southern Region:

• The economic benefit to the company. This should address both the costs avoided from not replacing the pipe, and the added costs of the inspection program (required for the initial report only).

• In the first annual report, fully describe how the public benefits from energy availability. Should address the benefits of avoided disruptions as a consequence of pipe replacement and the benefits of maintaining system capacity. Subsequent reports must indicate any changes to this initial assessment.

• The results of any in-line inspections or direct assessments performed during the previous year within the inspection area containing the waiver location(s).

• Any new integrity threats identified during the previous year within the inspection area containing the waiver location(s).

• Any encroachment of the inspection area including the waiver location(s) and new residences (by number) or areas of public congregation.

• Any incidents (both reportable and non reportable) that occurred during the

previous year associated with the inspection area containing the waiver location(s).

- Any leaks on the pipeline (both reportable and non reportable) that occurred during the previous year in the inspection area containing the waiver location(s).
- All repairs on the pipeline made during the previous year in the inspection area containing the waiver location(s).
- On-going damage prevention initiatives on the pipeline in the inspection area containing the waiver location(s) and a discussion on their success.
- Any mergers, acquisitions, transfers of assets, or other events affecting the regulatory responsibility of the company operating the pipeline to which the waiver applies.

Authority: 49 U.S.C. 60118(c); 49 CFR 1.53.

Issued in Washington, DC, on March 13, 2006.

Joy Kadnar,

Director for Engineering and Engineering Support.

[FR Doc. E6–3833 Filed 3–15–06; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 239X)]

Union Pacific Railroad Company—Discontinuance Exemption—in Oklahoma City, OK

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over a 0.42-mile line of railroad between Stiles Avenue to the point of connection with the BNSF Railway Company (BNSF) line near Second Street (the Old Rock Island Main) in Oklahoma City, Oklahoma County, OK.[1] There are no mileposts on the line. The line traverses United States Postal Service Zip Code 73102.

UP has certified that: (1) No traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C.91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 15, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),[2] must be filed by March 27, 2006.[3] Petitions to reopen must be filed by April 5, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Robert T. Opal, General Commerce Counsel, Union Pacific Railroad Company, 1400 Douglas St., STOP 1580, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: March 10, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–3832 Filed 3–15–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 9, 2006.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 17, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0202.

Type of Review: Extension.

Title: Form 5310, Application for Determination for Terminating Plan; Form 6088, Distributable Benefits from Employee Pension Benefit Plans.

Form: IRS Form–5310 and 6088.

Description: Employees who have qualified deferred compensation plans can take an income tax deduction for contributions to their plans. IRS uses the data on Forms 5310 and 6088 to determine whether a plan still qualifies and whether there is any discrimination in benefits.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 1,813,650 hours.

OMB Number: 1545–1120.

Type of Review: Extension.

Title: CO–69–87 and CO–68–87 (Final) Final Regulations Under Sections 382 and 383 of the Internal Revenue Code of 1986; Pre-change Attributes; CO–18–90 (Final) Final Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operating Loss Carryforwards.

Description: (CO–69–87 and CO–68–87) these regulations require reporting by a corporation after it undergoes an ''ownership change'' under sections 382 and 383. Corporations required to report under these regulations include those with capital loss carryovers and excess credits. (CO–18–90) These regulations provide for rules for the treatment of options under IRC section 382 for purposes of determining whether a corporation undergoes an ownership change. The regulation allows for certain elections for corporations whose stock is subject to options.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 220,575 hours.

OMB Number: 1545–1617.

[1] Apparently, BNSF holds trackage rights authority over the line which will not be affected by this exemption.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1,200. *See* 49 CFR 1002.2(f)(25).

[3] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

Type of Review: Extension.

Title: REG–124069–02 (Final) Section 6038—Returns Required with Respect to Controlled Foreign Partnerships; REG–118966–97 (Final) Information Reporting With Respect to Certain Foreign Partnership and Certain Foreign Corporations.

Description: REG–124069–02 Treasury Regulation Section 1.6038–3 requires certain United States person who own interests in controlled foreign partnerships to annually report information to the IRS on Form 8865. This regulation amends the reporting rules under Treasury Regulation section 1.6038–e to provide that a U.S. person must follow the filing requirements that are specified in the instructions for Form 8865 when the U.S. person must file Form 8865 and the foreign partnership completes and files Form 1065 or Form 1065–B. *REG–118966–97* section 6038 requires certain U.S. persons who own interest in controlled foreign partnerships or certain foreign corporations to annually report information to the IRS. This regulation provides reporting rules to identify foreign partnerships and foreign corporations which are controlled by U.S. persons.

Respondents: Individuals or households; business or other for-profit.

Estimated Total Burden Hours: 500 hours.

OMB Number: 1545–1968.

Type of Review: Extension.

Title: Alternative Tax on Qualifying Shipping Activities.

Form: IRS Form–8902.

Description: Form 8902 is used to elect the alternative tax on notional income from qualifying shipping activities and to figure the alternative tax.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 3,056 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–3808 Filed 3–15–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Electronic Transfer Account (ETA) Financial Agency Agreement

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, 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 continuing information collection. By this notice, the Financial Management Service solicits comments concerning form FMS–111, ''Electronic Transfer Account (ETA) Financial Agency Agreement.''

DATES: Written comments should be received on or before May 15, 2006.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Records and Information Management Branch, Room 135, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Sally Phillips, Director, EFT Strategy Division, 401 14th Street, SW., Washington, DC 20227, (202) 874–7106.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below:

Title: Electronic Transfer Account (ETA) Financial Agency Agreement.

OMB Number: 1510–0073.

Form Number: FMS 111.

Abstract: Any financial institution that offers the ETA must do so subject to the terms and conditions of the agreement. The agreement incorporated the final features of the account and other account criteria, such as standards for opening and closing accounts.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affect Public: Federal insured financial institutions.

Estimated Number of Respondents: 20.

Estimated Time Per Respondents: 2 hours.

Estimated Total Annual Burden Hours: 40.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: March 10, 2006.

Judith Tillman,

Assistant Commissioner, Regional Operations.

[FR Doc. 06–2564 Filed 3–15–06; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection: Comment Request for Form TD F 90–22.1

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form TD F 90–22.1, Report of Foreign Bank and Financial Accounts.

DATES: Written comments should be received on or before May 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Elizabeth Witzgall at Internal Revenue Service, 5000 Ellin Road # C–3 242, Lanham MD 20706.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions

should be directed to Elizabeth Witzgall, at (202) 283–2227, or at Internal Revenue Service, 5000 Ellin Road # C–3 242, Lanham MD 20706 or through the Internet, at *Elizabeth.B.Witzgall@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Report of Foreign Bank and Financial Accounts.

OMB Number: 1545–0009.

Form Number: TD F 90–22.1.

Abstract: Form TD F 90–22.1 is used to report a financial interest in, signature authority or other authority over one or more financial accounts in foreign countries as required by 31 U.S.C. 5314 and the Department of the Treasury Regulations (31 CFR part 103). No report is required if the aggregate value of the accounts did ot exceed $10,000. The data is required because of its high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.

Current Actions: Revisions have been made to the form and the instructions. The ownership of the form is changed wtihin the Department of the Treasury to the Internal Revenue Service.

Type of Review: Revision of a currently approved collection.

Affected Public: United States persons including both legal entities and individuals who are citizens or residents of the United States.

Estimated Number of Respondents: 282,000.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 94,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information under 31 U.S.C. 5314 must be retained for a period of five years under 31 CFR 38(d). Generally information provided in this report shall be available to law enforcement for a purpose that is consistent with 31 U.S.C. 5311, however this report and records of reports are exempt from disclosure under 5 U.S.C. 552, the Freedom of Information Act.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Sandra Stolt,

IRS SB/SE BSA Compliance Policy Program Manager.

[FR Doc. 06–2541 Filed 3–15–06; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–485–89]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–485–89 (TD 8400), Taxation of Gain or Loss from Certain Nonfunctional Currency Transactions (Section 988 Transactions) (Sections 1.988–0 through 1.988–5).

DATES: Written comments should be received on or before May 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Taxation of Gain or Loss from Certain Nonfunctional Currency Transactions (Section 988 Transactions).

OMB Number: 1545–1131.

Regulation Project Number: INTL–485–89.

Abstract: Internal Revenue Code sections 988(c)(1)(D) and (E) allow taxpayers to make elections concerning the taxation of exchange gain or loss on certain foreign currency denominated transactions. In addition, Code sections 988(a)(1)(B) and 988(d) require taxpayers to identify transactions which generate capital gain or loss or which are hedges of other transactions. This regulation provides guidance on making the elections and complying with the identification rules.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

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

Estimated Number of Respondents: 5,000

Estimated Time Per Respondent: 40 minutes

Estimated Total Annual Burden Hours: 3,333.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of

information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 8, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–3769 Filed 3–15–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4506–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4506–A, Request for Public Inspection or Copy of Exempt Organization Tax Form.

DATES: Written comments should be received on or before May 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Public Inspection or Copy of Exempt Organization IRS Form.

OMB Number: 1545–0495.

Form Number: 4506–A.

Abstract: Internal Revenue Code section 6104 states that if an organization described in section 501(c) or (d) is exempt from taxation under section 501(a) for any taxable year, the application for exemption is open for public inspection. This includes all supporting documents, any letter or other documents issued by the IRS concerning the application, and certain annual returns of the organization. Form 4506–A is used to request public inspection or a copy of these documents.

Current Actions: There are no changes being made to form at this time.

Type of Review: Extension of a currently approved collection.

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

Estimated Number of Responses: 20,000.

Estimated Time per Response: 54 min.

Estimated Total Annual Burden Hours: 18,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 8, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–3770 Filed 3–15–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8288 and 8288-A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests, and Form 8288–A, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests.

DATES: Written comments should be received on or before May 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests (Form 8288) and Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests (Form 8288–A).

OMB Number: 1545–0902.

Form Number: 8288 and 8288–A.

Abstract: Internal Revenue Code section 1445 requires transferees to withhold tax on the amount realized from sales or other dispositions by foreign persons of U.S. real property interests. Form 8288 is used to report and transmit the amount withheld to the IRS. Form 8288–A is used by the IRS to validate the withholding, and a copy is returned to the transferor for his or her use in filing a tax return.

Current Actions: A check box was added to line 5 for large trust elections to withhold at distribution.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 10,000

Estimated Time per Respondent: 24 hr., 10 min.

Estimated Total Annual Burden Hours: 241,675.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 9, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–3771 Filed 3–15–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–62–89]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–62–89 (TD 8407), Final Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operating Loss Carryforwards (Section 1.382–3).

DATES: Written comments should be received on or before May 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Final Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operating Loss Carryforwards.

OMB Number: 1545–1260.

Regulation Project Number: CO–62–89 (Final).

Abstract: Internal Revenue Code section 382(l)(5) provides relief from the application of the section 382 limitation for bankruptcy reorganizations in which the pre-change shareholders and qualified creditors maintain a substantial continuing interest in the loss corporation. These regulations concern the election a taxpayer may make to treat as the change date the effective date of a plan of reorganization in a title 11 or similar case rather than the confirmation date of a plan.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10 hours.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 1 hour.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 8, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–3772 Filed 3–15–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5213

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5213, Election To Postpone Determination as To Whether the Presumption Applies That an Activity Is Engaged in for Profit.

DATES: Written comments should be received on or before May 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Election To Postpone Determination as To Whether the Presumption Applies That an Activity Is Engaged in for Profit.

OMB Number: 1545–0195.

Form Number: 5213.

Abstract: Section 183 of the Internal Revenue Code allows taxpayers to elect to postpone a determination as to whether an activity is entered into for profit or is in the nature of a nondeductible hobby. The election is made on Form 5213 and allows taxpayers 5 years (7 years for breeding, training, showing, or racing horses) to show a profit from an activity.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 3,541.

Estimated Time per Respondent: 47 minutes.

Estimated Total Annual Burden Hours: 2,762.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 8, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–3773 Filed 3–15–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8911

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8911, Alternative Fuel Vehicle Refueling Property Credit.

DATES: Written comments should be received on or before May 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Qualified Railroad Track Maintenance Credit.

OMB Number: 1545–1981.

Form Number: Form 8911.

Abstract: IRC section 30C allows a credit for alternative fuel vehicle refueling property. Form 8911, Alternative Fuel Vehicle Refueling Property Credit, will be used by taxpayers to claim the credit.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 330.

Estimated Time Per Respondent: 6 hours 24 minutes.

Estimated Total Annual Burden Hours: 2,112.

The following paragraph applies to all of the collections of information covered by this notice: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 3, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–3774 Filed 3–15–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2006–26

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2006–26, Credit for Nonbusiness Energy Property.

DATES: Written comments should be received on or before May 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit for Nonbusiness Energy Property.

OMB Number: 1545–1989.

Notice Number: Notice 2006–26.

Abstract: This notice of interim guidance relates to the procedures by which a manufacturer can certify that building envelope components or energy property qualify for the section 25C credit. This notice is intended to provide (1) guidance concerning the methods by which manufacturers can provide such certifications to taxpayers, and (2) guidance concerning the methods by which taxpayers can claim such credits.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 140.

Estimated Average Time per Respondent: 2.5 hrs.

Estimated Total Annual Burden Hours: 350.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 3, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–3776 Filed 3–15–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–CAP

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099-CAP, Changes in Corporate Control and Capital Structure.

DATES: Written comments should be received on or before May 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–3945, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Changes in Corporate Control and Capital Structure.

OMB Number: 1545–1814.

Form Number: 1099–CAP.

Abstract: Any corporation that undergoes reorganization under Regulation section 1.6043–4T with stock, cash, and other property over $100 million must file Form 1099–CAP with IRS shareholders.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals.

Estimated Number of Responses: 350.

Estimated Time Per Response: 11 minutes.

Estimated Total Annual Burden Hours: 67.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All

comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 7, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–3777 Filed 3–15–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Education; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Veterans' Advisory Committee on Education will meet on April 6–7, 2006. The April 6 session will be held at the South Mesa Staff NCO Club, Camp Pendleton, CA from 9 a.m. to 12:30 p.m. and will resume at the Oceanside Marina Suites, 2008 Harbor Drive North, Oceanside, CA, from 1:30 p.m. to 5 p.m. The April 7 session will be held at the Oceanside Marina Suites, from 8 a.m. to 3 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of education and training programs for veterans, servicepersons, reservists, and dependents of veterans under Chapters 30, 32, 35, and 36 of Title 38, and Chapter 1606 of Title 10, United States Code.

On April 6, the meeting will begin with opening remarks and an overview by Mr. James Bombard, Committee Chair. The session will include an introduction of new members and a ''town hall'' forum at 10 a.m. with Marine Corps and Navy personnel to discuss use of Department of Veterans Affairs education benefits.

On April 7, the Committee will hold a town hall forum with veterans and educators to discuss use of education benefits. Afterwards, the Committee will review and summarize issues raised during this session. Oral statements will be heard on April 7 at 8:30 a.m.

Interested persons may file written statements to the Committee before the meeting, or within 10 days after the meeting, with Mrs. Judith B. Timko, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration (225B), 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public wishing to attend the meeting should contact Mrs. Judith B. Timko or Mr. Michael Yunker at (202) 273–7187.

Dated: March 10, 2006.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–2530 Filed 3–15–06; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Environmental Hazards; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Veterans' Advisory Committee on Environmental Hazards will be held on April 5–6, 2006, from 8 a.m. to 5 p.m. each day. The meeting will be held at the Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 728, Washington, DC. The meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs on adverse health effects that may be associated with exposure to ionizing radiation and to make recommendations on proposed standards and guidelines regarding VA benefit claims based upon exposure to ionizing radiation.

The agenda for both days will be analyses of medical and scientific papers concerning the health effects of exposure to ionizing radiation. On the basis of the discussions, the Committee may make recommendations to the Secretary concerning the relationship of certain diseases to exposure to ionizing radiation. On April 5, VA's Public Health and Environmental Hazards Office will also make a presentation. The April 6 session will include planning for future Committee activities and assignment to tasks among the members.

Interested persons wishing to attend the meeting should contact Ms. Bernice Green, Department of Veterans Affairs, Compensation and Pension Service, 810 Vermont Avenue, NW., Washington, DC 20420, by phone at (202) 273–7210 or by fax at (202) 275–1728. Members of the public may submit written questions or prepared statements in advance for the Committee's review. Statements should be sent to Ms. Green's attention at least 5 days prior to the meeting. Those who submit material may be asked to clarify it prior to its consideration by the Committee.

An open forum for verbal statements from the public will be available for 20 minutes during the morning and 20 minutes in the afternoon each day. Each person wishing to make a verbal statement before the Committee will be accommodated on a first-come, first-served basis and will be provided three (3) minutes to present a statement.

Dated: March 10, 2006.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–2528 Filed 3–15–06; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Minority Veterans will be held from April 3–6, 2006, at the VA Greater Los Angeles Healthcare System (GLAHCS), the VA Regional Office in Los Angeles, California, and the VA Long Beach Healthcare System in Long Beach, California. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary on the administration of VA benefits and services to minority veterans, to assess the needs of minority veterans and to evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

On April 3, the Committee will meet at the Greater Los Angeles Health Care System, VA Medical Center (VAMC), Executive Conference Room, 11301 Wilshire Blvd, Los Angeles, California, from 8 a.m. until 3:30 p.m. The Director will brief the Committee on services and benefit delivery challenges, successes and concerns in serving minority veterans. Following these discussions,

the Committee will be briefed on how the VAMC conducts its outreach initiatives, activities and programs within the minority communities. Starting at noon the Committee will receive a briefing and tour the New Directions training facility, located at VAMC Building 116. From 1:30 p.m. to 3:30 p.m. the Committee will receive a briefing and tour of the Mental Health Outpatient Treatment Center located in GLAHCS VAMC Building 206.

On April 4, the Committee will meet from 8:30 a.m. to 10 a.m. at the VA Regional Office (VARO) Executive Conference Room, located at the Federal Building, 11000 Wilshire Blvd, Los Angeles. The VARO Director and key staff members will brief the Committee on their outreach activities, challenges and initiatives in providing benefit services to minority veterans within the communities they serve, followed by a tour of the Regional Office. Following these discussions, the Committee will hold a working lunch with the Veteran Service Organizations from the Greater Los Angeles area to discuss their concerns, assessments and observations of minority veterans needs. This meeting will be held from 11 a.m. to 12:30 p.m. at the VA Regional Office, Room 7106. At 1:30 p.m. the Committee will visit the Los Angeles Ambulatory Care Center located at 351 E. Temple Street, Los Angeles to receive a briefing and tour of the facility. During the evening, from 6 p.m. to 8 p.m., the Committee will conduct a town hall meeting at the Patriotic Hall, located at 1816 S. Figueroa Street.

On April 5, the Committee's morning session will be held at the Los Angeles National Cemetery, 950 South Sepulveda Blvd., Los Angeles, in the Executive Conference Room, from 10 a.m. to 12 p.m. The Committee will be briefed by the Cemetery Director on minority veteran outreach and significant issues in addressing minority veteran concerns. This discussion will be followed by a guided tour of the grounds and facility. The Committee's afternoon meeting from 1:30 p.m. to 3 p.m., will be held at the GLAHCS VAMC Executive Conference Room and will focus on health care disparities, with a presentation by Dr. Nancy Harada, Research Physical Therapist, GLAHCS VAMC.

On April 6, the Committee will conduct its meetings at the VA Long Beach Health Care System (HCS) Executive Conference Room located at 5901 7th Street, Long Beach. The meeting will begin at 10 with a briefing from the Veteran Integrated Service Network (VISN 22) Director, followed by an overview of outreach activities, challenges and initiatives by the Director, Long Beach HCS and key staff members. The afternoon session will begin at 1 p.m. with presentations from the Veteran Services Organizations who will discuss the needs, concerns and outreach required to serve the Long Beach minority communities. Beginning at 2:30 p.m. the Committee will tour the Villages of Cabrillo located at 2001 River Avenue., Long Beach. In the evening, from 6:30 p.m. to 8:30 p.m., a town hall meeting will be held at the Long Beach HCS, Pantages Theatre located at 5901 7th Street, 2nd Floor, Long Beach. This will be the final Committee meeting and the members will adjourn at the conclusion of this town hall meeting.

The Committee will accept written comments from interested parties on issues outlined in the meeting agenda, as well as other issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (OOM), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

For additional information about the meeting, please contact Ms. Elizabeth Olmo at (202) 273–6708.

Dated: March 8, 2006.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–2527 Filed 3–15–06; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special Disabilities Programs; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Prosthetics and Special Disabilities Programs will be held April 11–12, 2006, Room 230, VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The meeting will convene at 8:30 a.m. on both days. On April 11 it will adjourn at 4:30 p.m. and on April 12 at noon. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on VA's prosthetic programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also provides advice to the Secretary on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss or loss of the use of extremities, deafness or hearing impairment, or other serious incapacities in terms of daily life functions.

On the morning of April 11, the Committee will receive briefings by the Chief Consultant, Rehabilitation Strategic Healthcare Group, and Director, Rehabilitation Research and Development. In the afternoon, briefings from the Directors of Seamless Transition Office, Vocational Rehabilitation and Employment Service, and Chief Prosthetics and Clinical Logistics Officer will be presented. On the morning of April 12, the Committee will be briefed by the Chief Consultant, Spinal Cord Injury and Disorders Service.

No time will be allocated for receiving oral presentations from the public. However, members of the public may direct questions or submit written statements for review by the Committee in advance of the meeting to Ms. Cynthia Wade, Designated Federal Officer, Veterans Health Administration, Patient Care Services, Rehabilitation Strategic Healthcare Group (117), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public wishing to attend the meeting should contact Ms. Wade at (202) 273–8485.

Dated: March 10, 2006.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–2529 Filed 3–15–06; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Notice of Intent To Grant an Exclusive License

AGENCY: Department of Veterans Affairs, Office of Research and Development.

ACTION: Notice of Intent.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs, Office of Research and Development, intends to grant to APMed Solutions, Inc. 3282 Alpine Road Portola Valley, CA 94028 an exclusive license to practice U.S. Patent No. 6,840,242 issued January 11, 2005, entitled ''Tracheostomy Aspiration Suction Tube.''

DATES: Comments must be received within fifteen (15) days from the date of this published Notice.

ADDRESSES: Send comments to: Amy E. Centanni, Director of Technology Transfer, Department of Veterans Affairs; Office of Research and Development, Attn: 12TT; 810 Vermont Avenue NW., Washington, DC 20420. Telephone: (202) 254–0199; Facsimile: (202) 254–0473; e-mail: *amy.centanni@mail.va.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the published patent may be obtained from the U.S. Patent and Trademark Office at *http://www.uspto.gov.*

SUPPLEMENTARY INFORMATION: It is in the public interest to so license this invention as APMed Solutions, Inc, submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published Notice, the Department of Veterans Affairs Office of Research and Development receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Approved: March 9, 2006.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E6–3765 Filed 3–15–06; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 71, No. 51

Thursday, March 16, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–22024; Airspace Docket No. 05–AAL–38]

RIN–2120–AA66

Modification of the Norton Sound Low, Woody Island Low and 1234L Offshore Airspace Areas; AK

Correction

In rule document 06–2112 beginning on page 11298 in the issue of Tuesday, March 7, 2006, make the following correction:

§71.1 [Corrected]

On page 11299, in the third column, in §71.1, under the heading **Woody Island Low, AK [Amended]**, in the seventh line, ''153°0′00″'' should read ''153°00′00″ ''.

[FR Doc. C6–2112 Filed 3–15–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
March 16, 2006

Part II

Department of Agriculture

Office of Energy Policy and New Uses

7 CFR Part 2902

Designation of Biobased Items for Federal Procurement; Final Rule

DEPARTMENT OF AGRICULTURE

Office of Energy Policy and New Uses

7 CFR Part 2902

RIN 0503–AA26

Designation of Biobased Items for Federal Procurement

AGENCY: Office of Energy Policy and New Uses, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (USDA) is amending 7 CFR part 2902, Guidelines for Designating Biobased Products for Federal Procurement, to add six sections to designate the following six items within which biobased products will be afforded Federal procurement preference, as provided for under section 9002 of the Farm Security and Rural Investment Act of 2002: Mobile equipment hydraulic fluids; roof coatings; water tank coatings; diesel fuel additives; penetrating lubricants; and bedding, bed linens, and towels. USDA also is establishing minimum biobased content for each of these items. Once USDA designates an item, procuring agencies are required generally to purchase biobased products within these designated items where the purchase price of the procurement item exceeds $10,000 or where the quantity of such items or of functionally equivalent items purchased over the preceding fiscal year equaled $10,000 or more. However, USDA is deferring the effective date for two items (water tank coatings and bedding, bed linens, and towels) until such time that more than one manufacturer of products in these two items is identified. USDA additionally is revising section 2902.2 to add definitions for ''biodegradability,'' ''EPA-designated recovered content product,'' and ''functional unit'' and section 2902.8 to adopt applicable ASTM International performance tests to verify biodegradability.

DATES: This rule is effective April 17, 2006. However, as to water tank coatings and bedding, bed linens, and towels, Federal agencies will not be required to grant those items a preference until USDA learns of the availability of two or more manufacturers of products within that item and announces that availability in a future **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Marvin Duncan, USDA, Office of the Chief Economist, Office of Energy Policy and New Uses, Room 4059, South Building, 1400 Independence Avenue SW., MS–3815 Washington, DC 20250–3815; e-mail: *mduncan@oce.usda.gov*; phone (202) 401–0461. Information regarding the Federal Biobased Products Preferred Procurement Program is available on the Internet at *http://www.biobased.oce.usda.gov*.

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Authority
II. Background
III. Discussion of Comments
IV. Regulatory Information
A. Executive Order 12866: Regulatory Planning and Review
B. Regulatory Flexibility Act (RFA)
C. Executive Order 12630: Governmental Actions and Interference with Constitutionally Protected Property Rights
D. Executive Order 12988: Civil Justice Reform
E. Executive Order 13132: Federalism
F. Unfunded Mandates Reform Act of 1995
G. Executive Order 12372: Intergovernmental Review of Federal Programs
H. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
I. Paperwork Reduction Act
J. Government Paperwork Elimination Act Compliance

I. Authority

These items are designated under the authority of section 9002 of the Farm Security and Rural Investment Act of 2002 (FSRIA), 7 U.S.C. 8102 (referred to in this document as ''section 9002'').

II. Background

On July 5, 2005, USDA published in the **Federal Register** (70 FR 38612) a proposed rule to designate the following six items for the biobased products preferred procurement program: Mobile equipment hydraulic fluids; roof coatings;[1] water tank coatings; diesel fuel additives; penetrating lubricants; and bedding, bed linens, and towels. USDA has determined that each of these six items meets the necessary statutory requirements; that they are being produced with biobased products and that their procurement will carry out the following objectives of section 9002: To improve demand for biobased products; to spur development of the industrial base through value-added agricultural processing and manufacturing in rural communities; and to enhance the Nation's energy security by substituting biobased products for products derived from imported oil and natural gas.

When USDA designates by rulemaking an item (a generic grouping of products) for preferred procurement under the Federal Biobased Products Preferred Procurement Program (FB4P), manufacturers of all products under the umbrella of that item that meet the requirements to qualify for preferred procurement can claim that status for their products. To qualify for preferred procurement, a product must be within a designated item and must contain at least the minimum biobased content if one has been established for the designated item. When the designation of specific items is finalized, USDA will invite the manufacturers of these qualifying products to post information on the product, contacts, and performance testing on its FB4P Web site, *http://www.biobased.oce.usda.gov*. Procuring agencies will be able to utilize this Web site as one tool to determine the availability of qualifying biobased products under a designated item.

Some of the biobased items designated for preferred procurement may overlap with products designated under the Environmental Protection Agency's (EPA) Comprehensive Procurement Guidelines program for recovered content products. Where that occurs, an EPA-designated recovered content product (also known as ''recycled content products'' or ''EPA-designated products'') has priority in Federal procurement over the qualifying biobased product. In situations where USDA believes there may be an overlap, it plans to ask manufacturers of qualifying biobased products to provide additional product and performance information to Federal agencies to assist them in determining whether the biobased products in question are, or are not, the same products for the same uses as the recovered content products. This information will be available on USDA's Web site with its catalog of qualifying biobased products.

In cases where USDA believes an overlap with EPA-designated recovered content products may occur, manufacturers will be asked to indicate the various suggested uses of their product and the performance standards against which a particular product has been tested. In addition, depending on the type of biobased product, manufacturers may also be asked to provide other types of information, such as whether the product contains petroleum-based components and whether the product contains recovered

[1] At proposal, this item was identified as ''urethane roof coatings,'' based on the specific formulation of the biobased product available at that time. USDA believes limiting this item to urethane-based roof coating is unnecessarily restrictive, especially in the light of another biobased product that has become available that is not urethane-based. Therefore, USDA is designating the more generic ''roof coatings'' as the item for preferred procurement under this program.

materials. Federal agencies may also ask manufacturers for information on a product's biobased content and its profile against environmental and health measures and life cycle costs (the Building for Environmental and Economic Sustainability (BEES) analysis or ASTM Standard D7075 for evaluating and reporting on environmental performance of biobased products). Such information will permit agencies to determine whether or not an overlap occurs.

Where a biobased item is used for the same purposes and to meet the same requirements as an EPA-designated recovered content product, the Federal agency must purchase the recovered content product. For example, if a biobased hydraulic fluid is to be used as a fluid in hydraulic systems and because ''lubricating oils containing re-refined oil'' has already been designated by EPA for that purpose, then the Federal agency must purchase the EPA-designated recovered content product, ''lubricating oils containing re-refined oil.'' If, on the other hand, that biobased hydraulic fluid is to be used to address certain environmental or health requirements that the EPA-designated recovered content product would not meet, then the biobased product should be given preference, subject to cost, availability, and performance.

This final rule designates three items for preferred procurement for which there may be overlap with EPA-designated recovered content products. These items are: (1) Mobile equipment hydraulic fluids, (2) roof coatings, and (3) penetrating lubricants. Qualifying products under these three items may overlap with lubricating oils containing re-refined oil and recovered content roofing materials, depending on how these products are to be used.

Since publication of the proposed rule to designate items for the FB4P, section 9002 was amended by section 943 of the Energy Policy Act of 2005, Pub. L. 109–58 (Energy Policy Act). Section 943 of the Energy Policy Act amended the definitions section of FSRIA, 7 U.S.C. 8101, by adding a definition of ''procuring agency'' that includes both Federal agencies and ''any person contracting with any Federal agency with respect to work performed under that contract.'' The amendment also made Federal contractors, as well as Federal agencies, expressly subject to the procurement preference provisions of section 9002 of FSRIA. However, because this program requires agencies to incorporate the preference for biobased products into procurement specifications, the statutory amendment makes no substantive change to this program. USDA intends to further amend the Guidelines to incorporate the new definition of ''procuring agency'' by publishing a notice of final rule at a later date.

In making future designations, USDA will continue to conduct market searches to identify manufacturers of products within items. USDA will then contact the identified manufacturers to solicit samples of their products for voluntary submission for biobased content testing and for the BEES analytical tool. Based on these results, USDA will then propose new items for designation for preferred procurement.

USDA plans to create and chair an ''interagency council,'' with membership selected from among Federal stakeholders to the FB4P. USDA will use this council to provide consultation in identifying the order of item designation, manufacturers producing and marketing products that fall within an item proposed for designation, performance standards used by Federal agencies evaluating products to be procured, and warranty information used by manufacturers of end user equipment and other products with regard to biobased products.

Finally, USDA plans to identify approximately 10 items in each future rulemaking. USDA has developed a preliminary list of items for future designation. This list is available on the FB4P Web site. While this list presents an initial prioritization of items for designation, USDA cannot identify with any certainty which items will be presented in each of the future rulemakings. Items may be added or dropped and the information necessary to designate an item may take more time to obtain than an item lower on the prioritization list.

III. Discussion of Comments

USDA solicited comments on the proposed rule for 60 days ending on September 6, 2005. USDA received comments from 31 commenters by that date. The comments were from private citizens, individual companies, industry organizations, one foreign government, and various Federal agencies. With few exceptions, the commenters supported the goals of section 9002 and the designation of the six items. Most of the commenters, however, had specific questions, concerns, or recommendations regarding some aspect of the designation of these items. Several comments related to the process USDA has established for designating items, and other comments were relevant to the January 11, 2005, Guidelines for Designating Biobased Products for Federal Procurement.

Several procuring agencies expressed concerns in their comments that the effect of designating an item for which only one manufacturer of a biobased product is currently available would result in a sole source situation that would diminish competition. The two items of concern are water tank coatings and bedding, bed linens, and towels. Accordingly, while USDA is designating these items for preferred procurement, it is deferring specifying the date by which agencies must give preferred procurement to these two items under this program. For both items, a preferred procurement effective date will be identified when two or more manufacturers of products within the item have been identified. USDA actively seeks additional manufacturers of biobased products under these two items so that the items can be re-proposed for preferred procurement quickly.

Specific comments, and the USDA responses to them, are addressed below.

General Comments

Comment: A number of commenters stated that the **Federal Register** notice lacks detail on the names, manufacturers of the products, the performance tests, and, in the case of bedding, bed linens, and towels, the names of the biobased fibers, and that the information is not available on the Web site. Three of the commenters expressed concern over the lack of technical information in the preamble (e.g., lack of information on availability, relative price, performance and performance standards, BEES results, and environmental and public health benefits of products, as required by section 9002) and on the Web site and that, without this information, it is not possible to evaluate the effects of the proposed designations and to ascertain the technical performance of these products. One commenter stated that the preamble does not discuss how well the product performs when compared to what is available as a non-biobased alternative and, if Federal agencies cannot determine the performance characteristics of biobased products, they cannot reasonably call for them to be purchased. Another commenter was concerned that the lack of information on performance tests could lead to duplication of effort by agencies separately testing products to determine suitability and conformance with their specifications.

Response: USDA agrees that the information the commenters are requesting (names, manufacturers of the products, and performance tests) is useful and much of it is needed to make

decisions concerning the purchase of products within a designated item. Therefore, USDA will provide information on the standards and performance tests for those products that have been tested for purposes of designation on its FB4P Web site at the time of publishing future proposed rules, and will at the same time make that information available in the proposed rules. However, USDA has reached an agreement with manufacturers not to publish their names in the **Federal Register** when designating items. This agreement was reached to encourage manufacturers to submit products for testing to support the designation of an item. Once an item has been designated, the manufacturers of products within the designated item may elect to post their names and other contact information on the USDA FB4P Web site. USDA will also link its Web site to Defense Standardization Program and GSA-related standards lists used as guidance when procuring products. Instructions on accessing these lists on USDA's FB4P Web site will be included in its designation rules.

Further, USDA also will invite and actively encourage manufacturers of qualifying products within a designated item to post, on USDA's password-protected Web site, performance standards by which qualifying products' performances have been evaluated.

Comment: One commenter stated that USDA should encourage manufacturers to submit all relevant health and environmental data (key environmental attributes, environmental standards met, etc.) and post this information on the Web site.

Response: USDA agrees with the commenter that the posting of such information on the FB4P Web site is important. Among the information that section 2902.6 of the Guidelines requests manufacturers to post to the FB4P Web site are environmental and health benefits. Sections 2902.6 and 2902.8 additionally state that manufacturers and vendors are to provide relevant information to a procuring agency upon the agency's request concerning product characteristics, life cycle costs, and environmental and health benefits. Both the BEES analytical tool and ASTM D7075, which a manufacturer may use in lieu of the BEES analytical tool, take the environmental and health impacts, as well as other parameters, of biobased products into account.

USDA is working with manufacturers and vendors to post all this information on the FB4P Web site before a procuring agency asks for it, in order to make the preferred program more efficient. Steps USDA has implemented, or will implement, include: Making direct contact with submitting companies through email and phone conversations to encourage completion of product listing; coordinating outreach efforts with intermediate material producers to encourage participation of their customer base; conducting targeted outreach with industry and commodity groups to educate stakeholders on the importance of providing complete product information; participating in industry conferences and meetings to educate companies on program benefits and requirements; and communicating the potential for expanded markets beyond the Federal government, to include State and local governments, as well as the general public markets. All of these efforts are intended to educate the manufacturers and other stakeholders on the benefits of this program and the need to post this information to make it available to procurement officials.

Comment: One commenter stated that it is illogical to require Federal agencies to purchase items, when it is only voluntary for the vendors to furnish the information for agencies to use in making the key purchase decision about the items. The commenter stated that the Web site USDA is developing to contain information on the availability, relative price, performance, and environmental and public health benefits of such products will be a useful tool for Federal agencies, but its efficacy depends on the voluntary submittal of product information by the manufacturers. The commenter, therefore, recommended that it be mandatory that manufacturers place relevant information on the Web site if the manufacturers are to participate in the preferred procurement program.

Response: USDA agrees that there appears to be an ''illogical'' aspect between ''requiring'' agencies to purchase biobased products within designated items, while the manufacturers ''voluntarily'' post on the FB4P Web site information that is needed in making purchasing decisions. USDA points out that procuring agencies are not required to purchase products if one of three conditions exist, including the inability of a product to meet performance standards. If a manufacturer fails to make this information available to a procuring agency, then the procuring agency may choose not to purchase the manufacturer's product. Thus, it is in the best interest of manufacturers and vendors to make all product performance information available to procuring agencies, whether through the FB4P Web site or through some other means.

Comment: Two commenters requested that manufacturers and consumers be provided with more information on the selection of the proposed items and the process used to determine which items are likely to be designated next. One of the commenters stated that the designation process appears to be somewhat arbitrary and that manufacturers have little idea as to which products will be designated, how they will be categorized, or how they will be selected. This commenter stated that the current proposal provides little information on why USDA selected these six items, as opposed to other items currently available that will satisfy the procurement requirements. This commenter believes that manufacturers and consumers would be better served by a more transparent process.

The other commenter also stated that the process and criteria for product designation have not been communicated, which results in industry and start-up companies not knowing which products will be selected next for designation. This commenter also stated that there is very little background or rationale on why these six products were selected.

Response: USDA agrees that it has not provided enough information on the selection process used or the order in which USDA intends to pursue designation. USDA will correct this problem by placing information on the model used by USDA and its contractor, Iowa State University, to select items for designation on the FB4P Web site. In general, the items were developed and prioritized for designation by evaluating them against program criteria established by USDA and by gathering information from other government agencies, private industry groups, and independent manufacturers. These evaluations begin by asking the following questions about the products within an item:

- Are they cost competitive with non-biobased products?
- Do they meet industry performance standards?
- Are they readily available on the commercial market?

In addition to these primary concerns, USDA then considers the following points:

- Are there manufacturers interested in providing the necessary test information on products within a particular item?
- Are there a number of companies producing biobased products in this item?

• Are there products available in this item?
• What level of difficulty is expected when designating this item?
• Is there a Federal demand for the product?
• Are Federal procurement personnel looking for biobased products?
• Will an item create a high demand for biobased feed stocks?
• Does manufacturing of products within this item increase potential for rural development?

As noted earlier, USDA will also identify the latest set of items being considered for designation and the order in which USDA plans to pursue their designation. However, the list may change, with items being added or dropped, and the order in which items are proposed for designation is likely to change because the information necessary to designate an item may take more time to obtain than an item lower on the list. Further, as noted earlier, USDA plans to create and chair an interagency council, made up of Federal agencies, to consult with USDA with respect to identifying the order of items for future designations.

With regard to the comment concerning why these six items were selected first for designation, the preamble to the proposed rule for these six items noted that they were selected because ''USDA was able to expeditiously identify and analyze these items.'' USDA will continue to make every effort to target those items most used by the Federal procurement sector. USDA will attempt to follow the model in prioritizing the order in which items are proposed for designation, but, to some extent, all future sets of items proposed for designation will depend on when sufficient information is made available by manufacturers of products within a designated item.

Comment: One commenter stated that the time frame for designating these first items has been too long, the process is overly complex and burdensome, and the paperwork burden required for manufacturers is unduly burdensome, especially for smaller manufacturers. The commenters urged USDA to quickly designate other items that will have the greatest impact on the biobased marketplace and to streamline the designation process.

A second commenter also stated that the program is taking too long in its implementation and that additional products with big marketplace impacts must be designated immediately. The commenter also stated generally that the implementation seems to be rather complex, time consuming, and expensive.

Response: USDA agrees that it has taken longer than planned to propose the first set of items for preferred procurement. Because information required to designate items is being submitted on a voluntary basis, USDA is working with manufacturers, as discussed earlier, to facilitate obtaining the information required to designate items more quickly.

USDA is also working with manufacturers to facilitate the process by which items are designated for preferred procurement and is striving to reduce, where feasible, the cost and burden to manufacturers associated with designating items. Efforts to accomplish this include, but are not necessarily limited to, developing a simplified BEES survey to encourage company input; funding the development of basic production data for several common agricultural feed stocks; providing assistance to manufacturers submitting BEES information to support item designation, including identifying potential sources for questionnaire data and helping manufacturers calculate specific inputs; contacting and urging material suppliers to provide necessary life-cycle, environmental, and human health data not typically maintained by end-product manufacturers; and considering the potential benefit of intermediate material BEES analysis as a means of reducing further a manufacturer's input burden (*e.g.*, a BEES analysis on a biobased polymer could possibly reduce the burden on manufacturers using that polymer to produce water bottles, thereby making the bottle manufacturer only responsible for reporting on their specific process). In addition to these actions, USDA is covering the costs of both the biobased content testing and the actual BEES analyses used in the designation of items.

USDA welcomes suggestions for further reducing the burden to manufacturers, while providing the level of information necessary to designate items.

Comment: One commenter stated that USDA should judge the performance of biobased materials against their intended application and avoid performance criteria that discriminate against biobased alternatives. According to the commenter, industry performance criteria may frequently discriminate against biobased alternatives when such criteria are designed in the absence of a biobased alternative. The commenter, therefore, urged USDA to consider alternative criteria when such discrimination is evident.

Response: USDA agrees with the commenter that the performance of biobased materials should be judged against their intended applications and that performance criteria should not be biased against biobased alternatives. To assist procurement agencies in evaluating products within designated items against their intended applications, USDA is providing a forum on its FB4P Web site for manufacturers to publish all performance standards for their products. USDA will also be providing information on its Biobased Affirmative Procurement Program (APP), which is USDA's preferred procurement program. In the APP, USDA will provide guidance to procuring agencies on how to structure their preferred procurement program in order to carry out section 2902.4 of the Guidelines, which requires procuring agencies to reexamine their performance requirements and specifications to ensure they are not unfair against the procurement of biobased products and that they are still necessary and relevant.

Comment: One commenter stated that USDA needs to provide clarification on how the FB4P will take into account the international obligations of the U.S. under NAFTA and the World Trade Organization (WTO) Agreement on Government procurement. Two other commenters stated that, under NAFTA and the WTO Agreement on Government Procurement, the treatment of Canadian-sourced goods shall be no less favorable than that of U.S.-sourced goods and, therefore, no U.S. domestic preference is permitted. The commenters proposed that USDA cancel the proposed designation of these items, give preference to goods produced by signatories of NAFTA and the WTO, or modify the application of the preference so that it only applies to procurements that fall below the thresholds of NAFTA and the WTO agreement.

Response: Section 9002 requires Federal agencies to develop procurement programs that ensure the purchase of designated biobased products to the maximum extent practicable and that are ''consistent with applicable provisions of Federal procurement law.'' In making such purchases, Federal agencies are to give a preference to the procurement of items ''composed of the highest percentage of biobased products practicable, consistent with maintaining a satisfactory level of competition.'' A procurement program that treats biobased products from designated countries (as that term is defined in the Federal Acquisition Regulation (FAR) § 25.003)) no less favorably than U.S.-sourced biobased products: (1) Maintains a preference for biobased

products over non-biobased products; (2) maintains a satisfactory level of competition; and (3) ensures consistency with Federal procurement law, including Part 25 of the FAR. FAR part 25 sets out the policies and procedures for acquiring foreign products and services and implements the Buy American Act, trade agreements, and other laws and regulations regarding the acquisition of foreign products and services. Accordingly, biobased products from any designated country would receive the same preference extended to U.S.-sourced biobased products. In order to clarify and make this policy applicable to all biobased designations, USDA plans to propose a broad-based revision to the USDA biobased procurement guidelines (7 CFR part 2902) in its next proposed rule designating additional items.

Comment: One commenter stated that USDA should explain how it intends to be sure that biobased products are made from domestic and not imported feedstocks. The commenter provided an example in which janitorial cleaners commonly have a linear alcohol ethoxylate surfactant that can be made from plant or petrol. However, the plant-derived material is from palm kernel or coconut oil, neither of which is a U.S. domestic product. Thus, the commenter asked: (1) How will USDA verify that the organic molecules come from U.S. grown material? and (2) how will USDA be certain that, when a product can be made from a U.S. crop, it is indeed being made with a U.S. crop and not imported material (e.g., D-limonine can come from the U.S., Brazil, and other citrus growing countries)? The commenter concludes by stating that the real intent of the law is not being met by the present testing outlined in the proposed rule.

Response: USDA intends that manufacturers will self-certify that each product being offered as a biobased product for preferred procurement contains qualifying feedstock. As noted in the response to the previous comment, qualifying feedstocks for biobased products can be from ''designated countries'' as well as from the United States.

Comment: Two commenters stated that USDA should publish its model Biobased Products Procurement Preference Program so that agencies can understand the recommended acquisition strategy. One of the commenters stated that understanding the acquisition strategy is necessary to enable evaluation of the effects of the proposed designations on Government procurement processes or general operations.

Response: USDA agrees with the commenters and is continuing to develop its policies and its Biobased APP for designated items to support its own procurement practices. USDA is also working to develop outreach and education programs, based on the USDA Biobased APP, to assist other procuring agencies in complying with the requirements of this program. USDA has issued the first generation of its Biobased APP, which includes several procurement tools, such as sample contract language for biobased procurement. As additional documents become available, USDA will publish them to the biobased Web site at *http://www.usda.gov/biobased.*

Additionally, USDA will continue to work with OFPP and the Office of the Federal Environmental Executive (OFEE) to coordinate and implement Federal biobased procurement policies.

Comment: One commenter urged USDA to work aggressively to bring all Federal agencies on board to implement the program within the one-year transition period indicated in the proposed rule.

Another commenter expressed concern that the one-year effective date may not be adequate, especially where product testing is needed and in particular for coatings, including roofing system coatings. The commenter recommended that USDA lengthen the implementation period to 18 months, at least for the first set of designated items, and up to 5 years for product testing and revision of performance specifications. The commenter pointed to the following as reasons for the need to extend the implementation period: The timeline for availability clauses in the FAR that are in development for biobased products; the process lengthening or even being stopped due to vendor protests, depending on the language in the FAR; the time for vendors to incorporate biobased provisions in a logical way, without the pressure to take shortcuts that could negatively affect agencies; product testing of coatings that could take several years if the procedures include corrosion or durability testing; revision of procurement specifications may require additional years to pass through various reviews and be finalized; and changes in specifications would lead to new product verifications, which require money to be allocated through the Planning, Programming, and Budgeting System process that may take several years.

Response: In response to the first commenter, USDA's Departmental Administration is working with OFEE and OFPP, and through the interagency council, to assist all Federal agencies in accomplishing the goal of implementing the program in a timely manner.

The second commenter expressed concerns about the implementation period not being long enough. Agencies have one year from the effective date of the Guidelines to implement procurement preference programs for designated items. This is consistent with the legislative requirement found in Section 9002(d) of FSRIA, which states that ''Federal agencies shall, within one year after the date of publication of applicable guidelines under subsection (e), or as otherwise specified in such guidelines, assure that such specifications require the use of biobased products consistent with the requirements of this section.''

USDA proposed the one-year time frame in the proposed Guidelines (69 FR 70730, December 19, 2003, proposed section 2902.5), but in the Guidelines (70 FR 1792, January 11, 2005, section 2902.4(c)), USDA indicated each designated-item rulemaking would specify the time frame for each item. In the proposed designated-item rulemaking (70 FR 38612, July 5, 2005), USDA proposed a one-year time frame for each of the six items. Once the final rule is published, Federal agencies have up to one year to comply with these requirements (i.e., revise their procurement requirements and specifications for implementing the preferred purchasing of biobased products within these six items).

At the time these items are promulgated for designation, Federal agencies will have had a minimum of 18 months (from when these designated items were proposed) up to 27 months (from when the Guidelines were first proposed and these requirements were first laid out) available to them to implement these requirements. This time frame is at minimum equivalent to or longer than that requested by the commenter for this first set of designated items. It is USDA's position that this is a sufficient time frame for procuring agencies to identify biobased items meeting agency performance standards and to take the actions necessary for incorporating designated items into their preferred procurement program. USDA also notes that, from the time the Guidelines were first proposed, agencies will have longer time frames to implement these requirements for items proposed for designation in future rulemakings.

In response to the commenter's concerns about the amount of time required for product testing, USDA reemphasizes that procuring agencies

are not required to purchase biobased products that do not meet the reasonable performance requirements of the agency. In cases where biobased products have not undergone the necessary performance testing within the one-year implementation period, procuring agencies would not be expected to purchase the products. USDA will post to its FB4P Web site information on performance standards against which products have been tested. In addition, USDA will identify what tests appear to be relevant and, through working with OFEE and OFPP, what standards procuring agencies require for a given item. To help manufacturers conduct performance testing, USDA is making funds available through section 2902.9 of the Guidelines.

In conclusion and for these reasons, USDA continues to believe that a one-year effective date for the implementation of the procurement preference for the items designated in this final rulemaking is reasonable and is not extending the time frame for these requirements.

Comment: One commenter pointed out that the **Federal Register** notice is silent with regard to how Federal agencies should treat existing contracts, and stated that the cost of terminating contracts would make the cost for the biobased products unreasonable.

Response: Agencies have one year from the effective date of the Guidelines to implement procurement preference programs for designated items and the products within those designated items. Therefore, agencies should have sufficient time to plan for upcoming procurements. Agencies are not expected to terminate or modify existing contracts; however, they are encouraged to add requirements for the purchase of biobased products when options are exercised, especially to long-term contracts. This is consistent with other green procurement preference programs.

Comment: One commenter stated that, because the intent of section 9002 of FSRIA is largely to stimulate the production of new biobased markets and to energize emerging markets, USDA should establish a periodic review of biobased product qualification criteria and market availability of each listed item to determine when they have achieved market ''maturity.''

Response: USDA believes that the intent of section 9002 is not only to stimulate new biobased markets, but to maximize the use of biobased substitutes for petroleum-based products on a continuing basis. Given this intent, USDA believes it is unnecessary to reevaluate the status of designated items that have reached market maturity.

Comment: One commenter stated that information on current usage statistics and specific potential markets for biobased products are essential to establish a baseline for an annual review of the effectiveness of agencies' preference programs.

Response: USDA agrees with the comment and, as owner of this program, is committed to working with OFPP and OFEE in developing a system, including reporting requirements, to monitor the effectiveness of the biobased preferred procurement program. Additionally, each agency is required to develop baselines, as appropriate, and assess the effectiveness of their individual-based preference procurement program.

Comment: One commenter stated that USDA should add ''number or dollar value of biobased products purchased'' to the Resource Conservation and Recovery Act (RCRA) or similar reports as a way to track FB4P.

Response: To this end, USDA has worked with OFPP and OFEE personnel to insert biobased data elements into the RCRA Data Call starting in fiscal year 2005. USDA will continue to work with OFPP and OFEE to identify methods to collect data on the dollar value of biobased products purchased.

Comment: One commenter stated that the **Federal Register** notice does not provide any information on the enforcement of the rules and on the possibility of citizen suits against the government. The commenter explained that punitive measures for noncompliance and the possibility of citizens' complaints and lawsuits would be problematic for agencies.

Response: Section 9002 does not provide USDA or anyone else with the authority for the ''enforcement'' of the procurement preference or for suits against the government by citizens. Without such statutory authority, USDA cannot add enforcement requirements to the preferred procurement program. However, OFPP will report to Congress on the progress, or lack thereof, that agencies are making in purchasing biobased products. This report could provide an indirect boost in encouraging procuring agencies to give the necessary preferred procurement to biobased products.

Further, given the experience of the EPA program under RCRA, which the language of section 9002 almost completely duplicates, USDA foresees little likelihood of litigation brought by the public.

Comment: One commenter suggested that USDA clarify whether the preferred procurement requirement is applicable to just singular high-dollar amount, agency-wide purchases. (According to the commenter, there is little incentive to small procuring agencies because they do not have large-scale purchases.)

Response: The Guidelines were revised to clarify that ''[t]he $10,000 threshold applies to Federal agencies as a whole rather than to agency subgroups such as regional offices or subagencies of a larger Federal department or agency.'' (See section 2902.3(a).) Thus, small purchases by subagencies are included in the $10,000 cutoff.

Comment: One commenter requested that USDA provide an exception for ''incidental purchases;'' that is, purchases that are incidental to the purpose of Federal funding. The commenter referred to EPA's original procurement guidelines (48 FR 4230) and believes the same interpretation should be made for the biobased products purchasing program. To illustrate, the commenter stated that, under the incidental purchases rule, a construction contractor would not have to purchase biobased hydraulic fluid for use in its equipment because hydraulic fluid is incidental to the purpose of the construction contract, but that a contractor maintaining equipment for Federal agencies would be required to use biobased hydraulic fluids in the maintenance of the equipment. The commenter, therefore, suggested that USDA provide an exception for incidental purchases in the final rule.

Response: USDA agrees that ''incidental purchases'' are not covered by the definition of ''procuring agency.'' The definition of ''procuring agency'' in FSRIA section 9001, as amended by the Energy Policy Act of 2005, makes it clear that the requirements of section 9002 apply to ''indirect purchases;'' i.e., purchases by contractors. However, the requirements to purchase biobased products do not apply to such purchases if they are unrelated to or incidental to the purpose of the Federal contract. For example, when a construction contractor purchases hydraulic fluid for maintenance service of construction equipment being used in the performance of a Federal building construction contract, that purchase is incidental to the purpose of the construction contract. The hydraulic fluid purchase would not be subject to the requirements of section 9002 or the guidelines issued today, even though some of the monies received under the contract might be used to finance the purchase.

USDA will propose an amendment to the Guidelines at 7 CFR part 2902 to clarify that incidental purchases are excepted. Agencies may, however,

encourage contractors to purchase or test biobased products in order to further develop markets for these products.

Comment: One commenter stated that USDA should provide definition or guidance for what constitutes a price that is ''not reasonable'' compared to the cost of a non-biobased product.

Response: It is the responsibility of each procurement agency to establish, through its policies, cost reasonableness for any products procured under Federal contract. While the law provides the ''unreasonable price'' exemption, ''unreasonableness'' could be based on a comparison of product price, life-cycle costs, and other benefit information. USDA encourages procuring agencies to consider all facets of a product when evaluating prices.

Additionally, through the FB4P Web site and other initiatives, USDA will provide as much relevant information as possible to the individuals responsible for purchasing items and to the program officials who are developing specifications for the procurement of products and services. For example, information from the BEES analytical tool provides information on the first cost of a product and on the product's life-cycle cost. The BEES results also provide information on the environmental and health benefits of the products, which will assist procuring agents in assessing the benefits of a product when determining the reasonableness of costs. Similar information will also be provided if the ASTM standard D7075 for evaluating and reporting on the life-cycle assessment and costs of biobased products is used.

Comment: One commenter questioned whether Federal agencies will be expected to provide proof if they determine that biobased alternatives do not meet established performance standards.

Response: Procuring agencies should follow their procurement rules and OFPP guidance on buying non-biobased products when biobased products exist and should document exceptions taken for price, performance, and availability.

Designation of ''Single Product'' Items and Limited Number of Manufacturers

Comment: Three commenters expressed concerns regarding the designation of items for which only one product has been identified or where a limited number of manufacturers have been identified. The issues and questions raised by the commenters are as follows:

- USDA needs to explain what constitutes a ''sufficient'' number of products to be ''adequate'' for designation and how sufficient competition can be maintained where only one product is identified;
- Designating single source products would place the Government, at least initially, in a position of sole source procurements and it could place the manufacturer in the position of not being able to meet demand; and
- With a limited number of manufacturers of biobased products, there is a possibility that competition will be limited and Federal agencies will pay more for biobased alternatives.

Response: USDA agrees that designating items for which there is only one manufacturer of a biobased product under this item is problematic for the reasons discussed previously. Of the six biobased items proposed for designation, two (water tank coatings, and bedding, bed linens, and towels) are currently known to have a single manufacturer. USDA believes that the best way to address the problem of a single-known manufacturer of a biobased product within an item is to designate that item for preferred procurement, but to defer the effective date that procurement agencies would be required to give procurement preference until such time that there are two or more manufacturers of products within the item. Therefore, USDA is designating all six items, including items for which there is a single known manufacturer, but determination of the effective date for the single source items will be deferred indefinitely. USDA believes that it is beneficial to proceed with the designation of these two items, despite the delayed effective date, because it will encourage more manufacturers to produce products within these two items and alerts manufacturers of these items to an opportunity to sell their products. These effects, in turn, further the statutory goals of the program.

With respect to those items for which preferred procurement is being deferred, USDA will specify the item's effective date in a future document in the **Federal Register** when it identifies two or more manufacturers of products within the item. Until such a document is published in the **Federal Register**, USDA will not permit manufacturers to post product, performance, and contact information on the FB4P Web site for those items with only one manufacturer. In future proposed designation rules under the FB4P, USDA intends to propose for designation only items for which there is more than one manufacturer.

Relationship to Other Federal Programs

Comment: One commenter requested that USDA and EPA work together to identify items (or products) that may be covered by section 9002 of FSRIA and by section 6002 (Comprehensive Procurement Guideline) of the Resource Conservation and Recovery Act, Pub. L. 94–580 (RCRA). The commenter pointed out that roofing materials, hydraulic fluids, and penetrating lubricants all may be qualified for procurement preference under both section 9002 of FSRIA and under section 6002 of RCRA. The commenter requested that if overlap is identified, USDA work with the Office of Federal Procurement Policy at the Office of Management and Budget (OMB), OFEE, and EPA to resolve any conflict.

Another commenter stated that USDA needs to provide additional clarification on how these two sections relate to each other, indicating that the language in the Guidelines (section 2902.3(b)) is vague.

Response: USDA agrees that procurement agents might find themselves in the position of having to choose between giving procurement preference to a product that qualifies for preferred procurement under section 9002 of FSRIA or to a competing product that qualifies for preferred procurement under section 6002 of RCRA and that guidance is required. USDA plans on working with the interagency council (discussed earlier in this preamble) to determine product choices amongst the various preferred procurement programs for future procurements.

To the extent that products within items designated in this notice and in future notices under section 9002 of FSRIA are alternatives to products that are to be given preferred procurement under section 6002 of RCRA, USDA acknowledges that the comprehensive procurement guidelines under section 6002 of RCRA take precedent. That is, everything else being equal about a product that qualifies for preferred procurement under section 9002 of FSRIA and a competing product that falls under section 6002 of RCRA, a procurement agent would give preference to section 6002 of RCRA when making a purchase decision between the two products. USDA believes the language in section 2902.3(b) is sufficient to determine when section 9002 yields to section 6002.

However, for performance reasons, a biobased product might be more appropriate for a given use. USDA offers the following example: If a procurement agent has the choice of purchasing

either an EPA-designated recovered content product (in this case, lubricating oil containing re-refined oil) for use as a fluid in a hydraulic system or a competing biobased mobile equipment hydraulic fluid, where both fluids are used for the same purposes and meet the same requirements, the procurement agent must give procurement preference to the EPA-designated recovered content product. If, on the other hand, a biobased hydraulic fluid can meet certain environmental or health requirements that the EPA-designating recovered content product would not meet, then the procuring agent should give purchase preference to the biobased hydraulic fluid, subject to cost, availability, and performance.

Additionally, designation of items under this program not only qualifies the item for a Federal procurement preference, but also makes biobased products under that item eligible to use the biobased label in the commercial marketplace, as authorized by FSRIA. USDA currently is developing the labeling program. Thus, duplicate designation of items under this program and the RCRA program is not inappropriate.

In conclusion, USDA does not see the need to modify the designation of items in this notice, even when products within an item would be subject to both sections. However, USDA has added language in the final rule for mobile equipment hydraulic fluids, roof coatings, and penetrating lubricants requesting manufacturers to provide information to help procuring agents identify overlap between the two programs. USDA will work with the interagency council to help identify potential overlap between the two programs in future rules.

Comment: One commenter stated that USDA has not provided sufficient guidance to avoid potential conflicts in implementing both the biobased and the Energy Star program for roof coatings. The commenter was specifically concerned that there is no guidance on biobased content when one is purchasing Energy Star roofing material and requested that USDA provide guidance in the final rulemaking, including information on whether the minimum biobased content changes for Energy Star roofing material. The commenter recommended that this information be provided in both the preamble and in the regulatory text.

Response: With the new Energy Star preferred procurement program, USDA agrees that there might be Energy Star products that procurement officials now will have to consider alongside biobased products in their procurements. Roof coatings is an example. USDA has information on two biobased roof coating products, one of which does not meet the requirements to qualify for the Energy Star rating and one that does. Where a product does meet the Energy Star rating, it does not mean, however, that procurement officials must give preference to Energy Star products over biobased products. To the extent that procurement officials have to choose between products under different preferred procurement programs, procurement officials should look to the FAR part 23 for guidance regarding the relative priority of the various preference programs. USDA will consider whether it is appropriate to establish biobased content levels for Energy Star products that differ from those for non-Energy Star products.

BEES Analysis

Comment: Two commenters requested that BEES analyses be done for the materials that are to be replaced by the biobased products so that a meaningful comparison of the impacts can be performed. According to one commenter, without making such a comparison, USDA cannot claim to have fully evaluated the extent to which the products proposed for procurement preference actually contribute to the objectives of section 9002 of FSRIA. Using bedding, bed linens, and towels as an example, the commenter states that by encouraging Federal procurement of, for example, towels made of ''unknown'' biobased fibers, cotton may be displaced; and, without making a comparison of the fossil energy inputs (i.e., coal, oil, natural gas) needed to grow, harvest, and process cotton as compared to alternative ''unknown'' biobased fiber, USDA cannot know that substituting the biobased alternative for cotton will contribute to reducing national use of imported oil and natural gas, one of the stated goals.

Response: USDA received similar comments during the development of the Guidelines, although those comments focused on replacing petroleum-based products. As noted then, USDA agrees that it would be quite useful to be able to make a point-by-point comparison, using the same standards of measure, between a biobased and a non-biobased product prior to making a procurement decision. USDA also agrees that it would be quite useful to make a comparison between a biobased product given preferred procurement and a cotton or wool product that might not be purchased. However, under section 9002, USDA has neither the authority to require, nor the funding for, testing of non-biobased or other products that do not qualify for preferred procurement.

Further, USDA does not believe such a comparison would make any difference in the implementation of the FB4P. The purpose of the FB4P is to open new markets for new emerging biobased products. It is possible that, in achieving this purpose for some of the designated items, biobased products may displace some products that are not qualifying biobased products (such as cotton shirts), as indicated by the commenter.

Comment: One commenter suggested that USDA reconsider the candidate biobased product in any case where it does not compare on an equal or better basis to existing products on key attributes, such as fossil fuel depletion or on the overall BEES score.

Response: The purpose of the BEES analysis is to provide information to procuring agencies to make informed decisions among biobased products within a designated item, not to disqualify biobased products from a designated item. The commenter is suggesting USDA use the overall BEES score for determining whether or not a product can be afforded preferred procurement over an existing product that scores better when analyzed using BEES. The criteria used by USDA to designate items (groups of products) are identified in FSRIA. The overall BEES score is not one of those criteria. Therefore, USDA declines the commenter's request.

Comment: Two commenters recommended that the BEES input data be verified by an independent party. One commenter stated that USDA appears to have relied solely on product manufacturers to supply the basic data from which the BEES score is derived, and does not appear to have performed an independent verification. The other commenter inquired as to how the quality of the data inputs to the BEES life cycle assessment tool were assessed.

Response: The commenters are correct in that USDA has not verified the information submitted by the manufacturers on the products submitted for the BEES analysis. That information was, and will continue to be, provided directly to a third party for analysis.

The quality of data submitted to the BEES analytical tool should be consistent with relevant and applicable ASTM or other industry test standards. In addition, USDA contractors, when requested, assist manufacturers in preparing the data to be submitted to the BEES analytical tool. Those running the BEES analytical tool are certified by the

International Organization for Standardization (ISO) (i.e., they are ISO-certified). As such, they provide a check on the reasonableness of the data submitted. USDA does not otherwise independently verify data submitted by the manufacturers.

Comment: One commenter pointed out that the BEES analysis provides a general assessment of environmental benefit and does not particularly focus on fossil fuel use, which is one of the principal goals of section 9002 of FSRIA. The commenter therefore recommended that consideration be given to modifying the weighting used in the BEES analysis so that the results will consistently select products that meet the program objective of substituting biobased products for fossil energy-based products.

Response: The BEES analytical tool includes ''fossil fuel depletion'' as one of its metrics. This metric looks at the amount of fossil fuel consumed in the production of a biobased product. By looking at this metric's score between products within an item, procuring agencies can choose those products that use less fossil fuel. Thus, USDA does not believe it necessary to change the weighting scheme in the BEES analytical tool to achieve the outcome desired by the commenter. To help procuring agencies interpret the BEES results, USDA is coordinating with the National Institute of Standards and Technology (NIST) to develop additional information concerning the interpretation and usefulness of BEES scores and will post this information on the FB4P Web site.

Comment: One commenter expressed concern that the BEES analysis is inherently limited in that it focuses on the material rather than the functionality of the material or cost of reapplying the material. For example, with coatings, BEES takes the life-cycle of the coating material into consideration, but not the impact of shorter life-cycles on the asset being protected by the coating. There is no cost consideration for shorter recoat cycles or impact on users. BEES also does not attempt to account for cost incurred if the coating, or a lubricant or hydraulic fluid, does not perform as effectively and the equipment it is protecting does not last as long.

Response: USDA believes that the BEES analytical tool provides useful information, even in the areas of concern identified by the commenter as discussed below, and provides USDA with the information necessary to assess products within a designated item.

First, with regard to re-applying coatings and the impact to users of such re-applications, BEES takes into consideration the costs of ''initial investment, replacement, operation, maintenance and repair, and disposal.'' Included in ''maintenance and repair'' are consideration of re-applications and the impact to users of such re-applications.

Second, the commenter states that BEES does not take into account the ''functionality'' of the product (i.e., whether it performs as effectively as a non-biobased product when used as directed). However, the effectiveness of a biobased product is determined using industry performance standards. Further, USDA is neither using the BEES analytical tool as a method to determine the effectiveness of a product nor to promote a product as being effective because it has been subjected to BEES.

Third, the commenter states that BEES does not take into account the shorter life-cycles on the asset (i.e., the equipment it is protecting does not last as long) being protected by the coating. The functional unit for products takes into account products used in different amounts in ''equivalent service.'' By equating comparisons of products to ''equivalent service,'' there is no shortening of life-cycles for the asset being coated. Thus, if a biobased coating does not last as long (i.e., frequency of repainting is higher), the functional unit accounts for that.

Fourth, the commenter states that there is no cost consideration for shorter recoat cycles. The functional unit developed under the BEES analysis accomplishes the goal of ''unitizing'' different recoating cycles by incorporating a time frame. For example, if differences in the useful lives of alternative products have been identified, the functional unit will include a time dimension to account for the frequency of product replacement.

Comment: One commenter stated that USDA needs to recognize the inherent limitations of the BEES analysis in predicting real-world effects of selection of these products, and should consider implementing a follow-up effort to gather performance information based on use of these products.

Response: USDA acknowledges that BEES, and any other similar analytical tool, will have certain inherent limitations in predicting real-world effects. For the biobased preferred procurement program, the goal of the BEES analytical tool is to enable comparisons between products within an item. Given this goal, inaccuracies within any one metric when compared to real-world effects are of lesser significance to this program than would be other uses of the results.

NIST, who is responsible for the BEES analytical tool, is striving to provide the best model possible. While USDA believes NIST should take the lead in making any and all improvements to the BEES analytical tool, USDA will work with them by bringing the commenter's concerns to their attention.

Comment: One commenter stated that the use of BEES is potentially a barrier to entry into the marketplace because of its cost and questioned the utility of ''requiring'' a BEES analysis for the biobased material. The commenter also noted that it is an additional cost that is not borne by standard petroleum-based products.

Response: A BEES analysis is only required when USDA is obtaining information for proposing an item for designation for preferred procurement. As provided for in the Guidelines, USDA will provide some funding for BEES and performance testing of individual products with biobased content, with priority being given to products of small and emerging private business enterprises. This helps offset the cost of the BEES analysis.

USDA is requiring the BEES analysis on products because it provides important information on the cost, life-cycle cost, environmental, and human health impacts of specific products. BEES can be used across a wide variety of products and provides a means to compare products. The information it provides will be useful to procuring agencies when making procurement decisions on biobased products and for determining whether such products are available at a reasonable cost. The USDA, thus, considers the BEES analytical tool as an important component in designating items for preferred procurement.

Once an item has been designated, procuring agencies may request information from a manufacturer on the environmental and life-cycle costs of a specific product. In this situation, the manufacturer may elect to use either BEES or ASTM D7075, which is less expensive than BEES, to provide this information.

Lastly, USDA concurs with the commenter that the cost of BEES or the alternative is not also borne by petroleum-based products. However, the statute does not authorize USDA to require petroleum-based product manufacturers to provide the same information as is being required of biobased product manufacturers. The overall purpose of the statute implementing the preferred procurement program for biobased

products is to open new markets to new emerging biobased products. In doing so, it is necessary to develop environmental and life-cycle cost information to provide procuring agents with additional information when making their purchasing decisions. USDA believes that the effort required to obtain this information in exchange for procurement preference is reasonable.

Comment: One commenter recommended that USDA provide additional information on how BEES scores are developed and how they should be interpreted, including a discussion of the key concepts and metrics such as ''functional unit'' and ''per capita impact'', a discussion on uncertainties and limits to interpretation, as well as some guidance on determining significant differences between scores. The commenter requested this because most users of this information are not likely to have had extensive experience with life-cycle impact assessment.

A second commenter had similar concerns, stating that publishing the results of the BEES analysis without a frame of reference or guidance on how to use this information will only confuse potential users. Questions that are raised by the current presentation of the information include: (1) How were the functional units selected?, (2) How much lower does a score have to be for one product to be better than another product?, (3) How are these numbers used to make a procurement decision?, (4) What is the environmental significance of, for example, for hydraulic fluids, a total environmental score of 2.84 versus 3.22?, and (5) For items with one product, such as water tank coatings, what does a BEE's total environmental performance of 0.0083 mean?

A third commenter states that simply providing agencies with tables summarizing BEES analyses does not satisfy the statutory requirement that USDA provide agencies with information on the public health and environmental benefits of biobased products. The commenter points out that the summary tables included in the preamble do not provide useful information to agencies because the information is not provided in the context of comparisons with non-biobased goods. Examples of information that could help make a ''best value'' determination include the absence of toxic or hazardous constituents that are found in competing non-biobased products, biodegradability, neutral pH, and whether the product must be handled as a hazardous or non-hazardous waste at the end of its useful life. Therefore, the commenter recommends that USDA provide narrative information and comparative reference points on the environmental and public health benefits of the designated products.

Response: USDA agrees that most users of the information are likely not to have had extensive experience with life-cycle impact assessments. The commenter, therefore, is requesting that USDA include in the preamble information that addresses how BEES works and how to use the BEES results. Rather than using the preamble as the tool for conveying such information, USDA believes the best way is for users to access the BEES Web site (*http://www.bfrl.nist.gov/oae/software/bees.html*) to obtain information about the technical details of and the interpretations used in the BEES analytical tool.

Minimum Biobased Content

Comment: One commenter was concerned about USDA setting a minimum biobased content based on a single product within an item. The commenter pointed to the Competition in Contracting Act, which prohibits agency requirements based on a particular brand name, product, or feature of a product peculiar to one manufacturer, unless it is essential to the Government's requirements. The commenter then stated that USDA needs to explain why the specified minimum content is essential to the Government's requirements or lower it so that additional sources can compete. The commenter then stated that USDA could revisit the minimum requirements in the future if and when new sources arise.

Another commenter stated that USDA should not set a minimum biobased content for an item until a representative number of products are available, because to do so could hinder other biobased products in the same product category from achieving the preferential procurement designation. This commenter recommended that a provisional designation status could be given until enough data are available on a representative number of products to set a defensible minimum biobased content. This commenter also recommended that USDA have a process for adding future products to an item after it has been designated for preferred procurement, including a mechanism for reassessing and changing the minimum biobased content for the item.

Response: USDA agrees that setting the minimum biobased content for a designated item based on more than one product is in principle preferable to setting it based on a single product. However, USDA does not believe that setting a minimum biobased content based on a single product should stop the Department from designating an item as long as there are two or more manufacturers of products within the item. As more information on biobased content on products within an item becomes available, USDA will consider revising the minimum biobased content as appropriate for each item through a rulemaking process. Therefore, USDA is promulgating minimum biobased contents for each of the six items.

Because USDA believes it is preferable to base the minimum biobased content for an item on more than one product, USDA is taking steps to identify and test additional products. These steps include contacting manufacturers directly through email and phone conversations, conducting outreach to intermediate material producers to encourage their customers to participate in the program, and participating in industry conferences and meetings to educate companies on the program's benefits and the potential for expanded markets beyond the Federal government. Through these and other efforts, USDA is encouraging the submission of more products for biobased content testing.

Comment: Two commenters recommended that minimum biobased content be specified as a range or, if expressed as a single number, as the lower end of a range that reflects the analytical variability of the ASTM test method, which is plus or minus 3 percentage points. The commenters pointed out that by not doing so, even the product used to define the designated minimum biobased content for that item may itself not be able to qualify in the future due to no fault of its own.

Response: After reviewing the ASTM method, USDA agrees with the commenters that the variability within the method needs to be accounted for in setting the minimum biobased content for a designated item. USDA believes the clearest way of setting the minimum biobased content is to provide a single value rather than a range. The variability associated with the test method is identified as plus or minus 3 percentage points. Therefore, USDA has revised the proposed minimum biobased contents for five of the six proposed items in the final rule by subtracting 3 percentage points from the value proposed. By using this method, the concern expressed by the commenter that the product used to set

the minimum biobased content may fail ''due to no fault of its own'' is resolved.

The minimum biobased contents for these five items in the final rule are:

- Mobile equipment hydraulic fluids—44 percent;
- Roof coatings—20 percent; [2]
- Water tank coatings—59 percent;
- Diesel fuel additives—90 percent; and
- Penetrating lubricants—68 percent.

For the sixth designated item (bedding, bed linens, and towels), the proposed minimum biobased content was 18 percent. This value was calculated using the tested biobased content of 37 percent for the qualifying biobased feedstock and multiplying it by the 50/50 blend in which it is used. After proposal, USDA received additional biobased content test data showing that the qualifying biobased content of the product was 28 percent rather than the 37 percent used in developing the proposed rule. USDA has, therefore, recalculated the minimum biobased content by using the 28 percent and then removing 3 percentage points to account for the test method's variability. The resulting 25 percent was then multiplied by 0.5 to account for the 50/50 blend in the final product. The result is a minimum biobased content of 12.5 percent, which USDA rounded to 12 percent and has used in the final rule for this designated item.

Comment: One commenter suggested that, in addition to considering the ± 3 percent variability, the minimum level be rounded down to the nearest 5 or 10 percent. The commenter was concerned that basing the minimum biobased content on a limited number of products, or in some cases on a single product, could lead to the perception that Federal agencies are giving unfair competitive advantage to the manufacturers of those products. To illustrate this point, the commenter stated that the single product used for roof coatings immediately has a ''monopoly'' on preferred procurement of biobased products within that product designation. Thus, by rounding down to the nearest 5 or 10 percent, the commenter stated that the value would not be specifically attached to a single product and the product(s) used to determine the minimum biobased content for the item would not be adversely affected by the designated minimum content requirement for that item. Also, rounding down would avoid logical legal arguments of Federal agencies providing a specific product or manufacture with an unfair competitive advantage. This commenter recommended minimum biobased content levels for each of the six proposed items as follows:

- Mobile equipment hydraulic fluids—20%
- Roof coatings—55%
- Water tank coatings—55%
- Diesel fuel additives—90%
- Penetrating lubricants—20% (or 65%)
- Bedding, bed linens, and towels—15%

Response: As noted in the previous response, USDA agrees that it is appropriate to take the variability of the test method into account and reduce the minimum biobased contents accordingly. Because, as discussed previously in this preamble, USDA is deferring the effective date for preferred procurement for items with only one manufacturer identified, it is unnecessary to reduce further the minimum biobased content by rounding down to the nearest 5 to 10 percent value in order to separate the value from any one manufacturer.

Comment: One commenter recommended that the minimum biobased content level for penetrating lubricants be lowered so as not to exclude the product that contains 26 percent biobased content. The commenter acknowledged that excluding the 26 percent product would not necessarily work contrary to the stimulus directive of the statute, but the commenter preferred to let the marketplace drive the increased biobased content for the item. The commenter noted that if USDA finds that the suggested 20 percent value for penetrating lubricants is not warranted, then a minimum of 65 percent is recommended based on the precision limitations.

Response: USDA agrees with the commenter about the desirability of letting the marketplace drive the use of higher biobased content products within an item. To that effect, USDA believes that it is reasonable to set minimum biobased content requirements higher than the lowest biobased content identified when (1) there are no known technical reasons to differentiate the product with the lowest biobased content from those with higher biobased content; and (2) the minimum biobased content of that product is sufficiently lower than the group of minimum biobased contents of the other tested products that the product can be viewed as an ''outlier.'' This is the case for penetrating lubricants. First, USDA found no technical reason to differentiate this product from those with the higher biobased contents. Second, the biobased content of this product is 26 percent compared to the other four products' biobased content of 71 percent or higher. USDA believes that this large difference (26 versus the next lowest content of 71 percent) qualifies the product as an ''outlier.'' Therefore, USDA is basing the minimum biobased content for penetrating lubricants on the product with the 71 percent biobased content. As discussed in previous responses, this value was lowered to 68 percent in the final rule to account for test method precision and was not rounded down to the nearest 5 or 10 percentage level (*i.e.*, to 65 percent).

Biodegradability

Comment: Eight commenters supported including the use of ASTM biodegradability standards and three of the commenters recommended specific revisions for incorporating the ''percent biodegradation,'' ''within a certain timeframe,'' and ''in a specific disposal environment'' into the definition of ''biodegradability.'' Two of the commenters stated that this was needed in order to make the definition consistent with the ASTM standards on biobased products and to ensure that manufacturers' claims are consistent with the guidelines developed by the Federal Trade Commission (FTC), which require that manufacturers qualify, to the extent necessary, the product's ability to degrade in the environment where it is customarily disposed and the rate and the extent of degradation.

Response: USDA believes that, within the context of section 2902, the definition of biodegradability is appropriate and the requirements specified in the proposal are sufficient. The FB4P does not relieve in any way a manufacturer from complying with the FTC guidelines. A biobased product included in the FB4P must follow the FTC guidelines to the same extent as any other product. Nothing in the implementation of the Guidelines for the FB4P or in the designation of items implies otherwise. Further, it is not USDA's intent to define an acceptable level of biodegradability for biobased products.

USDA believes that, where manufacturers claim biodegradability as a feature of their product under the FB4P, such claims should be supported

[2] With regard to roof tank coatings, USDA had proposed a minimum biobased content of 62 percent based on a urethane-based roof coating. Since then, USDA has obtained information on another biobased roof coating with a biobased content of 23 percent. USDA believes that, based on these two products, it is reasonable and appropriate to set the minimum biobased content for this item at 20 percent (23 percent minus the 3 percentage points to account for test method variability).

using ASTM methods because it is important to ensure that procurement agents have access to reliable information regarding the products they purchase. As with other performance specifications referenced in the designation of items, there may be numerous test methods or procedures available as measures of biodegradability. However, because of the potential impact on the environment, USDA chose to limit the verification of biodegradability claims to the use of ASTM methods. Each of the ASTM standards listed in the proposed rule includes the types of qualifiers (''percent biodegradation,'' ''within a certain timeframe,'' and ''in a specific disposal environment'') recommended by the commenter. USDA believes that, rather than incorporating such qualifiers into the definition of biodegradability, it is appropriate to require the use of the applicable ASTM standards and then let the purchasing agents apply their discretion in selecting the product that best meets their needs.

Comments Related to Specific Designated Items—Mobile Equipment Hydraulic Fluids

Comment: One commenter stated that the mobile equipment hydraulic fluids item should be divided into two levels, one for specialized uses (the 24 percent biobased product), and one for general uses (with a biobased content of possibly over 80 percent). The commenter stated that they had conducted ''fairly extensive'' market research in the product area and found that the majority of ''standard'' use hydraulic fluids to be in the 90 percentile of biobased content and that the lower level biobased content products were found in more specialized applications. The commenter then stated that to ensure the greatest value to the government and to the environment, the proposed rule should emphasize the higher level content fluids to minimize the use of petroleum content.

Response: USDA agrees with the commenter that it is reasonable to develop two minimum biobased content requirements for this designated item. However, rather than subdividing the current designated item, USDA is revising the designated item in the final rule to apply to general purpose, or standard, mobile equipment hydraulic fluids only. USDA will ''reserve'' as an item for future designation mobile equipment hydraulic fluids for high performance, low pour-point markets. USDA is doing this, in part, because there is only one product in this newly created designated item and the Department does not have BEES results for the product.

Based on the data available to it, USDA has determined that the minimum biobased content should be based on a product with a biobased content of 47 percent. After the 3 percent adjustment for precision, the minimum biobased content for this item is 44 percent. Therefore, USDA is promulgating 44 percent as the minimum biobased content for mobile equipment hydraulic fluids in general purpose applications.

Comment: Two commenters stated that USDA should include a specific exemption for hydraulic fluids, penetrating lubes, diesel fuel additives, and other items that are used in tactical vehicles and equipment. One of the commenters also stated that biobased hydraulic fluid should not be required in systems where failure could have catastrophic results or where high levels of cleanliness are required (cleanliness maintained below 15 microns) until more operating experience has been gained with biobased fluids in less critical applications.

The other commenter stated that it does not believe it is appropriate to apply the biobased purchasing requirement to tactical equipment unless the Department of Defense has documented that these products can meet the performance requirements for such equipment and are available in sufficient supply to meet domestic and overseas deployment needs. Therefore, the commenter recommended that USDA revise the designations of both the hydraulic fluids and the penetrating lubricants to make clear that they are for non-tactical applications only.

Response: USDA believes that the situations described by the commenters are of sufficient concern that it is appropriate to provide specific exemptions for certain designated items on an item-by-item basis. Therefore, USDA is exempting from the preferred procurement program the use of mobile equipment hydraulic fluids, penetrating lubricants, and diesel fuel additives when used in military equipment in combat or combat-related missions and for spacecraft systems and their launch support equipment where failures could have catastrophic consequences.

Comments Related to Specific Designated Items—Water Tank Coatings

Comment: Two commenters expressed concern over designating water tank coatings as an item for preferred procurement. One commenter asked whether the use of biobased water tank coatings had been reviewed by industry and Government organizations responsible for public water supplies. This commenter stated that the viability of the biobased product proposed for coating water storage tanks needs to be adequately tested and approved by appropriate Government and industry groups (including obtaining NSF International (NSF) certification) to ensure that the product will not deteriorate over time and result in contamination of drinking water supplies. The second commenter stated that USDA should ensure that NSF-certified products are available before finalizing the designation of water tank coatings as a biobased procurement item.

Response: USDA agrees with the commenters that a water tank coating must be formulated in a manner that meets relevant and appropriate performance specifications. Therefore, USDA will work with manufacturers to allow posting of all performance tests on its FB4P Web site and with the interagency council to understand Federal purchasing.

In designating items for preferred procurement, the statute requires USDA to consider two items: (1) The availability of the item and (2) the economic and technologic feasibility of using such items, including life-cycle costs. USDA considers an item economically and technologically feasible for designation if products within that item are being offered and used in the marketplace. USDA does not consider certification of a product prior to the designation of an item a prerequisite for designation. Thus, USDA has determined that a water tank coating product within this designated item exists that meets these criteria and that this item qualifies for designation for preferred procurement.

In order for a procurement agent to give preferred procurement to a biobased water tank coating, the biobased water tank coating must comply with all relevant performance standards. Many Federal and State authorities require products that come into contact with drinking water to be certified to American National Standards Institute/NSF (ANSI/NSF) Standard 61 by an ANSI accredited certifier. Thus, water tank coatings would be certified against the (ANSI/NSF) Standard 61, if the coating is used for potable water.

With regard to the biobased water tank coating used as the basis for designation water tank coatings as an item eligible for preferred procurement, the coating in question has been certified against ANSI/NSF Standard 61. This coating was tested by the Underwriters Laboratory (UL), which is

accredited by ANSI to certify drinking water system products and components to ANSI/NSF Standard 61. Because both certification programs are accredited by ANSI, the UL's drinking water product certifications are equivalent to NSF's drinking water product certifications.

Comments Related to Specific Designated Items—Diesel Fuel Additives

Comment: One commenter questioned whether USDA intent for the ''diesel fuel additive'' item was to include biodiesel sold separately as a fuel additive or to include already-blended fuel such as B20. The commenter stated that further definition of the item when it is used strictly as a fuel additive is needed in terms of required properties and performance characteristics.

Another commenter stated that USDA should clarify that the designation of diesel fuel additive as a biobased product is not intended to address the use of biobased diesel when the biodiesel is used as a blendstock and recommended that section 2903.13 be clarified that this designation of diesel fuel additives is not intended to include biodiesel when used for the purposes of extending fuel supplies.

Response: The item being designated for preferred procurement is the diesel fuel additive and not the blended biodiesel fuel itself. USDA believes that as long as the diesel fuel additive itself is biobased and meets the minimum biobased content, it qualifies as a biobased product eligible for preferred procurement.

With regard to biodiesel (that is, neat biodiesel, often referred to as B100), USDA recognizes that the most prevalent use of B100 by far is to mix it with diesel fuel to create a blended fuel stock (*e.g.*, B20). However, USDA does not believe this should preclude biodiesel (*i.e.*, neat biodiesel), when used as an additive, from being a biobased product eligible for preferred procurement under this program.

USDA points out that the designation of diesel fuel additive as a product eligible for preferred procurement in no way affects the purchase of biodiesel fuel (even neat biodiesel when used as a fuel) as a means of complying with the Energy Policy Act of 1992 or with Executive Order 13149.

Comment: Two commenters disagreed with the designation of diesel fuel additives because they consider biodiesel to be a fuel rather than a fuel additive. One of the commenters stated they have concerns with the handling and use of biodiesel as a fuel component. This commenter also stated that biodiesel fuel blends are physically different in nature than conventional diesel fuels and as such have different storage, handling, and use concerns from diesel fuel, and are not universal drop-in replacement fuels for conventional diesel. Lastly, this commenter stated that biodiesel is not a true additive and in fuel industry practices it is not treated as such.

The other commenter pointed out that ASTM standards for biodiesel are for its use as a fuel and do not address technical or chemical considerations for using it as an additive. This commenter also noted that biobased diesel products registered as fuel additives contain only one percent biodiesel and, therefore, if the Federal agencies purchased biobased diesel additives, they would not create a notable increase in market share for biodiesel compared to the markets created through their fuel purchases.

On the other hand, two commenters supported the designation of diesel fuel additives. One of the commenters noted that EPA recognizes biodiesel as both a fuel and a fuel additive and that several organizations have received fuel additive registrations for biodiesel. The commenter recommended that USDA clarify that the designation of diesel fuel additives will not prevent agencies that are currently using B20 from continuing to use B20 as a means of complying with the Energy Policy Act of 1992 and Executive Order 13149. The other commenter pointed to fuel tests to determine fuel lubricity and the effectiveness of small amounts of biodiesel to achieve large increases in lubricity and its flexibility in achieving increases in lubricity.

Response: As noted in the previous response, USDA intends for ''diesel fuel additives,'' and not diesel fuels (including biodiesel fuels), to be afforded preferred procurement. The definition of ''diesel fuel additive'' in the proposed rule essentially defined biodiesel. USDA believes that definition is the primary cause of confusion as to what products were intended to be included in the proposed designated item. In the final rule, USDA has revised the definition of ''diesel fuel additive'' to make clear what is to be considered an additive and to make clear that biodiesel fuels are not part of the definition.

The revised definition contains three parts. The first part defines ''diesel fuel additive'' using the basic definition from EPA's fuel and fuel additive registration regulation. USDA believes that the definition of ''additive'' for the purposes of EPA registration is appropriate for defining ''diesel fuel additives'' under the FB4P program.

The second part of the revised definition explicitly includes neat biodiesel (B100) when used as an additive. USDA believes this is useful to make clear that there are some instances in which purchases of neat biodiesel qualify as a diesel fuel additive. In those instances where neat biodiesel is purchased to be used as an additive, it meets the requirements for a biobased diesel fuel additive within the context of this designated item. USDA believes that the purchase and use of neat biodiesel as a fuel, while obviously consistent with the goals of the FB4P program, are outside the scope of the FB4P program.

The third part of the revised definition explicitly excludes blended biodiesel fuel, such as B20, and neat biodiesel when used as a fuel. USDA believes this is also useful to make clear that the purchase of such fuels does not constitute the purchase of diesel fuel additives.

USDA believes that the revised definition sufficiently clarifies the commenters' concern about what is being given preferred procurement and that blended fuel stocks are not in any way affected by this designated item.

Comment: One commenter recommended that, if USDA decides to designate diesel fuel additive, the final guidance include the following elements: (1) Applicability to non-tactical vehicles and equipment only, (2) definition of diesel fuel additive, including a percentage of biodiesel content (*e.g.*, B1, B2, or B5), (3) statement that the use of B20 fuel to meet the alternative fuel requirements under the Energy Policy Act of 1992 and Executive Order 13149 satisfies the requirement to purchase biobased diesel fuel additives, and (4) resolution of all performance issues, including biodiesel stability concerns, raised by the Federal agencies in their comments on this proposed rulemaking.

Response: As noted in a previous response, USDA has agreed to exclude the preferred purchase requirement for diesel fuel additives when used in military equipment for combat or combat-related missions.

With regard to the definition of diesel fuel additive, we have revised the definition to make clear which products fall within the designated item. The product itself must be used as an additive and, to qualify for preferred procurement as a biobased product, must have a biobased content of at least 90 percent. The resulting concentration once the biobased additive is mixed with the diesel fuel is not relevant to the determination of whether or not the

biobased product is to be treated as an additive.

The commenter's third recommendation relates to the interaction between the biobased preferred procurement program and the Energy Policy Act of 1992 and Executive Order 13149. USDA does not have the authority under section 9002 to give procurement preference to motor vehicle fuels. The purchase of B20 as an alternative fuel under the Energy Policy Act of 1992 and Executive Order 13149, while consistent with the overall goals of the FB4P program, would have no effect on a procuring agency's responsibility to purchase biobased diesel fuel additives, if they purchase diesel fuel additives. The item designated for preferred procurement by today's final rule is diesel fuel additives and not blended diesel fuel. Only if an agency buys a diesel fuel additive and mixes it with diesel fuel would there be a requirement that the additive be a biobased product.

With regard to the commenter's request that USDA resolve all performance issues, including biodiesel stability concerns, USDA has determined that demonstrating that certain products, such as diesel fuel additives, have achieved market penetration and are used in certain applications is a sufficient basis for designating items, and it is unnecessary for USDA to demonstrate that such products can be used in all applications prior to designating the item.

Comment: One commenter recommended that any product designated for preferred procurement in the diesel fuel additive category should have been tested using ASTM D6751 standards.

Response: USDA agrees with the commenter that, whether used as a fuel or as an additive, biodiesel should be tested using ASTM D6751 to ensure its quality. However, USDA points out that, in the final rule, the diesel fuel additive item not only includes neat biodiesel when used as a fuel additive, but also ''any substance, other than one composed solely of carbon and/or hydrogen, that is intentionally added to diesel fuel.'' In the latter case, ASTM D6751 would not be appropriate.

Comments Related to Specific Designated Items—Bedding, Bed Linens, and Towels

Comment: One commenter noted that USDA specifically solicited comments on the appropriateness of creating this broader item designation based only on the availability of blankets that are being produced by one manufacturer using qualifying biobased content at a relatively low level. The commenter stated that they do not believe that this is appropriate, maintaining that the credibility of the biobased preference program is degraded when item categories are designated for which there are no products commercially available to the consumer.

Another commenter recommended that the designated item ''bedding, bed linens, and towels'' should be subdivided because it is too broad. The commenter recommended that designated items be narrowly focused on groups of products with similar functions. To illustrate, the commenter pointed out the diversity of functions within the ''bedding, bed linens, and towels'' item. According to the commenter, this diversity could result in differences in composition of the products and the selection of a ''functional unit'' that is not appropriate for all products.

Response: Section 9002(e)(1)(A) of FSRIA provides, in part, for the designation of ''those items which are or can be produced with biobased products.'' USDA does not interpret this as a carte blanche charge to assume anything and everything can be made with biobased products and thus open the entire program to all products the Federal government procures. Based on conversation with industry, USDA believes in the instance of towels and bed linens there is sufficient evidence that the same biobased fibers currently used to manufacture blankets can be incorporated into bed linens and towels to produce biobased versions of these products. Today, USDA knows of two biobased fibers that can and/or are used in these products. One has a biobased content of 28 percent and the other has a biobased content of 100 percent.

USDA recognizes that the three types of products within this proposed designated item serve different basic functions. One of the key factors in achieving these different basic functions is how the product is woven; that is, the style of weave. For example, is the product a broad loop or a tight loop? Sheets, for example, would have a tight weave with no broad loops. While the weaves may vary, USDA believes the key point for including these products within the same item is that they are or can be made with the same basic types of biobased fibers. Furthermore, USDA does not believe it reasonable to project an outcome that a procuring agency would be put in the position of buying towels that have a higher biobased content instead of the blankets with a lower biobased content because towels and blankets have different performance characteristics.

With regard to the functional unit, the functional unit identified for the tested product is ''one blanket'' of certain dimensions. As BEES information is developed on bed linens and towels, USDA will identify different functional units for these products as appropriate (e.g., one towel, one sheet). USDA does not believe procuring agencies would try to compare blankets with towels based on the functional unit of ''one blanket.''

For these reasons, USDA believes it is reasonable and appropriate to designate bed linens and towels for preferred procurement and has decided not to subdivide this item, as requested by the commenter, into three separate categories.

Comment: Two commenters supported the designation of ''bedding, bed linens, and towels.'' Three other commenters stated that USDA needs to provide more information about whether the biobased fibers used in the ''bedding, bed linens, and towels'' designated item meet the precautions and infection control procedures established by the Centers for Disease Control (CDC) and, if they do not, the designation should exclude applications in healthcare facilities. The commenters stated that more information on the cost and durability of these products is also needed. One commenter pointed out that if blankets made with biobased fibers are heavier than those currently used, the cleaning costs could be significantly increased. One of the commenters also pointed out the lack of information about what fibers are available for these uses.

Response: The commenters are seeking a categorical exemption for these products when used in healthcare facilities if the products do not meet certain precautionary and infectious disease requirements of the CDC. USDA will not provide a categorical exemption for these products when used in specific situations for the four reasons discussed below.

1. The statutory requirements of FSRIA require USDA to designate items for preferred procurement and to make available to the procurement agencies information on the designated items, including information on the performance characteristics of products offered within a designated item. It is still the responsibility of the procurement agent to determine whether a biobased product, or any other product, meets the performance requirements of the procuring agency for which the product is being bought and its intended use.

2. The statute requires procuring agencies to give preference to biobased

products in designated items, but does not require the agency to purchase biobased products if one of three conditions exist, one of which addresses the performance, or lack thereof, of the biobased product. Specifically, the statute allows a procuring agency not to buy a biobased product within a designated item if the biobased product fails to meet the performance standards set forth in the applicable specifications or fails to meet the reasonable performance standards of the procuring agencies (see section 9002(c)(2)(B)). For example, polylactic acid (PLA) fibers currently are not tolerant of high heat and bleach, and products produced using these PLA fibers are not likely to meet CDC performance requirements. Thus, procuring agencies, such as the Veterans Administration, using products that need to meet CDC performance requirements would not be required, or even expected, to buy such products. Because the statute already provides the relief sought by the commenters, there is no need to include such exemptions in the rule.

3. Providing a categorical exemption could have the effect of discouraging manufacturers from developing biobased products within a designated item such as new biobased products that could meet the CDC's performance requirements, at some point in the future. USDA believes this would have an unnecessary dampening effect on potential markets for acceptable biobased products in the future.

4. Finally, USDA urges manufacturers to note the concerns raised by these commenters and recognize that extra effort on the part of manufacturers may be necessary to provide procurement agents with evidence that the manufacturer's products meet the agency's requirements. This may require manufacturers to test their products against all applicable standards and requirements for the markets (e.g., healthcare facilities) in which they wish to market their products. In addition, because procuring agencies are not required to purchase biobased products if they fail any one of the criteria that allow an agency to not purchase a biobased product within a designated item, USDA is actively working to identify and publicize relevant performance standards so that manufacturers can understand how to make their products more desirable. In addition, to make information on the performance characteristics of biobased products more accessible to the procuring agencies, USDA is working with manufacturers to post product performance information on the FB4P Web site or to provide a link to the manufacturer's Web page where such information can readily be obtained.

While manufacturers have the responsibility to test their products against applicable agency performance requirements and specifications, in order to comply with section 2902.4 of the Guidelines, procuring agencies will have to reexamine their performance requirements and specifications to ensure that they are not biased against biobased products, that they are still necessary and relevant, and that they are not redundant.

With regards to the commenter's concern about the lack of information on what fibers are available for bedding, bed linens, and towels, information, including performance information, would be posted by the manufacturers of such fibers once the designation of the item has been finalized. Currently, USDA knows of two biobased fibers available for these uses.

Comment: One commenter requested clarification on how the biobased content of fibers is to be determined: Is it based on content mix after the item is manufactured or on the weight of fibers prior to manufacturing?

Response: In the example presented by the commenter, the biobased content is based on the content mix after the item is manufactured; that is, based on the content mix of the finished product. For bedding, bed linens, and towels, the biobased content would be calculated based on the content mix of the blanket, sheet, or towel after it is manufactured, but the biobased content must be based on qualifying biobased material. For this item, cotton, wool, linen, and silk are not qualifying material and would not be used in determining the amount of biobased material in the finished product.

Unless otherwise specified in the designation of an item, biobased content of a product within a designated item would be based on the finished product. USDA will specify the calculation to be used for each designated item within each rulemaking. For the other five items in today's rulemaking, the biobased contents are calculated based on the finished product.

Comment: Two commenters objected to the exclusion of natural fibers (wool and cotton) from the qualifying feedstocks that can be used in producing ''bedding, bed linens, and towels.''

One commenter stated that the preferred procurement program legislation was intended to substitute plant-derived products for fossil fuel-derived products, not to substitute one set of plant-derived products for another set of plant-derived products. The commenter acknowledges that the statute does urge USDA to develop a program that encourages new biobased products and that the overall intent was to expand the use of plant matter as an industrial and fuel material, but not to substitute one type of plant matter with another.

The commenter refers to USDA statements concerning the objectives of the preferred procurement program to increase the demand for biobased products, which would in turn increase the demand for many agricultural products. The commenter then states that it is doubtful that those who wrote the legislation intended the USDA to develop programs that resulted in either the substitution of corn-derived products for cotton or wool products or the preference of synthetic fibers of any kind over natural fibers.

The commenter, therefore, recommended that either the designation of ''bedding, bed linens, and towels'' be withdrawn at this time or USDA abandon its insistence that biobased products are not necessarily plant-derived products (preferring the latter approach), because synthetic fibers made from plants should have to compete with natural fibers without a preference. The commenter noted that, given synthetic fibers' performance advantages, they could still be attractive even at a slightly higher price. By making such a change, the commenter maintained that the rule would focus on substituting synthetic fibers for petroleum-derived fibers, which was clearly the legislation's principal objective.

In a similar request, the second commenter wants cotton fiber to be provided equal consideration as a qualifying biobased material as other fibers. This commenter agrees that such products as bedding, bed linens, and towels made with cotton fiber can be considered mature products. The commenter then points out that these same textiles made with other natural fiber and most synthetic/man-made fibers (citing polyester, nylon, polypropylene, synthetic cellulosics, and most traditional man-made fibers) should also be considered mature products. The commenter states that to consider these products made from cotton, wool, and silk as mature products and not mature products when made with other fibers is an arbitrary distinction that is not justified. The commenter, therefore, concludes that if other fibers are considered acceptable biobased materials for this category, then cotton fiber also should be an acceptable qualifying biobased material. The commenter recommends that cotton

fiber be considered a qualifying biobased material if other natural fibers and man-made fibers that are also mature products are considered acceptable biobased materials.

A third commenter stated that USDA should establish a much higher total biobased product content for bedding, bed linens, and towels, including cotton and wool.

Response: The legislative history of Title IX of FSRIA identified three primary objectives associated with section 9002:

1. To improve demand for biobased products;

2. To spur development of the industrial base through value-added agricultural processing and manufacturing in rural communities; and

3. To enhance the Nation's energy security by substituting biobased products for fossil energy-based products derived from imported oil and natural gas.

In addition, the conference report accompanying FSRIA indicated that the intent of section 9002 ''is to stimulate the production of new biobased products and to energize emerging markets for those products.'' It is in response to this intent that USDA continues to believe that it is appropriate to exclude mature markets from the preferred procurement program.

USDA acknowledges that the concerns expressed by the first commenter may occur; that is, as written, the preferred procurement of biobased bedding, bed linens, and towels may displace cotton and wool products with, for example, corn-derived products. To the extent they do, USDA recognizes that the program is not fully achieving the third primary objective stated for the program; that is, substituting biobased products for fossil energy-based products derived from imported oil and natural gas. Nevertheless, USDA believes that designating cotton and wool as non-qualifying biobased feedstocks is appropriate for this designated item because it will encourage other biobased products to enter this market, stimulating the production of new biobased products and creating for these new biobased products a new market. Further, USDA stresses that similar opportunities exist for new cotton and wool products to enter markets within other designated items and strongly encourages such manufacturers to seek out these other opportunities.

With regard to the basis presented by the second commenter that other materials used to manufacture bedding, bed lines, and towels should also be considered mature markets, but their materials are not excluded as being qualifying biobased material, USDA agrees that it is reasonable and desirable to treat ''mature'' natural or plant-derived fibers in these products equally. In revisiting this issue, USDA has decided to add linen and silk as mature fibers that will also be treated as non-qualifying biobased material for this designated item. Both linen and silk are natural fibers that have been in widespread use for many years and their use in products within this designated item are considered to be equal to that of cotton and wool in terms of their being ''mature'' materials. While linen was not specifically addressed along with cotton, wool, and silk in the Guidelines' discussion of ''mature markets,'' it is one of the oldest known fibers, and the rationale for excluding cotton, wool, and silk also would apply to linen. Designating these fibers as ''mature'' and excluding them ''as qualifying biobased materials'' does not preclude their use in products that can receive preferred procurement. Products manufactured by blending qualifying biobased fibers with non-qualifying fibers (cotton, wool, linen, or silk) will be eligible for preferred procurement if the qualifying biobased fibers make up 12 percent or more of the final product.

Lastly, the third commenter requested that USDA set a higher minimum biobased content that included consideration of cotton and wool. For the reasons stated above, USDA has not changed its position on the inclusion of cotton and wool and, therefore, USDA has not changed the basis on which it has established the minimum biobased content for this designated item.

Comment: One commenter suggested that any final designation should clearly indicate which biobased fibers are included rather than designating only by exclusion. The commenter stated that understanding what specific fibers are included would allow for better assessment of environmental benefits, cost, and health-based issues, such as possible allergic reactions.

Response: USDA believes that it is more appropriate to identify those materials that are excluded in a designated item rather than those that are included. First, the intent of the preferred procurement program is to encourage new markets for biobased products. This means that one expects that new biobased materials would be used to develop biobased products in this item. USDA has no way to forecast what those new biobased materials would be and thus simply cannot develop a list of materials to be included as qualifying materials. The only option is to identify those materials that are excluded. Second, materials that are being excluded are those that were ''mature'' in 1972. This is a finite set of materials that USDA can identify. For these reasons, the USDA identifies in the final designation those materials to be excluded as qualifying biobased materials.

Comment: One commenter noted that the life-cycle costs were computed based on a blanket weighing 4 pounds, but no information on the initial cost of the blanket was provided to allow the commenter to compare to what they currently pay for blankets. The commenter also noted that where there is a greater difference in blanket weight (the commenter typically uses blankets that weigh 2.5 to 3 pounds), the biobased substitute could potentially add more than $40,000 to cleaning costs per year at any one of the commenter's hospitals.

Response: The initial cost of the tested biobased blanket is $139.99, which was identified in Table 6 to the preamble under ''first cost.''

The blanket tested for biobased content weighed 4 pounds. USDA expects that manufacturers of biobased blankets will be able to provide blankets of less weight to meet the commenter's needs.

Finally, the commenter may find that the cost of purchasing biobased blankets is unreasonable and, as allowed under section 9002, would not be required to purchase such blankets.

Comment: One commenter expressed concern that the future voluntary labeling program could result in an organic cotton or wool bedspread not being able to carry the U.S.D.A. Certified Biobased Product label, but a corn- or wood-derived bedspread would be able to carry this label. The commenter stated that such an outcome would create widespread consumer confusion and result in people seeing the label, not as one signifying that the product is derived from plants, but that it is a synthetic fiber rather than a natural fiber.

Response: USDA appreciates the concern expressed by the commenter and will address this concern in the development of the proposed voluntary labeling program rule.

Comment: One commenter requested USDA to include cotton fiber when used to make other than mature textile products and cotton by-products and cottonseed oil, protein, and refining by-products when used to make biobased items as qualifying biobased materials for those biobased items afforded Federal procurement preference. The

commenter, for example, pointed out that cottonseed oil and refining by-products can be used to make hydraulic fluids and diesel fuel additives, and that cottonseed protein can be used to make roof coatings and water tank coatings.

Response: The rule, as proposed and as promulgated, does what the commenter is requesting; that is, cotton by-products and cottonseed oil, protein, and refining by-products when used to make biobased items are qualifying biobased materials, and cotton fiber when used to make a product other than mature textile products is a qualifying biobased material. As USDA designates additional items for preferred procurement, USDA will make determinations of whether mature markets existed in 1972 and, if so, identify those materials that do not qualify as biobased material. Unless a material is specifically identified as a material not qualifying as a biobased feedstock, such as cotton fiber has been for bedding, bed linens, and towels, the material may be used in any designated item and will be considered a qualifying biobased feedstock. Therefore, USDA does not see the need to revise the rule to address the commenter's request because the rule already accommodates the request.

Warranties and Performance Specifications

Comment: One commenter noted that the preamble does not address the issue of maintenance warranties and asked whether manufacturers of equipment in which biobased hydraulic fluids or diesel fuel additives are used have agreed, or will agree, to specifically state that use of these products will not void maintenance warranties.

Response: As time and resources allow, USDA will work with manufacturers on the issue of maintenance warranties. At this time, however, USDA does not have information available as to whether or not the manufacturers will state that the use of these products will void maintenance warranties. As information is available on warranties, USDA will make such information available on its FB4P Web site.

USDA encourages manufacturers to test their products against all relevant standards, including those that would affect maintenance warranties, and to work with original equipment manufacturers (OEMs) to ensure that the biobased products will not void maintenance warranties when used. USDA is willing to assist manufacturers of the biobased products, if they find that existing performance standards for maintenance warranties (or any other aspect) are not relevant or appropriate for biobased products, in working with the appropriate OEMs to develop tests that are relevant and appropriate for the end uses in which the biobased products are intended.

In spite of these efforts, if there is insufficient information regarding the performance of a biobased product, including its effect on equipment maintenance warranties where applicable, USDA notes that the procurement agent would not be required to buy such a product.

Designation of Materials Other Than Products

Comment: Two commenters recommended that, because plastic products contain colorants, additives, resins, and other materials, USDA create a list of approved raw materials for plastic products. If a list of approved raw materials were created, manufacturers could use that list to create products that would be approved for procurement preference.

Response: Under section 9002 of FSRIA, USDA is required to designate ''products,'' not raw materials, for preferred procurement. Section 9001 of FSRIA defines ''biobased products'' as ''a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products or renewable domestic agricultural materials * * * or forestry materials.'' Based on this definition of ''biobased products,'' USDA does not believe it has the statutory authority to designate ''raw materials'' for preferred procurement. Therefore, USDA will not create a list of approved raw materials for plastic products or any other biobased product that is designated for preferred procurement.

Comment: Two commenters requested that USDA designate qualifying feedstocks (fibers, resins, and other inputs) rather than, or in addition to, individual items manufactured from biobased intermediates. One of the commenters stated that this was particularly important with the extension of the FB4P to Federal contractors (as required by the recently enacted Energy Policy Act of 2005), because businesses that contract with Federal agencies to produce finished products would be subject to the FB4P requirements.

Response: USDA previously considered extending preferred procurement designation to feedstocks in response to industry comments as USDA was initially developing this program. USDA determined that the best policy would be to maintain a much tighter control on the characteristics of products, such as the environmental and health effects and biobased content of products that would qualify for preferred procurement through the process of designation item by item. By opening the designation process up to feedstocks, a wider variability of product characteristics would result. Therefore, USDA considers it to be undesirable to open the preferred procurement program to feedstock groupings and has not done so.

IV. Regulatory Information

A. Executive Order 12866: Regulatory Planning and Review

Executive Order 12866 requires agencies to determine whether a regulatory action is ''significant.'' The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may: ''(1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866. The annual economic effect associated with this final rule has not been quantified because the information necessary to estimate the effect does not exist. As discussed in the preamble to the proposed rule, USDA made extensive efforts to obtain information on the Federal agencies' usage of the six designated items. These efforts were largely unsuccessful. Therefore, attempts to determine the economic impacts of this rule would necessitate estimating the anticipated market penetration of biobased products, which would entail many assumptions and, thus, be of questionable value. Also, the program allows procuring agencies the option of not purchasing biobased products if the costs are deemed ''unreasonable.'' Under this program, the determination of ''unreasonable'' costs will be made by individual

agencies. USDA knows these agencies will consider such factors as price, life-cycle costs, and environmental benefits in determining whether the cost of a biobased product is determined to be ''reasonable'' or ''unreasonable.'' However, until the program is actually implemented by the various agencies, it is impossible to quantify the impact this option would have on the economic effect of the rule. Therefore, USDA relied on a qualitative assessment to reach the judgment that the annual economic effect of the designation of these six items is less than $100 million, and likely to be substantially less than $100 million. This judgment was based primarily on the offsetting nature of the program (an increase in biobased products purchased with a corresponding decrease in petroleum products purchased) and, secondarily, on the ability of procuring agencies not to purchase these items if costs are judged unreasonable, which would reduce the economic effect.

1. Summary of Impacts

Today's rulemaking is expected to have both positive and negative impacts to individual businesses, including small businesses. USDA anticipates that the biobased preferred procurement program will provide additional opportunities for businesses to begin supplying biobased materials to manufacturers of mobile equipment hydraulic fluids, roof coatings, water tank coatings, diesel fuel additives, penetrating lubricants, and bedding, bed linens, and towels and to begin supplying these products made with biobased materials to Federal agencies and their contractors. In addition, other businesses, including small businesses, that do not directly contract with procuring agencies may be affected positively by the increased demand for these biobased materials and products. However, other businesses that manufacture and supply only non-qualifying products and do not offer a biobased alternative product may experience a decrease in demand for their products. Thus, this rule will likely increase the demand for biobased products, while decreasing the demand for non-qualifying products. It is anticipated that this will create a largely ''offsetting'' economic impact.

USDA is unable to determine the number of businesses, including small businesses, that may be adversely affected by this rule. If a business currently supplies mobile equipment hydraulic fluids, roof coatings, water tank coatings, diesel fuel additives, penetrating lubricants, or bedding, bed linens, and towels to a procuring agency and those products do not qualify as biobased products, the rule may reduce that company's ability to compete for future contracts. However, the rule will not affect existing purchase orders, nor will it preclude businesses from modifying their product lines to meet new specifications or solicitation requirements for these products containing biobased materials. Thus, many businesses, including small businesses, that market to Federal agencies and their contractors have the option of modifying their product lines to meet the new biobased specifications.

2. Summary of Benefits

The designation of these six items provides the benefits outlined in the objectives of section 9002: To increase domestic demand for many agricultural commodities that can serve as feedstocks for production of biobased products; to spur development of the industrial base through value-added agricultural processing and manufacturing in rural communities; to enhance the Nation's energy security by substituting biobased products for products derived from imported oil and natural gas; and to substitute products with a possibly more benign or beneficial environmental impact, as compared to the use of fossil energy-based products. By purchasing these biobased products, procuring agencies can increase opportunities for all of these benefits. On a national and regional level, this rule can result in expanding and strengthening markets for biobased materials used in these six items. However, because the extent to which procuring agencies will find the performance and costs of biobased products acceptable is unknown, it is impossible to quantify the actual economic effect of the rule. USDA, however, anticipates the annual economic effect of the designation of these six items to be substantially below the $100 million threshold. In addition, this rule does not: Create serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

B. Regulatory Flexibility Act (RFA)

When an agency issues a final rule following a proposed rule, the Regulatory Flexibility Act (RFA, 5 U.S.C. 601–612) requires the agency to prepare a final regulatory flexibility analysis. 5 U.S.C. 604. However, the requirement for a final regulatory flexibility analysis does not apply if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

USDA evaluated the potential impacts of its designation of these six items to determine whether its actions would have a significant impact on a substantial number of small entities. Because the Federal Biobased Products Preferred Procurement Program in section 9002 of FSRIA applies only to Federal agencies and their contractors, small governmental (city, county, etc.) agencies are not affected. Thus, this rule will not have a significant economic impact on small governmental jurisdictions. USDA anticipates that this program will affect entities, both large and small, that manufacture or sell biobased products. For example, the designation of items for preferred procurement will provide additional opportunities for businesses to manufacture and sell biobased products to Federal agencies and their contractors. Similar opportunities will be provided for entities that supply biobased materials to manufacturers. Conversely, the biobased procurement program may decrease opportunities for businesses that manufacture or sell non-biobased products or provide components for the manufacturing of such products. However, this rule will not affect existing purchase orders and it will not preclude procuring agencies from continuing to purchase non-biobased items under certain conditions relating to the availability, performance, or cost of biobased items. This rule will also not preclude businesses from modifying their product lines to meet new specifications or solicitation requirements for these products containing biobased materials. Thus, the economic impacts of this rule are not expected to be significant.

The intent of section 9002 is largely to stimulate the production of new biobased products and to energize emerging markets for those products. Because the program is still in its infancy, however, it is unknown how many businesses will ultimately be affected. While USDA has no data on the number of small businesses that may choose to develop and market products within the six items designated by this rulemaking, the number is expected to be small. Because biobased products represent a small emerging market, only a small percentage of all manufacturers, large or small, are expected to develop and market biobased products. Thus,

the number of small businesses affected by this rulemaking is not expected to be substantial.

After considering the economic impacts of this rule on small entities, USDA certifies that this action will not have a significant economic impact on a substantial number of small entities.

While not a factor relevant to determining whether the rule will have a significant impact for RFA purposes, USDA has concluded that the effect of the rule will be to provide positive opportunities to businesses engaged in the manufacture of these biobased products. Purchase and use of these biobased products by procuring agencies increase demand for these products and result in private sector development of new technologies, creating business and employment opportunities that enhance local, regional, and national economies. Technological innovation associated with the use of biobased materials can translate into economic growth and increased industry competitiveness worldwide, thereby, creating opportunities for small entities.

C. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule has been reviewed in accordance with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and does not contain policies that would have implications for these rights.

D. Executive Order 12988: Civil Justice Reform

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule does not preempt State or local laws, is not intended to have retroactive effect, and does not involve administrative appeals.

E. Executive Order 13132: Federalism

This rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Provisions of this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various government levels.

F. Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, for State, local, and tribal governments, or the private sector. Therefore, a statement under section 202 of UMRA is not required.

G. Executive Order 12372: Intergovernmental Review of Federal Programs

For the reasons set forth in the Final Rule Related Notice for 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of the Executive Order 12372, which requires intergovernmental consultation with State and local officials. This program does not directly affect State and local governments.

H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Today's rule does not significantly or uniquely affect ''one or more Indian tribes, * * * the relationship between the Federal Government and Indian tribes, or * * * the distribution of power and responsibilities between the Federal Government and Indian tribes.'' Thus, no further action is required under Executive Order 13175.

I. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 through 3520), the information collection under this rule is currently approved under OMB control number 0503–0011.

J. Government Paperwork Elimination Act Compliance

The Office of Energy Policy and New Uses is committed to compliance with the Government Paperwork Elimination Act (GPEA) (44 U.S.C. 3504 note), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. USDA is implementing an electronic information system for posting information voluntarily submitted by manufacturers or vendors on the products they intend to offer for preferred procurement under each designated item. For information pertinent to GPEA compliance related to this rule, please contact Marvin Duncan at (202) 401–0461.

List of Subjects in 7 CFR Part 2902

Biobased products, Procurement.

■ For the reasons stated in the preamble, the Department of Agriculture is amending 7 CFR chapter XXIX as follows:

CHAPTER XXIX—OFFICE OF ENERGY POLICY AND NEW USES, DEPARTMENT OF AGRICULTURE

PART 2902—GUIDELINES FOR DESIGNATING BIOBASED PRODUCTS FOR FEDERAL PROCUREMENT

■ 1. The authority citation for part 2902 continues to read as follows:

Authority: 7 U.S.C. 8102.

■ 2. Add in alphabetical order definitions for ''biodegradability,'' ''EPA-designated recovered content product,'' and ''functional unit'' to § 2902.2 to read as follows:

§ 2902.2 Definitions.

* * * * *

Biodegradability. A quantitative measure of the extent to which a material is capable of being decomposed by biological agents, especially bacteria.

* * * * *

EPA-designated recovered content product. A product, designated under the Resource Conservation and Recovery Act, that is subject to Federal procurement as specified in section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962), whereby Federal agencies must give preferred procurement to those products composed of the highest percentage of recovered materials practicable, subject to availability, cost, and performance.

* * * * *

Functional unit. A measure of product technical performance that provides a common reference to which all environmental and economic impacts of the product are scaled. This reference is necessary to ensure comparability of performance results across competing products. Comparability of results is critical when competing product alternatives are being assessed to ensure that such comparisons are made on a common basis. For example, the functional unit for competing interior paint products may be defined as ''protecting one square foot of interior wall surface for 50 years.''

* * * * *

■ 3. Add paragraph (c) to § 2902.8 to read as follows:

§ 2902.8 Determining life cycle costs, environmental and health benefits, and performance.

* * * * *

(c) *Biodegradability information.* If biodegradability is claimed by the manufacturer of a qualifying biobased product as a characteristic of that product, USDA requires that, if requested by procuring agencies, these claims be verified using the appropriate, product-specific ASTM biodegradability

standard(s). Such testing must be conducted by an ASTM/ISO-compliant laboratory. The procuring official will decide whether biodegradability data must be brand-name specific in the case of products that are essentially of the same formulation. ASTM biodegradability standards include:

(1) D5338 ''Standard Test Method for Determining Aerobic Biodegradation of Plastic Materials Under Controlled Composting Conditions'';

(2) D5864 ''Standard Test Method for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components'';

(3) D6006 ''Standard Guide for Assessing Biodegradability of Hydraulic Fluids'';

(4) D6400 ''Standard Specification for Compostable Plastics'' and the standards cited therein;

(5) D6139 ''Standard Test Method for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components Using the Gledhill Shake Flask'';

(6) D6868 ''Standard Specification for Biodegradable Plastics Used as Coatings on Paper and Other Compostable Substrates''; and

(7) D7081 ''Standard Specification for Non-Floating Biodegradable Plastics in the Marine Environment.''

* * * * *

■ 4. Add §§ 2902.10 through 2902.15 to subpart B to read as follows:

§ 2902.10 Mobile equipment hydraulic fluids.

(a) *Definition.* Hydraulic fluids formulated for general use in non-stationary equipment, such as tractors, end loaders, or backhoes.

(b) *Minimum biobased content.* The minimum biobased content is 44 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *Preference effective date.* No later than March 16, 2007, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased mobile equipment hydraulic fluids. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased mobile equipment hydraulic fluids.

(d) *Determining overlap with an EPA-designated recovered content product.* Qualifying biobased products that fall under this item may, in some cases, overlap with the following EPA-designated recovered content product: Re-refined Lubricating Oils. USDA is requesting that manufacturers of these qualifying biobased products provide information on the USDA Web site of qualifying biobased products about the intended uses of the product, whether or not the product contains petroleum-based ingredients, re-refined oil, and/or any other recovered material, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated lubricating oils containing re-refined oil and which product should be afforded the preference in purchasing.

(e) *Exemptions.* The following applications are exempt for the preferred procurement requirement for this item:

(1) Military equipment: Product or system designed or procured for combat or combat-related missions.

(2) Spacecraft systems and launch support equipment.

§ 2902.11 Roof coatings.

(a) *Definition.* Coatings formulated for use in commercial roof deck systems to provide a single-coat monolith coating system.

(b) *Minimum biobased content.* The minimum biobased content is 20 percent and shall be based on the entire product.

(c) *Preference effective date.* No later than March 16, 2007, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased roof coatings. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased roof coatings.

(d) *Determining overlap with an EPA-designated recovered content product.* Qualifying biobased products that fall under this item may, in some cases, overlap with the following EPA-designated recovered content product: Roofing Materials. USDA is requesting that manufacturers of these qualifying biobased products provide information on the USDA Web site of qualifying biobased products about the intended uses of the product, whether or not the product contains any type of recovered material, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with recovered content roofing materials and which product should be afforded the preference in purchasing.

§ 2902.12 Water tank coatings.

(a) *Definition.* Coatings formulated for use in potable water storage systems.

(b) *Minimum biobased content.* The minimum biobased content is 59 percent and shall be based on the entire product.

(c) *Preference effective date.* Determination of the effective date for this item is deferred until USDA identifies two or more manufacturers of biobased water tank coatings. At that time, USDA will publish a document in the **Federal Register** announcing that Federal agencies have one year from the date of the publication to give procurement preference to water tank coatings.

§ 2902.13 Diesel fuel additives.

(a) *Definition.* (1) Any substance, other than one composed solely of carbon and/or hydrogen, that is intentionally added to diesel fuel (including any added to a motor vehicle's fuel system) and that is not intentionally removed prior to sale or use.

(2) Neat biodiesel, also referred to as B100, when used as an additive. Diesel fuel additive does not mean neat biodiesel when used as a fuel or blended biodiesel fuel (*e.g.*, B20).

(b) *Minimum biobased content.* The minimum biobased content is 90 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *Preference effective date.* No later than March 16, 2007, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased diesel fuel additives. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased diesel fuel additives.

(d) *Exemptions.* The following applications are exempt for the preferred procurement requirement for this item:

(1) Military equipment: Product or system designed or procured for combat or combat-related missions.

(2) Spacecraft systems and launch support equipment.

§ 2902.14 Penetrating lubricants.

(a) *Definition.* Products formulated to provide light lubrication and corrosion resistance in close tolerant internal and external applications including frozen

nuts and bolts, power tools, gears, valves, chains, and cables.

(b) *Minimum biobased content.* The minimum biobased content is 68 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *Preference effective date.* No later than March 16, 2007, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased penetrating lubricants. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased penetrating lubricants.

(d) *Determining overlap with an EPA-designated recovered content product.* Qualifying biobased products that fall under this item may, in some cases, overlap with the following EPA-designated recovered content product: Re-refined Lubricating Oils. USDA is requesting that manufacturers of these qualifying biobased products provide information on the USDA Web site of qualifying biobased products about the intended uses of the product, whether or not the product contains petroleum-based ingredients, re-refined oil, and/or any other recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated lubricating oils containing re-refined oil and which product should be afforded the preference in purchasing.

(e) *Exemptions.* The following applications are exempt for the preferred procurement requirement for this item:

(1) Military equipment: Product or system designed or procured for combat or combat-related missions.

(2) Spacecraft systems and launch support equipment.

§ 2902.15 Bedding, bed linens, and towels.

(a) *Definition.* (1) Bedding is that group of woven cloth products used as coverings on a bed. Bedding includes products such as blankets, bedspreads, comforters, and quilts.

(2) Bed linens are woven cloth sheets and pillowcases used in bedding.

(3) Towels are woven cloth products used primarily for drying and wiping.

(b) *Minimum biobased content.* The minimum biobased content is 12 percent and shall be based on the amount of qualifying biobased carbon in the finished product as a percent of the weight (mass) of the total organic carbon in the finished product. The 12 percent biobased content must be of a qualifying biobased feedstock. Cotton, wool, linen, and silk are not qualifying biobased feedstocks for the purpose of determining the biobased content of bedding, bed linens, and towels.

(c) *Preference effective date.* Determination of the effective date for this item is deferred until USDA identifies two or more manufacturers of biobased bedding, bed linens, and towels. At that time, USDA will publish a document in the **Federal Register** announcing that Federal agencies have one year from the date of the publication to give procurement preference to bedding, bed linens, and towels.

Dated: March 7, 2006.

Keith Collins,

Chief Economist, U.S. Department of Agriculture.

[FR Doc. 06–2323 Filed 3–15–06; 8:45 am]

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Federal Register

Thursday,
March 16, 2006

Part III

Environmental Protection Agency

40 CFR Parts 9 and 799

Testing of Certain High Production Volume Chemicals; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 799

[EPA–HQ–OPPT–2005–0033; FRL–7335–2]

RIN 2070–AD16

Testing of Certain High Production Volume Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating a final rule under the Toxic Substances Control Act (TSCA) that requires manufacturers (including importers) and processors of 17 high production volume (HPV) chemicals to conduct acute toxicity, repeat dose toxicity, developmental and reproductive toxicity, genetic toxicity (gene mutations and chromosomal aberrations), ecotoxicity (in fish, Daphnia, and algae), and environmental fate (including 5 tests for physical chemical properties and biodegradation) testing. EPA has determined that each of the 17 chemicals included in this final rule is produced in substantial quantities and that there is or may be substantial human exposure to each of them. Moreover, EPA has determined that there are insufficient data to reasonably determine or predict the effects on health or the environment of the manufacture, distribution in commerce, processing, use, or disposal of the chemicals, or any combination of these activities. EPA has concluded that this testing program is necessary and appropriate for developing such data. Data developed under this final rule will provide critical information about the environmental fate and potential hazards of these chemicals which, when combined with information about exposure and uses, will allow the Agency and others to evaluate potential health and environmental risks and take appropriate actions. Persons who export or intend to export any chemical included in this final rule, regardless of the form in which it is exported, are subject to the export notification requirements of TSCA section 12(b).

DATES: This final rule is effective on April 17, 2006. The incorporation by reference of certain publications listed in the rule is approved by the Director of the **Federal Register** as of April 17, 2006. For purposes of judicial review, this final rule shall be promulgated at 1 p.m. eastern daylight/standard time on March 30, 2006.

ADDRESSES: *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2005–0033. All documents in the docket are listed on the regulations.gov web site. 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 at *http://www.regulations.gov* or in hard copy at the OPPT Docket, EPA Docket Center (EPA/DC), EPA West, Rm. B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

TSCA section 4 submissions. For submission instructions, see Unit IX. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Catherine Roman, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–4780; e-mail address: *roman.catherine@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture (defined by statute to include import) or process any of the chemical substances that are listed in Table 2 in § 799.5085(j) of the regulatory text. Any use of the term ''manufacture'' in this final rule will encompass ''import,'' unless otherwise stated. In addition, as described in Unit VI., any person who exports or intends to export any of the chemical substances in this final rule, regardless of the form in which it is exported, is subject to the export notification requirements in 40 CFR part 707, subpart D. Potentially affected entities may include, but are not limited to:

- Manufacturers (defined by statute to include importers) of one or more of the 17 subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.
- Processors of one or more of the 17 subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industry Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit V.E. and consult § 799.5085(b) of the regulatory text. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using the online docket system, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. A frequently updated electronic version of 40 CFR part 9 and part 799 is available on E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr*.

II. Background

A. What Action is the Agency Taking?

EPA is promulgating a final test rule under TSCA section 4(a)(1)(B) (15 U.S.C. 2603(a)(1)(B)) that requires manufacturers and processors of 17 chemical substances to conduct acute toxicity, repeat dose toxicity, developmental and reproductive toxicity, genetic toxicity, ecotoxicity, and environmental fate testing. The chemicals are HPV chemicals, i.e., chemicals with a production/import volume equal to or greater than 1 million pounds per year. A detailed discussion regarding efforts to enhance the availability of screening level hazard and environmental fate information about HPV chemicals can be found in a **Federal Register** document which published on December 26, 2000 (Ref. 1).

The tests are screening level tests which in combination are known as the

Screening Information Data Set (SIDS) (see Unit II.D.). Some or all of these tests are required for a particular chemical substance, depending upon what data are already available for that substance.

In the proposal to this final rule, published in the **Federal Register** of December 26, 2000, EPA proposed SIDS testing for 37 HPV chemicals (Ref. 2). Numerous comments were received on the proposed rule. In consideration of those comments, EPA changed some testing requirements for certain chemicals as explained in Unit III. As a result of recent commitments to a voluntary EPA testing program known as the HPV Challenge Program (see Unit II.C.), and updated production volume data (i.e., 2002 Inventory Update Rule (IUR) data) made available after the publication of the proposal preceding this final rule (i.e., the ''proposed rule''), EPA is requiring testing for 17 of the 37 chemicals originally proposed for testing in 2000. EPA's decision to not finalize testing requirements for the remaining 20 chemicals is described in Unit VII.

At a future date, EPA may propose testing for additional HPV chemicals as the Agency learns more about the chemicals with respect to human exposure, release, and sufficiency of the data and experience available on their potential hazards.

B. What is the Agency's Authority for Taking this Action?

This final rule is being promulgated under TSCA section 4(a) (15 U.S.C. 2603(a)), which directs EPA to require the development of data relevant to assessing whether activities associated with chemical substances and mixtures present an unreasonable risk of injury to health or the environment, when appropriate findings are made.

Section 2(b)(1) of TSCA (15 U.S.C. 2603(b)(1)) states that it is the policy of the United States that:

> . . . adequate data should be developed with respect to the effect of chemical substances and mixtures on health and the environment and that the development of such data should be the responsibility of those who manufacture [which is defined by statute to include import] and those who process such chemical substances and mixtures[.]

To implement this policy, TSCA section 4(a) mandates that EPA require by rule that manufacturers and/or processors of chemical substances and mixtures conduct testing if the Administrator finds that:

> (1)(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,
>
> (ii) There are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
>
> (iii) Testing of such substance or mixture with respect to such effects is necessary to develop such data; or
>
> (B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,
>
> (ii) There are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and(iii) Testing of such substance or mixture with respect to such effects is necessary to develop such data [.].

If EPA makes these findings for a chemical substance or mixture, the Administrator shall require by rule that testing be conducted on that chemical substance or mixture. The purpose of the testing is to develop data about the substance's or mixture's health or environmental effects for which there is an insufficiency of data and experience, and which are relevant to a determination that the manufacture, distribution in commerce, processing, use, or disposal of the chemical substance or mixture, or any combination of such activities, does or does not present an unreasonable risk of injury to health or the environment.

EPA need not limit the scope of testing required to the factual basis for the TSCA section 4(a)(1)(A)(i) or (B)(i) findings, as long as EPA finds that there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or any combination of such activities on health or the environment can be reasonably determined or predicted, and that testing is necessary to develop the data. This approach is explained in more detail in EPA's statement of policy for making findings under TSCA section 4(a)(1)(B) (frequently described as the ''B'' policy) (Ref. 3, pp. 28738–28739).

In this final rule, EPA is using its broad TSCA section 4(a) authority to obtain data necessary to support the development of preliminary or ''screening level'' determinations of the effects on health and the environment from exposure to the 17 chemical substances specified in Table 2 in § 799.5085(j) of the regulatory text. Following consideration of the public comments received by EPA on the proposed test rule (Ref. 2) and updated production volume information (i.e., 2002 IUR data), EPA is making the following findings for the 17 chemical substances under TSCA section 4(a)(1)(B): They are produced in substantial quantities; there is or may be substantial human exposure to them; existing data are insufficient to determine or predict their health and environmental effects; and testing is necessary to develop such data.

C. Why is EPA Taking this Action?

On April 21, 1998, EPA initiated a national effort to empower citizens with knowledge about the most widespread chemicals in commerce. A major objective of this effort is to make certain basic information about the environmental fate and potential health and environmental hazards associated with HPV chemicals available to the public. Mechanisms to collect or, where necessary, develop needed data on U.S. HPV chemicals include the voluntary HPV Challenge Program, certain international efforts, and TSCA section 4 rules.

1. *Voluntary HPV Challenge Program*. The voluntary HPV Challenge Program, officially launched in late 1998, was created to ensure that a baseline set of data on approximately 2,800 HPV chemicals would be made available to the public. HPV chemicals are manufactured or imported in amounts equal to or greater than 1 million pounds per year and were identified for this program through data reported under the TSCA Inventory Update Rule (IUR) during 1990.

EPA challenged U.S. manufacturers and importers of HPV chemicals to voluntarily sponsor chemicals in the Program. Sponsorship entails making screening-level health and environmental data available to the public. Public availability of these data, a fundamental principle of the Program, enables the public to know about the hazards associated with chemicals in their environment. The data set sought by the HPV Challenge Program is known as the Screening Information Data Set (SIDS) that was developed by the Organization for Economic Cooperation and Development (OECD). The SIDS provides an internationally agreed upon set of test data for screening high production volume chemicals for human and environmental hazards, and will allow the Agency and others to make an informed, preliminary

judgment about the hazards of HPV chemicals.

As part of their commitment to the HPV Challenge Program, sponsors submit data summaries of existing information along with a test plan that proposes a strategy to fill data gaps. Sponsors submit test plans for either individual chemicals or for a category of chemicals. A chemical category comprises a group of substances, usually similar in chemical structure, with a regular pattern of properties and effects. Data for chemicals in the category can be used to estimate the chemical properties and effects of other category members.

A 120–day comment period begins when test plans and data summaries submitted directly to the HPV Challenge Program are posted to the Program website. It is at this time when all stakeholders—industry, environmental protection groups, animal welfare groups, private citizens, etc.—can comment on the data summary and test plan submissions. EPA comments on all of the submissions as well. Comments are important because sponsors consider this feedback when revising their test plans and data summaries. All comments are posted to the Program website for public availability.

Since the Program's inception in 1998, industry chemical manufacturers and importers have participated in the Challenge by sponsoring over 2,200 chemicals. More than 400 companies and 100 consortia have sponsored chemicals directly in the Program while additional companies/consortia have sponsored chemicals indirectly in an international counterpart to the HPV challenge Program, the International Council of Chemical Associations (ICCA) HPV Initiative. HPV chemicals that are not sponsored in the Program may be subject to a test rule under TSCA Section 4 because these chemicals lack needed testing. The voluntary HPV Challenge Program is further described in a **Federal Register** document which published on December 26, 2000 (Ref. 1).

2. *Certain international efforts.* The voluntary HPV Challenge Program is designed to make maximum use of scientifically adequate existing test data and to avoid unnecessary and duplicative testing of U.S. HPV chemicals. Therefore, EPA is continuing to participate in the voluntary international efforts, complementary to the voluntary HPV Challenge Program, that are being coordinated by the OECD to secure basic hazard information on HPV chemicals in use worldwide, including some of those on the U.S. (1990) HPV chemicals list (Ref. 4). This includes agreements to sponsor a U.S. HPV chemical under either the OECD HPV SIDS Program (Ref. 5), including sponsorship by OECD member countries beyond the United States, or the international HPV Initiative that is being organized by the International Council of Chemical Associations (ICCA) (Ref. 6).

The OECD HPV SIDS Program includes information on the identity of each chemical, its uses, sources and extent of exposure; physical and chemical properties; environmental fate; and certain limited toxicity data for humans and the environment. The SIDS is not intended to describe a chemical thoroughly, but rather is intended to provide enough information to support an initial (or screening level) assessment and to assign a priority for further work, if necessary. The OECD HPV SIDS Program seeks the development of test data, if such data are not already available, related to six health and environmental effects endpoints for international HPV chemicals (see Unit II.D.). The SIDS data set has been internationally agreed upon by the 29 member countries of the OECD as providing the minimum data set required to make an informed preliminary judgment about the hazards of a given HPV chemical.

The ICCA consists of representatives of chemical industry trade associations from the United States, Europe, Japan, Australia, Canada, Mexico, Brazil, New Zealand, and Argentina. The intended goal of the ICCA HPV Initiative was to complete screening-level hazard assessments on 1,000 ''high priority'' chemicals by the end of the year 2004. The progress of the ICCA HPV Initiative to date can be checked on ICCA's HPV Chemical Tracking System website at *http://www.iccahpv.com/reports/reportsmain.cfm*. Most of the chemicals on the ICCA working list (Ref. 6) are also U.S. HPV chemicals. The ICCA testing/assessment work will be tied directly to that under the OECD HPV SIDS Program and to the U.S. voluntary HPV Challenge Program and any associated TSCA section 4 HPV SIDS rules. Any U.S. HPV chemicals that are handled under the OECD HPV SIDS Program or the ICCA HPV Initiative are considered by EPA to be ''sponsored'' and are not anticipated to be addressed in the voluntary HPV Challenge Program unless the international commitments are not met. Nor does EPA intend to evaluate these chemicals for possible TSCA section 4 HPV SIDS rulemaking unless the international commitments are not met.

3. *TSCA rulemaking.* U.S. data needs which remain unmet in the voluntary HPV Challenge Program or through international efforts may be addressed through TSCA section 4 rulemaking, such as this final rule, where EPA determines that the statutory findings can be made. This final rule is the first TSCA section 4 HPV SIDS rule, and addresses the unmet data needs of 17 chemicals.

Data collected and/or developed under this final rule and the voluntary HPV Challenge Program, when combined with information about exposure and uses, will allow the Agency and others to better assess the potential risk to health and the environment from these chemicals. EPA intends to make the information collected under this final rule available to the public, other Federal agencies, and any other interested parties on its website (*http://www.epa.gov/chemrtk/volchall.htm*) and in the public docket for this final rule identified under **ADDRESSES**. As appropriate, this information will be used to ensure a scientifically sound basis for risk assessment/management actions. This effort will serve to further the Agency's goal of identifying and controlling human and environmental risks as well as providing greater protection and knowledge to the public. By using the same approach to testing as that of the OECD Program, EPA is assuring that the data developed under this rule and the voluntary HPV Challenge Program will be comparable to the data being developed in other countries, thereby enabling an international sharing of data and the prevention of unnecessary and duplicative testing. See Refs. 1 and 2, pp. 81662–81664 for further information about the voluntary HPV Challenge Program and international efforts.

D. Why is EPA Focusing on HPV Chemicals and SIDS Testing?

EPA is focusing on HPV chemicals, which it defines as being manufactured in amounts equal to or greater that 1 million pounds, because although those chemicals cover only about 11% of the TSCA Inventory of chemical substances (see TSCA sections 8(a) and 8(b)), using Inventory information available in 1988 (Ref. 10, p. 32296), that small percentage of the Inventory accounts for 95% of total chemical production in the United States.

EPA is focusing on Screening Information Data Set (SIDS) testing because it is comprised of a battery of tests agreed upon by the international community through the OECD, of which the United States is a member country, as appropriate for screening HPV chemical substances for toxicity and produces information relevant to

understanding the basic health and environmental hazards and fate of HPV chemicals. The six basic testing endpoints comprising this battery of tests, known as the SIDS, have been adopted by the OECD as the minimum required to screen HPV chemical substances for toxicity and environmental fate. The content of SIDS was agreed upon at the 13th Joint Meeting of the OECD Chemicals Group and Management Committee of the Special Programme on the Control of Chemicals (Refs. 7 and 8). The United States believes these are the right tests for our domestic needs, i.e., screening U.S. HPV chemicals for health and environmental effects and environmental fate.

SIDS testing evaluates the following six testing endpoints (Ref. 5):

- Acute toxicity.
- Repeat dose toxicity.
- Developmental and reproductive toxicity.
- Genetic toxicity (gene mutations and chromosomal aberrations).
- Ecotoxicity (studies in fish, Daphnia, and algae).
- Environmental fate (including physical/chemical properties (melting point, boiling point, vapor pressure, *n*-octanol/water partition coefficient, and water solubility), photolysis, hydrolysis, transport/distribution, and biodegradation).

While data on the six SIDS endpoints do not fully measure a chemical's toxicity, they do provide a consistent minimum set of information that can be used to determine the relative hazards of chemicals and to judge if additional testing or assessment is necessary.

E. How Does EPA's HPV Work Relate to That of the OECD?

As noted in Unit II.C.2., the OECD SIDS Program is complementary to the voluntary HPV Challenge Program. However, EPA's definition of an HPV chemical differs from that of the OECD. EPA defines an HPV chemical as having an annual production or importation volume of 1 million pounds or more. The OECD defines an HPV chemical as having an annual production volume of 2.2 million pounds (equivalent to 1 million kilograms (kg)) reported in any member country.

The presence of a chemical on the OECD's list of HPV chemicals was and continues to be accepted by OECD member countries as providing a sufficient indicator of potential exposure to warrant testing at the SIDS level (Ref. 9).

EPA, however, does not believe that a production volume threshold which is chosen for an international program on existing chemicals and which is the only trigger for entry into that program should be determinative of the threshold chosen for ''substantial production'' under TSCA section 4(a)(1)(B)(i). See EPA's ''B'' policy (Ref. 3). Among the reasons is that the TSCA section 4(a)(1)(B)(i) finding of substantial production is not the sole finding EPA must make to require testing based on TSCA section 4(a)(1)(B). EPA must also find that there is substantial release, or substantial or significant human exposure under TSCA sections 4(a)(1)(B)(i)(I) and (II). In addition, EPA must find that data are insufficient and testing is necessary under TSCA sections 4(a)(1)(B)(ii) and (iii). Accordingly, a finding that a chemical is produced in substantial quantities alone is not a sufficient basis to require testing under TSCA section 4.

In response to EPA's proposed ''B'' policy (Ref. 10), both the American Chemistry Council (ACC, formerly the Chemical Manufacturers Association (CMA)) and the Society of the Plastics Industry, Inc. commented that EPA's proposed production volume threshold of 1 million pounds is a reasonable interpretation of ''substantial production'' under TSCA (Refs. 11 and 12). Additionally, they indicated that the OECD's 2.2 million pound threshold would be preferable to achieve consistency between EPA's activities under TSCA section 4 and the OECD HPV SIDS Program. Although the United States and OECD differ in their definition of an HPV chemical and what should trigger basic screening tests of an HPV chemical, both the U.S. and OECD HPV Programs are alike in their information needs for an HPV chemical. Both the U.S. and OECD HPV Programs have identified the SIDS battery of tests as the basic screening tests needed to provide enough information to support a screening level assessment of the health and environmental effects of a chemical.

F. Why is EPA Pursuing Hazard Information on HPV Chemicals?

EPA found that, of those non-polymeric organic substances produced or imported in amounts equal to or greater than 1 million pounds per year based on 1990 IUR reporting, only 7% had a full set of publicly available and internationally recognized basic screening test data for health and environmental effects (Ref. 13). Of the over 2,800 U.S. HPV chemicals based on 1990 IUR data, 43% had no publicly available basic hazard data. For the remaining chemicals, limited amounts of the data were available. This lack of available hazard data compromises EPA's and others' ability to determine whether these HPV chemicals pose potential risks to human health or the environment, as well as the public's ability to know about the hazards of chemicals that may be found in their environment, their homes, their workplaces, and the products they buy.

G. What is the Role of this Final Rule and Any Future TSCA Section 4 HPV SIDS Rulemaking with Regard to the Voluntary HPV Challenge Program?

As indicated in the December 26, 2000 **Federal Register** document (Ref. 1) describing the voluntary HPV Challenge Program, EPA intends to use rulemaking under TSCA where appropriate to help fill data gaps not addressed as part of the voluntary HPV Challenge Program or international efforts. EPA does not intend at this time to evaluate U.S. HPV chemicals that have been or are being handled through the OECD HPV SIDS Program or under a complementary program being coordinated by the ICCA (Ref. 6) for screening level testing under TSCA section 4 HPV SIDS rulemaking, although the Agency may revisit this question if commitments under those international programs are not met. See Unit III.G. of Ref. 1 for more information on these programs. EPA is evaluating the extent to which additional nonsponsored HPV chemicals meet the threshold criteria for rulemaking under TSCA section 4.

H. How Will the Data Developed Under this Final Rule Be Used?

The availability of hazard data on certain individual chemicals is fundamental to EPA's ability to accomplish its mission of environmental protection. Hazard data are used in risk assessment and risk management, and ultimately to inform the public and promote the pollution prevention ethic. Activities to ensure the availability of basic hazard information on HPV chemicals support EPA's objectives.

EPA will use the data obtained from this final rule to support development of preliminary hazard and risk assessments for the 17 HPV chemicals subject to this rule. The data will also be used by EPA to set priorities for further testing that may produce hazard information on these chemicals that may be needed by EPA, other Federal agencies, the public, industry, and others, to support adequate risk assessments. As appropriate, this information will be used to ensure a scientifically sound basis for risk characterizations and risk management actions. As such, this effort will serve to further the Agency's goal of identifying and controlling human

and environmental risks as well as providing greater knowledge and protection to the public. In the past, EPA has used data from test rules to support such activities as the development of water quality criteria, Toxic Release Inventory (TRI) listings, chemical advisories, and reduction of workplace exposures.

Finally, because the SIDS data to be developed under this final rule will be comparable to the type of data agreed to as being appropriate and being developed by the OECD HPV SIDS Program, the development of these data will enable an international sharing of data. As conceived by the OECD, the SIDS battery of tests can be used by governments and others worldwide to conduct an initial assessment of the hazards and risks posed by HPV chemicals and prioritize HPV chemicals to identify those in need of additional, more in-depth testing and assessment, as well as those of lesser concern. Not only can the data generated from this and any future TSCA section 4 HPV SIDS test rules contribute to the international effort, but also international SIDS testing and assessments can be used to fill the data gaps identified as part of the voluntary HPV Challenge Program. Additional detailed information is available on the SIDS website (*http://cs3-hq.oecd.org/scripts/hpv*) and EPA's voluntary HPV Challenge Program website (*http://www.epa.gov/chemrtk/volchall.htm*).

Data collected or developed for each sponsored chemical in the voluntary HPV Challenge Program are provided in the format of a ''robust'' (i.e., detailed) summary. A robust summary contains the technical information necessary to adequately describe an experiment or study and includes the objectives, methods, results, and conclusions of the full study report, which can either be an experiment or in some cases an estimation or prediction method. (See Ref. 14, also at *http://www.epa.gov/chemrtk/robsumgd.htm*). A robust summary provides sufficient information to allow a technically qualified person to make an independent assessment of a given study without having to read the full study report, and thereby facilitates the evaluation of existing data and the identification of additional data needs. EPA suggests that existing data relevant to this final rule be submitted to the Agency in robust summary format and, for any data developed under this rule, that a robust summary of the final report for each specific test be submitted in addition to the final report itself (see § 799.5085(i) of the regulatory text).

III. Response to Public Comments

EPA received a number of comments in response to the proposal (Ref. 2) to this final rule. A summary of those comments and EPA's response to each comment are presented in the document entitled *Response to Public Comments* (Ref. 40). Both the comments and EPA's *Response to Public Comments* (Ref. 40) are available in the public docket under **ADDRESSES**. The comments on the proposed test rule (Ref. 2) were submitted by the American Chemistry Council (ACC), American Petroleum Institute (API), Synthetic Organic Chemical Manufacturers Association (SOCMA), Center for Regulatory Effectiveness (CRE), Environmental Defense (ED), American Coke and Coal Chemicals Institute (ACCCI), Color Pigments Manufacturers Association, Inc. (CPMA), Ecological and Toxicological Association of Dyes and Organic Pigments Manufacturers (ETAD), Merisol USA LLC (Merisol), Ashland Distribution Company (Ashland), Dow Chemical Company (Dow), ExxonMobil Chemical Company (EMCC), Lonza Group, Dyno Nobel, Inc. (Dyno Nobel), Sciences International Inc.(SII), Institute of Makers of Explosives (IME), People for the Ethical Treatment of Animals (PETA), Physicians Committee for Responsible Medicine (PCRM), Doris Day Animal League (DDAL), The Humane Society of the United States (HSUS), Alternative Research & Development Foundation (ARDF), American Anti-Vivisection Society (AAVS), New England Anti-Vivisection Society (NEAVS), Silicones Environmental, Health and Safety Council (SEHSC), and numerous private citizens (Refs. 15–39).

After review and analysis of the submitted comments, EPA made the following changes to the regulatory text as proposed in response to those comments:

1. The tests for melting point, boiling point and vapor pressure are not required for 1,3-propanediol, 2,2-bis[(nitrooxy)methyl]-, dinitrate (ester) (CAS No. 78–11–5), also known as pentaerythritol tetranitrate (PETN). This change is further discussed in Unit VII.C.1. and in the document entitled *Response to Public Comments* (Ref. 40).

2. The screening test for reproduction/developmental toxicity is not required for 2,4-hexadienoic acid, (2E,4E)- (CAS No. 110–44–1), also known as sorbic acid. This change is further discussed in Unit VII.C.2. and in the document entitled *Response to Public Comments* (Ref. 40).

3. The neutral red uptake basal cytotoxicity assay may be used to estimate the starting dose for the mammalian acute toxicity test. The test is included as a special condition in Table 3 in § 799.5085(j) of the regulatory text. This change is further discussed in Unit V.A.4. and in the document entitled *Response to Public Comments* (Ref. 40).

IV. Findings

A. What is the Basis for EPA's Final Rule to Test These Chemical Substances?

As indicated in Unit II.B., in order to promulgate a rule under TSCA section 4(a) requiring testing of chemical substances or mixtures, EPA must, among other things, make certain findings for those chemical substances or mixtures regarding either hazard (TSCA section 4(a)(1)(A)(i)) or production and either chemical release or human exposure (TSCA section 4(a)(1)(B)(i)). EPA is requiring testing of the chemical substances included in this final rule based on its findings under TSCA section 4(a)(1)(B)(i) relating to ''substantial production'' and ''substantial human exposure,'' as well as findings under TSCA sections 4(a)(1)(B)(ii) and (iii) relating to sufficient data and the need for testing. The chemical substances included in this final rule are listed in Table 2 in § 799.5085(j) of the regulatory text along with their CAS numbers.

''Substantial production'' of a chemical substance or mixture under TSCA section 4(a)(1)(B)(i) is generally interpreted by EPA to be aggregate production (including import) volume equaling or exceeding 1 million pounds per year and exposure of 1,000 workers or more on a routine or episodic basis to a chemical substance or mixture is considered to be ''substantial exposure.'' See EPA's ''B'' policy (Ref. 3) for further discussion on how EPA generally makes decisions under TSCA section 4(a)(1)(B)(i).

EPA finds that, under TSCA section 4(a)(1)(B)(i), each of the 17 chemical substances included in this final rule is produced in ''substantial quantities'' and there is or may be ''substantial human exposure'' to each chemical substance (Ref. 41). In addition, under TSCA section 4(a)(1)(B)(ii), EPA finds that there are insufficient data and experience to reasonably determine or predict the effects of the manufacture, processing, or use of these chemical substances, or of any combination of such activities, on human health or the environment. EPA also finds that testing of the 17 chemical substances is necessary to develop such data (TSCA section 4(a)(1)(B)(iii)) (see Unit IV.E.).

EPA has not identified any factors to cause the Agency to use decisionmaking criteria other than the general thresholds described in the ''B'' policy with respect to the chemicals included in this final rule.

B. Are These Chemical Substances Produced and/or Imported in Substantial Quantities?

EPA finds that each of the chemical substances included in this final rule is produced and/or imported in an amount equal to or greater than 1 million pounds per year based on information gathered pursuant to the 2002 IUR (40 CFR part 710, subpart B). The 2002 IUR is the most recently available compilation of TSCA section 8(a) Inventory Update Reporting data, and the IUR data have been compiled into a database called the TSCA Chemical Update System. EPA also considered the fact that all of these chemicals were produced and/or imported above 1 million pounds annually based on the 1990, 1994, and 1998 IUR. EPA concludes that the annual production volume of each chemical is ''substantial'' as that term is used with reference to production in TSCA section 4(a)(1)(B)(i) (Ref. 3).

C. Are a Substantial Number of Workers Exposed to These Chemicals?

EPA finds that the manufacture, processing, and use of the chemical substances included in this action result or may result in exposure to a substantial number of workers. These chemical substances are used in a wide variety of industrial applications which result in potential exposures to workers, as described in the exposure support document for this final rule (Ref. 41).

EPA defines human exposure as the contact with a chemical or agent at the visible exterior of a person (i.e., skin and openings into the body such as mouth and nostrils) (Ref. 42, p. 22891). Worker exposure is the human exposure to a chemical or agent that occurs while a person is working. Worker exposure may have various causes, with chemical releases being a common cause of exposure. Chemical manufacturing and processing plants can release chemicals from pumps as fugitive emissions, from reactor and condenser vents as stack emissions, in the form of a vapor and/or as a particulate. Diffusion and air currents may carry a chemical throughout the plant and workers may breathe air containing the chemical, resulting in exposures. Certain human activities such as manually transferring a chemical from one container to another may also cause exposures.

Each of the chemicals in this final rule was identified in the National Occupational Exposure Survey (NOES) as having a total worker exposure of 1,000 workers or more (Ref. 41). EPA concludes that an exposure of 1,000 workers or more to a chemical substance is or may be ''substantial'' as that term is used with reference to ''human exposure'' in TSCA section 4(a)(1)(B)(i) (Ref. 3).

D. Do Sufficient Data Exist for These Chemical Substances?

As discussed in Unit II.D., data on SIDS testing endpoints, including acute toxicity, repeat dose toxicity, developmental and reproductive toxicity, genetic toxicity (gene mutations and chromosomal aberrations), ecotoxicity (tests in fish, Daphnia, and algae), and environmental fate (five tests for physical/chemical properties (melting point, boiling point, vapor pressure, *n*-octanol/water partition coefficient, and water solubility) and biodegradation), are necessary in ascertaining the health and environmental effects of the 17 chemicals in this final rule. EPA has determined that for the 17 chemicals for which testing is required under this final rule, there are either no data available on SIDS testing endpoints or, where there is some information, these data are insufficient (See Unit II.D. and II.E.). Therefore, existing data are insufficient to reasonably determine or predict the effects on human health that may result from exposures to the chemical substances included in this final rule during the manufacturing, processing, or use of the subject chemical substances. EPA also sought existing information on the SIDS testing endpoints of chemical fate and ecotoxicity and found it to be insufficient. EPA undertook this evaluation because once the Administrator has made a finding under TSCA section 4(a)(1), EPA may require any type of health or environmental effects testing necessary to address unanswered questions about the effects of a chemical (Ref. 2, p. 81660). The finding for insufficient data is based on the results of searches for data on SIDS endpoints by EPA (Ref. 13) and ACC (Ref. 43), and EPA's review of studies/data identified by commenters in response to the proposal or identified by EPA after the publication of the proposal to this final rule. The studies and data submitted or identified subsequent to the proposal were found to be sufficient for some proposed tests of certain chemicals and those tests are not required for those chemicals in this final rule (See Unit VII.C.). Table 2 of § 799.5085(j) of the regulatory text lists the SIDS endpoint tests for each of the remaining 17 chemicals for which no data are currently available to the Agency or, where some information is available, the data are not sufficient.

In the proposal to this final rule, EPA encouraged the submission of existing data on SIDS testing endpoints which are relevant to characterizing the hazard of those chemicals for which testing was proposed. All such submitted information was carefully evaluated by EPA in the development of the final testing requirements in this rule. However, if persons required to test under this final rule become aware of additional relevant scientifically adequate existing data (including structure-activity relationships (SAR) information or a scientifically defensible category approach) and submit this information to EPA at any time before testing is initiated, the Agency would consider such data to determine if they satisfy the testing requirement and would take appropriate necessary action to ensure that the testing in this rule is no longer required. In fact, they may submit such information as a requested modification to the testing requirements under 40 CFR 790.55 at anytime as long as the request is made at least 60 days before the reporting deadline for the test in question.

E. Is Testing Necessary for These Chemical Substances?

As discussed in Unit IV.D., the lack of sufficient data for these 17 chemicals compromises EPA's and others' ability to determine whether each chemical poses an unreasonable risk to human health or the environment. EPA believes that conducting SIDS testing for the 17 subject chemical substances is necessary to provide data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of the chemical substances or of any combination of such activities on health or the environment can reasonably be determined or predicted. EPA has determined that testing is necessary in order to obtain these relevant data.

EPA will use the data obtained from this final rule to support development of preliminary hazard assessments for these 17 HPV chemicals and to set priorities for obtaining exposure information and further testing that will produce more definitive hazard information where needed. Such additional information is needed by EPA, other Federal agencies, the public, industry, and others to ensure that adequate risk assessments can be conducted on these chemicals. EPA has

used data from test rules to support such activities as the development of water quality criteria, TRI listings, chemical advisories, and input for actions resulting in reduction of workplace exposures. (See Unit II.C. thru II.G.).

V. Final Rule

A. What Testing is Being Required in this Action?

EPA is requiring specific testing and reporting requirements for the chemical substances listed in Table 2 in § 799.5085(j) of the regulatory text. The testing requirements for each chemical are denoted by alphanumeric symbols in Table 2 in § 799.5085(j) of the regulatory text. Table 3 in § 799.5085(j) of the regulatory text provides the key to identify the tests denoted by the alphanumeric symbols and lists special conditions which might apply when conducting some of those tests. The test methods listed in Table 3 in § 799.5085(j) of the regulatory text are grouped according to the endpoint that they address. The following endpoints and test standards are required under this final rule; also discussed in this Unit V.A. are the special conditions which EPA has identified and is requiring for several of the required test standards.

1. *Physical/chemical properties.*

Melting Point: American Society for Testing and Materials (ASTM) E 324 (capillary tube) (Ref. 44).
Boiling Point: ASTM E 1719 (ebulliometry) (Ref. 45).
Vapor Pressure: ASTM E 1782 (thermal analysis) (Ref. 46).
n-Octanol/Water Partition Coefficient:
Method A (40 CFR 799.6755—shake flask).
Method B (ASTM E 1147—liquid chromatography) (Ref. 47).
Method C (40 CFR 799.6756—generator column).
Water Solubility:
Method A: (ASTM E 1148—shake flask) (Ref. 48).
Method B: (40 CFR 799.6784—shake flask).
Method C: (40 CFR 799.6784—column elution).
Method D: (40 CFR 799.6786—generator column).

EPA proposed determining the melting point of all 17 chemicals in this final rule using the method ASTM E 324. Since the publication of the proposal to this final rule, ASTM has indicated on its website, *http://www.astm.org/cgi-bin/SoftCart.exe/index.shtml?E+mystore*, that ASTM E 324 has been withdrawn. To quote the ASTM rationale for the withdrawal of ASTM E 324:

> The standard utilizes old, well-developed technology; it is highly unlikely that any additional [changes] and/or modifications will ever be pursued by the E15 [committee]. The time and effort needed to maintain these documents detracts from the time available to develop new standards which use modern technology (Ref. 49).

Note that withdrawal of the method by ASTM means only that ASTM no longer continues to develop and improve the method. It does not mean that ASTM no longer considers the method to be valid. ASTM still makes the method available for informational purposes and it can still be purchased from ASTM at the address listed in § 799.5085(h) of the regulatory text. EPA concludes that ASTM's withdrawal of E 324 does not have negative implications on the validity of the method; therefore, EPA is still requiring, for those chemicals for which melting points determinations are needed, that melting points be determined according to the method ASTM E 324.

For the *n*-octanol/water partition coefficient and water solubility endpoints, EPA is requiring that certain ''special conditions'' be considered by test sponsors in determining the appropriate test method that would be used from among those included for these endpoints in Table 3 in § 799.5085(j) of the regulatory text.

For the ''*n*-octanol/water partition coefficient (log 10 basis)'' endpoint, also known as log K_{ow}, the test method required, if any, will be determined by the test substance's estimated log K_{ow}. EPA provides three methods for measuring the substance's log K_{ow}, but prior to selecting an appropriate method to use, if any, EPA is recommending that the log K_{ow} be quantitatively estimated by using the method described in the article entitled *Atom/Fragment Contribution Method for Estimating Octanol-Water Partition Coefficients* (Ref. 50). EPA is recommending that the K_{ow} be estimated in recognition of the fact that, depending on the chemical substance's log K_{ow}, one or more test methods can be expected to provide adequate information for determining the log K_{ow}. In general, EPA believes that the more hydrophobic a subject chemical is, the less well Method A (40 CFR 799.6755—shake flask) will work, and that Method B (ASTM E 1147—liquid chromotography) and Method C (40 CFR 799.6756—generator column) become more suitable, especially Method C. Whether the test sponsor chooses to quantitatively estimate the log K_{ow} or not, EPA requires that the test sponsor provide with the final study report the underlying rationale for the test method selected to measure log K_{ow}. The required test methods have been developed to meet a wide variety of needs and, as such, are silent on experimental conditions related to pH. Therefore, EPA highly recommends that all required log K_{ow} tests be conducted at pH 7 to ensure environmental relevance. The required test methods and estimated log K_{ow} ranges that determine which test method must be used for this endpoint for a given chemical are shown in Table 1 of this unit. The ranges of the estimated log K_{ow}s have been modified slightly since the proposal to eliminate the overlap of ranges stated in the proposal.

TABLE 1.—TEST REQUIREMENTS FOR THE *n*-OCTANOL/WATER PARTITION COEFFICIENT ENDPOINT

Testing category	Test requirements and references	Special conditions
Physical/chemical properties	*n*-Octanol/water partition coefficient (log 10 basis) or log K_{ow}: The appropriate log K_{ow} test, if any, must be selected from those listed in this column—see special conditions in the adjacent column. Method A: 40 CFR 799.6755 (shake flask) Method B: ASTM E 1147 (liquid chromatography) Method C: 40 CFR 799.6756 (generator column)	*n*-Octanol/water partition coefficient or log K_{ow}: Which method is required, if any, is determined by the test substance's estimated log K_{ow} as follows: log K_{ow} <0: no testing required. log K_{ow} range 0–1: Method A or B. log K_{ow} range >1–4: Method A or B or C. log K_{ow} range >4–6: Method B or C. log K_{ow} >6: Method C. Test sponsors are required to provide in the final study report the underlying rationale for the method selected. In order to ensure environmental relevance, EPA highly recommends that the selected study be conducted at pH 7.

For the ''water solubility'' endpoint, the test method, if any, will be determined by the test substance's estimated water solubility. EPA recommends that water solubility be quantitatively estimated prior to initiating this study. One recommended method for estimating water solubility is described in the article entitled *Improved Method for Estimating Water Solubility From Octanol/Water Partition Coefficient* (Ref. 51). EPA requires that test sponsors provide in the final study report the underlying rationale for the test standard selected for this endpoint. The required test methods have been developed to meet a wide variety of needs and, as such, are silent on experimental conditions related to pH. Therefore, EPA highly recommends that all required water solubility tests be conducted at pH 7 to ensure environmental relevance. The estimated water solubility ranges that EPA proposed for use in selecting an appropriate test standard have been modified slightly since the proposal to eliminate overlaps. The estimated water solubility ranges that EPA is requiring in this final rule to select an appropriate test standard are shown in Table 2 of this unit.

TABLE 2.—TEST REQUIREMENTS FOR THE WATER SOLUBILITY ENDPOINT

Testing category	Test requirements and references	Special conditions
Physical/chemical properties	Water solubility: The appropriate method to use, if any, to test for water solubility must be selected from those listed in this column—see special conditions in the adjacent column. Method A: ASTM E 1148 (shake flask) Method B: 40 CFR 799.6784 (shake flask) Method C: 40 CFR 799.6784 (column elution) Method D: 40 CFR 799.6786 (generator column)	Water solubility: Which method is required, if any, is determined by the test substance's estimated water solubility. Test sponsors are required to provide in the final study report the underlying rationale for the method selected. In order to ensure environmental relevance, EPA highly recommends that the selected study be conducted at pH 7. >5,000 milligrams/liters (mg/L) : Method A or B. >10 mg/L—5,000 mg/L: Method A, B, C, or D. >0.001 mg/L—10 mg/L: Method C or D. ≤0.001 mg/L: No testing required.

2. *Environmental fate and pathways.*

Inherent Biodegradation: ASTM 1625 (semicontinuous activated sludge test) (Ref. 52) or
ISO 9888 (Zahn-Wellens Method) (Ref. 53).

Either method may be used, and no special conditions apply.

3. *Aquatic toxicity.*

Test Group 1: Acute toxicity to fish (ASTM E 729) (Ref. 54).
Acute toxicity to Daphnia (ASTM E 729) (Ref. 54).
Toxicity to plants (algae) (ASTM E 1218) (Ref. 55).
Test Group 2: Chronic toxicity to Daphnia (ASTM E 1193) (Ref. 56).
Toxicity to plants (algae) (ASTM E 1218) (Ref. 55).

For the ''aquatic toxicity'' endpoint, the OECD HPV SIDS Program recognizes that, for certain chemicals, acute toxicity studies are of limited value in assessing the substances' aquatic toxicity. This issue arises with respect to chemicals with high log K_{ow} values. In such cases, toxicity is unlikely to be observed over the duration of acute toxicity studies because of reduced uptake and the extended amount of time required for such substances to reach toxic concentrations in the test organism. For such situations, the OECD HPV SIDS Program recommends use of chronic toxicity testing in Daphnia in place of acute toxicity testing in fish and Daphnia. EPA is requiring that the aquatic toxicity testing requirement be determined based on the test substance's measured log K_{ow} as determined by using the approach outlined in Unit V.A.1., in the discussion of ''*n*-octanol/water partition coefficient,'' and in Table 3 in § 799.5085(j) of the regulatory text. For test substances determined to have a log K_{ow} of less than 4.2, one or more of the following tests (described as ''Test Group 1'' in Table 3 in § 799.5085(j) of the regulatory text) are required: Acute toxicity to fish (ASTM E 729), Acute toxicity to Daphnia (ASTM E 729), and Toxicity to plants (algae) (ASTM E 1218). For test substances determined to have a log K_{ow} that is greater than or equal to 4.2, one or both of the following tests (described as ''Test Group 2'' in Table 3 in § 799.5085(j) of the regulatory text) are required: Chronic toxicity to Daphnia (ASTM E 1193) and Toxicity to plants (algae) (ASTM E 1218). As outlined in Table 3 in § 799.5085(j) of the regulatory text, depending on the testing required in Test Group 1, the Test Group 2 chronic Daphnia test may substitute for either or both the acute

fish toxicity test and the acute Daphnia test.

EPA recognizes that in some circumstances, acute aquatic toxicity testing (Test Group 1) may be relevant for certain chemical substances having a log K_{ow} equal to or greater than 4.2. Using SAR, a log K_{ow} of 4.2 corresponds with a fish bioconcentration factor (BCF) of about 1,000 (Refs. 57–59). A chemical with a fish BCF value of 1,000 or more is characterized as having a tendency to accumulate in living organisms relative to the concentration of the chemical in the surrounding environment (Ref. 60). For the purposes of this final rule, EPA's use of a log K_{ow} equal to or greater than 4.2 (which corresponds with a fish BCF value of 1,000) is consistent with the approach taken in the Agency's proposed (Ref. 61) and final (Ref. 62) Policy Statement under TSCA section 5 entitled *Category for Persistent, Bioaccumulative, and Toxic New Chemical Substances*. EPA has also used a measured BCF that is equal to or greater than 1,000 or, in the absence of a BCF, a log K_{ow} value equal to or greater than 4.3 to help define the potential of a new chemical substance to cause significant adverse environmental effects (Ref. 63). EPA considers the difference between the log K_{ow} of 4.3 used with new chemical substances (Ref. 63) and the log K_{ow} value of 4.2 cited in this final TSCA section 4 test rule to be negligible.

Chemical substances that are dispersible in water (e.g., surfactants, detergents, aliphatic amines, and cationic dyes) may have log K_{ow} values greater than 4.2 and may still be acutely toxic to aquatic organisms. To deal with such chemicals, EPA is recommending that test sponsors who wish to conduct Test Group 1 studies on chemicals with a log K_{ow} greater than or equal to 4.2 submit to EPA for approval a written request to conduct Test Group 1 studies 90 days prior to conducting such studies. EPA solicited public comment on this approach as well as other alternative approaches in this area but did not receive comments on this matter.

4. *Mammalian toxicity—acute*.

Acute Inhalation Toxicity (rat): Method A (40 CFR 799.9130)
Acute Oral Toxicity (rat): Method B (ASTM E 1163 or 40 CFR 799.9110(d)(1)(i)(A)) (Ref. 64).

For the ''mammalian toxicity—acute'' endpoint, EPA is requiring that certain ''special conditions'' be considered in determining the appropriate test method that would be used from among those included for this endpoint in Table 3 in § 799.5085(j) of the regulatory text. The OECD HPV SIDS Program recognizes that for most chemical substances, the oral route of administration will suffice for this endpoint. However, consistent with the approach taken under the voluntary HPV Challenge Program, EPA is requiring that for test substances that are gases at room temperature (25°C), the acute mammalian toxicity study be conducted using inhalation as the exposure route (described as Method A (40 CFR 799.9130) in Table 3 in § 799.5085(j) of the regulatory text). For all other chemicals (i.e., those that are either liquids or solids at room temperature), EPA is requiring that the mammalian acute toxicity testing be conducted via oral administration using an ''Up/Down'' test method (described as Method B (ASTM E 1163 or 40 CFR 799.9110(d)(1)(i)(A)) in Table 3 in § 799.5085(j) of the regulatory text). Consistent with the voluntary HPV Challenge Program, EPA is allowing the use of the neutral red uptake basal cytotoxicity assay to select the starting dose for the acute oral toxicity test as noted in Unit III. and discussed in the document *Response to Public Comments* (Ref. 40). This test is included as a special condition in Table 3 in § 799.5085(j) of the regulatory text.

5. *Mammalian toxicity—genotoxicity*.

Gene Mutations:
Bacterial Reverse Mutation Test (*in vitro*): 40 CFR 799.9510
Chromosomal Damage:
In Vitro Mammalian Chromosome Aberration Test (40 CFR 799.9537), or Mammalian Bone Marrow Chromosomal Aberration Test (*in vivo* in rodents: Mouse (preferred species), rat, or Chinese hamster) (40 CFR 799.9538), or
Mammalian Erythrocyte Micronucleus Test (sampled in bone marrow) (*in vivo* in rodents: Mouse (preferred species), rat, or Chinese hamster) (40 CFR 799.9539).

Persons required to conduct testing for chromosomal damage are encouraged to use *in vitro* genetic toxicity testing (i.e., the Mammalian Chromosome Aberration Test) to generate the needed genetic toxicity screening data, unless known chemical properties preclude its use. These could include, for example, physical chemical properties or chemical class characteristics. A primary focus of both the voluntary HPV Challenge Program and this final rule is to implement this program in a manner consistent with the OECD HPV SIDS Program and as part of a larger international activity with global involvement. This approach provides the same degree of flexibility as that which currently exists under the OECD HPV SIDS testing program (Ref. 5). A subject person who uses one of the *in vivo* methods instead of the *in vitro* method to address a chromosomal damage test requirement must submit to EPA a rationale for conducting that alternate test in the final study report. EPA solicited comment on whether the Agency should instead require that a subject person wishing to use an alternate testing scheme submit to EPA a notice that includes the rationale for conducting the alternative tests prior to initiation of those studies. The comments received on this issue are addressed in Unit M.4. of the *Response to Public Comments* document (Ref. 40).

6. *Mammalian toxicity—repeated dose/reproduction/developmental*.

Combined Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test: 40 CFR 799.9365, or Reproduction/Developmental Toxicity Screening Test: 40 CFR 799.9355 and Repeated Dose 28–Day Oral Toxicity Study in Rodents: 40 CFR 799.9305.

For the ''mammalian toxicity—repeated dose/reproduction/developmental'' endpoint, EPA recommends the use of the combined repeated dose toxicity study with the reproduction/developmental toxicity screening test (40 CFR 799.9365). EPA recognizes, however, that there may be reasons to test a particular chemical using both the reproduction/developmental toxicity screening test (40 CFR 799.9355) and the repeated dose 28–day oral toxicity study in rodents (40 CFR 799.9305) instead of the combined repeated dose toxicity study with the reproduction/developmental toxicity screening test (40 CFR 799.9365). With regard to such cases, a subject person who uses the combination of the reproduction/developmental toxicity screening test and the repeated dose 28–day oral toxicity study in rodents in place of the combined repeated dose toxicity study with reproduction/developmental toxicity screening test must submit to EPA a rationale for conducting these alternate tests in the final study reports. EPA solicited comment on whether the Agency should instead require that a subject person wishing to use an alternate testing scheme submit to EPA a notice that includes the rationale for conducting the alternative tests prior to initiation of those studies. The comments received on this issue are addressed in Unit M.4. of the *Response to Public Comments* document (Ref. 40).

In the proposal (Ref. 2) to this final rule, EPA stated that certain of the chemicals for which mammalian toxicity—repeated dose/reproduction/developmental toxicity testing is required may be used solely as ''closed system intermediates,'' and if that were the case, such chemicals may be eligible

for a reduced testing battery which substitutes a developmental toxicity study for the SIDS requirement to address repeated dose, reproduction, and developmental toxicity. EPA requested persons who believe their chemical is used solely as a closed system intermediate to submit appropriate information along with their comments which substantiate this belief. If EPA agreed that the chemical is used solely as a closed system intermediate it would address any developmental toxicity testing need in a subsequent rulemaking (Ref. 2, p. 81671). In its comments on the proposal to this final rule, ExxonMobil (Ref. 26) claimed that methyl heptenone is a closed system intermediate. EPA's response to ExxonMobil's claim is discussed in Unit K.5. of the *Response to Public Comments* document (Ref. 40).

B. When Will the Testing Imposed by this Final Rule Begin?

Once this final rule is effective, which will be 30 days after its publication in the Federal Register, the required testing must be initiated at a time sufficient to allow the final report to be submitted by the deadline indicated in § 799.5085(i) of the regulatory text, i.e., 13 months after the effective date of the rule.

C. How Must the Studies Required Under this Final Rule be Conducted?

Persons required to comply with this final rule must conduct the necessary testing in accordance with the testing requirements listed in Tables 2 and 3 in § 799.5085(j) of the regulatory text, the reporting requirements described in § 799.5085(i) of the regulatory text, and with 40 CFR Part 792—TSCA Good Laboratory Practice Standards (GLPS).

D. What Substances Will be Tested Under this Final Rule?

With one exception, the ''Class 1'' chemical substances listed in Table 2 in § 799.5085(j) of the regulatory text (i.e., 12 of the 17 chemical substances included in this final rule) must be tested at a purity of at least 99%. The exception is 1,3- propanediol, 2,2-bis[(nitrooxy)methyl]-, dinitrate (ester) (CAS No. 78–11–5), also known as pentaerythritol tetranitrate (PETN), which cannot be tested at 99% purity because of its explosive properties and must either be diluted in water or tested in a mixture with an appropriate stabilizing compound (e.g., D-lactose monohydrate is the stabilizer in PETN, NF which is a mixture that is 20% by weight PETN and 80% by weight D-lactose monohydrate. PETN, NF is the form of PETN which was tested by NTP in several toxicity studies (Ref. 65)). EPA has specified in § 799.5085 (a) of the regulatory text that, if the test sponsor elects to test this chemical in a mixture with a stabilizing compound (as opposed to dilution of the chemical in water), then the stabilizer used must be tested as a control.

The term Class 1 chemical substance refers to a chemical substance having a chemical composition that consists of a single-chemical species (not including impurities) that can be represented by a specific, complete structure diagram. In those instances in which the test sponsor(s) believes that a 99% level of purity is unattainable for a given chemical, the sponsor may request a modification under the procedures described in 40 CFR 790.55.

For the ''Class 2'' chemical substances listed in Table 2 in § 799.5085(j) of the regulatory text (i.e., 5 of the 17 chemical substances included in this final rule), EPA is requiring that the substance to be tested be any representative form of the chemical substance. The term Class 2 chemical substance refers to a chemical substance having a composition that cannot be represented by a specific complete chemical diagram, because such a substance generally contains two or more different chemical species (not including impurities).

In providing a different approach for identifying the substance to be tested with regard to Class 2 substances, EPA recognizes two characteristics which further distinguish Class 2 from Class 1 chemical substances. First, unlike for Class 1 substances, knowledge of the composition of commercial Class 2 substances can vary in quality and specificity from substance to substance.

The composition of the chemical species which comprise a Class 2 substance may be:

- Well characterized in terms of molecular formula, structural diagrams, and compositional percentages of all species present (for example, methyl phenol);
- Less well-characterized, for example, characterized only by molecular formula, non-specific structural diagrams, and/or by incomplete or unknown compositional percentages of the species present (for example C_{12}–C_{14} tert-alkyl amines); or
- Poorly characterized because all that is known is the identity of only some of the chemical species present and their percentages of composition, or of only the feedstocks and method used to manufacture the substance (for example, nut shell liquor of cashew).

Second, the composition of some Class 2 substances may vary from one manufacturer to another, or, for a single manufacturer, from production run to production run, because of small variations in feedstocks, manufacturing methods, or other production variables. Small variations in the feedstock or in chemical production methods or conditions can account for the types of small variations in composition typically allowable within a given Class 2 listing on the TSCA Inventory. By contrast, a ''Class 1'' designation generally applies to a substance which is an individual chemical whose only variables are its impurities.

EPA believes that, for purposes of this final rule, the testing of any representative form of a subject Class 2 substance would provide data necessary to support the development of preliminary or screening level hazard and risk characterizations for the subject Class 2 substance. However, EPA encourages the selection of representative forms of the test substances that meet industry or consensus standards, where they exist. In accordance with TSCA GLPS at 40 CFR part 792, the final study report must include test substance identification information, including name, CAS number, strength, purity, and composition, or other appropriate characteristics. (See 40 CFR 792.185). In future TSCA section 4 test rules involving Class 2 substances, testing requirements relative to the number and specificity of the representative form of the substance may differ from the testing requirement in this final rule (i.e., testing of any representative form of the subject Class 2 substances). For example, EPA may require testing of more than one representative form of a Class 2 substance or may specify the representative form to be tested and/or may specify equivalence data that must be submitted by exemption applicants. (See 40 CFR 790.82).

E. Am I Required to Test Under this Final Rule?

1. *Am I subject to this final rule*? You are subject to this final rule and may be required to test if you manufacture (which is defined by statute to include import) or process, or intend to manufacture or process, one or more chemical substances listed in Table 2 in § 799.5085(j) of the regulatory text during the time period discussed in Unit V.E.2. However, if you do not know or cannot reasonably ascertain that you manufacture or process a listed test rule substance (based on all information in your possession or control, as well as all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without an unreasonable burden), you are not

subject to the rule for that listed substance.

2. *When will my manufacture or processing (or my intent to do so) cause me to be subject to this final rule*? You are subject to this final rule if you manufacture or process, or intend to manufacture or process, a substance listed in Table 2 in § 799.5085(j) of the regulatory text at any time from the effective date of the final test rule to the end of the test cost reimbursement period.

The term *reimbursement period* is defined at 40 CFR 791.3(h) and may vary in length for each substance to be tested under a final TSCA section 4(a) test rule, depending on what testing is required and when testing is completed. (See Unit V.E.4.).

3. *Will I be required to test if I am subject to the rule*? It depends on the nature of your activities. All persons who are subject to this TSCA section 4(a) test rule, which, unless otherwise noted in the regulatory text, incorporates EPA's generic procedures applicable to TSCA section 4(a) test rules (contained within 40 CFR part 790), fall into one of two groups, designated here as Tier 1 and Tier 2. Persons in Tier 1 (those who must initially comply with the rule) must either:

- Submit to EPA letters of intent to conduct testing, conduct this testing, and submit the test data to EPA or
- Apply to and obtain from EPA exemptions from testing.

Persons in Tier 2 (those who do not have to initially comply with the rule) need not take any action unless they are notified by EPA that they are required to do so, as described in Unit V.E.3.d. Note that persons in Tier 1 who obtain exemptions and persons in Tier 2 are nonetheless subject to providing reimbursement to persons who actually conduct the testing, as described in Unit V.E.4.

a. *Who is in Tier 1 and Tier 2*? All persons subject to this final rule are considered to be in Tier 1 unless they fall within Tier 2. Table 3 of this unit describes who is in Tier 1 and Tier 2.

TABLE 3.—PERSONS SUBJECT TO THE RULE: PERSONS IN TIER 1 AND TIER 2

Tier 1 (Persons initially required to comply)	Tier 2 (Persons not initially required to comply)
Persons who manufacture (as defined at TSCA section 3(7)), or intend to manufacture, a test rule substance, and who are not listed under Tier 2	A. Persons who manufacture (as defined at TSCA section 3(7)) or intend to manufacture a test rule substance solely as one or more of the following: —As a byproduct (as defined at 40 CFR 791.3(c)); —As an impurity (as defined at 40 CFR 790.3); —As a naturally occurring chemical substance (as defined at 40 CFR 710.4(b)); —As a non-isolated intermediate (as defined at 40 CFR 704.3); —As a component of a Class 2 substance (as described at 40 CFR 720.45(a)(1)(i)); —In amounts of less than 500 kg (1,100 lbs.) annually (as described at 40 CFR 790.42(a)(4)); or —In small quantities solely for research and development (R & D) (as described at 40 CFR 790.42(a)(5)). B. Persons who process (as defined at TSCA section 3(10)) or intend to process a test rule substance (see 40 CFR 790.42(a)(2)).

b. *When is it appropriate for a person required to comply with the rule to apply for an exemption rather than to submit a letter of intent to conduct testing*? You may apply for an exemption if you believe that the required testing will be performed by another person (or a consortium of persons formed under TSCA section 4(b)(3)(A)). You can find procedures relating to exemptions in 40 CFR 790.80 through 790.99, and § 799.5085(c)(2), (c)(5), and (c)(9) of the regulatory text. In this final rule, EPA will not require the submission of equivalence data (i.e., data demonstrating that your substance is equivalent to the substance actually being tested) as a condition for approval of your exemption. Therefore, 40 CFR 790.82(e)(1) and 40 CFR 790.85 do not apply to this final rule.

c. *What will happen if I submit an exemption application*? EPA believes that requiring the collection of duplicative data is unnecessarily burdensome. As a result, if EPA receives a letter of intent to test from another source or has received (or expects to receive) the test data that are required under this final rule, the Agency would conditionally approve your exemption application under 40 CFR 790.87.

The Agency would terminate a conditional exemption if a problem occurs with the initiation, conduct, or completion of the required testing, or with the submission of the required data to EPA. EPA may then require you to submit a letter of intent to test or an exemption application. See 40 CFR 790.93 and § 799.5085(c)(8) of the regulatory text. In addition, the Agency would terminate a conditional exemption if no letter of intent to test has been received by persons required to comply with the rule. See, e.g., § 799.5085(c)(6) of the regulatory text. (Note that the provisions at 40 CFR 790.48(b) have been incorporated into the regulatory text of this rule, thus persons subject to this rule are not required to comply with 40 CFR 790.48 itself (see § 799.5085(c)(4), (c)(5), (c)(6), (c)(7), and (d)(3))

Persons who obtain exemptions or receive them automatically will nonetheless be subject to providing reimbursement to persons who actually conduct the testing, as described in Unit V.E.4.

d. *What are my obligations if I am in Tier 2*? If you are in Tier 2, you are subject to the rule and you are responsible for providing reimbursement to persons in Tier 1, as described in Unit V.E.4. You are considered to have an automatic conditional exemption. You do not need to submit a letter of intent to test or an exemption application unless you are notified by EPA that you are required to do so.

If a problem occurs with the initiation, conduct, or completion of the required testing, or the submission of the required data to EPA, the Agency may require you to submit a letter of intent to test or an exemption application. See 40 CFR 790.93 and § 799.5085(c)(8) of the regulatory text.

In addition, you will need to submit a letter of intent to test or an exemption application if:

• No manufacturer in Tier 1 has notified EPA of its intent to conduct testing.

• EPA has published a **Federal Register** document directing persons in Tier 2 to submit to EPA letters of intent to conduct testing or exemption applications. (See § 799.5085(c)(4) and (c)(5) of the regulatory text.)

The Agency would conditionally approve an exemption application under 40 CFR 790.87, if EPA has received a letter of intent to test or has received (or expects to receive) the test data required under this final rule.

e. *Subdivision of Tier 2 entities*. If the Agency needs testing from persons in Tier 2, EPA may propose to subdivide the group of subject persons in Tier 2 into Tier 2A (Tier 2 manufacturers, i.e., those who manufacture, or intend to manufacture a test rule substance solely as one or more of the following: A byproduct; an impurity; a naturally occurring substance; a non-isolated intermediate; a component of a Class 2 substance; in amounts less than 1,100 lbs. annually; or in small quantities solely for R & D) and Tier 2B (all processors, i.e., those who process, or intend to process, a test rule substance (in any form). The terms ''process'' and ''processor'' are defined by TSCA section 3(10) and 3(11) respectively). The Agency may propose to seek testing from Tier 2A manufacturers before proceeding to Tier 2B processors.

EPA solicited comment on the subdivision of Tier 2 entities in another recent proposed TSCA section 4 test rule pertaining to dermal absorption rate testing (Ref. 55, pp. 31081–31082). Although commenters did not favor the subdivision of Tier 2 entities as a general matter, EPA decided to implement the approach in the final rule (Ref. 67, pp. 22417, 22426, and 22437–22438). The Agency indicated that subdividing Tier 2 up front in test rules may facilitate compliance by requiring Tier 2 manufacturers, when required to comply, to submit letters of intent to test or exemption applications before processors are called upon to do so. The Agency's expectation was that it may generally be less administratively complex for manufacturers to conduct the testing (including coordinating efforts to determine who will actually conduct testing) than for processors to do so. This is because there may generally be fewer manufacturers (even as byproducts, impurities, etc.) than processors (Ref. 68, p. 31789). EPA also believes that testing costs have traditionally been passed by manufacturers along to processors, enabling them to share in the costs of testing (Ref. 69, p. 20654), and has not received evidence to the contrary.

Although the subdivision of Tier 2 entities was not included in the proposal to this final rule, and is thus not being implemented in this final rule, such an approach could be proposed, if needed, to facilitate compliance with the rule.

f. *How did EPA decide who would be in Tier 1 and Tier 2 and who would be excluded from the rule*? Under 40 CFR 790.2, EPA may establish procedures applying to specific test rules that differ from the generic procedures governing TSCA section 4 test rules in 40 CFR part 790. For the purposes of this final rule, EPA is setting forth certain requirements that differ from those under 40 CFR part 790.

In this final rule, EPA has reconfigured the tiers in 40 CFR 790.42. In addition to processors, manufacturers of less than 500 kg (1,100 lbs.) per year (''small-volume manufacturers''), and manufacturers of small quantities for research and development (''R & D manufacturers''), EPA has added the following persons to Tier 2: Byproduct manufacturers; impurity manufacturers; manufacturers of naturally occurring substances; manufacturers of non-isolated intermediates; and manufacturers of components of Class 2 substances. For further discussion on this point, see Unit F. of the *Response to Public Comments* document (Ref. 40).

TSCA section 4(b)(3)(B) requires all manufacturers and processors of a chemical substance to test that chemical substance if EPA has made findings for that chemical substance, and therefore issued a TSCA section 4(a) test rule requiring testing. However, practicality must be a factor in determining who is subject to a particular test rule. Thus, persons who do not know or cannot reasonably ascertain that they are manufacturing or processing any of the substances subject to this final rule, e.g., manufacturers or processors of a substance as a trace contaminant who are not aware of these activities, are not subject to the rule. (See Unit V.E.1. and § 799.5085(b)(2) of the regulatory text.)

4. *How do the reimbursement procedures work*? In the past, persons subject to test rules have independently worked out among themselves their respective financial contributions to those persons who have actually conducted the testing. However, if persons are unable to agree privately on reimbursement, they may take advantage of EPA's reimbursement procedures at 40 CFR part 791, promulgated under the authority of TSCA section 4(c). These procedures include:

• The opportunity for a hearing with the American Arbitration Association.

• Publication by EPA of a **Federal Register** document concerning the request for a hearing.

• The appointment of a hearing officer to propose an order for fair and equitable reimbursement.

The hearing officer may base his or her proposed order on the production volume formula set out at 40 CFR 791.48, but is not obligated to do so. Under this final rule, amounts manufactured as impurities will be included in production volume (40 CFR 791.48(b)), subject to the discretion of the hearing officer (40 CFR 791.40(a)). The hearing officer's proposed order may become the Agency's final order, which is reviewable in Federal court (40 CFR 791.60).

F. What are the Reporting Requirements Under this Final Rule?

A final report must be submitted for each test for each chemical 13 months after the effective date of the final rule, i.e., by the deadline indicated in § 799.5085(i) of the regulatory text. EPA requests that a robust summary of each final test report be prepared and submitted with each final report. The term ''robust summary'' is used to describe the technical information necessary to adequately describe an experiment or study and includes the objectives, methods, results, and conclusions of the full study report, which can either be an experiment or in some cases an estimation or prediction method. ''Draft Guidance on Developing Robust Summaries'' (Ref. 14) is available on the website of the voluntary HPV Challenge Program, *http://www.epa.gov/chemrtk/robsumgd.htm*, and in the public docket for this final rule. EPA is not requiring the submission of interim progress reports for the testing required in this final rule. For the short-term studies required by this final rule, interim progress reports would likely yield little useful information. Furthermore, by not requiring interim progress reports for these short-term studies, the overall burden of the rule will be somewhat reduced.

G. What Would I Need to Do If I Cannot Complete the Testing?

A company that submits a letter of intent to test under this final rule and that subsequently anticipates difficulties in completing the testing by the deadline may submit a request to the Agency to modify the test schedule, pursuant to 40 CFR 790.55. EPA will

determine whether modification of the test schedule is appropriate, and may first seek public comment on the modification.

H. Will There Be Sufficient Test Facilities and Personnel to Undertake the Testing in this Final Rule?

Various surveys of the availability of test facilities and personnel to handle the additional demand for testing services created by TSCA section 4(a) test rules indicate that available test facilities and personnel will adequately accommodate the testing specified in this final rule (Refs. 70 and 71). For further discussion on this point, see Unit J. of the *Response to Public Comments* document (Ref. 40).

I. Might EPA Seek Further Testing of the Chemicals in this Final Rule?

If EPA determines that it needs additional data regarding any of the chemical substances included in this final rule, the Agency might seek further health and/or environmental effects testing for those chemical substances. Should the Agency decide to seek such additional testing, EPA would initiate a separate action under TSCA section 4 for that purpose.

VI. Export Notification

Any person who exports, or who intends to export, one of the chemical substances contained in this final rule in any form (e.g., as components of Class 2 substances, byproducts, impurities, etc.) is subject to the export notification requirements in TSCA section 12(b)(1) and at 40 CFR part 707, subpart D. This approach is consistent with the Agency's approach when the export notification regulations were originally promulgated in 1980 (Ref. 72). Export notification is generally not required for articles, as provided by 40 CFR 707.60(b). Section 12(b) of TSCA states, in part, that any person who exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 must notify the EPA Administrator of such export or intent to export. The Administrator in turn will notify the government of the importing country of EPA's regulatory action with respect to the substance.

VII. Decision Not to Pursue Rulemaking

EPA has decided to withdraw 20 chemicals included in the proposal for this final rule for the reasons presented in Unit VII.A. and B.

A. Voluntary Commitments to the HPV Challenge Program

Since the publication of the proposed rule (Ref. 2), commitments have been made to sponsor 13 of the 37 chemicals originally proposed for testing. ''Viable'' commitments have been made for 11 chemicals through the voluntary HPV Challenge Program and 2 chemicals are now sponsored through the ICCA HPV Initiative (Ref. 6). Any U.S. HPV chemicals that are handled under the ICCA HPV Initiative are considered by EPA to be ''sponsored'' and are not anticipated to be addressed in either the voluntary HPV Challenge Program or in any TSCA section 4 HPV SIDS rulemaking unless the international commitments are not met. These 13 chemicals are:

- 1,2,3-Propanetriol, trinitrate (CAS No. 55–63–0).
- Methanesulfonic acid (CAS No. 75–75–2).
- Phenol, 2-(1,1-dimethylethyl)- (CAS No. 88–18–6).
- Phenol, 2-ethyl- (CAS No. 90–00–6).
- 1-Naphthalenol (CAS No. 90–15–3).
- Benzenesulfonic acid (CAS No. 98–11–3).
- Phenol, 2,4-dimethyl- (CAS No. 105–67–9).
- 2-Propen-1-ol (CAS No. 107–18–6).
- Phenol, 2,4,6-tris(1,1-dimethylethyl)- (CAS No. 732–26–3).
- Benzensulfonic acid, hydroxy- (CAS No. 1333–39–7).
- Benzenesulfonamide, N-butyl- (CAS No. 3622–84–2).
- Quaternary ammonium compounds, benzylbis(hydrogenated tallow alkyl)methyl, salts with bentonite (CAS No. 68153–30–0).
- Quaternary ammonium compounds, bis(hydrogenated tallow alkyl)dimethyl, salts with bentonite (CAS No. 68953–58–2).

EPA believes that these voluntary commitments will result in the generation of data necessary to support development of preliminary or screening level hazard and risk determinations for these chemicals. Therefore, testing of these chemicals under TSCA section 4 is not necessary at the present time. EPA is not including these chemicals in the final rule, and testing of these chemicals under this final rule is not required. Specific information on sponsorship, test plans, and other pertinent information may be obtained by visiting EPA's voluntary HPV Challenge Program website at *http://www.epa.gov/chemrtk/viewsrch.htm*. This approach is not intended to set a precedent for how EPA will address this issue in future HPV SIDS test rules.

B. TSCA Section 4(a)(1)(B)(i) Finding Not Made

In developing the finding of substantial production for this final rule, EPA determined that, based on 2002 IUR data, seven chemicals that had been included in the proposed rule are no longer produced or imported in amounts equal to or greater than 1 million pounds per year. Because the 2002 IUR data show manufacture (including import) below the 1 million pounds per year threshold which EPA generally relies upon as ''substantial production'' under TSCA section 4(a)(1)(B)(i), the following seven chemicals are not included in the final rule:

- Thiourea (CAS No. 62–56–6).
- 1,2-Benzenedicarboxylic acid, bis(2-methylpropyl) ester (CAS. No. 84–69–5).
- Acetonitrile, hydroxy- (CAS No. 107–16–4).
- Methanone, (2-hydroxy-4-methoxyphenyl)phenyl- (CAS No. 131–57–7).
- 2-Naphthalenesulfonic acid, 6-[(2,4-diaminophenyl)azo]-3-[[4-[[4-[[7-[(2,4-diaminophenyl)azo]-1-hydroxy-3-sulfo-2-naphthalenyl]azo]phenyl]amino]-3-sulfophenyl]azo]-4-hydroxy-, trisodium salt (CAS No. 6473–13–8).
- Methanesulfonic acid, hydroxy-, monosodium salt (CAS No. 870–72–4).
- Octadecanoic acid, 2-(hydroxymethyl)-2-[[(1-oxooctadecyl)oxy]methyl]-1,3-propanediyl ester (CAS No. 28188–24–1).

C. TSCA Section 4(a)(1)(B)(ii) Finding Not Made

1. *Melting point, boiling point and vapor pressure of PETN.* As discussed in Unit K.2. of the *Response to Public Comments* document (Ref. 40), EPA reviewed data submitted by SII (Ref. 28) on the physical/chemical properties of PETN (CAS No. 78–11–5). EPA believes those data are sufficient for melting point, boiling point and vapor pressure, but that data are still needed on the *n*-octanol/water partition coefficient and water solubility (Ref. 73). Therefore, EPA is not finalizing the proposed testing to determine the melting point, boiling point and vapor pressure of PETN in this final rule, but EPA is still requiring the testing of PETN for *n*-octanol/water partition coefficient and water solubility, as well as environmental fate, toxicity to algae, and screening level reproduction/developmental toxicity.

2. *Reproduction/developmental toxicity screening test of sorbic acid.* As discussed in Unit K.3. of the *Response*

to Public Comments document (Ref. 40), EPA reviewed four studies on sorbic acid (2,4-hexadienoic acid, (2E,4E)-) (CAS No. 110–44–1) which ADC (Ref. 24) thought might satisfy the testing proposed to be conducted according to 40 CFR 799.9355 to obtain screening level data on the reproductive and developmental toxicity of sorbic acid. EPA determined that the studies provided sufficient information on this endpoint(s) at this time for sorbic acid (Ref. 74). Therefore, EPA is not requiring the reproduction/developmental toxicity screening test of sorbic acid in this final rule. EPA is still requiring the testing of sorbic acid for aquatic toxicity and the determination of melting point, boiling point, vapor pressure, *n*-octanol/water partition coefficient, and water solubility.

VIII. Economic Impacts

EPA has prepared an economic assessment entitled *Economic Analysis for the Final Section 4 Test Rule for High Production Volume Chemicals* (Ref. 75), a copy of which has been placed in the public docket. This economic assessment evaluates the potential for significant economic impacts as a result of the testing that would be required by this final rule. The total social cost of this final rule is estimated to be $4.08 million, using a social discount rate of 3% over a 3–year period (Ref. 75).

While legally subject to this final rule, Tier 2 manufacturers and all processors of a subject chemical would only be required to comply with the requirements of the rule if they are directed to do so by EPA as described in § 799.5085(c)(5) and (c)(8) of the regulatory text. EPA would require Tier 2 manufacturers or processors to test only if no Tier 1 manufacturer has submitted a letter of its intent to conduct testing, or if, under 40 CFR 790.93, a problem occurs with the initiation, conduct, or completion of the required testing, or the submission of the required data to EPA. Because EPA has identified at least one manufacturer in Tier 1 for each subject chemical, the Agency expects that, for each chemical in this final rule, at least one such person will submit a letter of intent to conduct the required testing and that person will conduct such testing and will submit the test data to EPA. EPA believes that there will not be any costs to Tier 2 manufacturers or processors for conducting the testing required by the final rule because EPA is not aware of any circumstances in which Tier 1 entities have sought reimbursement from Tier 2 entities either through private agreements or by soliciting the involvement of the Agency under the reimbursement regulations at 40 CFR part 791. Given this consistent experience with previous test rules, EPA does not believe that there will be any administrative, negotiation, or any other costs associated with seeking reimbursement from Tier 2 companies.

To evaluate the potential for an adverse economic impact of testing on manufacturers of the chemical substances in this final rule, EPA employed a screening approach that compares the annual revenues from the sale of a chemical to the annualized testing costs for that chemical and expresses the testing costs as a percent of revenues generated from each chemical. Annualized testing costs divide testing expenditures into an equivalent, constant yearly expenditure over a longer period of time. To calculate the percent price impact, testing costs (including laboratory and administrative expenditures) are annualized over 15 years (the expected life of a chemical) using a 7% discount rate. Annualized testing costs are then divided by the estimated annual revenue of the chemical to derive the cost-to-sales ratio.

EPA estimates the cost to industry of testing the 17 chemicals evaluated in the economic analysis to be $4.03 million with an average cost of $237,000 per chemical (Ref. 75). In addition, the TSCA section 12(b) export notification, that is required only for the first export by a particular exporter to a particular country of each chemical subject to the rule, is estimated to average $67.35 (Ref. 75). The Agency's estimated total costs of testing (including both laboratory and administrative costs), annualized testing costs, price impacts, and public reporting burden hours for this final rule are presented in the economic impact analysis (Ref. 75).

Price data were available for 16 of the 17 chemicals, with an average price of $2.62 per pound for those 16 chemicals. The price impact of the test costs is a function of the chemical's price per pound and the production volume. For 12 of the chemicals (75%) for which price data were available, the price impact is less than 1.0%. With a price impact of less than 1.0%, EPA concludes that for these chemicals the potential for adverse economic impacts is low.

For 4 of the 16 chemicals (25%) with price data, the price impact is in excess of 1.0%. For chemicals where the profit margins are low, the costs of testing may use a significant part of the profits generated by the chemical.

The Agency computed ''critical prices'' for the remaining chemical for which price data were not available. The ''critical price'' is the price per pound below which there would be an impact of 1.0% or greater. The production volume for this chemical falls between 10 million to 50 million pounds. Assuming a production volume at the midpoint of that range equal to 30 million pounds per year and annualized testing costs of $33,585, the critical price is $0.11 per pound. Below that price, the testing costs would represent more than 1.0% of the revenues from the chemical. The average price for the 16 chemicals with actual price data available is $2.62 per pound. Thus, the critical price is substantially below this average. Only 2 of the 16 chemicals with price data were estimated to have prices below $0.11 per pound. While it cannot be shown conclusively that the price impacts will be less than or greater than 1.0% of the sales for this chemical, the Agency believes that adverse impacts are unlikely.

On the basis of these calculations, EPA believes that the required chemical testing presents a low potential for adverse economic impact for the majority of the chemicals subject to the rule. Because the subject chemical substances have relatively large production volumes, the annualized costs of testing, expressed as a percentage of annual revenues, are very small for most chemicals. There are, however, four chemicals for which it cannot be shown that the price impact will be below 1.0% of the revenue for these chemicals. For these chemicals, companies may choose to use revenue sources other than profits from the individual chemicals to pay for testing. To account for this, the Agency also compared the costs of compliance to company sales data. These calculations were made as part of the Agency's small entity impact analysis (Ref. 75), conducted in accordance with the requirements of the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act. These results are presented in Unit XI.C.

IX. Submissions to EPA

You may make submissions such as letters of intent to test, applications for exemption from testing, study plans, applications for modification, and final study reports through the mail or in person. To ensure proper receipt by EPA, it is imperative that you direct such submissions to the attention of ''TSCA Section 4.''

1. *By mail.* Mail your submission to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania

Ave., NW., Washington, DC 20460–0001 (Attention: TSCA Section 4).

2. *In person or by courier*. Deliver your submission to: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. (Attention: TSCA Section 4). The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation.

X. Materials in the Docket

As indicated under **ADDRESSES** at the beginning of this document, an official docket was established for this final rule under docket ID number EPA–HQ–OPPT–2005–0033. The docket includes information considered by EPA in developing this final rule, such as the documents specifically referenced in this action, any public comments received, and other information related to this action. In addition, interested parties should consult documents that are referenced in the documents that EPA has placed in the public docket, regardless of whether these referenced documents are physically located in the public docket. For assistance in locating documents that are referenced in documents that EPA has placed in the public docket, but that are not physically located in the docket, please consult the technical contact listed under **FOR FURTHER INFORMATION CONTACT**. The public docket is available for review as specified under **ADDRESSES**.

A. Supporting Documentation

The items listed in this Unit X.A., although supporting documentation for this final rule, are not referenced in this preamble, but they are available in the public docket for this final rule:

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EPA 1985b. Toxic Substances; Biphenyl; Final Test Rule. **Federal Register** (50 FR 37182, September 12, 1985).

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EPA 2000b. Toxic Substance Control Act Test Guidelines; Final Rule. **Federal Register** (65 FR 78746, December 15, 2000) (FRL–6551–2).

EPA 2002a. Agency Information Collection Activities; OMB Responses. **Federal Register** (67 FR 39712, June 10, 2002) (FRL–7225–8).

EPA 2002b. Notification of Chemical Exports—TSCA Section 12(b): Request for Comment on Renewal of Information Collection Activities. **Federal Register** (67 FR 53792, August 19, 2002) (FRL–7192–7).

EPA 2002c. Revised final health effects test guidelines; acute toxicity testing—Background and acute oral toxicity; Notice of availability. **Federal Register** (67 FR 77064, December 16, 2002) (FRL–7282–3).

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EPA 2004g. TETRATOX test. Memorandum from Donald Rodier, RAD, to Greg Schweer, CITB, CCD. November 1, 2004.

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B. References

The items listed in Unit X.B. are referenced in this preamble and are available in the public docket for this final rule:

1. EPA. Data Collection and Development on High Production Volume (HPV) Chemicals. **Federal Register** (65 FR 81686, December 26, 2000) (FRL–6754–6).

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8. OECD Secretariat. Proposal for Further Work on the Investigation of High Production Volume Chemicals. OECD Chemicals Group and Management Committee of the Special Programme on the Control of Chemicals. ENV/CHEM/CM/89.14. October 1989.

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17. Synthetic Organic Chemical Manufacturers Association (SOCMA). Comments on EPA's Proposed Test Rule for Testing of Certain High Production Volume Chemicals submitted to the TSCA Public Docket Office, EPA. April 25, 2001.

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23. Merisol USA LLC (Merisol). Comments on EPA's Proposed Test Rule for Testing of Certain High Production Volume Chemicals submitted to the TSCA Public Docket Office, EPA. April 25, 2001.

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30. Institute of Makers of Explosives (IME). Comments on EPA's Proposed Test Rule for Testing of Certain High Production Volume Chemicals submitted to the TSCA Public Docket Office, EPA. April 25, 2001.

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XI. Statutory and Executive Order Reviews

A. Executive Order 12866

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), it has been determined that this rule is a ''significant regulatory action'' because this action may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in section 3(f)(4) of the Executive Order. Accordingly, this final rule was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12866 and any changes made based on OMB recommendations have been documented in the public docket for this rulemaking as required by section 6(a)(3)(E) of the Executive Order.

In addition, EPA has prepared an economic assessment entitled *Economic Analysis for the Final Section 4 Test Rule for High Production Volume Chemicals* (Ref. 75), a copy of which has been placed in the public docket for this rulemaking. This economic assessment evaluates the economic impacts of the testing that would be required by this final rule. The total social cost of providing the test data on the 17 chemicals that were evaluated in this economic analysis is estimated to be $4.08 million (Ref. 75). The annualized social costs of the final rule are

estimated to be $1.44 million, using a social discount rate of 3% over a 3–year period (Ref. 75).

While legally subject to this final rule, Tier 2 manufacturers and processors of a subject chemical would be required to comply with the requirements of the rule only if they are directed to do so by EPA as described in § 799.5085(c)(5) and (c)(6) of the regulatory text. EPA would only require such entities to test if no person in Tier 1 has submitted a letter of intent to test, or if under 40 CFR 790.93, a problem occurs with the initiation, conduct, or completion of the required testing, or the submission of the required data to EPA. Because EPA has identified at least one manufacturer in Tier 1 for each subject chemical, the Agency assumes that, for each chemical in this final rule, at least one such person will submit a letter of intent to test and that person will conduct such testing and will submit the test data to EPA. Because Tier 2 manufacturers and processors do not need to comply with the rule initially, the economic assessment does not address these entities.

To evaluate the potential for an adverse economic impact of testing on manufacturers of the chemical substances in this final rule, EPA employed a screening approach that estimated the impact of testing requirements as a percentage of each chemical's sale price. This measure compares annual revenues from the sale of a chemical to the annualized testing costs for that chemical to assess the percentage of testing costs that can be accommodated by the revenue generated by that chemical. Annualized testing costs divide testing expenditures into an equivalent, constant yearly expenditure over a longer period of time. To calculate the percent price impact, testing costs (including laboratory and administrative expenditures) are annualized over 15 years using a 7% discount rate. Annualized testing costs are then divided by the estimated annual revenue of the chemical to derive the cost-to-sales ratio. EPA estimates the total annualized compliance cost of testing for the 17 chemicals evaluated in the economic analysis to be $0.44 million under the average cost scenario. In addition, the TSCA section 12(b) export notification requirements (included in the total and annualized cost estimates) that would be triggered by the rule are expected to have a negligible impact on exporters. The TSCA section 12(b) export notification requirements under the final rule would be required for the first export to a particular country of a chemical subject to the rule. The Agency's estimated total costs of testing (including both laboratory and administrative costs), annualized testing cost, price impacts, and public reporting burden hours for this final rule are presented in the economic assessment.

Under a least cost scenario, 12 out of the 16 chemicals for which price data were available (75%) would have a price impact at less than the 1% level. Similarly, 12 out of the 16 chemicals (75%) would be impacted at less than the 1% level under an average cost scenario. Thus, the potential for adverse economic impact due to the rule is low for at least 75% of the chemicals in the rule. Approximately 4 chemicals (25%) of the 16 chemicals for which price data are available would have a price impact at a level greater than or equal to 1% under the least and average cost scenario.

The Agency computed a ''critical price'' for the chemical without price data. This price is the maximum price per pound, at which the ratio of testing costs to annual revenue would be 1%. The critical price is informative because it represents the minimum price that is required to support testing at the one percent level. The production volume for isocyanatomethane (CAS No. 624–83–9) ranges from 10 million to 50 million pounds. With an annualized testing cost estimated at $33,585, the critical price is $0.11 per pound. Below that price, the testing costs would represent more than 1.0% of the revenues from the chemical. The average price for the 16 chemicals with actual price data available is $2.67 per pound. Thus, the critical price is substantially below this average. Only 2 of the 16 chemicals with price data were estimated to have prices below $.11 per pound. While it cannot be shown conclusively that the price impacts will be less than or greater than 1.0% of the sales for this chemical, the Agency believes that adverse impacts are unlikely.

EPA believes, on the basis of these calculations, that the testing of the chemicals presents a low potential for adverse economic impact for the majority of chemicals. Because the subject chemical substances have relatively large production volumes, the annualized costs of testing, expressed as a percentage of annual revenue, are very small for most chemicals. There are, however, some chemicals for which the price impact is expected to exceed 1% of the revenue from that chemical. The potential for adverse economic impact is expected to be higher for these chemicals. In these cases, companies may choose to use revenue sources other than the profits from the individual chemicals to pay for testing.

B. Paperwork Reduction Act

The information collection requirements contained in TSCA section 4 test rules have already been approved by OMB under the provisions of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2070–0033 (EPA ICR No. 1139). The information collection activities related to export notification under TSCA section 12(b)(1) are already approved under OMB control number 2070–0030 (EPA ICR No. 0795). This final rule does not contain any new or amended requirements that would require additional review and/or approval by OMB.

The standard chemical testing program involves the submission of letters of intent to test (or exemption applications), study plans, progress reports, and test results. EPA estimates that the information collection activities related to chemical testing for all chemicals in this final rule (representing the submission of letters of intent or exemption applications, study plans, and the final reports; progress reports are not required by this final rule because testing will be completed within about 1 year) would result in an annual public reporting burden of 1,179 hours per chemical or a total of 20,039 hours for the17 chemicals (Ref. 75).

The annual public reporting burden related to export notification is estimated to be 0.5 to 1.5 burden hours for each chemical/country combination (Ref. 75). In estimating the total burden hours approved for the information collection activities related to export notification, the Agency has included sufficient burden hours to accommodate any export notifications that may be required by the Agency's issuance of final chemical test rules (Ref. 75).

For each manufacturer of the 17 chemicals identified in the economic analysis, the parent company (ultimate corporate entity, or UCE) was also identified. The economic analysis identified a total of 52 UCEs that EPA believes would be the likely respondents to the final rule. The public reporting burden for this collection of information is estimated to be 20,039 hours total. Dividing 20,039 hours by 52 UCEs, results in a per respondent estimated burden of 304 hours. This burden estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

As defined by the PRA and 5 CFR 1320.3(b), ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and included on the related collection instrument. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this final rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of the PRA and OMB's implementing regulations at 5 CFR part 1320. This ICR was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(1)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(1)(B), to amend this table without further notice and comment.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, after considering the potential economic impacts of this final rule on small entities, the Agency hereby certifies that this final rule will not have a significant adverse economic impact on a substantial number of small entities. The Agency's determination is based on the small entity impact analysis prepared as part of the economic analysis for this final rule (Ref. 75), which is summarized in Unit XI.A., and a copy of which is available in the docket for this final rule. The following is a brief summary of the factual basis for this certification.

Under the RFA, small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this final rule on small entities, small entity is defined in accordance with the RFA as:

1. A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201.

2. A small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000.

3. A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Based on the industry profile for this rule that EPA prepared as part of the Economic Analysis prepared for this final rule, EPA has determined that this rule is not expected to impact any small not-for-profit organizations or small governmental jurisdictions. As such, the Agency evaluated small businesses as the small entities potentially impacted by this final rule.

Three factors are examined in EPA's small entity assessment (Ref. 75) in order to characterize the potential small entity impacts of this final rule:

- The size of the adverse impact (measured as the ratio of the cost to sales or revenue).
- The total number of small entities that experience the adverse impact.
- The percentage of the total number of small entities that experience the adverse impact.

Section 601(3) of RFA establishes as the default definition of ''small business'' the definition used in section 3 of the Small Business Act, 15 U.S.C. 632, under which the SBA establishes small business size standards for each industry sector. (13 CFR 121.201). For this final rule, EPA has analyzed the potential small business impacts using the size standards established under this default definition. The SBA size standards, which are primarily intended to determine whether a business entity is eligible for government programs and preferences reserved for small businesses (13 CFR 121.101), ''seek to ensure that a concern that meets a specific size standard is not dominant in its field of operation.'' (13 CFR 121.102(b)). See section 632(a)(1) of the Small Business Act. Industrial sectors are identified by a NAICS code. In most cases, SBA has specified an employee size standard (100; 500; 750; 1,000; or 1,500 employees) or, in some cases, a sales-based, or other industry-specific indicator below which an entity in that particular NAICS code would be considered small (Ref. 76). The SBA employee size standards that apply to the companies that are potentially impacted (Ref. 75) by this final rule range from 500 to 1,500 employees.

Sales and employment data were obtained for the 52 UCEs that manufacture the 17 chemicals subject to this final rule to identify those UCEs that qualify for ''small business'' status, where data were available. Based on the SBA size standards for the NAICS codes that applied to those UCEs, 23 of the 52 UCEs (44%) were identified as small. The significance of this final rule's impact on these small businesses was analyzed by examining the number of small entities that experienced different levels of costs as a percentage of their sales. In such an analysis, small businesses are placed in the following categories on the basis of cost-to-sales ratios: less than 1.0%, 1.0% but less than 3.0%, and 3.0% or greater. Of the 23 companies that qualified for small business status according to the SBA size standards, none had a cost-to-sales ratio that exceeded 1.0%. Given these results, EPA concludes that there is not a significant economic impact on these small entities as a result of this final rule.

There were an additional two UCEs for which the NAICS code, sales, and employment data were not available. Because of this, EPA could not determine whether they are small businesses or assess the potential impacts of the test rule on them. However, it is very unlikely that both of these UCEs are small entities. Moreover, given the Agency's analysis for the identified small businesses, which concluded that there is not a significant economic impact on any of them, EPA believes it is reasonable to conclude that even if these two UCEs are small entities, they will not experience a significant economic impact. Consequently, EPA concludes that there will not be a significant economic impact on a substantial number of small entities as a result of the testing imposed in this final rule.

The estimated costs of the TSCA section 12(b) export notification, which, as a result of this final rule, would be required for the first export to a particular country of a chemical subject to the rule, is estimated to be $67.35 for the first time that an exporter must comply with TSCA section 12(b) export notification requirements, and $21.81 for each subsequent export notification submitted by that exporter to an additional country (Ref. 75). EPA has concluded that the costs of TSCA section 12(b) export notification would

have a negligible impact on exporters of the chemicals in this final rule, regardless of the size of the exporter.

Therefore, the Agency certifies that this final rule will not have a significant adverse economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4), EPA has determined that this regulatory action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or for the private sector in any 1 year. The analysis of the costs associated with this action are described in Unit VIII. In addition, since EPA does not have any information to indicate that any State, local, or tribal government manufactures or processes the chemicals covered by this action such that this final rule would apply directly to State, local, or tribal governments, EPA has determined that this final rule does not significantly or uniquely affect small governments. Accordingly, this final rule is not subject to the requirements of sections 202, 203, 204, and 205 of UMRA.

E. Executive Order 13132

Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final 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. This final rule establishes testing and recordkeeping requirements that apply to manufacturers (including importers) and processors of certain chemicals. Because EPA has no information to indicate that any State or local government manufactures or processes the chemical substances covered by this action, this rule does not apply directly to States and localities and will not affect State and local governments. Thus, Executive Order 13132 does not apply to this final rule.

F. Executive Order 13175

Under Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), this final rule does not have tribal implications because it will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in the Executive order. As indicated in this unit, EPA has no information to indicate that any tribal government manufactures or processes the chemical substances covered by this action. Thus, Executive Order 13175 does not apply to this final rule. Although Executive Order 13175 was not yet in effect when EPA developed the proposed rule, its predecessor, Executive Order 13084, was and EPA's conclusions under Executive Order 13175 are consistent with EPA's considerations under Executive Order 13084.

G. Executive Order 13045

This final rule does not require special consideration pursuant to the terms of Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because it is not likely to have an annual effect on the economy of $100 million or more and it does not have a potential effect or impact on children. This final rule establishes testing and recordkeeping requirements that apply to manufacturers (including importers) and processors of certain chemicals, and will result in the production of information that will assist the Agency and others in determining whether the chemical substances in this final rule present potential risks, allowing the Agency and others to take appropriate action to investigate and mitigate those risks.

H. Executive Order 13211

This final rule is not a ''significant energy action'' as defined in Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. As such, the Agency has concluded that this final rule is not likely to have adverse energy effects.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Because this final rule involves technical standards, the Agency conducted a search to identify potentially applicable voluntary consensus standards. EPA identified 11 applicable voluntary consensus standards (Refs. 44–48, 52–56, and 64), listed in Table 4 of this unit, and is allowing their use in this final rule. Of the 11 voluntary consensus standards, 3 of those issued by ASTM evaluate the same type of toxicity as TSCA and OECD test guidelines, as shown in Table 4 of this unit.

TABLE 4.—APPLICABLE VOLUNTARY CONSENSUS STANDARDS

Voluntary Consensus Standard No./Year	Title of Voluntary Consensus Standard	TSCA Guideline/CFR Citation	OECD Test Method No.
ASTM E 324 (1999)	Standard Test Method for Relative Initial and Final Melting Points and the Melting Range of Organic Chemicals		

TABLE 4.—APPLICABLE VOLUNTARY CONSENSUS STANDARDS—Continued

Voluntary Consensus Standard No./Year	Title of Voluntary Consensus Standard	TSCA Guideline/CFR Citation	OECD Test Method No.
ASTM E 729 (2002)	Standard Guide for Conducting Acute Toxicity Tests on Test Materials with Fishes, Macroinvertebrates, and Amphibians		
ASTM E 1147 (1997)	Standard Test Method for Partition Coefficient (N-Octanol/Water) Estimation by Liquid Chromatography	799.6755, 799.6756	
ASTM. E1148 (2002)	Standard Test Method for Measurements of Aqueous Solubility	799.6784, 799.6786	
ASTM E 1163 (2002)	Standard Test Method for Estimating Acute Oral Toxicity in Rats	799.9130 (if gas at room temp.).	425
ASTM E 1193 (2004)	Standard Guide for Conducting Daphnia Magna Life-Cycle Toxicity Tests		
ASTM E 1218 (2004)	Standard Guide for Conducting Static Toxicity Tests with Microalgae		
ASTM E 1625 (2001)	Standard Test Method for Determining Biodegradability of Organic Chemicals in Semi-Continuous Activated Sludge (SCAS)		
ASTM E 1719 (1997)	Standard Test Method for Vapor Pressure of Liquids by Ebulliometry		
ASTM E 1782 (2003)	Standard Test Method for Determining Vapor Pressure by Thermal Analysis		
ISO 9888 (1999)	Water Quality—Evaluation of Ultimate Aerobic Biodegradability of Organic Compounds in Aqueous Medium—Static Test (Zahn-Wellens Method), Second Edition		

Copies of the ASTM and ISO standards referenced in this final rule have been placed in the public version of the official record for this final rule and are available to read, but not to copy, at the EPA Docket location described in **ADDRESSES**. You may obtain copies of the ASTM standards from the American Society for Testing and Materials, 100 Bar Harbor Dr., West Conshohocken, PA 19428–2959, and a copy of the ISO standard from the International Organization for Standardization, Case Postale, 56 CH-1211 Geneve 20 Switzerland. EPA received the required approval from the Director of the Federal Register for the incorporation by reference of the ASTM and ISO standards used in this final rule in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

EPA is not aware of any potentially applicable n-octanol/water partition coefficient (generator column), water solubility (column elution and generator column), acute inhalation toxicity, bacterial reverse mutations, in vivo mammalian bone marrow chromosomal aberrations, combined repeated dose with reproductive/developmental toxicity screen, repeated dose 28–day oral toxicity screen, or the reproductive developmental toxicity screen which could be considered in lieu of the TSCA guidelines published in 40 CFR 799.6756, 799.6784, 799.6786, 799.9130, 799.9510, 799.9538, 799.9365, 799.9305, and 799.9355, respectively, upon which the test standards in this final rule are based.

J. Executive Order 12898

Pursuant to Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency has considered environmental justice-related issues with regard to the potential impacts of this action on the environmental and health conditions in minority and low-income populations. The Agency believes that the information collected under this final rule will assist EPA and others in determining the hazards and risks associated with the chemicals covered by the rule. Although not directly impacting environmental justice-related concerns, this information will better enable the Agency to protect human health and the environment.

XII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report to each House of the Congress and 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 799

Environmental protection, Chemicals, Hazardous substances, Incorporation by reference, Laboratories, Reporting and recordkeeping requirements.

Dated: March 1, 2006.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671, 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241,

242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, the table is amended by adding an entry for § 799.5085 in numerical order under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * *	* *
Identification of Specific Chemical Substance and Mixture Testing Requirements	
* * *	* *
799.5085	2070–0033
* * *	* *

* * * * *

PART 799—[AMENDED]

■ 3. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

■ 4. By adding § 799.5085 to subpart D to read as follows:

§ 799.5085 Chemical testing requirements for certain high production volume chemicals.

(a) *What substances will be tested under this section*? Table 2 in paragraph (j) of this section identifies the chemical substances that must be tested under this section. For the chemical substances identified as ''Class 1'' substances in Table 2 in paragraph (j) of this section, the purity of each chemical substance must be 99% or greater, except for 1,3-propanediol, 2,2-bis[(nitrooxy)methyl]-, dinitrate (ester) (CAS No. 78–11–5), also known as pentaerythritol tetranitrate (PETN). PETN cannot be tested at 99% purity because of its explosive properties. It must be diluted in water or tested as a stabilized mixture with an appropriate stabilizer (e.g., D-lactose monohydrate is the stabilizer in PETN, NF which is a mixture of 20% by weight PETN and 80% by weight D-lactose monohydrate). The stabilizer used must be tested as a control. For the chemical substances identified as ''Class 2'' substances in Table 2 in paragraph (j), a representative form of each chemical substance must be tested. The representative form selected for a given Class 2 chemical substance should meet industry or consensus standards where they exist.

(b) *Am I subject to this section*? (1) If you manufacture (including import) or intend to manufacture, or process or intend to process, any chemical substance listed in Table 2 in paragraph (j) of this section at any time from April 17, 2006 to the end of the test data reimbursement period as defined in 40 CFR 791.3(h), you are subject to this section with respect to that chemical substance.

(2) If you do not know or cannot reasonably ascertain that you manufacture or process a chemical substance listed in Table 2 in paragraph (j) of this section during the time period described in paragraph (b)(1) of this section (based on all information in your possession or control, as well as all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without an unreasonable burden), you are not subject to this section with respect to that chemical substance.

(c) *If I am subject to this section, when must I comply with it*? (1)(i) Persons subject to this section are divided into two groups, as set forth in Table 1 of this paragraph: Tier 1 (persons initially required to comply) and Tier 2 (persons not initially required to comply). If you are subject to this section, you must determine if you fall within Tier 1 or Tier 2, based on Table 1 of this paragraph.

TABLE 1.—PERSONS SUBJECT TO THE RULE: PERSONS IN TIER 1 AND TIER 2

Persons initially required to comply with this section (Tier 1)	Persons not initially required to comply with this section (Tier 2)
Persons not otherwise specified in column 2 of this table that manufacture (as defined at TSCA section 3(7)) or intend to manufacture a chemical substance included in this section.	A. Persons who manufacture (as defined at TSCA section 3(7)) or intend to manufacture a chemical substance included in this section solely as one or more of the following: —As a byproduct (as defined at 40 CFR 791.3(c)); —As an impurity (as defined at 40 CFR 790.3); —As a naturally occurring substance (as defined at 40 CFR 710.4(b)); —As a non-isolated intermediate (as defined at 40 CFR 704.3); —As a component of a Class 2 substance (as described at 40 CFR 720.45(a)(1)(i)); —In amounts of less than 500 kg (1,100 lbs.) annually (as described at 40 CFR 790.42(a)(4)); or —For R & D (as described at 40 CFR 790.42(a)(5)). B. Persons who process (as defined at TSCA section 3(10)) or intend to process a chemical substance included in this section (see 40 CFR 790.42(a)(2)).

(ii) Table 1 of paragraph (c)(1)(i) of this section expands the list of persons specified in § 790.42(a)(2), (a)(4), and (a)(5) of this chapter, who, while legally subject to this section, must comply with the requirements of this section only if directed to do so by EPA under the circumstances set forth in paragraphs (c)(5) and (c)(8) of this section.

(2) If you are in Tier 1 with respect to a chemical substance listed in Table 2 in paragraph (j) of this section, you must, for each test required under this section for that chemical substance, either submit to EPA a letter of intent to test or apply to EPA for an exemption from testing. The letter of intent to test or the exemption application must be received by EPA no later than May 15, 2006.

(3) If you are in Tier 2 with respect to a chemical substance listed in Table 2 in paragraph (j) of this section, you are considered to have an automatic conditional exemption and you will be required to comply with this section with regard to that chemical substance only if directed to do so by EPA under paragraphs (c)(5) or (c)(8) of this section.

(4) If no person in Tier 1 has notified EPA of its intent to conduct one or more of the tests required by this section on any chemical substance listed in Table 2 in paragraph (j) of this section by May 15, 2006, EPA will publish a **Federal Register** document that will specify the test(s) and the chemical substance(s) for which no letter of intent has been

submitted, and notify manufacturers and processors in Tier 2 of their obligation to submit a letter of intent to test or to apply for an exemption from testing.

(5) If you are in Tier 2 with respect to a chemical substance listed in Table 2 in paragraph (j) of this section, and if you manufacture or process this chemical substance as of April 17, 2006, or within 30 days after publication of the **Federal Register** document described in paragraph (c)(4) of this section, you must, for each test specified for that chemical substance in the document described in paragraph (c)(4) of this section, either submit to EPA a letter of intent to test or apply to EPA for an exemption from testing. The letter of intent to test or the exemption application must be received by EPA no later than 30 days after publication of the document described in paragraph (c)(4) of this section.

(6) If no manufacturer or processor has notified EPA of its intent to conduct one or more of the tests required by this section for any of the chemical substances listed in Table 2 in paragraph (j) of this section within 30 days after the publication of the **Federal Register** document described in paragraph (c)(4) of this section, EPA will notify all manufacturers and processors of those chemical substances of this fact by certified letter or by publishing a **Federal Register** document specifying the test(s) for which no letter of intent has been submitted. This letter or **Federal Register** document will additionally notify all manufacturers and processors that all exemption applications concerning the test(s) have been denied, and will give the manufacturers and processors of the chemical substance(s) an opportunity to take corrective action.

(7) If no manufacturer or processor has notified EPA of its intent to conduct one or more of the tests required by this section for any of the chemical substances listed in Table 2 in paragraph (j) of this section within 30 days after receipt of the certified letter or publication of the **Federal Register** document described in paragraph (c)(6) of this section, all manufacturers and processors subject to this section with respect to that chemical substance who are not already in violation of this section will be in violation of this section.

(8) If a problem occurs with the initiation, conduct, or completion of the required testing or the submission of the required data with respect to a chemical substance listed in Table 2 in paragraph (j) of this section, under the procedures in § § 790.93 and 790.97 of this chapter, EPA may initiate termination proceedings for all testing exemptions with respect to that chemical substance and may notify persons in Tier 1 and Tier 2 that they are required to submit letters of intent to test or exemption applications within a specified period of time.

(9) If you are required to comply with this section, but your manufacturing or processing of a chemical substance listed in Table 2 in paragraph (j) of this section begins after the applicable compliance date referred to in paragraphs (c)(2), (c)(5), or (c)(8) of this section, you must either submit a letter of intent to test or apply to EPA for an exemption. The letter of intent to test or the exemption application must be received by EPA no later than the day you begin manufacturing or processing.

(d) *What must I do to comply with this section*? (1) To comply with this section you must either submit to EPA a letter of intent to test, or apply to and obtain from EPA an exemption from testing.

(2) For each test with respect to which you submit to EPA a letter of intent to test, you must conduct the testing specified in paragraph (h) of this section and submit the test data to EPA.

(3) You must also comply with the procedures governing test rule requirements in part 790 of this chapter, as modified by this section, including the submission of letters of intent to test or exemption applications, the conduct of testing, and the submission of data; Part 792—Good Laboratory Practice Standards of this chapter; and this section. The following provisions of 40 CFR part 790 do not apply to this section: Paragraphs (a), (d), (e), and (f) of § 790.45; paragraph (a)(2) and paragraph (b) of § § 790.80; 790.82(e)(1); 790.85; and 790.48.

(e) *If I do not comply with this section, when will I be considered in violation of it*? You will be considered in violation of this section as of 1 day after the date by which you are required to comply with this section.

(f) *How are EPA's data reimbursement procedures affected for purposes of this section*? If persons subject to this section are unable to agree on the amount or method of reimbursement for test data development for one or more chemical substances included in this section, any person may request a hearing as described in 40 CFR part 791. In the determination of fair reimbursement shares under this section, if the hearing officer chooses to use a formula based on production volume, the total production volume amount will include amounts of a chemical substance produced as an impurity.

(g) *Who must comply with the export notification requirements*? Any person who exports, or intends to export, a chemical substance listed in Table 2 in paragraph (j) of this section is subject to part 707, subpart D, of this chapter.

(h) *How must I conduct my testing*? (1) The tests that are required for each chemical substance are indicated in Table 2 in paragraph (j) of this section. The test methods that must be followed are provided in Table 3 in paragraph (j) of this section. You must proceed in accordance with these test methods as required according to Table 3 in paragraph (j) of this section, or as appropriate if more than one alternative is allowed according to Table 3 in paragraph (j) of this section. Included in Table 3 in paragraph (j) of this section are the following 11 methods which are incorporated by reference:

(i) Standard Test Method for Relative Initial and Final Melting Points and the Melting Range of Organic Chemicals, ASTM E 324–99.

(ii) Standard Test Method for Partition Coefficient (N-Octanol/Water) Estimation by Liquid Chromatography, ASTM E 1147–92. (Reapproved 1997)

(iii) Standard Guide for Conducting Acute Toxicity Tests on Test Materials with Fishes, Macroinvertebrates, and Amphibians, ASTM E 729–96. (Reapproved 2002)

(iv) Standard Test Method for Measurements of Aqueous Solubility, ASTM E 1148–02.

(v) Standard Test Method for Estimating Acute Oral Toxicity in Rats, ASTM E 1163–98. (Reapproved 2002)

(vi) Standard Guide for Conducting Daphnia Magna Life-Cycle Toxicity Tests, ASTM E 1193–97. (Reapproved 2004)

(vii) Standard Guide for Conducting Static Toxicity Tests with Microalgae, ASTM E 1218–04.

(viii) Standard Test Method for Determining Biodegradability of Organic Chemicals in Semi-Continuous Activated Sludge (SCAS), ASTM E 1625–94. (Reapproved 2001)

(ix) Standard Test Method for Vapor Pressure of Liquids by Ebulliometry, ASTM E 1719–97.

(x) Standard Test Method for Determining Vapor Pressure by Thermal Analysis, ASTM E 1782–03.

(xi) Water Quality—Evaluation of Ultimate Aerobic Biodegradability of Organic Compounds in Aqueous Medium—Static Test (Zahn-Wellens Method), Second Edition, June 1, 1999, ISO 9888–99.

(2) The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the ASTM guidelines from the American Society for Testing and Materials, 100 Bar Harbor Dr., West Conshohocken, PA 19428–2959, and a copy of the ISO guideline from the International Organization for Standardization, Case Postale, 56 CH-1211 Geneve 20 Switzerland. You may inspect each test method at the EPA Docket Center, EPA West, Rm. B102, 1301 Constitution Ave., NW., Washington, DC or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(i) *Reporting requirements*. A final report for each specific test for each subject chemical substance must be received by EPA by May 17, 2007, unless an extension is granted in writing pursuant to 40 CFR 790.55. A robust summary of the final report for each specific test should be submitted in addition to and at the same time as the final report. The term ''robust summary'' is used to describe the technical information necessary to adequately describe an experiment or study and includes the objectives, methods, results, and conclusions of the full study report which can be either an experiment or in some cases an estimation or prediction method. Guidance for the compilation of robust summaries is described in a document entitled *Draft Guidance on Developing Robust Summaries* which is available at: *http://www.epa.gov/chemrtk/robsumgd.htm*.

(j) *Designation of specific chemical substances and testing requirements*. The chemical substances identified by chemical name, Chemical Abstract Service Number (CAS No.), and class in Table 2 of this paragraph must be tested in accordance with the requirements designated in Tables 2 and 3 of this paragraph, and the requirements described in 40 CFR Part 792—Good Laboratory Practice Standards:

TABLE 2.—CHEMICAL SUBSTANCES AND TESTING REQUIREMENTS

CAS No.	Chemical name	Class	Required tests/(See Table 3 of this section)
74–95–3	Methane, dibromo-	1	A, C1, E2, F2
75–36–5	Acetyl chloride	1	A, B, C2, E2, F1
78–11–5	1,3-Propanediol, 2,2-bis[(nitrooxy)methyl]-, dinitrate (ester)	1	A4, A5, B, C6, F2
84–65–1	9,10-Anthracenedione	1	A, F2
108–19–0	Imidodicarbonic diamide	1	A, B, C1, D, E1, E2, F1
110–44–1	2,4-Hexadienoic acid, (2E,4E)-	1	A, C4
112–52–7	Dodecane, 1-chloro	1	A, B, C3, D, E1, E2, F1
118–82–1	Phenol, 4,4'-methylenebis[2,6-bis(1,1-dimethylethyl)]-	1	A, B, D, E1, E2, F2
149–44–0	Methanesulfinic acid, hydroxy-, monosodium salt	1	A, B, C1, E2, F1
409–02–9	Heptenone, methyl-	2	A, B, C1, D, E1, E2, F1
594–42–3	Methanesulfenyl chloride, trichloro-	1	A, B, C1, E1, E2, F2
624–83–9	Methane, isocyanato-	1	A, C1
1324–76–1	Benzenesulfonic acid, [[4-[[4-(phenylamino)phenyl][4-(phenylimino)-2,5-cyclohexadien-1-ylidene]methyl]phenyl]amino]-	2	A, B, C1, D, E1, E2, F1
2941–64–2	Carbonochloridothioic acid, S-ethyl ester	1	A, B, C1, E2, F1
8005–02–5	C.I. Solvent Black 7	2	A, B, C1, D, E2, F1
65996–78–3	Light oil (coal), coke-oven	2	A, B, C1, D, E1, E2, F1
68611–64–3	Urea, reaction products with formaldehyde	2	A, B, C1, D, E1, E2, F1

TABLE 3—KEY TO THE TEST REQUIREMENTS DENOTED BY ALPHANUMERIC SYMBOLS IN TABLE 2 OF THIS PARAGRAPH

Testing category	Test symbol	Test requirements and references	Special conditions
Physical/chemical properties	A	1. Melting Point: ASTM E 324 (capillary tube) 2. Boiling Point: ASTM E 1719 (ebulliometry) 3. Vapor Pressure: ASTM E 1782 (thermal analysis) 4. *n*-Octanol/Water Partition Coefficient (log 10 basis) or log K_{ow}: (See special conditions for the log K_{ow} test requirement and select the appropriate method to use, if any, from those listed in this column.) Method A: 40 CFR 799.6755 (shake flask) Method B: ASTM E 1147 (liquid chromatography) Method C: 40 CFR 799.6756 (generator column) 5. *Water Solubility*: (See special conditions for the water solubility test requirement and select the appropriate method to use, if any, from those listed in this column.) Method A: ASTM E 1148 (shake flask) Method B: 40 CFR 799.6784 (shake flask) Method C: 40 CFR 799.6784 (column elution) Method D: 40 CFR 799.6786 (generator column)	*n*-Octanol/water Partition Coefficient or log K_{ow}: Which method is required, if any, is determined by the test substance's estimated[1] log K_{ow} as follows: log K_{ow} <0: no testing required. log K_{ow} range 0–1: Method A or B. log K_{ow} range >1–4: Method A or B or C. log K_{ow} range >4–6: Method B or C. log K_{ow} >6: Method C. Test sponsors are required to provide in the final study report the underlying rationale for the method selected. In order to ensure environmental relevance, EPA highly recommends that the selected study be conducted at pH 7. *Water Solubility*: Which method is required, if any, is determined by the test substance's estimated[2] water solubility. Test sponsors are required to provide in the final study report the underlying rationale for the method selected. In order to ensure environmental relevance, EPA highly recommends that the selected study be conducted at pH 7. >5,000 mg/L: Method A or B. >10 mg/L —5,000 mg/L: Method A, B, C, or D. > 0.001 mg/L—10 mg/L: Method C or D. ≤0.001 mg/L: No testing required.
Environmental fate and pathways—Inherent biodegradation	B	For B, choose either of the methods listed in this column: 1. ASTM 1625 (semicontinuous activated sludge test) OR 2. ISO 9888 (Zahn-Wellens method)	None
Aquatic toxicity	C1	For C1, Test Group 1 or Test Group 2 listed in this column must be used to fulfill the testing requirements—See special conditions. *Test Group 1 for C1*: 1. Acute Toxicity to Fish: ASTM E 729 2. Acute Toxicity to Daphnia: ASTM E 729 3. Toxicity to Plants (Algae): ASTM E 1218 *Test Group 2 for C1*: 1. Chronic Toxicity to Daphnia: ASTM E 1193 2. Toxicity to Plants (Algae): ASTM E 1218	The following are the special conditions for C1, C2, C3, C4, C5, and C7 testing; there are no special conditions for C6. If log K_{ow} <4.2: Test Group 1 is required If log K_{ow} ≥ 4.2: Test Group 2 is required Which test group is required is determined by the test substance's measured log K_{ow} as obtained under A[3].
	C2	For C2, Test Group 1 or Test Group 2 listed in this column must be used to fulfill the testing requirements—See special conditions. *Test Group 1 for C2*: 1. Acute Toxicity to Daphnia: ASTM E 729 2. Toxicity to Plants (Algae): ASTM E 1218 *Test Group 2 for C2*: 1. Chronic Toxicity to Daphnia: ASTM E 1193 2. Toxicity to Plants (Algae): ASTM E 1218	

TABLE 3—KEY TO THE TEST REQUIREMENTS DENOTED BY ALPHANUMERIC SYMBOLS IN TABLE 2 OF THIS PARAGRAPH—Continued

Testing category	Test symbol	Test requirements and references	Special conditions
	C3	For C3, Test Group 1 or Test Group 2 listed in this column must be used to fulfill the testing requirements—See special conditions. *Test Group 1 for C3*: 1. Acute Toxicity to Fish: ASTM E 729 2. Toxicity to Plants (Algae): ASTM E 1218 Test Group 2 for C3: 1. Chronic Toxicity to Daphnia: ASTM E 1193 2. Toxicity to Plants (Algae): ASTM E 1218	
	C4	For C4, Test Group 1 or Test Group 2 listed in this column must be used to fulfill the testing requirements—See special conditions. *Test Group 1 for C4*: 1. Acute Toxicity to Fish: ASTM E 729 2. Acute Toxicity to Daphnia: ASTM E 729 *Test Group 2 for C4*: 1. Chronic Toxicity to Daphnia: ASTM E 1193	
	C5	For C5, Test Group 1 or Test Group 2 below must be used to fulfill the testing requirements—See special conditions. *Test Group 1 for C5*: 1. Acute Toxicity to Daphnia: ASTM E 729 *Test Group 2 for C5*: 1. Chronic Toxicity to Daphnia: ASTM E 1193	
	C6	Toxicity to Plants (Algae): ASTM E 1218	
	C7	For C7, Test Group 1 or Test Group 2 of this column must be used to fulfill the testing requirements—See special conditions. *Test Group 1 for C7*: 1. Acute Toxicity to Fish: ASTM E 729 *Test Group 2 for C7*: 1. Chronic Toxicity to Daphnia: ASTM E 1193	
Mammalian toxicity—Acute	D	See special conditions for this test requirement and select the method that must be used from those listed in this column. Method A: Acute Inhalation Toxicity (rat): 40 CFR 799.9130 Method B: EITHER: 1. Acute (Up/Down) Oral Toxicity (rat): ASTM E 1163 OR 2. Acute (Up/Down) Oral Toxicity (rat): 40 CFR 799.9110(d)(1)(i)(A)	Which testing method is required is determined by the test substance's physical state at room temperature (25°C). For those test substances that are gases at room temperature, Method A is required; otherwise, use either of the two methods listed under Method B. In Method B, 40 CFR 799.9110(d)(1)(i)(A) refers to the OECD 425 Up/Down Procedure[4]. Estimating starting dose for Method B: Data from the neutral red uptake basal cytotoxicity assay[5] using normal human keratinocytes or mouse BALB/c 3T3 cells may be used to estimate the starting dose.
Mammalian toxicity—Genotoxicity	E1	Bacterial Reverse Mutation Test (*in vitro*): 40 CFR 799.9510	None

TABLE 3—KEY TO THE TEST REQUIREMENTS DENOTED BY ALPHANUMERIC SYMBOLS IN TABLE 2 OF THIS PARAGRAPH—Continued

Testing category	Test symbol	Test requirements and references	Special conditions
	E2	Conduct any one of the following three tests for chromosomal damage: *In vitro* Mammalian Chromosome Aberration Test: 40 CFR 799.9537 OR Mammalian Bone Marrow Chromosomal Aberration Test (*in vivo* in rodents: mouse (preferred species), rat, or Chinese hamster): 40 CFR 799.9538 OR Mammalian Erythrocyte Micronucleus Test [sampled in bone marrow] (*in vivo* in rodents: Mouse (preferred species), rat, or Chinese hamster): 40 CFR 799.9539	Persons required to conduct testing for chromosomal damage are encouraged to use the *in vitro* Mammalian Chromosome Aberration Test (40 CFR 799.9537) to generate the needed data unless known chemical properties (e.g., physical/chemical properties, chemical class characteristics) preclude its use. A subject person who uses one of the *in vivo* methods instead of the *in vitro* method to address a chromosomal damage test requirement must submit to EPA a rationale for conducting that alternate test in the final study report.
Mammalian toxicity—Repeated dose/ reproduction/ developmental	F1	Combined Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test: 40 CFR 799.9365 OR Reproduction/Developmental Toxicity Screening Test: 40 CFR 799.9355 AND Repeated Dose 28–Day Oral Toxicity Study in rodents: 40 CFR 799.9305	Where F1 is required, EPA recommends use of the Combined Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test (40 CFR 799.9365). However, there may be valid reasons to test a particular chemical using both 40 CFR 799.9355 and 40 CFR 799.9305 to fill Mammalian Toxicity—Repeated Dose/Reproduction/Developmental data needs. A subject person who uses the combination of 40 CFR 799.9355 and 40 CFR 799.9305 in place of 40 CFR 799.9365 must submit to EPA a rationale for conducting these alternate tests in the final study reports. Where F2 or F3 is required, no rationale for conducting the required test need be provided in the final study report.
	F2	Reproduction/Developmental Toxicity Screening Test: 40 CFR 799.9355	
	F3	Repeated Dose 28–Day Oral Toxicity Study in rodents: 40 CFR 799.9305	

[1] EPA recommends, but does not require, that log K_{ow} be quantitatively estimated prior to initiating this study. One method, among many similar methods, for estimating log K_{ow} is described in the article entitled *Atom/Fragment Contribution Method for Estimating Octanol-Water Partition Coefficients*) by W.M. Meylan and P.H. Howard in the *Journal of Pharmaceutical Sciences*. 84(1):83–92. January 1992. This reference is available under docket ID number EPA–HQ–OPPT–2005–0033 at the EPA Docket Center, Rm. B102, 1301 Constitution Ave., NW., Washington, DC, from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

[2] EPA recommends, but does not require, that water solubility be quantitatively estimated prior to initiating this study. One method, among many similar methods, for estimating water solubility is described in the article entitled *Improved Method for Estimating Water Solubility From Octanol/Water Partition Coefficient* by W.M. Meylan, P.H. Howard, and R.S. Boethling in *Environmental Toxicology and Chemistry*. 15(2):100–106. 1996. This reference is available under docket ID number EPA–HQ–OPPT–2005–0033 at the EPA Docket Center, Rm. B102, 1301 Constitution Ave., NW., Washington, DC, from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

[3] Chemical substances that are dispersible in water may have log K_{ow} values greater than 4.2 and may still be acutely toxic to aquatic organisms. EPA recommends, but does not require, that test sponsors who wish to conduct Test Group 1 studies on such chemicals to submit to EPA for approval a written request to conduct Test Group 1 studies 90 days prior to conducting such studies. The written request should include the rationale for conducting Test Group 1 studies.

[4] The OECD 425 Up/Down Procedure, revised by OECD in December 2001, is available under docket ID number EPA–HQ–OPPT–2005–0033 at the EPA Docket Center, Rm. B102, 1301 Constitution Ave., NW., Washington, DC, from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

[5] The neutral red uptake basal cytotoxicity assay, which may be used to estimate the starting dose for the mammalian toxicity-acute endpoint, is available under docket ID number EPA–HQ–OPPT–2005–0033 at the EPA Docket Center, Rm. B102, 1301 Constitution Ave., NW., Washington, DC, from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

(k) *Effective date*. This section is effective on April 17, 2006.

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 16, 2006

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Air quality implementation plans; approval and promulgation; various States:

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Food and Drug Administration

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Federal Crop Insurance Corporation

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Federal Energy Regulatory Commission

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Nuclear power plants; transmission system safety and reliability; transmission providers' communications; interpretive order; comments due by 3-20-06; published 2-24-06 [FR 06-01654]

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Dry cleaning facilities; perchloroethylene emission standards; comments due by 3-23-06; published 2-6-06 [FR 06-01070]

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Reformulated gasoline oxygen content requirement removed; Non-oxygenated reformulated gasoline commingling prohibition revised; comments due by 3-24-06; published 2-22-06 [FR 06-01611]

Reformulated gasoline oxygen content requirement removed; Non-oxygenated reformulated gasoline commingling prohibition revised; comments due by 3-24-06; published 2-22-06 [FR 06-01612]

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Food and Drug Administration

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Grizzly bears; Yellowstone population; comments due by 3-20-06; published 2-16-06 [FR E6-02205]

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Federal Aviation Administration

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 4515/P.L. 109–180

To designate the facility of the United States Postal Service located at 4422 West Sciota Street in Scio, New York, as the "Corporal Jason L. Dunham Post Office". (Mar. 14, 2006; 120 Stat. 284)

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