AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Federal Register

6–12–06 Monday
Vol. 71 No. 112 June 12, 2006

Pages 33593–33988

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 71 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, June 13, 2006
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 71, No. 112

Monday, June 12, 2006

Agriculture Department
See Forest Service

Antitrust Modernization Commission
NOTICES
Meetings, 33723–33724

Army Department
See Engineers Corps

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

Children and Families Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 33765

Coast Guard
RULES
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Lake Michigan, Milwaukee, WI, 33622

Commerce Department
See Economic Analysis Bureau
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Defense Department
See Defense Logistics Agency
See Engineers Corps

Defense Logistics Agency
NOTICES
Privacy Act; systems of records, 33728–33729

Economic Analysis Bureau
NOTICES
Reports and guidance documents; availability, etc.:
Data sharing activity; access and confidentiality protection, 33724

Energy Department
See Federal Energy Regulatory Commission

Engineers Corps
NOTICES
Meetings:
North Dakota River Task Force, 33729–33730

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Indiana, 33625–33628
Missouri, 33622–33625
Organization, functions, and authority delegations:
Pollution Prevention and Toxics Office; mailing address change; technical amendments, 33640–33642
Water pollution control:
National Pollutant Discharge Elimination System—Storm water discharges for oil and gas exploration, production, processing, or treatment operations, or transmission facilities, 33628–33640
PROPOSED RULES
Air pollution; standards of performance for new stationary sources; and air pollutants, hazardous; national emission standards:
Stationary spark ignition internal combustion engines and reciprocating internal combustion engines, 33804–33855
Air quality implementation plans; approval and promulgation; various States:
Indiana, 33668–33669
Missouri, 33668
Virginia, 33669–33672
NOTICES
Meetings:
Human Studies Review Board, 33747
National ambient air quality standards setting; process review; workshop to consider report, 33747–33749
Water supply:
Public water system supervision program—Ohio, 33749–33750

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus, 33600–33602
BAE Systems (Operations) Ltd., 33602–33604
Boeing, 33595–33598, 33604–33605, 33608–33614
Bombardier; correction, 33614
Eurocopter France, 33598–33600
Goodrich, 33606–33607
PROPOSED RULES
Airworthiness directives:
Airbus, 33658–33663
McDonnell Douglas, 33663–33665
Class E airspace, 33665–33668
NOTICES
Advisory circulars; availability, etc.:
Aircraft Certification Service advisory circulars, policy documents, and technical standard orders, 33799
Agency information collection activities; proposals, submissions, and approvals, 33799–33800
Meetings:
Air Traffic Procedures Advisory Committee, 33800

Federal Emergency Management Agency
RULES
Flood elevation determinations:
American Samoa, 33645–33646
Georgia, 33644–33645
Various States, 33646–33657
Flood insurance; communities eligible for sale:
Virginia and North Carolina, 33642–33644
PROPOSED RULES
Flood elevation determinations:
Massachusetts and North Carolina, 33702–33703

Various States, 33672–33702
NOTICES
Disaster and emergency areas:
Maine, 33765–33766
Massachusetts, 33766
New Hampshire, 33767
Washington, 33767–33768

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation combined filings, 33741–33742
Hydroelectric applications, 33742–33746
Meetings:
Market and reliability matters; discussions with utility and railroad representatives, 33746
Southwest Power Pool Board of Directors/Members Committee, 33746–33747
Public Utility Holding Company Act of 2005; implementation:
Financial accounting, reporting, and records retention requirements; technical conference
Correction, 33747
Applications, hearings, determinations, etc.:
Alliance Pipeline L.P., 33730
Aragonne Wind LLC, 33730
Colorado Interstate Gas Co., 33730–33731
Discovery Gas Transmission LLC, 33731
Dominion Transmission, Inc., 33731–33732
Duke Power Co. LLC, 33732
El Paso Natural Gas Co., 33732–33733
Enbridge Pipelines (KPC), 33733
Gas Transmission Northwest Corp., 33733–33734
Great Lakes Gas Transmission L.P., 33734
Gulfstream Natural Gas System, L.L.C., 33734
Kinder Morgan Interstate Gas Transmission LLC, 33734–33735
Maritimes & Northeast Pipeline, L.L.C., 33735
National Fuel Gas Supply Corp., 33735–33736
Northern Natural Gas Co., 33736
Pine Prairie Energy Center, LLC, 33736–33737
Questar Southern Trails Pipeline Co., 33737
Rockies Express Pipeline LLC, 33737
Saltville Gas Storage Co. L.L.C., 33737–33738
Stingray Pipeline Co., L.L.C., 33738
Tennessee Gas Pipeline Co., 33738
Texas Eastern Transmission, LP, 33738–33739
TransColorado Gas Transmission Co., 33739
Transcontinental Gas Pipe Line Corp., 33739
Tuscarora Gas Transmission Co., 33739–33740
Western Area Power Administration, 33740
Williston Basin Interstate Pipeline Co., 33740–33741

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Dane County, WI, 33800–33801

Federal Housing Finance Board
NOTICES
Meetings; Sunshine Act, 33750

Federal Motor Carrier Safety Administration
NOTICES
Meetings; Sunshine Act, 33801

Federal Reserve System
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 33750–33751
Banks and bank holding companies:
Formations, acquisitions, and mergers, 33751
Federal Open Market Committee:
Domestic policy directives, 33751

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Critical habitat designations—
Piping plover; wintering population, 33703–33721
NOTICES
Endangered and threatened species:
Incidental take permits—
Monterey County, CA; Smith's blue butterfly and California red-legged frog, 33770–33772
Endangered and threatened species permit applications, determinations, etc., 33769–33770
Environmental statements; notice of intent:
Red Rock Lakes National Wildlife Refuge, MT; comprehensive conservation plan, 33772–33773

Forest Service
NOTICES
Meetings:
California Coast Provincial Advisory Committee, 33723
Resource Advisory Committees—
South Gifford Pinchot National Forest, 33723

Health and Human Services Department
See Children and Families Administration
NOTICES
Grant and cooperative agreement awards:
Morehouse School of Medicine, 33751–33752
Grants and cooperative agreements; availability, etc.:
Medical Reserve Corps Program, 33753–33759
United States-Mexico Foundation for Science, 33759–33764
Meetings:
American Health Information Community, 33764
Vital and Health Statistics National Committee, 33764–33765

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency

Housing and Urban Development Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 33768–33769

Industry and Security Bureau
RULES
Export administration regulations:
Commerce Control List—
Biological agents and toxins controls expansion; medical products containing AG-controlled toxins clarification; Chemical Weapons Convention list update, 33614–33622
NOTICES
Export privileges, actions affecting:
Edsons Worldwide Services, Inc., 33724–33725
Yamnik, Eduard Mendelevich, 33725–33726

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Indian Gaming Commission

International Trade Administration
NOTICES
Antidumping:
Circular welded carbon steel pipes and tubes from—
Thailand, 33726–33727
Softwood lumber products from—
Canada, 33964–33988
Countervailing duties:
Softwood lumber products from—
Canada, 33932–33961

International Trade Commission
NOTICES
Organization, functions, and authority delegations:
Law Library; revised access, 33774–33775

Land Management Bureau
NOTICES
Alaska Native claims selection:
Ohog Inc., 33773
Oil and gas leases:
Montana, 33773
Public land orders:
Arizona, 33773–33774
Realty actions; sales, leases, etc.:
Nevada, 33774

National Archives and Records Administration
NOTICES
Meetings:
Records of Congress Advisory Committee, 33775

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Arts Advisory Panel, 33775

National Indian Gaming Commission
PROPOSED RULES
Indian Gaming Regulatory Act:
Electronic or electromechanical facsimiles of games of chance; definitions and classification standards; Tribal governments consultations, 33668

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Northeastern United States fisheries—
Small-mesh multispecies, 33721–33722
NOTICES
Grants and cooperative agreements; availability, etc.:
2007 FY funds availability; omnibus notice, 33898–33929
Reports and guidance documents; availability, etc.:
U.S. Climate Change Science Program Synthesis and Assessment Product Prospectuses, 33727–33728

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Tennessee Valley Authority, 33777–33778
Applications, hearings, determinations, etc.:
Army Department; Jefferson Proving Ground, IN, 33776

Pension Benefit Guaranty Corporation
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 33778–33779

Pipeline and Hazardous Materials Safety Administration
RULES
Hazardous materials transportation:
Cylinder and multi-element gas containers; design, construction, maintenance, and use; United Nations recommended standards adoption, 33858–33896

Presidential Documents
EXECUTIVE ORDERS
Committees; establishment, renewal, termination, etc.:
New Americans, Task Force on; establishment (EO 13404), 33593–33594

State Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 33779
Foreign Operations, Export Financing, and Related Programs Appropriations Act:
Bosnia and Herzegovina; International Financing Corp. projects, 33779
Reports and guidance documents; availability, etc.:
International Lake Ontario-St. Lawrence River Study Board report, 33779–33780

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Motor Carrier Safety Administration
See Pipeline and Hazardous Materials Safety Administration
NOTICES
Regulatory review, 33780–33799

Separate Parts In This Issue

Part II
Environmental Protection Agency, 33804–33855

Part III
Transportation Department, Pipeline and Hazardous Materials Safety Administration, 33858–33896

Part IV
Commerce Department, National Oceanic and Atmospheric Administration, 33898–33929

Part V
Commerce Department, International Trade Administration, 33932–33961

Part VI
Commerce Department, International Trade Administration, 33964–33988

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Executive Orders:

13404 53593

14 CFR

39 (9 documents) 33595, 33598, 33600, 33602, 33604, 33606, 33608, 33611, 33614

Proposed Rules:

39 (3 documents) 33658, 33661, 33663

71 (3 documents) 33665, 33666, 33667

15 CFR

738 33614

742 33614

745 33614

774 33614

25 CFR

Proposed Rules:

502 33668

546 33668

33 CFR

165 33622

40 CFR

52 (2 documents) 33622, 33625

122 33628

704 33640

707 33640

717 33640

720 33640

721 33640

723 33640

761 33640

790 33640

799 33640

Proposed Rules:

52 (3 documents) 33688, 33669

60 33804

63 33804

85 33804

90 33804

1048 33804

1065 33804

1068 33804

44 CFR

64 33642

65 33644

67 (2 documents) 33645, 33646

Proposed Rules:

67 (2 documents) 33672, 33702

49 CFR

107 33858

171 33858

172 33858

173 33858

178 33858

180 33858

50 CFR

Proposed Rules:

17 33703

648 22721

Federal Register
Vol. 71, No. 112
Monday, June 12, 2006

Presidential Documents

Title 3—

The President

Executive Order 13404 of June 7, 2006

Task Force on New Americans

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to strengthen the efforts of the Department of Homeland Security and Federal, State, and local agencies to help legal immigrants embrace the common core of American civic culture, learn our common language, and fully become Americans, it is hereby ordered as follows:

Section 1. *Establishment.* The Secretary of Homeland Security (Secretary) shall immediately establish within the Department of Homeland Security (Department) a Task Force on New Americans (Task Force).

Sec. 2. *Membership and Operation.* (a) The Task Force shall be limited to the following members or employees designated by them at no lower than the Assistant Secretary level or its equivalent:

(i) the Secretary of Homeland Security, who shall serve as Chair;

(ii) the Secretary of State;

(iii) the Secretary of the Treasury;

(iv) the Secretary of Defense;

(v) the Attorney General;

(vi) the Secretary of Agriculture;

(vii) the Secretary of Commerce;

(viii) the Secretary of Labor;

(ix) the Secretary of Health and Human Services;

(x) the Secretary of Housing and Urban Development;

(xi) the Secretary of Education;

(xii) such other officers or employees of the Department of Homeland Security as the Secretary may from time to time designate; and

(xiii) such other officers of the United States as the Secretary may designate from time to time, with the concurrence of the respective heads of departments and agencies concerned.

(b) The Secretary shall convene and preside at meetings of the Task Force, direct its work, and as appropriate, establish and direct subgroups of the Task Force that shall consist exclusively of Task Force members. The Secretary shall designate an official of the Department to serve as the Executive Secretary of the Task Force, and the Executive Secretary shall head the staff assigned to the Task Force.

Sec. 3. *Functions.* Consistent with applicable law, the Task Force shall:

(a) provide direction to executive departments and agencies (agencies) concerning the integration into American society of America's legal immigrants, particularly through instruction in English, civics, and history;

(b) promote public-private partnerships that will encourage businesses to offer English and civics education to workers;

(c) identify ways to expand English and civics instruction for legal immigrants, including through faith-based, community, and other groups, and ways to promote volunteer community service; and

(d) make recommendations to the President, through the Secretary, from time to time regarding:

(i) actions to enhance cooperation among agencies on the integration of legal immigrants into American society;

(ii) actions to enhance cooperation among Federal, State, and local authorities responsible for the integration of legal immigrants;

(iii) changes in rules, regulations, or policy to improve the effective integration of legal immigrants into American society; and

(iv) proposed legislation relating to the integration of legal immigrants into American society.

Sec. 4. *Administration.* (a) To the extent permitted by law, the Department shall provide the funding and administrative support the Task Force needs to implement this order, as determined by the Secretary.

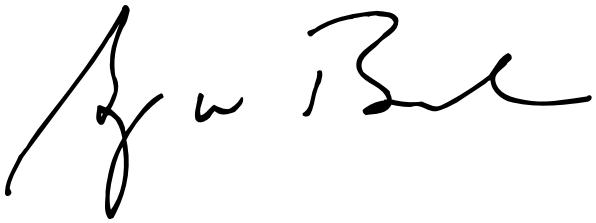
(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is intended to improve the internal management of the Federal Government. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity against the United States, its departments, agencies, entities, instrumentalities, officers, employees, agents, or any other person.



THE WHITE HOUSE,
June 7, 2006.

[FR Doc. 06–5351
Filed 6–9–06; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 71, No. 112
Monday, June 12, 2006

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

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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24102; Directorate Identifier 2005–NM–244–AD; Amendment 39–14638; AD 2006–12–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR Series 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 Boeing Model 747–100 and –200 series airplanes. That AD currently requires repetitive inspections for cracking of the station 800 frame assembly, and repair if necessary. This new AD retains the repetitive inspection requirements of the existing AD, but expands the area to be inspected. This AD also reduces the initial inspection threshold, removes the adjustment of the compliance threshold and repetitive interval based on cabin differential pressure, and adds airplanes to the applicability. This AD results from several reports of cracks of the station 800 frame assembly on airplanes that had accumulated fewer total flight cycles than the initial inspection threshold in the existing AD. We are issuing this AD to detect and correct fatigue cracks that could extend and fully sever the frame, which could result in development of skin cracks that could lead to rapid depressurization of the airplane.

DATES: This AD becomes effective July 17, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 17, 2006.

On August 30, 2001 (66 FR 38891, July 26, 2001), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000.

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, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6437; fax (425) 917–6590.

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 2001–14–22, amendment 39–12333 (66 FR 38891, July 26, 2001). The existing AD applies to certain Boeing Model 747–100 and –200 series airplanes. That NPRM was published in the **Federal Register** on March 8, 2006 (71 FR 11551). That NPRM proposed to require repetitive inspections for cracking of the station 800 frame assembly, and repair if necessary.

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.

Support for the Proposed AD

Air Transport Association (ATA), on behalf of its member Northwest Airlines, concurs with the intent of the NPRM.

Requests To Remove or Revise 12-Month Grace Period From Table 2

Boeing requests that we remove the 12-month compliance time from paragraph (h), Table 2, items (2) and (3), of the NPRM. Boeing states that the cracking that is the subject of the NPRM is initiated and propagated solely by cyclic loading as measured in flight cycles. Boeing also states that calendar time has no bearing on the initiation rate of the cracking. ATA, on behalf of Northwest Airlines, also comments on the 12-month grace period. Northwest states that, for operators who have planned completion of the initial inspection near the previously defined 19,000 flight-cycle threshold in accordance with AD 2001–14–22, the proposed 12-month grace period could result in unscheduled out-of-service airplanes. Northwest adds that the cracking addressed by the NPRM is attributed to fatigue, which is driven by flight cycles rather than calendar days. Northwest therefore requests that we change the calendar time from 12 months to 18 months, which is consistent with the Boeing maintenance interval on Model 747 airplanes. Northwest suggests limiting this calendar-time change to airplanes that have not exceeded the previously mandated 19,000 total-flight-cycle threshold. ATA states that this change would avoid disruption of maintenance visits that were scheduled to facilitate compliance with the existing AD.

We agree that a grace period based on calendar time is inappropriate because, as Boeing states and ATA notes, the cracking that is the subject of the NPRM is initiated and propagated solely by cyclic loading as measured in flight cycles. For this reason, we disagree with ATA's request to extend the grace period to 18 months for certain airplanes. Instead, we have revised Table 2 of the final rule to remove the 12-month portion of the grace period, and to include only the compliance time based on flight cycles. This change will ensure an equivalent level of safety and

alleviate concerns about unscheduled out-of-service airplanes.

Request To Clarify Expanded Inspection Requirements for Previously Inspected Airplanes

ATA, on behalf of Northwest Airlines, also requests that, for airplanes on which the inspections in accordance with AD 2001–14–22 have been done, we clarify that the inspection per procedures defined in Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005, be accomplished at the next scheduled repeat inspection. Northwest states that this request complies with the statement in the service bulletin that specifies no additional work is necessary on airplanes previously inspected in accordance with the initial release of the service bulletin (dated October 5, 2000), and to do the expanded inspection at the time of the next scheduled inspection.

We partially agree. We agree with the commenter that, for the previously accomplished inspections, compliance with AD 2001–14–22 was met if the inspection was accomplished in accordance with the original release of the service bulletin (Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000). It is the intent of the NPRM to match the service information provided by Boeing. We disagree that any change is necessary to clarify the AD. Paragraph (f) of the AD states that, prior to the effective date of this new AD, the inspections may be accomplished in accordance with either the initial release or Revision 1 of the service bulletin. After the effective date of this AD, only Revision 1 may be used. We have not changed the AD in this regard.

Explanation of Change to Costs of Compliance

After the NPRM was issued, we reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $65 per work hour to $80 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

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. 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 900 airplanes of the affected design in the worldwide fleet. This AD will affect about 156 airplanes of U.S. registry.

The inspections that are specified in AD 2001–14–22, and retained in this AD, take between 12 and 14 work hours per airplane, depending on the airplane configuration. The average labor rate is $80 per work hour. Based on these figures, the estimated cost of the currently required actions is between $960 and $1,120 per airplane, per inspection cycle.

The new actions will take between 18 and 20 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the new actions specified in this AD for U.S. operators is between $224,640 and $249,600, or between $1,440 and $1,600 per airplane, 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 39–12333 (66 FR 38891, July 26, 2001) and by adding the following new airworthiness directive (AD):

2006–12–12 Boeing: Amendment 39–14638. Docket No. FAA–2006–24102; Directorate Identifier 2005–NM–244–AD.

Effective Date

(a) This AD becomes effective July 17, 2006.

Affected ADs

(b) This AD supersedes AD 2001–14–22.

Applicability

(c) This AD applies to all Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from several reports of cracks of the station 800 frame assembly on airplanes that had accumulated fewer total flight cycles than the initial inspection threshold in the existing AD. We are issuing this AD to detect and correct fatigue cracks that could extend and fully sever the frame, which could result in development of skin cracks that could lead to rapid depressurization 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 the Requirements of AD 2001–14–22

Repetitive Inspections

(f) For Boeing Model 747–100, 747–100B, 747–100B SUD, –200B, 747–200C, and 747–200F series airplanes, as identified in Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000: Do detailed, surface high-frequency eddy current (HFEC), and open-hole HFEC inspections, as applicable, for cracking of the station 800 frame assembly (including the inner chord strap, angles, and exposed web) between stringers 14 and 18, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000; or Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005; after the effective date of this AD, only Revision 1 of the service bulletin may be used. Except as provided by paragraph (g) of this AD, do the inspection at the applicable time specified in Table 1 of this AD, and repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles until the initial inspections required by paragraph (h) of this AD are accomplished.

TABLE 1.—COMPLIANCE TIMES

Total flight cycles as of August 30, 2001 (the effective date of AD 2001–14–22)	Do the inspection in paragraph (f) of this AD at this time
(1) Fewer than 19,000	Before the accumulation of 19,000 total flight cycles, or within 1,500 flight cycles after August 30, 2001, whichever comes later.
(2) 19,000 or more, but 21,250 or fewer	Within 1,500 flight cycles or 12 months after August 30, 2001, whichever comes first.
(3) 21,251 or more	Within 750 flight cycles or 12 months after August 30, 2001, whichever comes first.

Adjustments to Compliance Time: Cabin Differential Pressure

(g) For Boeing Model 747–100, 747–100B, 747–100B SUD, –200B, 747–200C, and 747–200F series airplanes, as identified in Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000, that are inspected before the effective date of this AD: Except as provided by paragraph (i) of this AD, for the purposes of calculating the compliance threshold and repetitive interval for the actions required by paragraph (f) of this AD, the number of flight cycles in which cabin differential pressure is at 2.0 pounds per square inch (psi) or less need not be counted when determining the number of flight cycles that have occurred on the airplane, provided that the flight cycles with momentary spikes in cabin differential pressure above 2.0 psi are included as full pressure cycles. For this provision to apply, all cabin pressure records must be maintained for each airplane: No fleet-averaging of cabin pressure is allowed.

New Requirements of this AD

Repetitive Inspections of Expanded Area at a New Reduced Threshold

(h) For all airplanes, at the applicable time specified in Table 2 of this AD, except as provided by paragraph (i) of this AD, do the following inspections of the station 800 frame assembly in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005: A detailed inspection for cracking of the inner chord strap, angles, and exposed web adjacent to the inner chords on the station 800 frame between stringer 14 and stringer 18; and surface HFEC and open-hole HFEC inspections for cracking of the inner chord strap and angles. Do the initial inspections at the applicable time specified in Table 2 of this AD, and repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles. Accomplishing the initial inspections required by this paragraph terminates the inspection requirements of paragraph (f) of this AD.

TABLE 2.—REVISED COMPLIANCE TIMES

Total flight cycles as of the effective date of this AD	Do the inspections in paragraph (h) of this AD at this time
(1) Fewer than 16,000	Before the accumulation of 16,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever comes later.
(2) 16,000 or more, but 24,250 or fewer	Within 1,500 flight cycles after the effective date of this AD.
(3) 24,251 or more	Within 750 flight cycles after the effective date of this AD.

Adjustments to Compliance Time: Cabin Differential Pressure

(i) For the purposes of calculating the compliance threshold and repetitive interval for actions required by paragraphs (f) and (h) of this AD, on or after the effective date of this AD: All flight cycles, including the number of flight cycles in which cabin differential pressure is at 2.0 psi or less, must be counted when determining the number of flight cycles that have occurred on the airplane. However, for airplanes on which the repetitive interval for the actions required by paragraph (f) of this AD have been calculated in accordance with paragraph (g) of this AD by excluding the number of flight cycles in which cabin differential pressure is at 2.0 pounds psi or less: Continue to adjust the repetitive inspection interval in accordance with paragraph (g) of this AD until the initial inspections required by paragraph (h) of this AD are accomplished. Thereafter, no adjustment to compliance times based on paragraph (g) of this AD is allowed.

Repair

(j) If any cracking is detected during any inspection required by paragraph (f) or (h) of this AD, and the service bulletin specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

No Report Required

(k) Although the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000; and Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005; describe procedures for reporting certain information to the manufacturer, this AD does not require that report.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle 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 § 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) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane.

(4) AMOCs approved previously in accordance with AD 2001–14–22, are approved as AMOCs for the corresponding provisions of paragraphs (f) and (j) of this AD.

Material Incorporated by Reference

(m) You must use Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000; or Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On August 30, 2001 (66 FR 38891, July 26, 2001), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000.

(3) Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, 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 May 31, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5207 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24807; Directorate Identifier 2005–SW–41–AD; Amendment 39–14603; AD 2006–10–19]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC130 B4 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC130 B4 helicopters. This action requires inspecting the throttle twist grip (twist grip) assembly for any foreign body (chip or debris), any rotating micro-switch, and any micro-switch roller that does not move freely. If any unairworthy condition is found, this action requires that it be corrected before further flight. This amendment is prompted by two reports of a twist grip assembly jamming in the ''IDLE'' position. The actions specified in this AD are intended to detect and prevent jamming of the twist grip assembly, which, if present, could keep the engine from operating above idle speed and result in subsequent loss of control of the engine power of the helicopter.

DATES: Effective July 27, 2006.

Comments for inclusion in the Rules Docket must be received on or before August 11, 2006.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically;
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically;
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590;
- *Fax:* (202) 493–2251; or
- *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.

You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

Examining the Docket

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

FOR FURTHER INFORMATION CONTACT: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD for Eurocopter Model EC130 B4 helicopters. This action requires, within 30 hours time-in-service (TIS), unless accomplished during the previous 100-hour TIS or annual inspection, inspecting the twist grip assembly for any foreign body (chip or debris), any rotating micro-switch, and any micro-switch roller that does not move freely. If any unairworthy condition is found, this action requires that it be corrected before further flight. This amendment is prompted by reports of two incidents in which a twist grip assembly jammed in the ''IDLE'' position. Analyses conducted by the manufacturer revealed that a chip was caught between the roller of the ''FLIGHT'' micro-switch and the cam in one of the reported incidents, and marks on the cam indicated that debris had been present in the second incident. This condition, if not detected, could result in jamming of the twist grip assembly, which, if present, could keep the engine from operating above idle speed and result in subsequent loss of control of the engine power of the helicopter.

The Direction Generale de L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model EC130 B4 helicopters before embodiment of MOD 073773 fitted with a twist grip assembly, part number (P/N) 350A27–5209–00, P/N 350A27–5209–01, or P/N 350A27–5209–02, installed. The DGAC advises of two reports of twist grip assembly jamming in the ''IDLE'' position.

Eurocopter has issued Alert Telex No. 05A003, dated June 30, 2005, which specifies an initial and repetitive functional checks of the twist grip assembly on Model EC130 B4 helicopters. The DGAC classified this alert telex as mandatory and issued AD No. F–2005–145, dated August 17, 2005, to ensure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are

certificated for operation in the United States. This AD requires an ''inspection'' rather than a ''functional check'' required by the DGAC AD and does not allow this inspection to be performed by a pilot. Further, the DGAC AD requires repetitive inspections at intervals of 110 hours TIS. This AD does not require those repetitive inspections because a functional check of the twist grip assembly is now a part of the annual or 100-hour TIS helicopter inspection made effective by an amendment to the maintenance instructions in the maintenance manual at AMM Task 76–12–00, 6–1.

This unsafe condition is likely to exist or develop on other helicopters of the same type design. Therefore, this AD is being issued to detect and prevent jamming of the twist grip assembly, which, if present, could keep the engine from operating above idle speed and result in subsequent loss of control of the engine power of the helicopter. This AD requires, within 30 hours TIS, unless accomplished during the previous 100-hour TIS or 12-month inspection, inspecting the twist grip assembly for any foreign body (chip or debris), any rotating micro-switch, and any micro-switch roller that does not move freely. If any unairworthy condition is found, this action requires that it be corrected before further flight. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, the actions described previously are required in a very short time interval and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

We estimate that this AD will affect 46 helicopters and, assuming that no micro-switches will need to be replaced, inspecting the twist grip assembly and removing any chip, if present, will take approximately 0.25 work hours to accomplish at an average labor rate of $80 per work hour. Based on these figures, the total estimated cost impact of the AD on U.S. operators is $920.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2006–24807; Directorate Identifier 2005–SW–41–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 AD. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent the comment. 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*.

Regulatory Findings

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

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

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

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

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

We prepared an economic evaluation of the estimated costs to comply with this AD. See the DMS to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to 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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2006–10–19 Eurocopter France: Amendment 39–14603. Docket No. FAA–2006–24807; Directorate Identifier 2005–SW–41–AD.

Applicability: Model EC130 B4 helicopters, with a throttle twist grip (twist grip) assembly, part number (P/N) 350A27–5209–00, P/N 350A27–5209–01, or P/N 350A27–5209–02, installed, certificated in any category.

Compliance: Required as indicated, unless accomplished during the previous 100 hour time-in-service (TIS) or annual inspection.

To detect jamming of the twist grip assembly, which could keep the engine from operating above idle speed and result in subsequent loss of control of the engine power of the helicopter, accomplish the following:

(a) Within 30 hours TIS, access the twist grip assembly and inspect the cam and micro-switch body and rollers for:

(1) Any foreign chip or debris;

(2) Any friction point while turning the twist grip assembly from ''Flight'' to ''Idle'' position;

(3) Any rotating micro-switch body; and

(4) Any micro-switch roller that does not turn freely.

(b) If you find any chip or debris, remove it; if you find a friction point, a rotating micro-switch body, a binding micro-switch roller or any other unairworthy part, repair or replace the part before further flight.

Note 1: Eurocopter Alert Telex No. 05A003, dated June 30, 2005, pertains to the subject of this AD. AMM Task 76–12–00, 6–1, dealing with a repetitive functional check of the twist grip assembly, has been

inserted into the current maintenance instructions and is now part of the annual or 100-hour inspection.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Safety Management Group, Rotorcraft Directorate, FAA, ATTN: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

(d) This amendment becomes effective on June 27, 2006.

Note 2: The subject of this AD is addressed in Direction Generale de L'Aviation Civile (France) AD No. F–2005–145, dated August 17, 2005.

Issued in Fort Worth, Texas, on June 1, 2006.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 06–5241 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24103; Directorate Identifier 2005–NM–241–AD; Amendment 39–14625; AD 2006–12–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600R Series Airplanes, A300 C4–605R Variant F Airplanes, A300 F4–600R Series Airplanes; and Model A310–300 Series 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 Airbus transport category airplanes. This AD requires replacing the existing vent float valve with a new, improved vent float valve. This AD results from reports of failure of the vent float valve in the left-hand outboard section of the trimmable horizontal stabilizer. We are issuing this AD to prevent, in the event of a lightning strike to the horizontal stabilizer, sparking of metal parts and debris from detached and damaged float valves, or a buildup of static electricity, which could result in ignition of fuel vapors and consequent fire or explosion.

DATES: This AD becomes effective July 17, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of July 17, 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 Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

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 would apply to certain Airbus transport category airplanes. That NPRM was published in the **Federal Register** on March 8, 2006 (71 FR 11555). That NPRM proposed to require replacing the existing vent float valve with a new, improved vent float valve.

Comments

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

Request To Add Revised Service Information

The manufacturer, Airbus, advises that both of the service bulletins (Airbus Service Bulletins A300–28–6081 and A310–28–2155, both dated February 16, 2005) specified in the NPRM have been revised. Airbus notes that Airbus Service Bulletins A300–28–6081, Revision 01, dated October 11, 2005; and A310–28–2155, Revision 01, dated October 17, 2005, contain minor changes and that no additional work is required.

We agree with Airbus and have revised paragraph (f) of the AD to reflect the revised service bulletins. In addition, we have added a new paragraph (g) of this AD specifying that accomplishment of the actions specified in paragraph (f) of the AD in accordance with the original issuance of the service bulletins, as applicable, is considered to be an acceptable method of compliance. Subsequent paragraphs of the AD have been re-identified accordingly.

Request To Add a Phrase

One commenter, Modification and Replacement Parts Association (MARPA), states that the requirement to install a certain part number to the exclusion of any other part nullifies part 21 of the Federal Aviation Regulations (14 CFR part 21) by preventing the development and/or use of alternative parts. MARPA submits that this can be averted by adding the common phrase ''or FAA-approved equivalent part number'' as a suffix to the part number mandated to be installed. Additionally, MARPA referenced an existing AD that contains the phrase MARPA suggests.

In response to MARPA's request to add the phrase ''or FAA-approved equivalent part number,'' we do not agree. Whether an alternative part is ''equivalent'' in adequately resolving the unsafe condition can be determined only on a case-by-case basis based on a complete understanding of the unsafe condition. Our policy is that, in order for operators to replace a part with one that is not specified in the AD, they must request and receive approval of an Alternative Method of Compliance (AMOC). This is necessary so that we can make a specific determination that an alternative part is or is not susceptible to the same unsafe condition.

In response to the commenter's statement that the requirement to install a certain part number part to the exclusion of any other part nullifies part 21 of the FARs (14 CFR part 21) under which the FAA issues parts manufacturer approvals (PMAs), this statement appears to reflect a misunderstanding of the relationship between ADs and the certification procedural regulations of part 21 of the Federal Aviation Regulations (14 CFR part 21). Those regulations, including section 21.303 of the Federal Aviation Regulations (14 CFR 21.303), are intended to ensure that aeronautical products and parts are safe. But ADs are issued when, notwithstanding those procedures, we become aware of unsafe conditions in these products or parts. Therefore, an AD takes precedence over other ''approvals'' when we identify an

unsafe condition, and mandating installation of a certain part number in an AD is not at variance with section 21.303.

The AD provides a means of compliance for operators to ensure that the identified unsafe condition is addressed appropriately. For an unsafe condition attributable to a part, the AD normally identifies the replacement parts necessary to obtain that compliance. As stated in section 39.7 of the Federal Aviation Regulations (14 CFR 39.7), ''Anyone who operates a product that does not meet the requirements of an applicable airworthiness directive is in violation of this section.'' Unless an operator obtains approval for an AMOC, replacing a part with one not specified by the AD would make the operator subject to an enforcement action and result in a civil penalty. No change to the AD is necessary in this regard.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. 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

This AD will affect about 179 airplanes of U.S. registry. The actions will take about 4 work hours per airplane, at an average labor rate of $65 per work hour. Required parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the estimated cost of this AD for U.S. operators is $46,540, or $260 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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):

2006–12–01 Airbus: Amendment 39–14625. Docket No. FAA–2006–24103; Directorate Identifier 2005–NM–241–AD.

Effective Date

(a) This AD becomes effective July 17, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 B4–605R and B4–622R airplanes, A300 C4–605R Variant F airplanes, A300 F4–605R and F4–622R airplanes; and Model A310–304, –322, –324, and –325 airplanes; certificated in any category, except those airplanes on which Airbus Modification 12897 has been accomplished in production.

Unsafe Condition

(d) This AD results from reports of a broken vent float valve in the left-hand outboard section of the trimmable horizontal stabilizer. We are issuing this AD to prevent, in the event of a lightning strike to the horizontal stabilizer, sparking of metal parts and debris from detached and damaged float valves, or a buildup of static electricity, which could result in ignition of fuel vapors and consequent fire or explosion.

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.

Action Heading

(f) Within 36 months after the effective date of this AD: Replace Intertechnique vent float valve, part number (P/N) L87–13–001, in the trim tank with P/N L87–13–003; in accordance with Airbus Service Bulletin A300–28–6081, Revision 01, dated October 11, 2005 (for Model A300 B4–605R and B4–622R airplanes, A300 C4–605R Variant F airplanes, and A300 F4–605R and F4–622R airplanes); or A310–28–2155, Revision 01, dated October 17, 2005 (for Model A310–304, –322, –324, and –325 airplanes).

Acceptable for Compliance

(g) Accomplishment of the actions required by paragraph (f) of this AD that are done before the effective date of this AD in accordance with Airbus Service Bulletin A300–28–6081 (for Model A300 B4–605R and B4–622R airplanes, A300 C4–605R Variant F airplanes, and A300 F4–605R and F4–622R airplanes) or A310–28–2155 (for Model A310–304, –322, –324, and –325 airplanes), both dated February 16, 2005, is acceptable for compliance with the requirements of paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Parts Installation

(i) As of the effective date of this AD, no person may install a vent float valve, P/N L87–13–001, on any airplane.

Related Information

(j) French airworthiness directive F–2005–148, dated August 17, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Airbus Service Bulletin A300–28–6081, Revision 01, dated October 11, 2005; or Airbus Service Bulletin A310–28–2155, Revision 01, dated October 17, 2005; 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 Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on May 26, 2006.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5124 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–23284; Directorate Identifier 2005–NM–163–AD; Amendment 39–14634; AD 2006–12–09]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ 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 BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ airplanes. That AD currently requires one-time inspections of the inner webs and flanges at frames 15, 18, 41, and 43 for evidence of corrosion or cracking; and corrective actions if necessary. This new AD instead requires new repetitive inspections and expands the area to be inspected. This new AD also expands the applicability and provides an optional action that would extend the repetitive inspection interval. This AD results from a report indicating that in some cases the inspections required by the existing AD revealed no damage, yet frame corrosion and cracking were later found during scheduled maintenance in the two forward fuselage frames 15 and 18. We are issuing this AD to prevent reduced structural integrity of the airplane.

DATES: This AD becomes effective July 17, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 17, 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 British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171, for service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

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 2004–01–07, amendment 39–13421 (69 FR 869, January 7, 2004). The existing AD applies to certain BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ airplanes. That NPRM was published in the **Federal Register** on December 13, 2005 (70 FR 73665). That NPRM proposed to continue to require inspections of certain inner webs and flanges for signs of corrosion (including cracks, blistering, or flaking paint), and corrective action if necessary. That NPRM also proposed to add repetitive inspections, expand the area to be inspected, expand the applicability, and provide an optional action that would extend the proposed repetitive inspection interval.

Comments

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

Request To Require Revised Service Information

Air Wisconsin requests that we delay issuing the final rule until the manufacturer revises Inspection Service Bulletin (ISB) ISB.53–182, dated March 16, 2005 (cited in the NPRM). The commenter reports that BAE plans to revise the ISB to extend the inspection area after recent inspection data revealed evidence of corrosion cracking on some frame outer flanges. The commenter states that delaying issuance of the final rule would allow time to determine whether the revised ISB better addresses the identified unsafe condition. The commenter adds that it just makes more sense in regards to cost effectiveness and airworthiness safety for operators to perform the most thorough and up-to-date inspection on their airplanes.

We acknowledge the commenter's concern, but we do not agree to delay the issuance of the final rule. Release of a revised service bulletin is not imminent. To delay this action would be inappropriate because we have determined that an unsafe condition exists. However, we may consider further rulemaking in the future to expand the inspection area if warranted. In light of the identified unsafe condition, however, we consider it appropriate to proceed with this final rule as proposed.

Conclusion

We have carefully reviewed the available data, including the comment that has been submitted, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts cost	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
HFEC inspection, per inspection cycle	5	$65	None	$325	55	$17,875
Detailed inspection, per inspection cycle	3	65	None	195	55	10,725

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 39–13421 (69 FR 869, January 7, 2004) and by adding the following new airworthiness directive (AD):

2006–12–09 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–14634. Docket No. FAA–2005–23284; Directorate Identifier 2005–NM–163–AD.

Effective Date

(a) This AD becomes effective July 17, 2006.

Affected ADs

(b) This AD supersedes AD 2004–01–07.

Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A series airplanes; and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from a report indicating that in some cases the inspections required by AD 2004–01–07 revealed no damage, yet frame corrosion and cracking were later found during scheduled maintenance in the two forward fuselage frames 15 and 18. We are issuing this AD to prevent reduced structural integrity 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.

Inspections

(f) Use high-frequency eddy current and detailed methods to inspect for signs of corrosion (including cracks, blistering, or flaking paint) of frames 15, 18, 41, and 43, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–182, dated March 16, 2005. Inspect at the applicable time specified in 1.D. ''Compliance'' of the service bulletin. Application of corrosion-preventive treatment, in accordance with the service bulletin, extends the repetitive inspection interval, as specified in Table 2 in 1.D. ''Compliance'' of the service bulletin.

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

Corrective Action

(g) If any discrepancy is found during any inspection required by paragraph (f) of this AD: Before further flight, perform applicable related investigative/corrective actions in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–182, dated March 16, 2005, except as required by paragraph (h) of this AD.

Exceptions to Service Bulletin Specifications

(h) If the service bulletin referenced in this AD specifies to contact the manufacturer for appropriate action, before further flight, repair per a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority (or its delegated agent).

(i) Although the service bulletin referenced in this AD specifies to submit information to the manufacturer, this AD does not include such a requirement.

(j) Where the service bulletin specifies a compliance time after the issuance of the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD. And where the service bulletin specifies a compliance time ''since date of construction'' of the airplane, this AD requires compliance since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, International Branch, ANM–116, has the authority to approve AMOCs for this AD, if requested in

accordance with the procedures found in 14 CFR 39.19.

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

Related Information

(l) British airworthiness directive G–2005–0019, dated July 6, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(m) You must use BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–182, dated March 16, 2005, 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 this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171, 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 May 31, 2006.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5206 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–23250; Directorate Identifier 2005–NM–150–AD; Amendment 39–14635; AD 2006–12–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400 Series 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 Boeing Model 747–400 series airplanes. This AD requires inspecting the support bracket of the crew oxygen cylinder installation to determine the manufacturing date marked on the support, and performing corrective action if necessary. This AD results from a report indicating that certain oxygen cylinder supports may not have been properly heat-treated. We are issuing this AD to prevent failure of the oxygen cylinder support under the most critical flight load conditions, which could cause the oxygen cylinder to come loose and leak oxygen. Leakage of oxygen could result in oxygen being unavailable for the flightcrew or could result in a fire hazard in the vicinity of the leakage.

DATES: This AD becomes effective July 17, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 17, 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Susan Letcher, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6474; fax (425) 917–6590.

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 would apply to certain Boeing Model 747–400 series airplanes. That NPRM was published in the **Federal Register** on December 9, 2005 (70 FR 73171). That NPRM proposed to require inspecting the support bracket of the crew oxygen cylinder installation to determine the manufacturing date marked on the support, and performing corrective action if necessary.

Comments

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

Request To Revise Estimated Costs of Compliance

Boeing requests that we revise the estimated Costs of Compliance stated in the NPRM to include the work hours needed for replacing any support bracket of the crew oxygen cylinder having a manufacturing date that is within a certain range, and for testing following such replacement. Boeing notes that the NPRM included the estimated cost of the inspection only.

We do not agree. The economic analysis of an AD is limited to the cost of actions that are actually required. The economic analysis does not consider the costs of conditional actions, such as corrective actions (e.g., replacing a support having an affected manufacturing date with a new support). Such conditional action would be required—regardless of AD direction—to correct an unsafe condition identified in an airplane and to ensure that the airplane is operated in an airworthy condition, as required by the Federal Aviation Regulations. We have not changed the AD in this regard.

Request To Refer to Replacement

Boeing also requests that we revise the ''title section'' or ''header section'' to refer to ''Inspection/Replacement'' in lieu of ''Inspection.'' The commenter states that the required action is not only to inspect to determine the manufacturing date marked on the support bracket of the crew oxygen cylinder, but also to replace certain support assemblies.

We do not agree that any change to the AD is needed with regard to this request. We are unable to determine what section of the AD that the commenter is requesting be changed. We note that the Summary section of the NPRM states that the proposed AD would require ''inspecting the support bracket of the crew oxygen cylinder installation to determine the manufacturing date marked on the support, *and performing corrective action if necessary.*'' We also note that the Relevant Service Information section of the NPRM refers to the same actions and further explains that ''The corrective action is replacing, with a new support, any support with a manufacturing date that is within a certain range.'' The heading of paragraph (f) of the NPRM (and this AD) describe the actions in paragraph (f) as

an ''Inspection and Corrective Action,'' and the requirements of that paragraph are consistent with the actions described in the Summary and Relevant Service Information sections of the NPRM. Since all of these sections refer, at minimum, to an inspection and corrective action, we find no section of this AD needs to be made more specific. Thus we have not changed the AD in this regard.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

There are about 70 airplanes of the affected design in the worldwide fleet. This AD will affect about 15 airplanes of U.S. registry. The required inspection will take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of this AD for U.S. operators is $975, or $65 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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):

2006–12–10 Boeing: Amendment 39–14635. Docket No. FAA–2005–23250; Directorate Identifier 2005–NM–150–AD.

Effective Date

(a) This AD becomes effective July 17, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–400 series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 747–35–2114, dated December 19, 2002.

Unsafe Condition

(d) This AD results from a report indicating that certain oxygen cylinder supports may not have been properly heat-treated. We are issuing this AD to prevent failure of the oxygen cylinder support under the most critical flight load conditions, which could cause the oxygen cylinder to come loose and leak oxygen. Leakage of oxygen could result in oxygen being unavailable for the flightcrew or could result in a fire hazard in the vicinity of the leakage.

Compliance

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

Inspection and Corrective Action

(f) Within 18 months after the effective date of this AD, except as provided by paragraph (g) of this AD: Inspect the support bracket of the crew oxygen cylinder installation to determine the manufacturing date marked on the support, and do the corrective action as applicable, by doing all of the actions in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–35–2114, dated December 19, 2002. Corrective action, if applicable, must be done before further flight after the inspection.

(g) If the configuration of the crew oxygen cylinder installation is changed from a one-cylinder to a two-cylinder configuration: Do the actions required by paragraph (f) of this AD before further flight after the change in configuration, or within 18 months after the effective date of this AD, whichever is later.

Parts Installation

(h) On or after the effective date of this AD, no person may install an oxygen cylinder support bracket having part number 65B68258–2 and having a manufacturing date between 10/01/98 and 03/09/01 inclusive (meaning, a manufacturing date of 10/01/98 or later and 03/09/01 or earlier).

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office, 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

(j) You must use Boeing Special Attention Service Bulletin 747–35–2114, dated December 19, 2002, 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 this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, 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 May 31, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5209 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23890; Directorate Identifier 2005–NM–229–AD; Amendment 39–14633; AD 2006–12–08]

RIN 2120–AA64

Airworthiness Directives; Goodrich Evacuation Systems Approved Under Technical Standard Order (TSO) TSO-C69b and Installed on Airbus Model A330–200 and –300 Series Airplanes, Model A340–200 and –300 Series Airplanes, and Model A340–541 and –642 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Goodrich evacuation systems approved under TSO–C69b and installed on certain Airbus Model A330–200 and –300 series airplanes, Model A340–200 and –300 series airplanes, and Model A340–541 and –642 airplanes. This AD requires inspecting to determine the part number of the pressure relief valves on the affected Goodrich evacuation systems, and corrective action if necessary. This AD results from a report indicating that, during maintenance testing, the pressure relief valves on the affected Goodrich evacuation systems did not seal when activated, which caused the pressure in the escape slide/raft to drop below the minimum allowable raft mode pressure. We are issuing this AD to prevent loss of pressure in the escape slides/rafts after an emergency evacuation, which could result in inadequate buoyancy to support the raft's passenger capacity during ditching, and increase the chance for injury to raft passengers.

DATES: This AD becomes effective July 17, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 17, 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 Goodrich, Aircraft Interior Products, ATTN: Technical Publications, 3414 South Fifth Street, Phoenix, AZ 85040, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Tracy Ton, Aerospace Engineer, Cabin Safety/Mechanical and Environmental Systems Branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5352; 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 would apply to Goodrich evacuation systems approved under TSO–C69b and installed on certain Airbus Model A330–200 and –300 series airplanes, Model A340–200 and –300 series airplanes, and Model A340–541 and –642 airplanes. That NPRM was published in the **Federal Register** on February 15, 2006 (71 FR 7876). That NPRM proposed to require inspecting to determine the part number of the pressure relief valves on the affected Goodrich evacuation systems, and corrective action if necessary.

Comments

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

Request To Revise Goodrich Service Bulletin

Northwest Airlines (NWA) asks that, prior to AD release, the referenced Goodrich service bulletin be revised and issued. NWA states that the subject Goodrich evacuation systems are defined in the service bulletin. NWA adds that Table 3 of the service bulletin identifies part numbers (P/Ns) 7A1509–115 and –117 as affected parts, and Table 5 of the service bulletin identifies P/N 7A1509–121 and subsequent as parts that are not affected. NWA notified Goodrich that P/N 7A1509–119 is not included in either table, yet it is a valid part. Goodrich responded to NWA stating that P/N 7A1509–119 is not affected by the AD, and it agreed that the P/N was omitted from the tables in the service bulletin in error. Goodrich also stated that it intends to revise the referenced service bulletin to include in Table 5 that P/N 7A1509–119 and subsequent are not affected by the AD.

We acknowledge the request that, prior to the release of this AD, the referenced Goodrich service bulletin be revised and issued. We infer that NWA is asking that after Goodrich revises the referenced service bulletin we add that bulletin to this AD. We will consider this after the revision is issued. Since P/N 7A1509–119 is not listed as an affected part, there is no harm done due to its omission. To delay this AD would be inappropriate, since we have determined that an unsafe condition exists and that action must be taken to ensure continued safety. Once the service bulletin is reviewed and available, we may consider additional rulemaking. For clarification, we have removed the reference to P/Ns identified in the referenced Goodrich service bulletin from the applicability section of the AD.

Operators as Beta Testers/Parts Cost

Lufthansa Technik (LT) states that beta testing of parts for the original equipment manufacturer (OEM) is often unsuccessful and should not be done. LT adds that these OEM practices have an influence on the entire industry, and the results are not always favorable. LT concludes that, in general, the cost of unsuccessful parts replacement should be paid by the OEM, not operators; therefore, all necessary parts should be free of charge.

We acknowledge the information provided by LT and offer some clarification. The beta testing process is only used when the OEM and the operator agree to install a new, experimental part designed to collect in-service data. The pressure relief valves identified in this AD are not beta-tested parts; they were produced and tested to meet an approved design. In addition, we have no control over whether or not an OEM charges for replacement parts. No change to the AD is necessary in this regard.

Conclusion

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

Costs of Compliance

This AD affects about 27 airplanes of U.S. registry. The actions will take about

1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $1,755, or $65 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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):

2006–12–08 Airbus: Amendment 39–14633. Docket No. FAA–2006–23890; Directorate Identifier 2005–NM–229–AD.

Effective Date

(a) This AD becomes effective July 17, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Goodrich Evacuation Systems Approved Under Technical Standard Order (TSO) TSO–C69b, as installed on Airbus Model A330–201, –202, –203, –223, –243, –301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, –213, –311, –312, and –313 airplanes; and Model A340–541 and –642 airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from a report indicating that, during maintenance testing, the pressure relief valves of certain Goodrich evacuation systems did not seal when activated, which allowed the pressure in the slide/raft to drop below the minimum allowable raft mode pressure. We are issuing this AD to prevent loss of pressure in the escape slides/rafts after an emergency evacuation, which could result in inadequate buoyancy to support the raft's passenger capacity during ditching, and increase the chance for injury to raft passengers.

Compliance

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

Inspection

(f) Within 36 months after the effective date of this AD: Perform an inspection to determine the part number (P/N) of the pressure relief valve on the Goodrich evacuation systems in accordance with the Accomplishment Instructions of Goodrich Service Bulletin 25–355, dated July 25, 2005.

(1) If any pressure relief valve having P/N 4A3791–3 is installed, before further flight, replace the valve with a new or serviceable valve having P/N 4A3641–1 and mark the girt adjacent to the placard, in accordance with the Accomplishment Instructions of the service bulletin.

(2) If any pressure release valve having P/N 4A3641–1 is installed, before further flight, mark the girt adjacent to the placard in accordance with the Accomplishment Instructions of the service bulletin.

Part Installation

(g) As of the effective date of this AD, no person may install a pressure relief valve having P/N 4A3791–3, on any airplane equipped with Goodrich evacuation systems identified in Goodrich Service Bulletin 25–355, dated July 25, 2005.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Los Angeles 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 § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(i) None.

Material Incorporated by Reference

(j) You must use Goodrich Service Bulletin 25–355, dated July 25, 2005, 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 this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Goodrich, Aircraft Interior Products, ATTN: Technical Publications, 3414 South Fifth Street, Phoenix, AZ 85040, 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 May 31, 2006.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5208 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22488; Directorate Identifier 2005–NM–151–AD; Amendment 39–14637; AD 2000–11–19 R1]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 and –300 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is revising an existing airworthiness directive (AD) that applies to certain Boeing Model 767–200 and –300 series airplanes. That AD currently requires repetitive inspections to detect wear or damage of the door latches and disconnect housings in the off-wing escape slide compartments, and replacement of any discrepant component with a new component. This new AD revises the applicability of the existing AD to refer to a later revision of the referenced service bulletin, which removes airplanes that are not subject to the identified unsafe condition. This AD results from reports of worn and damaged door latches and disconnect housings in the off-wing escape slide compartments. We are issuing this AD to ensure deployment of an escape slide during an emergency evacuation. Non-deployment of an escape slide during an emergency could slow down the evacuation of the airplane and result in injury to passengers or flightcrew. We are also issuing this AD to detect damaged disconnect housings in the off-wing escape slide compartments, which could result in unexpected deployment of an escape slide during maintenance, and consequent injury to maintenance personnel.

DATES: The effective date of this AD is July 18, 2000.

The Director of the **Federal Register** approved the incorporation by reference of Boeing Service Bulletin 767–25A0260, Revision 1, dated January 25, 2001; Boeing Service Bulletin 767–25A0260, Revision 2, dated August 26, 2004; Boeing Service Bulletin 767–25A0260, Revision 3, dated July 7, 2005; and Boeing Service Bulletin 767–25A0275, Revision 3, dated April 24, 2003; listed in the AD as of July 17, 2006.

On July 18, 2000 (65 FR 37015, June 13, 2000), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 767–25A0260, dated July 9, 1998.

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, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Victor Wicklund, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6458; fax (425) 917–6590.

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 proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with an airworthiness directive (AD) to revise AD 2000–11–19, amendment 39–11767 (65 FR 37015, June 13, 2000). The existing AD applies to certain Boeing Model 767–200 and –300 series airplanes. The proposed AD was published in the **Federal Register** on September 21, 2005 (70 FR 55323) to continue to require repetitive inspections to detect wear or damage of the door latches and disconnect housings in the off-wing escape slide compartments, and replacement of any discrepant component with a new component. The proposed AD also proposed to revise the applicability of the existing AD to refer to a later revision of the referenced service bulletin, which removes airplanes that are not subject the identified unsafe condition.

Comments

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

Support for the Proposed AD

United Airlines and the National Transportation Safety Board support the proposed AD.

Request to Revise the Applicability

Boeing requests that the applicability of the proposed AD be revised to ''Boeing Model 767–200 and –300 series airplanes, equipped with Goodrich off-wing ramp/slide having basic part numbers (P/N) 101630, 101654, 101655, or 101656. * * *'' Boeing states that this change would clearly identify that the proposed AD is only applicable to the Goodrich off-wing slide system. Boeing further states that if that system is removed or replaced, the proposed inspection would no longer be necessary and, as a result, the airplane would not be applicable to the AD.

We agree and have revised the AD accordingly.

Requests to Refer to Alternative Method of Compliance (AMOC), Revise Service Information, and Delay Issuance of the Final Rule

The Air Transport Association (ATA), on behalf of a member, Continental Airlines, requests that AMOC 120S–01–80 be incorporated in the proposed AD and in a revision to Boeing Service Bulletin 767–25A0260, Revision 3, dated July 7, 2005 (referred to as an appropriate source of service information in the proposed AD for doing the proposed actions). The ATA also requests that Boeing Service Bulletin 767–25A0275, Revision 3, dated April 24, 2003, which outlines the procedures for accomplishing AMOC 120S–01–80, be referenced in the proposed AD and in Boeing Service Bulletin 767–25A0260. In addition, Continental Airlines requests that we delay issuance of the final rule until Boeing Service Bulletin 767–25A0260 is revised. The ATA states that these changes would avoid the need for processing AMOCs in the future and would provide appropriate references to service instructions related to the proposed actions.

We partially agree. For the reasons provided by the ATA and Continental Airlines, we agree to refer to Boeing Service Bulletin 767–25A0275, Revision 3, dated April 24, 2003, in the AD as an acceptable method of compliance with the replacement requirements of paragraph (h) of this AD (i.e., Part 3 of the Work Instructions of Boeing Service Bulletin 767–25A0260 only) for both disconnect housings only. However, we do not agree with Continental Airline's request to delay issuance of this AD until Boeing revises Service Bulletin

767–25A0260 to incorporate the procedures in the subject AMOC. To delay this action would be inappropriate, since we have determined that an unsafe condition exists and that inspections and replacement if necessary must be conducted to ensure continued safety. We have determined that doing the procedures specified in Boeing Service Bulletin 767–25A0260 (original issue through Revision 3) adequately addresses the identified unsafe condition of this AD. Therefore, we have added a new paragraph (j) to this AD (and re-identified subsequent paragraphs) to specify Boeing Service Bulletin 767–25A0275 as an acceptable method of compliance for doing the replacement requirements of paragraph (h) of this AD for both disconnect housings only.

Request To Address Defective Parts Manufacturer Approval (PMA) Parts

The Modification and Replacement Parts Association (MARPA) requests that consideration be given to the following questions because parts approved under section 21.303 of the Federal Aviation Regulations (14 CFR 21.303) are or may be involved in the proposed actions. The MARPA provided data that shows the PMA holder is also the supplier to the airplane manufacturer, so the parts are numbered identically.

- Do the defective parts exist on other airplanes?
- Is the language in the proposed AD that identifies the defective parts flexible enough to embrace defective PMA alternatives if they exist?

We infer that the MARPA would like the proposed AD to be revised to cover PMA parts, rather than just a single part number, so that defective PMA parts also are subject to the proposed AD. We agree with the MARPA's general request that, if we know that an unsafe condition also exists in PMA parts, the AD should address those parts, as well as the original parts. As the MARPA's data shows, in this case, the identified PMA part has the same part number as the original, and is therefore subject to the requirements of this AD. We are not aware of other PMA parts that have a different part number or of identical parts installed on other airplanes. The MARPA's remarks are timely in that the Transport Airplane Directorate currently is in the process of reviewing this issue as it applies to transport category airplanes. We acknowledge that there may be other ways of addressing this issue to ensure that unsafe PMA parts are identified and addressed. Once we have thoroughly examined all aspects of this issue, including input from industry, and have made a final determination, we will consider whether our policy regarding addressing PMA parts in ADs needs to be revised. We consider that to delay this AD action would be inappropriate, since we have determined that an unsafe condition exists, and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the final rule in this regard.

Request to Reference PMA Parts

The MARPA also requests us to consider if the language identifying the parts to be installed in lieu of defective parts is flexible enough to permit installation of approved PMA items.

We infer that the MARPA would like the AD to permit installation of any equivalent PMA parts so that it is not necessary for an operator to request approval of an AMOC in order to install an ''equivalent'' PMA part. Whether an alternative part is ''equivalent'' in adequately resolving the unsafe condition can only be determined on a case-by-case basis based on a complete understanding of the unsafe condition. We are not currently aware of any such parts. Our policy is that, in order for operators to replace a part with one that is not specified in the AD, they must request an AMOC. This is necessary so that we can make a specific determination that an alternative part is or is not susceptible to the same unsafe condition. No change to the AD is necessary in this regard.

Request to Identify Other Considerations Relating to PMA Parts

The MARPA also asks whether there are other considerations relating to PMA parts that are not addressed in the service bulletins. The MARPA notes that it has never seen a service bulletin that even acknowledges the existence of PMA parts.

Although the MARPA's remarks above do not specifically request a change to this AD, we infer that the commenter would like service bulletins to specify any applicable PMA part numbers (when the specified action involves removal of a defective part and replacement with a new improved part). To clarify, the type certificate holder is responsible to address unsafe conditions associated with their type design when an AD is issued and to make actions and instructions that correct the unsafe condition available to operators. Typically, the way type certificate holders make such information available is through the issuance of service bulletins. If the type certificate holder included PMA parts in their original type design, they must replace these parts in the new type design if the AD requires such action. However, the type certificate holder is not responsible for PMA parts that are not included in the type design. As we responded earlier, there may be other ways of addressing this issue to ensure that unsafe PMA parts are identified and addressed. Once we have thoroughly examined all aspects of this issue, including input from industry, and have made a final determination, we will consider whether our policy regarding addressing PMA parts in ADs needs to be revised. No change has been made to this AD as a result of the MARPA's remarks in the previous paragraph.

Clarification of 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, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. 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 694 airplanes of the affected design in the worldwide fleet. This AD will affect about 315 airplanes of U.S. registry.

The inspections that are required by AD 2000–11–19 and retained in this AD take about 3 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the currently required inspections is $61,425, or $195 per airplane, 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 39–11767 (65 FR 37015, June 13, 2000) and adding the following new airworthiness directive (AD):

2000–11–19 R1 Boeing: Amendment 39–14637. Docket No. FAA–2005–22488; Directorate Identifier 2005–NM–151–AD.

Effective Date

(a) The effective date of this AD is July 18, 2000.

Affected ADs

(b) This AD revises AD 2000–11–19.

Applicability

(c) This AD applies to Boeing Model 767–200 and –300 series airplanes, certificated in any category; as identified in Boeing Service Bulletin 767–25A0260, Revision 3, dated July 7, 2005; equipped with Goodrich off-wing ramp/slide having basic part numbers (P/N) 101630–XXX, 101654–XXX, 101655–XXX, or 101656–XXX, where X is a variable; excluding those airplanes that have been converted from a passenger to freighter configuration, and on which the off-wing escape system has been removed or deactivated.

Unsafe Condition

(d) This AD results from reports of worn and damaged door latches and disconnect housings in the off-wing escape slide compartments. We are issuing this AD to ensure deployment of an escape slide during an emergency evacuation. Non-deployment of an escape slide during an emergency could slow down the evacuation of the airplane and result in injury to passengers or flightcrew. We are also issuing this AD to detect damaged disconnect housings in the off-wing escape slide compartments, which could result in unexpected deployment of an escape slide during maintenance, and consequent injury to maintenance personnel.

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.

Requirements of AD 2000–11–19

Inspections

(f) Prior to the accumulation of 6,000 total flight hours, or within 18 months after July 18, 2000 (the effective date of AD 2000–11–19), whichever occurs later, perform a detailed inspection to detect wear or damage of the door latches and disconnect housings in the off-wing escape slide compartments, in accordance with Boeing Alert Service Bulletin 767–25A0260, dated July 9, 1998. Repeat the inspection thereafter at intervals not to exceed 6,000 flight hours or 18 months, whichever occurs later.

Note 1: Boeing Alert Service Bulletin 767–25A0260, dated July 9, 1998, allows repetitive inspections of a door latch having part number H2052–11 or H2052–115, provided that the latch is not worn or damaged. However, replacement of any latch having part number H2052–11 or H2052–115 with a new latch having part number H2052–13 is described as part of a modification of the escape slide compartment door latching mechanism that is specified in Boeing Alert Service Bulletin 767–25A0174, dated August 15, 1991. Accomplishment of that modification is required by AD 92–16–17, amendment 39–8327, and AD 95–08–11, amendment 39–9200. Therefore, operators should note that any latch having part number H2052–11 or H2052–115 found during an inspection required by paragraph (f) of this AD is already required to be replaced in accordance with AD 92–16–17 or AD 95–08–11, as applicable.

(g) Inspections and corrective actions accomplished prior to July 18, 2000, in accordance with the Validation Copy of Boeing Alert Service Bulletin 767–25A0260, dated April 28, 1998, are considered acceptable for compliance with the applicable action specified in this AD.

Replacement

(h) If any part is found to be worn or damaged during the inspections performed in accordance with paragraph (f) of this AD, prior to further flight, replace the worn or damaged part with a new part, and perform an adjustment of the off-wing escape slide system, in accordance with Boeing Alert Service Bulletin 767–25A0260, dated July 9, 1998.

New Optional Actions

Compliance With Revisions 1 Through 3 of Referenced Service Bulletin

(i) Inspections and applicable corrective actions done after the effective date of this AD in accordance with Boeing Service Bulletin 767–25A0260, Revision 1, dated January 25, 2001; Revision 2, dated August 26, 2004; or Revision 3, dated July 7, 2005; are acceptable for compliance with the corresponding requirements of this AD.

Compliance With Another Service Bulletin

(j) Accomplishing the replacement in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–25A0275, Revision 3, dated April 24, 2003, is acceptable for compliance with the replacement requirements of paragraph (h) of this AD (*i.e.*, Part 3 of the Work Instructions of Boeing Alert Service Bulletin 767–25A0260) for both disconnect housings only.

Alternative Methods of Compliance (AMOCs)

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

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

Material Incorporated by Reference

(l) You may use the service bulletins identified in Table 1 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of the service bulletins identified in Table 2 of this AD in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On July 18, 2000 (65 FR 37015, June 13, 2000), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 767–25A0260, dated July 9, 1998.

(3) Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, 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 1.—ALL MATERIAL INCORPORATED BY REFERENCE

Boeing service bulletin	Revision level	Date
767–25A0260	(1)	July 9, 1998.
767–25A0260	1	January 25, 2001.
767–25A0260	2	August 26, 2004.
767–25A0260	3	July 7, 2005.
767–25A0275	3	April 24, 2003.

[1] Original issue.

TABLE 2.—NEW MATERIAL INCORPORATED BY REFERENCE

Boeing service bulletin	Revision level	Date
767–25A0260	1	January 25, 2001.
767–25A0260	2	August 26, 2004.
767–25A0260	3	July 7, 2005.
767–25A0275	3	April 24, 2003.

Issued in Renton, Washington, on May 31, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5210 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20626; Directorate Identifier 2004–NM–243–AD; Amendment 39–14636; AD 2006–12–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, and –900 Series 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 Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. This AD requires replacing the fuel shutoff valve wires and conduit assemblies in the left and right engine strut aft fairing areas. This AD results from a report that an operator discovered many small chafe marks and exposed shield braid on fuel shutoff wires routed through a conduit in the wing. We are issuing this AD to prevent exposed wires that could provide an ignition source in a flammable leakage zone and possibly lead to an uncontrolled fire or explosion.

DATES: This AD becomes effective July 17, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 17, 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Doug Pegors, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6504; fax (425) 917–6590.

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 would apply to certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. That NPRM was published in the **Federal Register** on March 16, 2005 (70 FR 12815). That NPRM proposed to require replacing the fuel shutoff valve wires and conduit assemblies in the left and right engine strut aft fairing areas.

Explanation of Revised Service Information

Since we issued the NPRM, Boeing revised Special Attention Service Bulletin 737–28–1199, dated September 9, 2004, which was specified in the NPRM as the appropriate source of service information for accomplishing the proposed requirements of this AD. We have reviewed Boeing Special Attention Service Bulletin 737–28–1199, Revision 1, dated December 15, 2005. Service Bulletin 737–28–1199, Revision 1, incorporates information specified in Boeing Information Notice (IN) 737–28–1199 IN 01, dated November 4, 2004, and additional similar changes' although the procedures remain essentially the same. The information and similar changes include revisions to certain part numbers and materials; changes to the step tables and notes in several figures; addition of drawings used in the preparation of the service bulletin; deletion of the reference to Appendix A of the service bulletin; clarification of work instructions; and other changes. Accomplishing the actions specified in the service information is intended to

adequately address the unsafe condition.

Comments

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

Support for the AD

Two commenters, the Airline Pilots Association (ALPA), and AirTran Airways, support the proposed AD.

Request To Extend Compliance Time

Four commenters, Continental, KLM Royal Dutch Airlines (KLM), American Airlines, and the Air Transport Association (ATA) on behalf of American Airlines, request that the compliance time of 24 months specified by the NPRM be extended to 36 months or longer. American Airlines requests that the compliance time be extended to 72 months. The commenters contend that the amount of work proposed by the NPRM will not be possible to accomplish within 24 months without considerable extra maintenance activity at great expense and hardship. The commenters assert that revising the compliance time as requested will bring the AD into closer alignment with scheduled heavy maintenance checks and greatly ease this burden.

We agree that an extension of the compliance time could allow closer alignment with scheduled maintenance for some operators; however, extending the compliance time to 72 months would expose the fleet to an unacceptable level of increased risk. We have determined that extending the 24-month compliance time by 12 months will bring this AD into closer alignment with scheduled maintenance without an unacceptable increase in risk to the fleet. Accordingly, we have revised paragraph (f) of the AD to specify a compliance time of 36 months. Further, to obtain even longer compliance times, anyone may request approval of an AMOC as specified in paragraph (h) of this AD, provided data are submitted to demonstrate that an acceptable level of safety will be maintained.

Request for Wiring Diagram Manual Update

One commenter, Continental, requests that Boeing either incorporate the revised wiring configuration specified by the service bulletin into the existing wiring diagram manual or issue a new manual. Continental asserts that a maintenance technician could unintentionally undo the wire configuration specified by the AD if the existing wiring diagram manual is used after this AD has been performed. Continental states that a revised wiring diagram manual is necessary to maintain the wire routing and modification configuration required by this AD.

We agree that it is essential to maintain proper modification configuration. Section K of Service Bulletin 737–28–1199, Revision 1, lists all publications affected by changes to the service bulletin, such as the wiring diagram manual and illustrated parts catalog. These manuals provide all information needed for maintenance personnel to maintain the wiring configuration detailed by the AD; therefore, such manuals must be current. To ensure this, the release of a service bulletin triggers an update of these manuals. We have confirmed with Boeing that all documents referenced in section K of any Boeing service bulletin are updated and available to operators at the time that service bulletin is released; but that it remains the operator's responsibility to ensure that the updated documents are incorporated into the operator's manuals. No change is needed to the AD in this regard.

Request To Identify Wire Bundle

One commenter, Continental, requests that we revise the NPRM to require installing red-colored identification sleeves on the engine fuel shutoff valve wire bundle. Continental contends that such sleeves, labeled ''CAUTION'' (followed with the service bulletin number ''737–28–1199'' or the operator's number), should be installed on the wire bundle at intervals of 12 to 24 inches. Continental states that similar red identification sleeves are installed on the 737 CL (Classic) Isolated Fuel Quantity Transmitter (IFQT) wiring.

We do not agree. Identification of the IFQT safe side wiring is necessary to maintain isolation of those wires from other high-power wiring that may be routed in close proximity. However, isolation of the engine fuel shutoff valve wire bundle is not a safety-critical issue. No change is needed to the AD in this regard.

Request To Reissue Service Bulletin

One commenter, Continental, requests that the service bulletin be reissued with a clearer description of the unsafe condition. Continental requests certain language in the service bulletin be changed to read, ''The exposure of the wire shield braid could cause electrical arcing in the fuel leakage zone, which could result in an uncontrolled fire and explosion as well as an in-flight engine shutdown.'' Continental asserts that this language clarifies the urgency of the unsafe condition and that the service bulletin should therefore be reissued as an alert service bulletin.

We agree that it is desirable to reflect unsafe conditions in service information as clearly as possible, as this would add a sense of urgency to the service information. However, we have revised the AD to refer to Boeing Service Bulletin 737–28–1199, Revision 1, as the appropriate source of service information for accomplishing the required actions of the AD (refer to ''Explanation of Changes Made to This AD''). Revision 1 refers to the possibility of engine shutdown and we have determined that adding ''alert'' to the title of the service bulletin will have no effect upon airplane safety. No change is needed to the AD in this regard.

Request To Revise Costs of Compliance

Two commenters, Continental and ATA, on behalf of its member, American Airlines, state that the Costs of Compliance shown in the NPRM do not correspond with labor estimates provided by the service bulletin. American Airlines states that the service bulletin specifies 77 work hours rather than the 42 work hours estimated by the NPRM, while Continental asserts that the correct figure should be 50 work hours. Though no request was made, we infer that the commenters wish us to increase the number of work hours shown in the Costs of Compliance.

We do not agree with this request. Based on the best data available, the manufacturer provided the number of work hours necessary to do the required actions. This number represents the time necessary to perform only the actions actually required by this AD. We recognize that in doing the actions required by an AD, operators may incur incidental costs in addition to the direct costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs such as the time required to gain access and to close up, time necessary for planning, or time necessitated by other administrative actions. While the service bulletin includes an estimate of the cost to access and close up the aft fairing areas of the engine struts in order to perform the required fuel shutoff valve wire and conduit assembly replacements, we do not include those costs in our estimate. We have not changed the AD in this regard; however, we have provided some relief to operators by extending the compliance time, as described earlier.

Explanation of Changes Made to This AD

Service Bulletin 737–28–1199, Revision 1, Paragraph 1.A.—Effectivity, shows changes of airplane operators from the original issue of the service bulletin. Therefore, we have revised paragraph (c) of the AD to refer to Service Bulletin 737–28–1199, Revision 1, to determine the applicability of the AD. No new airplanes have been added.

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, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. 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 1,338 airplanes of the affected design in the worldwide fleet. This AD will affect about 529 airplanes of U.S. registry. The required actions will take about 42 work hours per airplane, at an average labor rate of $65 per work hour. Required parts will cost about $2,418 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is $2,723,292, or $5,148 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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):

2006–12–11 Boeing: Amendment 39–14636. Docket No. FAA–2005–20626; Directorate Identifier 2004-NM–243-AD.

Effective Date

(a) This AD becomes effective July 17, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes; certificated in any category; as listed in Boeing Special Attention Service Bulletin 737–28–1199, Revision 1, dated December 15, 2005.

Unsafe Condition

(d) This AD was prompted by a report that an operator discovered many small chafe marks and exposed shield braid on fuel shutoff valve wires routed through a conduit in the wing. We are issuing this AD to prevent exposed wires that could provide an ignition source in a flammable leakage zone and possibly lead to an uncontrolled fire or explosion.

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.

Parts Replacement

(f) Within 36 months after the effective date of this AD, replace the fuel shutoff valve wires and conduit assemblies in the left and right engine strut aft fairing areas with new fuel shutoff valve wires and conduit assemblies, by accomplishing all the actions in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–28–1199, Revision 1, dated December 15, 2005.

Actions Accomplished Using Prior Version of Service Information

(g) Actions accomplished before the effective date of this AD in accordance with Special Attention Service Bulletin 737–28–1199, dated September 9, 2004, are considered acceptable for compliance with the applicable action specified in this AD.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office, 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

(i) You must use Boeing Special Attention Service Bulletin 737–28–1199, Revision 1, dated December 15, 2005, 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 this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, 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 May 31, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5205 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–233–AD; Amendment 39–14585; AD 2006–10–01]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in AD 2006–10–01 that was published in the **Federal Register** on May 8, 2006 (71 FR 26682). The typographical error resulted in an incorrect revision date for a referenced service bulletin. This AD is applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This AD requires the installation of protective tape on the fire and overheat control unit in the flight compartment, and repetitive inspections of the condition of the protective tape and related corrective action. This AD also mandates eventual replacement of the existing fire and overheat control unit with a modified unit, which ends the repetitive inspections.

DATES: Effective June 12, 2006.

FOR FURTHER INFORMATION CONTACT: Rocco Viselli (or James Delisio), Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York; telephone (516) 228–7331 (or (516) 228–7321); fax (516) 794–5531.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 2006–10–01, amendment 39–14585, applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, was published in the **Federal Register** on May 8, 2006 (71 FR 26682). That AD requires the installation of protective tape on the fire and overheat control unit in the flight compartment, and repetitive inspections of the condition of the protective tape and related corrective action. That AD also mandates eventual replacement of the existing fire and overheat control unit with a modified unit, which ends the repetitive inspections.

As published, the AD reads throughout, ''Bombardier Alert Service Bulletin A601R–26–017, Revision ''C,'' dated November 6, 2003.'' The correct date of the service bulletin revision should be November 3, 2003.

Since no other part of the regulatory information has been changed, the final rule is not being republished in the **Federal Register**.

The effective date of this AD remains June 12, 2006.

§ 39.13 [Corrected]

On page 26685, in the left-hand column, paragraph (g) of AD 2006–10–01 is corrected to read as follows:

* * * * *

(g) Actions accomplished before the effective date of this AD in accordance with Bombardier Alert Service Bulletin A601R–26–017, Revision 'C,' dated November 3, 2003; and Bombardier Service Bulletin 601R–26–018, dated December 2, 2002; or Revision 'A,' dated February 27, 2003; as applicable; are considered acceptable for compliance with the corresponding requirements of this AD.

* * * * *

Issued in Renton, Washington, on May 31, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5246 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 738, 742, 745, and 774

[Docket No. 060228055–6055–01]

RIN 0694–AD62

Implementation of Unilateral Chemical/Biological (CB) Controls on Certain Biological Agents and Toxins; Clarification of Controls on Medical Products Containing Certain Toxins on the Australia Group (AG) Common Control Lists; Additions to the List of States Parties to the Chemical Weapons Convention (CWC)

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is publishing this final rule to amend the Export Administration Regulations (EAR) to expand export and reexport controls on certain biological agents and toxins (referred to, herein, as ''select agents and toxins'') that have been determined by the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, and the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, to have the potential to pose a severe threat to human, animal and plant life, as well as certain sectors of the U.S. economy (*e.g.*, agriculture). Prior to the publication of this rule, twenty-two of these agents were not listed on the Commerce Control List (CCL) and one of these agents was incompletely specified therein. By amending the EAR to add a new CCL entry that controls CDC and/or APHIS select agents and toxins (including associated genetic elements, recombinant nucleic acids, and recombinant organisms) not previously specified on the CCL, this rule complements the controls that CDC and AHPIS have imposed on the possession, use, and transfer of these select agents and toxins within the United States. The addition of these items to the CCL is expected to have a minimal impact on U.S. industry, since the volume of exports and reexports is extremely limited.

This rule also amends the EAR to clarify controls on certain medical products containing AG-controlled toxins, other than ricin or saxitoxin, by revising the definition of such products to clearly indicate that they include pharmaceutical formulations, prepackaged for distribution as clinical or medical products, that have been approved by the Food and Drug Administration (FDA) for use as an ''Investigational New Drug'' (IND). Specifically, this rule clarifies that FDA-approved IND products containing AG-controlled toxins (except ricin or saxitoxin) are considered to be ''medical products'' as described in the CCL entry that controls vaccines, immunotoxins, medical products, and diagnostic and food testing kits. BIS is making this clarification because the previous revision to the definition of medical products inadvertently failed to specify that such products include IND items. Furthermore, this clarification is consistent with the language in the AG exemption for clinical and medical products containing botulinum toxins and conotoxins, since the AG exemption applies when such products are designed for ''testing,'' as well as human administration, in the treatment of medical conditions.

In addition, this rule removes the license requirements for exports and

reexports to St. Kitts and Nevis of items that require a license for export or reexport only to countries of concern for chemical and biological weapons proliferation (CB) reasons. This change is being made because St. Kitts and Nevis is not listed in Country Group D:3. As a result of this change, there is now a one-to-one correspondence between the countries included in Country Group D:3 and the countries for which a license requirement is indicated under CB Column 3 of the Commerce Country Chart.

Finally, this rule updates the list of countries that currently are States Parties to the Chemical Weapons Convention (CWC) by adding Antigua and Barbuda, Bhutan, Cambodia, the Democratic Republic of the Congo, Djibouti, Grenada, Haiti, Honduras, Liberia, and Vanuatu, which recently became States Parties. As a result of this change, the CW (Chemical Weapons) license requirements and policies in the EAR that apply to these countries now conform with those applicable to other CWC States Parties.

DATES: This rule is effective June 12, 2006. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694–AD62, by any of the following methods:

- E-mail: *public.comments@bis.doc.gov.* Include ''RIN 0694–AD62'' in the subject line of the message.
- Fax: (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.
- Mail or Hand Delivery/Courier: Willard Fisher, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, ATTN: RIN 0694–AD62.

Send comments regarding this collection of information, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), by e-mail to *David_Rostker@omb.eop.gov,* or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044. Comments on this collection of information should be submitted separately from comments on the final rule (*i.e.*, RIN 0694–AD62)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Douglas Brown, Director, Chemical and Biological Controls Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Telephone: (202) 482–5808.

SUPPLEMENTARY INFORMATION:

Background

A. Amendments to the EAR Establishing Export and Reexport Controls on Certain Select Agents and Toxins

The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to expand export and reexport controls on certain select agents and toxins (including associated genetic elements, recombinant nucleic acids, and recombinant organisms) that have been determined by the Centers for Disease Control and Prevention (CDC) and the Animal and Plant Health Inspection Service (APHIS) to have the potential to pose a severe threat to human, animal and plant life and to certain sectors of the U.S. economy. APHIS and CDC regulate the domestic possession, use, and transfer of these select agents and toxins in accordance with the following regulations: 7 CFR part 331, which contains the APHIS regulations regarding the Possession, Use, and Transfer of PPQ (Plant Protection and Quarantine Programs) Select Agents and Toxins; 9 CFR part 121, which contains the APHIS regulations regarding the Possession, Use, and Transfer of VS (Veterinary Services Programs) and Overlap Select Agents and Toxins; and 42 CFR part 73, which contains the CDC regulations regarding HHS (Department of Health and Human Services) and Overlap Select Agents and Toxins.

This rule amends the Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR) to include those CDC and/or APHIS select agents and toxins (including associated genetic elements, recombinant nucleic acids, and recombinant organisms) not previously specified on the CCL. Prior to the publication of this rule, twenty-two of these agents and toxins were not listed on the CCL and one was only partially specified on the CCL. However, most of these agents and toxins were listed on the CCL prior to the publication of this rule. Currently, they are controlled under Export Control Classification Numbers (ECCNs) 1C351, 1C352, 1C353, and 1C354. Together, these four ECCNs control sixty items identified as CDC and/or APHIS select agents and toxins, all of which are included on the Australia Group (AG) Common Control Lists.

The export and reexport controls established by this rule will complement the controls that CDC and APHIS have imposed on the possession, use, and transfer of these select agents and toxins and associated genetic elements, recombinant nucleic acids, and recombinant organisms within the United States. BIS is taking this action with the understanding that CDC and APHIS have not imposed controls on the export and reexport of these items in recognition of the Department of Commerce's role in regulating the export and reexport of biological agents and toxins. Their regulations do, however, apply to imports of select agents and toxins. Collectively, the controls administered by BIS, CDC, and APHIS will significantly reduce the potential availability of these items for use in unauthorized activities that could pose a serious threat to human, animal or plant health and disrupt certain sectors of the U.S. economy (*e.g.*, agriculture). Although none of the 23 agents and toxins (and associated genetic elements, recombinant nucleic acids, and recombinant organisms) are currently identified on any of the AG Common Control Lists, the United States intends to work in cooperation with the governments of other AG participating countries to consider the addition of these items to the appropriate AG control lists.

Specifically, this rule adds new ECCN 1C360 to the CCL and revises ECCN 1C353 to control the select agents and toxins and associated genetic elements, recombinant nucleic acids, and recombinant organisms identified in 7 CFR part 331, 9 CFR part 121, and/or 42 CFR part 73 that are not specified elsewhere on the CCL. The current CDC/APHIS select agents and toxins that are controlled under new ECCN 1C360 are listed, below, under the categories human and zoonotic pathogens/toxins, animal pathogens, and plant pathogens. One of these items is specified elsewhere on the CCL, as indicated below.

A. Human and zoonotic pathogens and toxins:

1. Viruses:

a. Central European tick-borne encephalitis viruses:

i. Absettarov;

ii. Hanzalova;

iii. Hypr;

iv. Kumlinge;

b. Cercopithecine herpesvirus 1 (Herpes B virus);

c. Reconstructed replication competent forms of the 1918 pandemic influenza virus containing any portion of the coding regions of all eight gene segments;

2. Fungi:
a. Coccidioides immitis;
b. Coccidioides posadasii;
3. Toxins: Shiga-like ribosome inactivating proteins not controlled under ECCN 1C351.d.10;
B Animal pathogens:
1. Viruses:
a. Akabane virus;
b. Bovine spongiform encephalopathy agent;
c. Camel pox virus;
d. Malignant catarrhal fever virus;
e. Menangle virus;
2. Mycoplasma:
a. Mycoplasma capricolum;
b. Mycoplasma F38;
3. Rickettsia: Erhlichia ruminantium (a.k.a. Cowdria ruminantium);
C. Plant pathogens:
1. Bacteria:
a. Candidatus Liberobacter africanus (a.k.a. Liberobacter africanus);
b. Candidatus Liberobacter asiaticus (a.k.a. Liberobacter asiaticus);
c. Xylella fastidiosa pv. citrus variegated chlorosis (CVC);
2. Fungi:
a. Peronosclerospora philippinensis;
b. Sclerophthora rayssiae var. zeae;
c. Synchytrium endobioticum.

New ECCN 1C360 controls these CDC/APHIS select agents and toxins for chemical and biological weapons proliferation (CB) reasons (to destinations indicated under CB Column 1) and anti-terrorism (AT) reasons (to destinations indicated under AT Column 1). Items controlled for CB Column 1 reasons require a license for export or reexport to all destinations, worldwide, as set forth in Section 742.2(a)(1) of the EAR and as indicated on the Commerce Country Chart (see Supplement No. 1 to Part 738 of the EAR). Items controlled for AT Column 1 reasons require a license to Libya, North Korea, Sudan, and Syria, as indicated on the Commerce Country Chart. See Part 742 of the EAR for additional information on these AT license requirements. Exports and reexports of these ''select agents'' may also require a license for reasons specified elsewhere in the EAR (*e.g.*, the end-user/end-use license requirements described in Part 744 of the EAR and the embargoes and other special controls described in Part 746 of the EAR).

This final rule also amends ECCNs 1E001 and 1E351 to control certain technology related to the select agents and toxins listed in new ECCN 1C360. The License Requirements section of ECCN 1E001 is revised to indicate that a license is required, for CB reasons, to export technology for the ''development'' or ''production'' of these items to all destinations, worldwide, as set forth in Section 742.2(a)(1) of the EAR and as indicated under CB Column 1 on the Commerce Country Chart. Such technology also is controlled under ECCN 1E001 for AT reasons and requires a license to Libya, North Korea, Sudan, and Syria, as indicated under AT Column 1 on the Commerce Country Chart. The heading of ECCN 1E351 is revised to indicate that this ECCN controls technology for the disposal of microbiological materials listed in new ECCN 1C360. Such technology requires a license under ECCN 1E351 for export or reexport to all destinations, worldwide, as set forth in Section 742.2(a)(1) of the EAR and as indicated under CB Column 1 on the Commerce Country Chart, and to Libya, North Korea, Sudan, and Syria, as indicated under AT Column 1 on the Commerce Country Chart. See Part 742 of the EAR for additional information on the AT license requirements for these ECCNs. Exports and reexports of this technology may also require a license for reasons specified elsewhere in the EAR (*e.g.*, the end-user/end-use license requirements described in Part 744 of the EAR and the embargoes and other special controls described in Part 746 of the EAR).

This rule also makes conforming changes to ECCNs 1C351 and 1C353 to reflect the addition of new ECCN 1C360 to the CCL. This rule amends ECCN 1C351 to clarify the scope of controls on verotoxins in 1C351.d.10 by adding a new Technical Note, at the end of the List of Items Controlled, to indicate that verotoxins are Shiga-like ribosome inactivating proteins, which are among the select agents and toxins subject to the domestic controls administered by CDC and APHIS (see new ECCN 1C360.a.3.a). In addition, this rule amends ECCN 1C353 by revising the List of Items Controlled to indicate that this ECCN controls genetic elements and genetically modified organisms containing nucleic acid sequences associated with the pathogenicity of microorganisms controlled by new ECCN 1C360 (*i.e.*, genetic elements, recombinant nucleic acids, and recombinant organisms associated with the CDC and/or APHIS select agents and toxins controlled by new ECCN 1C360), as well as microorganisms controlled by ECCN 1C351.a to .c, 1C352, or 1C354. This rule also revises the List of Items Controlled in ECCN 1C353 to indicate that this ECCN controls genetically modified organisms that contain nucleic acid sequences coding for any of the ''toxins'' controlled by new ECCN 1C360, or ''sub-units of toxins'' thereof. Items controlled under ECCN 1C351 or ECCN 1C353 are subject to the same CCL-based license requirements (*i.e.*, CB Column 1 and AT Column 1), as described above, for items controlled under new ECCN 1C360.

This rule also amends ECCNs 1C351, 1C352, 1C353, and 1C354 by revising the ''Related Controls'' paragraph in the List of Items Controlled for each entry to indicate that APHIS and/or CDC maintain controls on the transfer and possession within the United States of certain items controlled by the ECCN. These changes reflect the fact that most of the select agents and toxins subject to the domestic controls of APHIS and/or CDC are already included on the control lists maintained by the AG.

This rule amends the List of Items Controlled in ECCN 1C991 by expanding the scope of this ECCN to control vaccines against items in new ECCN 1C360, immunotoxins containing items in 1C360.a.3 (currently, these include Shiga-like ribosome inactivating proteins not controlled under ECCN 1C351.d.10), medical products containing items in 1C360.a.3, and diagnostic and food testing kits containing items in 1C360.a.3. Controlling these specific vaccines, immunotoxins, medical products, and diagnostic and food testing kits under ECCN 1C991, instead of new ECCN 1C360, means that they generally may be exported or reexported, without a license, to all destinations, except embargoed destinations and countries indicated under AT Column 1 on the Commerce Country Chart (Supplement No. 1 to Part 738 of the EAR)—see Parts 742 and 746 of the EAR for additional information on these license requirements. A license also may be required to export or reexport these items for reasons specified elsewhere in the EAR (*e.g.*, Part 744 of the EAR).

In addition, this rule makes conforming changes to Section 742.2 of the EAR to reflect the addition of new ECCN 1C360 to the CCL. A reference to new ECCN 1C360 is added to paragraph (a)(1)(i), which identifies the ECCNs containing human and zoonotic pathogens/toxins, animal pathogens, plant pathogens, genetic elements, and genetically modified microorganisms that require a license for CB reasons to destinations indicated under CB Column 1 on the Commerce Country Chart (*i.e.*, all destinations, worldwide).

The changes described above are expected to have a minimal impact on U.S. industry, since the volume of exports and reexports of the select agents and toxins (controlled under new ECCN 1C360), associated genetic elements, recombinant nucleic acids, and recombinant organisms (controlled under ECCN 1C353) and the related

technology for these items (controlled under ECCN 1E001 or 1E351) is extremely limited.

B. Amendments to the EAR Clarifying Controls on Medical Products Containing Certain AG-Controlled Toxins

This rule amends ECCN 1C991 on the CCL to clarify the controls on medical products containing AG-controlled toxins other than ricin and saxitoxin. Specifically, this rule clarifies that the ''medical products'' controlled by ECCN 1C991 include pharmaceutical formulations, prepackaged for distribution as clinical or medical products, that have been approved by the U.S. Food and Drug Administration (FDA) for use as an ''Investigational New Drug'' (IND). Consistent with this definition, FDA-approved IND products containing any of the toxins in ECCN 1C351.d, except those controlled for Chemical Weapons Convention (CW) reasons under 1C351.d.5 or .d.6 (i.e., ricin and saxitoxin), are treated as ''medical products'' controlled under ECCN 1C991.c. or .d. This clarification is intended to eliminate any uncertainty concerning the control status of these IND products since the publication of the final rule that revised the definition of ''medical products'' in ECCN 1C991 on October 3, 2000 (65 FR 58911). Furthermore, this clarification is consistent with language in the AG exemption for clinical and medical products containing botulinum toxins and conotoxins, since the AG exemption applies when such products are designed for ''testing,'' as well as human administration, in the treatment of medical conditions. Such medical products, when exported for the legitimate medical treatment for which they are intended, pose no significant proliferation concerns.

This rule further clarifies the types of medical products controlled under ECCN 1C991 by revising the ''Related Definitions'' paragraph in the List of Items Controlled for that ECCN to indicate that ECCN 1C991 controls FDA-approved ''clinical'' or medical products, having the characteristics in 1C991.c or .d, that are: (1) designed for ''testing,'' as well as human administration, in the treatment of medical conditions, and (2) prepackaged for distribution as either ''clinical'' products or medical products. This clarification is intended to make the description of medical products, in the Related Definitions paragraph of ECCN 1C991, more consistent with the language of the AG exemption for clinical and medical products containing botulinum toxins and conotoxins.

Medical products specified in 1C991.c generally may be exported or reexported without a license to all destinations, except embargoed destinations and countries indicated under AT Column 1 on the Commerce Country Chart (Supplement No. 1 to Part 738 of the EAR). Medical products specified in 1C991.d require a license for export or reexport to countries of concern for CB reasons (i.e., Country Group D:3), as set forth in Section 742.2(a)(3) of the EAR and as indicated under CB Column 3 on the Commerce Country Chart, and to countries indicated under AT Column 1 on the Commerce Country Chart. See Part 742 of the EAR for additional information on these AT license requirements. A license also may be required to export or reexport these items for reasons specified elsewhere in the EAR (*e.g.*, the end-user/end-use license requirements described in Part 744 of the EAR and the embargoes and other special controls described in Part 746 of the EAR). Medical products intended for export or reexport in any configuration other than ''prepackaged units applicable to the intended medical treatment'' (*e.g.*, bulk shipments), or intended for any end-uses other than medical treatment, are controlled under ECCN 1C351 or ECCN 1C360.

In addition to the export requirements described in the EAR, the export of an IND, as defined in FDA regulations set forth in 21 CFR 312.3, is subject to certain FDA requirements pursuant to 21 CFR 312.110. These FDA requirements are independent of the export requirements described in the EAR, and exporters must satisfy them in addition to any requirements specified in the EAR.

Finally, note that, in accordance with the policy set forth in the General Technology Note in Supplement No. 2 to Part 774 of the EAR (i.e., '''technology' 'required' for the 'development,' 'production,' or 'use' of a controlled product remains controlled even when applicable to a product controlled at a lower level''), technology for the ''development'' or ''production'' of items controlled under ECCN 1C351, 1C352, 1C353, 1C354, or 1C360, which is controlled under ECCN 1E001 and requires a license to all destinations, worldwide, continues to require a license to all destinations even if such technology is applicable to a product controlled at a lower level, such as a vaccine or immunotoxin controlled under ECCN 1C991 that requires a license only to embargoed destinations and countries of concern for chemical and biological weapons proliferation reasons (Country Group D:3 in Supplement No. 1 to Part 740 of the EAR).

C. Reduction in the Scope of the Chemical and Biological Weapons Proliferation (CB) License Requirements Applicable to St. Kitts and Nevis

This rule removes the license requirements for exports and reexports to St. Kitts and Nevis of items that require a license for export or reexport only to countries of concern for CB reasons (i.e., ECCN 1C991.d items to countries listed in Country Group D:3 in Supplement No. 1 to Part 740 of the EAR). Specifically, this rule amends the Commerce Country Chart (Supplement No. 1 to Part 738 of the EAR) by removing the ''X'' that indicated a license requirement for St. Kitts and Nevis under CB Column 3. This change is being made because St. Kitts and Nevis is not listed in Country Group D:3. As a result of this change, there is now a one-to-one correspondence between the countries included in Country Group D:3 and the countries for which a license requirement is indicated under CB Column 3 of the Commerce Country Chart. This change also eliminates the discrepancy that existed, prior to the publication of this rule, with respect to the country scope of the CB license requirements described in Section 742.2(a)(3) of the EAR.

D. Revisions to the EAR Based on the Addition of New States Parties to the Chemical Weapons Convention (CWC)

This rule revises Supplement No. 2 to Part 745 of the EAR (titled ''States Parties to the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction'') by adding Antigua and Barbuda, Bhutan, Cambodia, the Democratic Republic of the Congo, Djibouti, Grenada, Haiti, Honduras, Liberia, and Vanuatu, which recently became States Parties to the CWC. As a result of this change, the license requirements and policies that apply to exports and reexports of items controlled for CW reasons to each of these seven countries now conform with those applicable to other CWC States Parties, as described in Section 742.18 of the EAR.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 2, 2005, 70 FR 45273 (August 5, 2005), has continued the Export Administration Regulations in

effect under the International Emergency Economic Powers Act.

Expansion of Foreign Policy-Based Export Controls

This rule imposes new export controls for foreign policy reasons. As required by section 6 of the Export Administration Act of 1979, as amended (the Act), a report on the imposition of these controls was delivered to the Congress on June 1, 2006. Although the Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 2, 2005, 70 FR 45273 (August 5, 2005), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Saving Clause

Shipments of items removed from eligibility for export or reexport under a license exception or without a license (i.e., under the designator ''NLR'') as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on July 12, 2006, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previously applicable license exception or without a license (NLR) so long as they are exported or reexported before July 27, 2006. Any such items not actually exported or reexported before midnight, on July 27, 2006, require a license in accordance with this regulation.

''Deemed'' exports of ''technology'' and ''source code'' removed from eligibility for export under a license exception or without a license (under the designator ''NLR'') as a result of this regulatory action may continue to be made under the previously available license exception or without a license (NLR) before July 27, 2006. Beginning at midnight on July 27, 2006, such ''technology'' and ''source code'' may no longer be released, without a license, to a foreign national subject to the ''deemed'' export controls in the EAR when a license would be required to the home country of the foreign national in accordance with this regulation.

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule contains a collection of information subject to the requirements of the PRA. This collection has been approved by OMB under Control Number 0694–0088 (Multi-Purpose Application), which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, as indicated in the **ADDRESSES** section of this rule.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects

15 CFR Part 738

Administrative practice and procedure, Exports, Foreign trade.

15 CFR Part 742

Exports, Foreign trade.

15 CFR Part 745

Administrative practice and procedure, Chemicals, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Foreign trade, Reporting and recordkeeping requirements.

■ Accordingly, Parts 738, 742, 745, and 774 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

PART 738—[AMENDED]

■ 1. The authority citation for 15 CFR part 738 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; sec. 901–911, Pub. L. 106–387; sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

■ 2. Supplement No. 1 to part 738 is amended by revising the entry for ''St. Kitts and Nevis'' to read as follows:

SUPPLEMENT NO. 1 TO PART 738—COMMERCE COUNTRY CHART

Countries	Chemical & biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Firearms convention	Crime control			Anti-terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
	*		*			*		*		*		*		*		
St. Kitts and Nevis	X	X	.....	X	.....	X	X	X	X	X	X	X	.....	X	.....	.....
	*		*			*		*		*		*		*		

PART 742—[AMENDED]

■ 3. The authority citation for 15 CFR part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; sec. 901–911, Pub. L. 106–387; sec. 221, Pub. L. 107–56; sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005); Notice of October 25, 2005, 70 FR 62027 (October 27, 2005).

§ 742.2 [Amended]

■ 4. Section 742.2 is amended by revising the phrase ''ECCNs 1C351, 1C352, 1C353 and 1C354'' in paragraph (a)(1)(i) to read ''ECCNs 1C351, 1C352, 1C353, 1C354 and 1C360''.

PART 745—[AMENDED]

■ 5. The authority citation for 15 CFR part 745 is revised to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of October 25, 2005, 70 FR 62027 (October 27, 2005).

Supplement No. 2 to Part 745—[Amended]

■ 6. Supplement No. 2 to Part 745 is amended by revising the undesignated center heading ''List of States Parties as of August 1, 2005'' to read ''List of States Parties as of March 25, 2006'' and by adding, in alphabetical order, the countries ''Antigua and Barbuda'', ''Bhutan'', ''Cambodia'', ''Congo (Democratic Republic of the)'', ''Djibouti'', ''Grenada'', ''Haiti'', ''Honduras'', ''Liberia'', and ''Vanuatu''.

PART 774—[AMENDED]

■ 7. The authority citation for 15 CFR Part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; sec. 901–911, Pub. L. 106–387; sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

Supplement No. 1 to Part 774—[Amended]

■ 8. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms''& ''Toxins,'' ECCN 1C351 is amended by revising the List of Items Controlled to read as follows:

1C351 Human and zoonotic pathogens and ''toxins'', as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: $ value.

Related Controls: (1) Certain forms of ricin and saxitoxin in 1C351.d.5 and d.6 are CWC Schedule 1 chemicals (see § 742.18 of the EAR). The U.S. Government must provide advance notification and annual reports to the OPCW of all exports of Schedule 1 chemicals. See § 745.1 of the EAR for notification procedures. See 22 CFR part 121, Category XIV and § 121.7 for additional CWC Schedule 1 chemicals controlled by the Department of State. (2) All vaccines and ''immunotoxins'' are excluded from the scope of this entry. Certain medical products and diagnostic and food testing kits that contain biological toxins controlled under paragraph (d) of this entry, with the exception of toxins controlled for CW reasons under d.5 and d.6, are excluded from the scope of this entry. Vaccines, ''immunotoxins'', certain medical products, and diagnostic and food testing kits excluded from the scope of this entry are controlled under ECCN 1C991. (3) For the purposes of this entry, only saxitoxin is controlled under paragraph d.6; other members of the paralytic shellfish poison family (e.g. neosaxitoxin) are classified as EAR99. (4) Clostridium perfringens strains, other than the epsilon toxin-producing strains of Clostridium perfringens described in c.14, are excluded from the scope of this entry, since they may be used as positive control cultures for food testing and quality control. (5) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN (for APHIS, see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c); for CDC, see 42 CFR 73.3(c) and 42 CFR 73.4(c)).

Related Definitions: (1) For the purposes of this entry ''immunotoxin'' is defined as an antibody-toxin conjugate intended to destroy specific target cells (e.g., tumor cells) that bear antigens homologous to the antibody. (2) For the purposes of this entry ''subunit'' is defined as a portion of the ''toxin''.

Items:

a. Viruses, as follows:
a.1. Chikungunya virus;
a.2. Congo-Crimean haemorrhagic fever virus (a.k.a. Crimean-Congo haemorrhagic fever virus);
a.3. Dengue fever virus;
a.4. Eastern equine encephalitis virus;
a.5. Ebola virus;
a.6. Hantaan virus;
a.7. Japanese encephalitis virus;
a.8. Junin virus;
a.9. Lassa fever virus;
a.10. Lymphocytic choriomeningitis virus;
a.11. Machupo virus;
a.12. Marburg virus;
a.13. Monkey pox virus;
a.14. Rift Valley fever virus;
a.15. Tick-borne encephalitis virus (Russian Spring-Summer encephalitis virus);
a.16. Variola virus;
a.17. Venezuelan equine encephalitis virus;
a.18. Western equine encephalitis virus;
a.19. White pox;
a.20. Yellow fever virus;
a.21. Kyasanur Forest virus;
a.22. Louping ill virus;
a.23. Murray Valley encephalitis virus;
a.24. Omsk haemorrhagic fever virus;
a.25. Oropouche virus;
a.26. Powassan virus;
a.27. Rocio virus;
a.28. St. Louis encephalitis virus;
a.29. Hendra virus (Equine morbillivirus);
a.30. South American haemorrhagic fever (Sabia, Flexal, Guanarito);
a.31. Pulmonary and renal syndrome-haemorrhagic fever viruses (Seoul, Dobrava, Puumala, Sin Nombre); or
a.32. Nipah virus.

b. Rickettsiae, as follows:
b.1. Bartonella quintana (Rochalimea quintana, Rickettsia quintana);
b.2. Coxiella burnetii;
b.3. Rickettsia prowasecki (a.k.a. Rickettsia prowazekii); or
b.4. Rickettsia rickettsii.

c. Bacteria, as follows:
c.1. Bacillus anthracis;
c.2. Brucella abortus;
c.3. Brucella melitensis;
c.4. Brucella suis;
c.5. Burkholderia mallei (Pseudomonas mallei);
c.6. Burkholderia pseudomallei (Pseudomonas pseudomallei);
c.7. Chlamydia psittaci;
c.8. Clostridium botulinum;
c.9. Francisella tularensis;
c.10. Salmonella typhi;
c.11. Shigella dysenteriae;
c.12. Vibrio cholerae;
c.13. Yersinia pestis;
c.14. Clostridium perfringens, epsilon toxin producing types; or
c.15. Enterohaemorrhagic Escherichia coli, serotype O157 and other verotoxin producing serotypes.

d. ''Toxins'', as follows, and ''subunits'' thereof:
d.1. Botulinum toxins;
d.2. Clostridium perfringens toxins;
d.3. Conotoxin;
d.4. Microcystin (Cyanginosin);
d.5. Ricin;
d.6. Saxitoxin;
d.7. Shiga toxin;
d.8. Staphylococcus aureus toxins;
d.9. Tetrodotoxin;
d.10. Verotoxin;
d.11. Aflatoxins;
d.12. Abrin;
d.13. Cholera toxin;
d.14. Diacetoxyscirpenol toxin;
d.15. T–2 toxin;
d.16. HT–2 toxin;
d.17. Modeccin toxin;
d.18. Volkensin toxin; or
d.19. Viscum Album Lectin 1 (Viscumin).

Technical Note: Verotoxins (1C351.d.10) are Shiga-like ribosome inactivating proteins (also see ECCN 1C360.a.3.a).

■ 9. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms'' & ''Toxins,'' ECCN 1C352 is amended by revising the Related Controls paragraph in the List of Items Controlled to read as follows:

1C352 Animal pathogens, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: (1) All vaccines are excluded from the scope of this entry. See also 1C991. (2) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN (for APHIS, see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c); for CDC, see 42 CFR 73.3(c) and 42 CFR 73.4(c)).

Related Definition: * * *

Items: * * *

* * * * *

■ 10. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms'' & ''Toxins,'' ECCN 1C353 is amended by revising the List of Items Controlled to read as follows:

1C353 Genetic elements and genetically-modified organisms, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: $ value

Related Controls: Vaccines that contain genetic elements or genetically modified organisms identified in this entry are controlled by ECCN 1C991. The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN, including (but not limited to) genetic elements, recombinant nucleic acids, and recombinant organisms associated with the agents or toxins in ECCN 1C360 (for APHIS, see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c); for CDC, see 42 CFR 73.3(c) and 42 CFR 73.4(c)).

Related Definition: N/A

Items:

a. Genetic elements, as follows:

a.1. Genetic elements that contain nucleic acid sequences associated with the pathogenicity of microorganisms controlled by 1C351.a to .c, 1C352, 1C354, or 1C360;

a.2. Genetic elements that contain nucleic acid sequences coding for any of the ''toxins'' controlled by 1C351.d or 1C360.a.3, or ''sub-units of toxins'' thereof.

b. Genetically modified organisms, as follows:

b.1. Genetically modified organisms that contain nucleic acid sequences associated with the pathogenicity of microorganisms controlled by 1C351.a to .c, 1C352, 1C354, or 1C360;

b.2. Genetically modified organisms that contain nucleic acid sequences coding for any of the ''toxins'' controlled by 1C351.d or 1C360.a.3, or ''sub-units of toxins'' thereof.

Technical Note: 1. ''Genetic elements'' include, inter alia, chromosomes, genomes, plasmids, transposons, and vectors, whether genetically modified or unmodified.

2. This ECCN does not control nucleic acid sequences associated with the pathogenicity of enterohaemorrhagic Escherichia coli, serotype O157 and other verotoxin producing strains, except those nucleic acid sequences that contain coding for the verotoxin or its sub-units.

3. ''Nucleic acid sequences associated with the pathogenicity of any of the microorganisms controlled by 1C351.a to .c, 1C352, 1C354, or 1C360'' means any sequence specific to the relevant controlled microorganism that:

a. In itself or through its transcribed or translated products represents a significant hazard to human, animal or plant health; or

b. Is known to enhance the ability of a microorganism controlled by 1C351.a to .c, 1C352, 1C354, or 1C360, or any other organism into which it may be inserted or otherwise integrated, to cause serious harm to human, animal or plant health.

■ 11. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms'' & ''Toxins,'' ECCN 1C354 is amended by revising the Related Controls paragraph in the List of Items Controlled to read as follows:

1C354 Plant pathogens, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: (1) All vaccines are excluded from the scope of this entry. See ECCN 1C991. (2) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, maintains controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN (see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c)).

Related Definitions: * * *

Items: * * *

* * * * *

■ 12. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms'' & ''Toxins,'' a new ECCN 1C360 is added, immediately following ECCN 1C355, to read as follows:

1C360 Select agents and toxins not controlled under ECCN 1C351, 1C352, or 1C354.

License Requirements

Reason for Control: CB, AT

Controls	Country chart
CB applies to entire entry.	CB Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value.

Related Controls: (1) All vaccines and ''immunotoxins'' are excluded from the scope of this entry. Certain medical products and diagnostic and food testing kits, which contain biological toxins identified in paragraph (a)(3) of this entry, are excluded from the scope of this entry. Vaccines, ''immunotoxins'', certain medical products, and diagnostic and food testing kits excluded from the scope of this entry are controlled under ECCN 1C991. (2) Also see ECCNs 1C351 (AG-controlled human and zoonotic pathogens and ''toxins''), 1C352 (AG-controlled animal pathogens), and 1C354 (AG-controlled plant pathogens). (3) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of items controlled by this ECCN (for APHIS, see 7 CFR 331.3(b), 9 CFR 121.3(b), and 9 CFR 121.4(b); for CDC, see 42 CFR 73.3(b) and 42 CFR 73.4(b)).

Related Definitions: N/A.

Items:

Note: The control status of items listed in this ECCN is not affected by the exemptions or exclusions contained in the domestic possession, use, and transfer regulations maintained by APHIS (at 7 CFR part 331 and 9 CFR part 121) and/or CDC (at 42 CFR part 73).

a. Human and zoonotic pathogens and toxins, as follows:

a.1. Viruses, as follows:

a.1.a. Central European tick-borne encephalitis viruses, as follows:

a.1.a.1. Absettarov;

a.1.a.2. Hanzalova;

a.1.a.3. Hypr;

a.1.a.4. Kumlinge;

a.1.b. Cercopithecine herpesvirus 1 (Herpes B virus);

a.1.c. Reconstructed replication competent forms of the 1918 pandemic influenza virus containing any portion of the coding regions of all eight gene segments;

a.2. Fungi, as follows:

a.2.a. Coccidioides immitis;

a.2.b. Coccidioides posadasii;

a.3. Toxins, as follows:

a.3.a. Shiga-like ribosome inactivating proteins not controlled under ECCN 1C351.d.10;
a.3.b. [Reserved];
b. Animal pathogens, as follows:
b.1. Viruses, as follows:
b.1.a. Akabane virus;
b.1.b. Bovine spongiform encephalopathy agent;
b.1.c. Camel pox virus;
b.1.d. Malignant catarrhal fever virus;
b.1.e. Menangle virus;
b.2. Mycoplasma, as follows:
b.2.a. Mycoplasma capricolum;
b.2.b. Mycoplasma F38;
b.3. Rickettsia, as follows:
b.3.a. Erhlichia ruminantium (a.k.a. Cowdria ruminantium);
b.3.b. [Reserved];
c. Plant pathogens, as follows:
c.1. Bacteria, as follows:
c.1.a. Candidatus Liberobacter africanus (a.k.a. Liberobacter africanus);
c.1.b. Candidatus Liberobacter asiaticus (a.k.a. Liberobacter asiaticus);
c.1.c. Xylella fastidiosa pv. citrus variegated chlorosis (CVC);
c.2. Fungi, as follows:
c.2.a. Peronosclerospora philippinensis;
c.2.b. Sclerophthora rayssiae var. zeae;
c.2.c. Synchytrium endobioticum.

■ 13. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms'' & ''Toxins,'' ECCN 1C991 is amended by revising the List of Items Controlled to read as follows:

1C991 Vaccines, immunotoxins, medical products, diagnostic and food testing kits, as follows (see List of Items controlled).

* * * * *

List of Items Controlled

Unit: $ value

Related Controls: (1) Medical products containing ricin or saxitoxin, as follows, are controlled for CW reasons under ECCN 1C351:

(a) Ricinus Communis Agglutinin $_{II}$ (RCA_{II}), also known as ricin D, or Ricinus Communis Lectin $_{III}$ (RCL_{III});

(b) Ricinus Communis Lectin $_{IV}$ (RCL_{IV}), also known as ricin E; or

(c) Saxitoxin identified by C.A.S. #35523–89–8.

(2) The export of a ''medical product'' that is an ''Investigational New Drug'' (IND), as defined in 21 CFR 312.3, is subject to certain U.S. Food and Drug Administration (FDA) requirements that are independent of the export requirements specified in this ECCN or elsewhere in the EAR. These FDA requirements are described in 21 CFR 312.110 and must be satisfied in addition to any requirements specified in the EAR.

(3) Also see 21 CFR 314.410 for FDA requirements concerning exports of new drugs and new drug substances.

Related Definitions: For the purpose of this entry, ''immunotoxin'' is defined as an antibody-toxin conjugate intended to destroy specific target cells (*e.g.*, tumor cells) that bear antigens homologous to the antibody. For the purpose of this entry, ''medical products'' are: (1) pharmaceutical formulations designed for testing and human administration in the treatment of medical conditions, (2) prepackaged for distribution as clinical or medical products, and (3) approved by the U.S. Food and Drug Administration either to be marketed as clinical or medical products or for use as an ''Investigational New Drug'' (IND) (see 21 CFR part 312). For the purpose of this entry, ''diagnostic and food testing kits'' are specifically developed, packaged and marketed for diagnostic or public health purposes. Biological toxins in any other configuration, including bulk shipments, or for any other end-uses are controlled by ECCN 1C351 or ECCN 1C360. For the purpose of this entry, ''vaccine'' is defined as a medicinal (or veterinary) product in a pharmaceutical formulation, approved by the U.S. Food and Drug Administration or the U.S. Department of Agriculture to be marketed as a medical (or veterinary) product or for use in clinical trials, that is intended to stimulate a protective immunological response in humans or animals in order to prevent disease in those to whom or to which it is administered.

Items:

a. Vaccines against items controlled by ECCN 1C351, 1C352, 1C353, 1C354, or 1C360;

b. Immunotoxins containing items controlled by 1C351.d or 1C360.a.3;

c. Medical products containing botulinum toxins controlled by ECCN 1C351.d.1 or conotoxins controlled by ECCN 1C351.d.3;

d. Medical products containing any of the following items:

d.1. Items controlled by ECCN 1C351.d (except botulinum toxins controlled by ECCN 1C351.d.1, conotoxins controlled by ECCN 1C351.d.3, and items controlled for CW reasons under 1C351.d.5 or .d.6);

d.2. Items controlled by ECCN 1C360.a.3;

e. Diagnostic and food testing kits containing any of the following items:

e.1. Items controlled by ECCN 1C351.d (except items controlled for CW reasons under ECCN 1C351.d.5 or .d.6);

e.2. Items controlled by ECCN 1C360.a.3.

■ 14. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms''& ''Toxins,'' ECCN 1E001 is amended by revising the License Requirements section of the ECCN to read as follows:

1E001 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of items controlled by 1A001.b, 1A001.c, 1A002, 1A003, 1A004, 1A005, 1A101, 1B, or 1C (except 1C355, 1C980 to 1C984, 1C988, 1C990, 1C991, 1C992, and 1C995).

License Requirements

Reason for Control: NS, MT, NP, CB, AT

Control(s)	Country chart
NS applies to ''technology'' for items controlled by 1A001.b and .c, 1A002, 1A003, 1A005, 1B001 to 1B003, 1B018, 1C001 to 1C011, or 1C018.	NS Column 1.
NS applies to ''technology'' for items controlled by 1A004 MT applies to ''technology'' for items MT Column 1 controlled by 1A101, 1B001, 1B101, 1B102, 1B115 to 1B119, 1C001, 1C007, 1C011, 1C101, 1C102, 1C107, 1C111, 1C116, 1C117, or 1C118 for MT reasons.	NS Column 2.
NP applies to ''technology'' for items controlled by 1A002, 1B001, 1B101, 1B201, 1B225 to 1B233, 1C002, 1C010, 1C116, 1C202, 1C210, 1C216, 1C225 to 1C240 for NP reasons.	NP Column 1.
CB applies to ''technology'' for items controlled by 1C351, 1C352, 1C353, 1C354, or 1C360	CB Column 1.
CB applies to ''technology'' for materials controlled by 1C350 and for chemical detection systems and dedicated detectors therefor, in 1A004.c, that also have the technical characteristics described in 2B351.a.	CB Column 2.
AT applies to entire entry	AT Column 1.

License Requirements Note: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

* * * * *

■ 15. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms'' & ''Toxins,'' ECCN 1E351 is amended by revising the ECCN heading and the License Requirements section of the ECCN to read as follows:

1E351 ''Technology'' according to the ''General Technology Note'' for the disposal of chemicals or microbiological materials controlled by 1C350, 1C351, 1C352, 1C353, 1C354, or 1C360.

License Requirements

Reason for Control: CB, AT

Control(s)	Country chart
CB applies to "technology" for the disposal of items controlled by 1C351, 1C352, 1C353, 1C354, or 1C360	CB Column 1.
CB applies to "technology" for the disposal of items controlled by 1C350	CB Column 2.
AT applies to entire entry	AT Column 1.

* * * * *

Dated: June 5, 2006.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. E6–8995 Filed 6–9–06; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–035]

RIN 1625–AA00

Safety Zone: Lake Michigan, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of Implementation of final rule.

SUMMARY: The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Sector Lake Michigan Zone during June 2006. This action is necessary to provide for the safety of life and property on navigable waters during these events. These safety zones will restrict vessel traffic from a portion of the Captain of the Port Sector Lake Michigan Zone.

DATES: Regulations at 33 CFR 165.909(a)(1) through (3) and (9) will be enforced from 12:01 a.m. on June 12, 2006 to 11:59 p.m. on June 30, 2006. All times given in this notice are local.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Brad Hinken, Sector Lake Michigan, (414) 747–7154.

SUPPLEMENTARY INFORMATION: The Coast Guard is implementing the permanent safety zones in 33 CFR 165.909, for fireworks displays in the Captain of the Port Sector Lake Michigan Zone during June 2006. The following safety zones will be enforced during the times indicated below:

(1) *Pridefest Fireworks,* Milwaukee, WI. Location: All waters off of Henry W. Maier Festival Park Harbor Island, outer Milwaukee Harbor from the point of origin at 43[deg]02.209[min] N, 087[deg]53.714[min] W; southeast to 43[deg]02.117[min] N, 087[deg]53.417[min] W; then south to 43[deg]01.767[min] N, 087[deg]53.417[min] W; then southwest to 43[deg]01.555[min] N, 087[deg]53.772[min] W; then north following the shoreline back to the point of origin. All geographic coordinates are North American Datum of 1983 (NAD 83). The Harbor Island Lagoon Area is encompassed by this safety zone. This safety zone will be enforced from 9 p.m. to 10:30 p.m. on June 9, 2006.

(2) *Summerfest Fireworks,* Milwaukee, WI. Location: All waters off of Henry W. Maier Festival Park Harbor Island, outer Milwaukee Harbor encompassed by a line drawn from the point of origin at 43[deg]02.209[min] N, 087[deg]53.714[min] W; then southeast to 43[deg]02.117[min] N, 087[deg]53.417[min] W; then south to 43[deg]01.767[min] N, 087[deg]53.417[min] W; then southwest to 43[deg]01.555[min] N, 087[deg]53.772[min] W; then north following the shoreline back to the point of origin (NAD 83). The Harbor Island Lagoon Area is encompassed by this safety zone. This safety zone will be enforced from 10:00 p.m. to 11:30 p.m. on June 29, 2006 or, in the event of foul weather, during those same times on June 30, 2006.

(3) *Summerfest Hole-in-One Shoot/Stunt Shows,* Milwaukee, WI. Location: All waters of the Harbor Island Lagoon, outer Milwaukee Harbor from the point of origin at 43[deg]02.50[min] N, 087[deg]53.78[min] W then west to 43[deg]02.50[min] N, 087[deg]53.85[min] W; then following the shoreline of the Henry W. Maier Festival Park and Harbor Island back to the point of origin (NAD 83). This safety zone will be enforced from 12 p.m. to 12 a.m. on June 29, 2006 and June 30, 2006.

(4) *Riversplash Fireworks,* Milwaukee, WI. Location: All waters and adjacent shoreline of Pere Marquette Park, Milwaukee River encompassed by the arc of a circle with a 210-foot radius of the fireworks barge in approximate position 43[deg]02.33[min] N, 087[deg]54.46[min] W (NAD 83). (This safety zone will temporarily close down the Milwaukee River.) This safety zone will be enforced from 8:30 p.m. to 10:30 p.m. on June 2, 2006 and June 3, 2006.

In order to ensure the safety of spectators and transiting vessels, these safety zones will be enforced for the duration of the events. In the event that these safety zones affect shipping, commercial vessels may request permission from the Captain of the Port, Sector Lake Michigan to transit through the safety zone. Requests must be made in advance and approved by the Captain of Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Sector Lake Michigan on channel 16, VHF-FM. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Dated: June 1, 2006.

S.P. LaRochelle,

Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.

[FR Doc. E6–9131 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2006–0462; FRL–8181–8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the Missouri State Implementation Plan (SIP). This approval pertains to revisions to the state's rule which restricts emissions from specific Missouri lead smelter-refinery installations. The effect of this approval is to remove duplication between two SIP-approved documents, and does not affect the stringency of the requirements.

DATES: This direct final rule will be effective August 11, 2006, without further notice, unless EPA receives adverse comment by July 12, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2006–0462, by one of the following methods:

1. *http://www.regulations.gov*. Follow the online instructions for submitting comments.

2. *E-mail:* Gwen Yoshimura at *yoshimura.gwen@epa.gov*.

3. *Mail:* Gwen Yoshimura, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier:* Deliver your comments to Gwen Yoshimura, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2006–0462. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. 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.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, 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 *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Gwen Yoshimura at (913) 551–7073, or by e-mail at *yoshimura.gwen@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?
What Is the Federal Approval Process for a SIP?
What Does Federal Approval of a State Regulation Mean to Me?
What Is Being Addressed in This Document?
Have the Requirements for Approval of a SIP Revision Been Met?
What Action Is EPA Taking?

What Is a SIP?

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

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

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

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

In January 1992, the portion of Iron County, Missouri, bounded by Arcadia and Liberty Townships, was designated as nonattainment for lead. The major source of lead emissions in the nonattainment area was the Doe Run Primary Smelting Facility, near Glover, Missouri.

Primary smelting of lead began at this location in 1968 under prior ownership. Since the first quarter of 1997 the area consistently complied with the 1.5 micrograms per cubic meter (1.5 $\mu g/m^3$), maximum quarterly average National Ambient Air Quality Standard (NAAQS) for lead. Currently the facility has ceased production and has been operating on a care and maintenance schedule since December 1, 2003. On October 29, 2004, EPA redesignated Iron County, Missouri, to attainment for the lead NAAQS and approved Missouri's associated SIP revision. As part of the SIP revision, EPA approved the maintenance plan for the area including a settlement agreement.

The settlement agreement is an element of the Glover Lead Maintenance Plan, and contains permanent and enforceable emission reductions for the Doe Run Glover facility. The emission reductions were originally approved as part of the area's 1997 nonattainment SIP (62 FR 9970), and were later incorporated into the settlement agreement. Rule 10 CSR 10–6.120, Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations, duplicates this emission reduction language. This direct final rule eliminates this duplication, deleting the language from the rule and leaving the settlement agreement as is.

Under state law, the settlement agreement would be subject to different enforcement mechanisms than a state regulation. However, under Federal law the settlement agreement (like the preexisting regulation) is enforceable under Section 113 of the CAA, so this change does not affect EPA's enforcement authority.

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

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

EPA approves deletion of references to Doe Run, Glover within Missouri rule 10 CSR 10–6.120. Requirements for Doe Run, Glover remain intact within the settlement agreement among MDNR, the Missouri Air Conservation Commission (MACC), and Doe Run. Removal of this language from the rule therefore does not affect the stringency of the requirements.

On October 28, 2004, the MACC adopted the revised rule after considering comments received at public hearing. We are processing this action as a direct final action because the revisions make routine changes to the existing rule which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

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

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (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 August 11, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 31, 2006.

James B. Gulliford,

Regional Administrator, Region 7.

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

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

■ 2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for ''10–6.120'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.120	Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations.	03/30/2005	06/12/2006	
*	*	*	*	*

* * * * *

[FR Doc. 06–5250 Filed 6–9–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0004; FRL–8176–4]

Approval and Promulgation of Air Quality Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Indiana State Implementation Plan (SIP) for ozone. In these revisions, the State has incorporated changes EPA made to its definition of volatile organic compound (VOC) and its list of Hazardous Air Pollutants (HAP). As a result of EPA's approval, five chemical compounds will no longer be considered VOCs and one compound will no longer be considered a HAP under Indiana's SIP.

DATES: This direct final rule will be effective August 11, 2006, without further notice, unless EPA receives adverse comment by July 12, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0004, by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: mooney.john@epa.gov.*
- *Fax*: (312) 886–5824.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2006–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *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 instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

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 in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday

through Friday, excluding legal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886–6524 before visiting the Region 5 office.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Should I Consider as I Prepare My Comments for EPA?
II. What Is EPA Approving?
III. What Is the Background for this Action?
IV. What Is EPA's Analysis of the State Submission?
V. What Are the Environmental Effects of These Actions?
VI. What Action Is EPA Taking Today?
VII. Statutory and Executive Order Reviews

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

A. 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.

B. 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).
- 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. What Is EPA Approving?

EPA is approving revisions to Indiana's definitions for ''VOC'' and ''nonphotochemically reactive hydrocarbons,'' as well as its HAP list. By incorporating by reference 40 CFR 51.100(s), the following four VOC compounds will no longer be considered VOCs under Indiana SIP rules 326 IAC 1–2–48 (''nonphotochemically reactive hydrocarbons'') and 326 IAC 1–2–90 (''Volatile organic compound''), and sources of these compounds will not have to follow any of the VOC requirements when using these compounds: 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane; 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane; 1,1,1,2,3,3,3-heptafluoropropane; and methyl formate.

In addition, Indiana has revised 326 IAC 1–2–48 and 1–2–90 to incorporate by reference 40 CFR 51.100(s)(5),such that sources of t-butyl acetate will no longer be subject to VOC emission or content limits. Such sources will, however, still need to follow VOC record keeping, emission reporting, and inventory requirements.

Indiana has also revised 326 IAC 1–2–48 to incorporate by reference 40 CFR 51.100(s)(2), such that sources may exclude neglibly photochemically reactive compounds that are measured as VOC during a compliance test.

Finally, Indiana has revised its definition of ''hazardous air pollutant'' or ''HAP'' in 326 IAC 1–2–33.5 to incorporate by reference 40 CFR 63.63, such that the compound ethylene glycol monobutyl ether (EGBE) will no longer be on its list of HAPs.

III. What Is the Background for This Action?

Indiana's requested revisions to the VOC definitions and list of HAPs adopt changes that EPA made on November 29, 2004. In the first action (69 FR 69298), EPA added four chemicals to the list of excluded compounds at 40 CFR 51.100(s)(1), on the basis that these compounds make a negligible contribution to tropospheric ozone formation. These are: 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane; 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane; 1,1,1,2,3,3,3-heptafluoropropane; and methyl formate.

In the second action (69 FR 69304), EPA modified the definition of VOC at 40 CFR 51.100(s)(5) to exclude t-butyl acetate as a VOC for purposes of VOC emission limitations or VOC content requirements. While EPA determined that t-butyl acetate has a negligible contribution to tropospheric ozone formation, it also concluded that the compound should still be subject to all record keeping, emissions reporting, modeling, and inventory VOC requirements.

In the third action (69 FR 69325), EPA amended 40 CFR Part 63 to remove EGBE from the HAP list (40 CFR 63.63). This was the result of EPA's determination that emissions, ambient concentrations, bioaccumulation, or deposition of EGBE may not reasonably be anticipated to cause any adverse effects to the human health or adverse environmental effects. 69 FR at 69321.

Finally, on February 3, 1992, EPA amended 40 CFR 51.100 by adding paragraph (s)(2), such that sources may exclude negligibly photochemically reactive compounds that are measured as VOC during a compliance test (57 FR 3945).

IV. What Is EPA's Analysis of the State Submission?

Indiana's requested revisions incorporate by reference the following federal regulations: 40 CFR 51.100(s)(1), the de-listing of four compounds formerly considered VOCs; 40 CFR 51.100(s)(2), the authority to exclude negligibly photochemically reactive compounds that are measured as VOC during a compliance test; 40 CFR 51.100(s)(5), the modification of the definition of VOC concerning t-butyl acetate; and 40 CFR 63.63, the removal of EGBE from the HAP list. They are, therefore, approvable as revisions to Indiana's SIP.

V. What Are the Environmental Effects of These Actions?

Volatile organic compounds are precursors to ozone formation. Complex photochemical reactions involving VOCs form tropospheric ozone. EPA has determined that the five compounds make a negligible contribution to ozone formation. Thus, the compounds are no longer considered to be VOCs.

Ozone decreases lung function, causing chest pain and coughing. It can aggravate asthma, reduce lung capacity, and increase risk of respiratory diseases like pneumonia and bronchitis. Children playing outside and healthy adults who work or exercise outside also may be harmed by elevated ozone levels. Ozone also reduces vegetation growth in economically important agricultural crops and wild plants.

Exposure to HAPs at sufficient concentration and duration may increase the risk of cancer and other serious health effects. These health

effects include damage to the immune system and neurological, reproductive, developmental, and respiratory health problems. Drinking water can be contaminated by HAPs. In addition, some HAPs can enter the food chain through the exposure of crops and animals. Animals can suffer health effects from HAP exposure similar to the effects in humans.

VI. What Action Is EPA Taking Today?

EPA is approving, through direct final rulemaking, revisions to the Indiana ozone and hazardous air pollutant regulations. As a result of EPA's approval of Indiana's SIP submission, four compounds are no longer considered to be VOCs and a fifth compound is not subject to VOC content and emission limits but will still be subject to other requirements. In addition, EGBE will no longer be considered a HAP.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective August 11, 2006 without further notice unless we receive relevant adverse written comments by July 12, 2006. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective August 11, 2006.

VII. Statutory and Executive Order Reviews

Executive Order 12866; Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

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

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

Regulatory Flexibility Act

This 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.*).

Unfunded Mandates Reform Act

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).

Executive Order 13175 Consultation and Coordination With Indian Tribal Governments

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 (59 FR 22951, November 9, 2000).

Executive Order 13132 Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely 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.

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

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.

National Technology Transfer Advancement Act

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

Paperwork Reduction Act

This 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.*).

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 August 11, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: May 17, 2006.

Norman Niedergang,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart P—Indiana

■ 2. Section 52.770 is amended by adding paragraph (c)(176) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(176) On December 21, 2005, Indiana submitted revised regulations that incorporate by reference 40 CFR 51.100(s)(1), as amended at 69 FR 69298. As a result, the compounds, 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane, 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane, 1,1,1,2,3,3,3-heptafluoropropane, and methyl formate, are added to the list of ''nonphotochemically reactive hydrocarbons'' or ''negligibly photochemically reactive compounds'' in 326 IAC 1–2–48 and these compounds are deleted from the list of VOCs in 326 IAC 1–2–90. Companies producing or using the four compounds will no longer need to follow the VOC rules for these compounds.

The requirements in 326 IAC 1–2–48 and 1–2–90 were also modified for the compound t-butyl acetate. It is not considered a VOC for emission limits and content requirements. T-butyl acetate will still be considered a VOC for the recordkeeping, emissions reporting, and inventory requirements.

Indiana is also revising 326 IAC 1–2–33.5 to remove ethylene glycol monobutyl ether from its HAP list. This chemical will no longer be considered a hazardous air pollutant.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 1: General Provisions, Rule 2: Definitions, Section 33.5: '''Hazardous air pollutant' or 'HAP' defined,'' and Section 48: '''Nonphotochemically reactive hydrocarbons' or 'negligibly photochemically reactive compounds' defined,'' and Section 90: '''Volatile organic compound' or 'VOC' defined.'' Filed with the Secretary of State on October 20, 2005 and effective November 19, 2005. Published in 29 *Indiana Register* 795–797 on December 1, 2005.

[FR Doc. 06–5252 Filed 6–9–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[EPA–HQ–OW–2002–0068; FRL–8183–3]

RIN 2040–AE81

Amendments to the National Pollutant Discharge Elimination System (NPDES) Regulations for Storm Water Discharges Associated With Oil and Gas Exploration, Production, Processing, or Treatment Operations or Transmission Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to codify in the Agency's regulations changes to the Federal Water Pollution Control Act, also known as the ''Clean Water Act'' or ''CWA,'' resulting from the Energy Policy Act of 2005. This action modifies the National Pollutant Discharge Elimination System regulations to provide that certain storm water discharges from field activities or operations, including construction, associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities are exempt from National Pollutant Discharge Elimination System permit requirements. This action also encourages voluntary application of best management practices for oil and gas field activities and operations to minimize the discharge of pollutants in storm water runoff and protect water quality.

DATES: This final rule is effective on June 12, 2006. For the purposes of judicial review, this final rule is promulgated as of June 12, 2006. See 40 CFR 23.2.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2002–0068. All documents in the docket are listed on the *www.regulations.gov* Web site. 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, 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 Water Docket, EPA/DC, EPA West, Room 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 Water Docket is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: Jeff Smith, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–0652; fax number: (202) 564–6431; e-mail address: *smith.jeff@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Entities potentially affected by this action include operators of oil and gas exploration, production, processing, or treatment operations or transmission facilities and associated construction activities at oil and gas sites that generally are defined in the following North American Industrial Classification System (NAICS) codes and titles: 211—Oil and Gas Extraction, 213111—Drilling Oil and Gas Wells, 213112—Support Activities for Oil and Gas Operations, 48611—Pipeline Transportation of Crude Oil and 48621—Pipeline Transportation of Natural Gas.

This description with references to industrial classification codes is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. This description identifies the principal types of entities that EPA is aware could potentially be affected by this action. Other types of entities not identified could also be affected. To determine whether your facility or company is affected by this action, you should carefully examine 40 CFR 122.26(a)(2), (b)(14)(x), (b)(15), (c)(1)(iii) and (e)(8). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. When Does This Final Rule Take Effect?

This final rule is effective on June 12, 2006. Because this final rule provides relief from permitting requirements for certain dischargers, this final rule is not subject to the general requirement for a thirty-day waiting period after publication before a final rule takes effect. By providing such relief, this final rule ''relieves a restriction'' on these dischargers. 5 U.S.C. 553(d)(1). Moreover, pursuant to 5 U.S.C. 553(d)(3), EPA has good cause to make this final rule effective immediately upon publication. Without this final rule, dischargers eligible for this permit exemption would, in accordance with EPA's regulations, be required to obtain permit authorization by June 12, 2006. This action eliminates this permit obligation, which would otherwise have applied during the period between the time the rule is published and the time it would take effect (ordinarily, 30 days after publication). Making this rule effective as soon as it is published will help reduce any confusion on the part of those affected by the rule regarding the necessity for obtaining permit coverage. Therefore, a thirty-day waiting period is unnecessary and would be contrary to the public interest.

II. Background Information

The 1987 amendments to the CWA added language at section 402(*l*)(2) that exempts from NPDES permitting requirements certain storm water discharges from oil and gas exploration, production, processing, or treatment operations or transmission facilities. That provision in the Act states that ''[t]he Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of storm water runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.'' The 1990 NPDES Phase I Storm Water rule (55 FR 47990, November 16, 1990) established permit requirements for certain storm water discharges, including storm water discharges associated with construction activities that disturb five acres or greater or that disturb less than five acres when part of a larger common plan of development or sale that disturbs five acres or more. One provision of the Phase I rule codified the CWA section 402(*l*)(2) exemption at 40 CFR 122.26(a)(2). The 1990 rule also codified, at 40 CFR 122.26(c)(1)(iii), the conditions that would be considered indicative of contamination by contact with raw material, intermediate products, finished product, byproduct, or waste products located on a site and would thus necessitate an NPDES storm water permit application by oil and gas exploration, production, processing or treatment operations or transmission facilities. Specifically, 40 CFR 122.26(c)(1)(iii) established permit requirements for contaminated discharges as follows:

(iii) The operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with paragraph (c)(1)(i) of this section, unless the facility:

(A) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at any time since November 16, 1987; or

(B) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or

(C) Contributes to a violation of a water quality standard.

EPA based this regulation on the legislative history of CWA section 402(*l*)(2), which directed EPA to consider whether reportable quantities (RQs) of oil or hazardous substances under either the CWA or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) had been exceeded in determining whether storm water from oil and gas operations had been contaminated by contact with overburden, raw material, intermediate products, finished products, byproduct, or waste products. (Pub. L. 95–217, Sec. 33(c), added subsec. (*l*))

Shortly after issuance of EPA's first general permit specific to storm water discharges associated with construction activity (Final NPDES General Permits for Storm Water Discharges From Construction Sites, September 9, 1992, 57 FR 41176), EPA Region 8 raised a question to EPA Headquarters about the applicability of the permit requirements to oil and gas-related construction activities. On December 10, 1992, EPA Headquarters sent a memorandum to EPA Region 8 stating that all construction activities that disturb five or more acres must apply for a permit, including those construction activities associated with oil and gas activities.

A collection of trade associations brought a lawsuit against EPA over this memorandum, asserting that it was unlawful and requesting that the court set it aside as inconsistent with the CWA. The United States Court of Appeals for the Fourth Circuit dismissed this challenge on the grounds that the internal EPA memorandum itself did not constitute an action reviewable by the courts. *Appalachian Energy Group* v. *EPA*, 33 F.3d. 319, 322 (4th Cir. 1994). The interpretation of CWA section 402(*l*)(2) contained in that memorandum, i.e., that oil and gas-related construction activities required permit coverage, formed the basis of EPA policy on the issue.

When EPA promulgated the Phase II storm water rule on December 8, 1999, EPA included a requirement that storm water discharges from small construction activities obtain NPDES permit coverage beginning on March 10, 2003. The Phase II rule defined small construction activities as those disturbing between one and five acres or those disturbing less than one acre when part of a larger common plan of development or sale that disturbs one to five acres. As part of its rulemaking, EPA analysis suggested that few, if any, oil and gas exploration sites would actually disturb more than one acre of land. Economic Analysis of the Final Phase II Storm Water Rule, October 1999 (see p. 4–2). Accordingly, EPA decided that separate analysis of this sector was unnecessary. After promulgating the Phase II rule, EPA became aware that close to 30,000 oil and gas sites annually may, in fact, be affected. EPA now believes that the majority of such sites may exceed one acre when the acreage attributed to lease roads, pipeline rights-of-way and other infrastructure facilities is apportioned to each site.

In light of this new information, on March 10, 2003, EPA published a rule (the ''deferral rule'') that postponed until March 10, 2005, the permit authorization deadline for NPDES storm water discharges associated with small oil and gas construction activity. This extension was intended to provide EPA time to analyze and better evaluate (1) the impact of the permit requirements on the oil and gas industry, (2) the appropriate best management practices (BMPs) for preventing contamination of storm water runoff resulting from construction associated with oil and gas

exploration, production, processing, or treatment operations or transmission facilities, and (3) the scope and effect of section 402(*l*)(2) and other storm water provisions of the Clean Water Act. 68 FR 11325.

Between 2003 and 2005, EPA gathered information on size, location and other characteristics of oil and gas sites to better evaluate compliance costs associated with the control of storm water runoff from oil and gas construction activities. EPA met with various stakeholders and visited a number of oil and gas sites with construction-related activities, to discuss and review existing BMPs for preventing contamination of storm water runoff resulting from construction associated with these oil and gas activities. EPA also gathered economic data for the industry and initiated an economic impact analysis of the effects of the existing Phase II regulations on the oil and gas industry. EPA's preliminary analysis indicated that there could be administrative delays in the permitting process for oil and gas construction sites which could result in substantial economic impacts, particularly in the form of lost production revenues, that were not considered in the original economic analysis for the 1999 Phase II rulemaking. As a result, on March 9, 2005, EPA further postponed the date for NPDES regulation for an additional 15 months until June 12, 2006, to provide additional time for the Agency to complete its evaluation of the economic and legal issues it had identified and to assess appropriate procedures and methods for controlling storm water discharges from these sources to mitigate impacts on water quality.

A collection of trade associations petitioned the United States Court of Appeals for the Fifth Circuit for review of the March 10, 2003 deferral rule. The petitioners asserted that the deferral rule represents the first time EPA had acknowledged in its NPDES regulations that those regulations apply to construction activities associated with oil and gas activities. Petitioners further asserted that the deferral rule was inconsistent with CWA section 402(*l*)(2). On June 16, 2005, the Fifth Circuit dismissed the petition on the grounds that the issue was not ripe for review. Specifically, the Court acknowledged EPA's ongoing analysis of this issue and indicated that ''any interpretation [of CWA section 402(*l*)(2)] we would provide would necessarily prematurely cut off EPA's interpretive process.'' Texas Independent Producers and Royalty Owners Ass'n, *et al.* v. *EPA,* 413 F.3d 479, 483 (5th Cir. 2005).

On August 8, 2005, the President signed into law the Energy Policy Act of 2005. Section 323 of the Energy Policy Act of 2005 added a new paragraph (24) to section 502 of the CWA to define the term ''oil and gas exploration, production, processing, or treatment operations or transmission facilities'' to mean ''all field activities or operations associated with exploration, production, processing, or treatment operations or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities.'' This term is used in section 402(*l*)(2) of the CWA to identify oil and gas activities for which EPA shall not require NPDES permit coverage for certain storm water discharges. The effect of this statutory change is to make construction activities at oil and gas sites eligible for the exemption established by CWA section 402(*l*)(2).

On January 6, 2006, EPA proposed amendments to the National Pollutant Discharge Elimination System (NPDES) Regulations for storm water discharges associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities (71 FR 894) to implement the new provision in the Energy Policy Act of 2005. This action finalizes that rule.

III. Summary of This Final Rule and Statutory Basis

This action implements an amendment to the Clean Water Act contained in the Energy Policy Act of 2005. This amendment expanded the scope of oil and gas-related activities that are exempt from the requirement to obtain an NPDES permit for storm water discharges to include most storm water discharges from construction activities associated with oil and gas field operations. Under this final rule, storm water discharges from construction activity associated with oil and gas field operations are exempt from NPDES permitting requirements, except in situations when the construction-related activity results in the discharge of a hazardous substance or oil in ''reportable'' quantities or in situations when the discharge of a pollutant other than sediment contributes to a violation of an applicable water quality standard. See *NRDC* v. *EPA,* 966 F.2d 1292, 1307 (9th Cir.) (noting that 40 CFR 122.26(c)(1)(iii)(C) addresses ''contamination with substances other than oil and hazardous substances''). Such storm water discharges continue to be subject to NPDES permitting requirements.

This final rule revises 40 CFR 122.26(a)(2), which EPA promulgated in 1990 to codify the statutory exemption in CWA section 402*(l)*(2). The features of this final rule are the same as those EPA proposed on January 6, 2006 (71 FR 894). First, EPA is creating separate subparagraphs for the purpose of distinguishing between mining operations and oil and gas operations. See 40 CFR 122.26(a)(2)(i) (mining operations) & (ii) (oil and gas operations). Second, in new subparagraph (a)(2)(ii), which applies to oil and gas operations, this final rule incorporates the new definition of ''oil and gas exploration, production, processing, or treatment operations or transmission facilities'' (also referred to herein as ''oil and gas field operations'') now found in CWA section 502(24) as a result of the Energy Policy Act of 2005. Finally, new subparagraph (a)(2)(ii) provides that sediment discharged from construction activities at oil and gas sites does not trigger the requirement for NPDES permit coverage.

As described above in section II (Background), until passage of the Energy Policy Act of 2005, EPA had taken the position that storm water discharges from oil and gas construction activities were not eligible for the NPDES permit exemption in CWA section 402*(l)*(2). In the Energy Policy Act of 2005, however, Congress squarely addressed the issue and specifically included construction activities among the types of oil and gas field operations eligible for the permitting exemption. The Energy Policy Act of 2005 achieved this by adding a new paragraph (24) to section 502 of the CWA to define the term ''oil and gas exploration, production, processing, or treatment operations or transmission facilities''—a term which appears only in section 402*(l)*(2)—to mean ''all field activities or operations associated with exploration, production, processing, or treatment operations or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, *whether or not such field activities or operations may be considered to be construction activities.*'' (emphasis added).

This final rule both codifies this new definition and specifically exempts from NPDES permitting storm water discharges of sediment from oil and gas construction activities. While the Energy Policy Act amendment does not specifically address sediment, that pollutant naturally falls within the

newly created exemption from NPDES permitting.

Indeed, singling out storm water discharges of sediment in today's rule is the best way to implement and conform the Energy Policy Act of 2005 with the preexisting text of CWA § 402*(l)*(2). First of all, for oil and gas exploration, production, processing, or treatment operations, or transmission facilities, only those discharges contaminated by contact with raw material, intermediate products, finished product, byproduct, or waste products located on the site are subject to permitting requirements under 402*(l)*(2). (Overburden is applicable only to mining.) The presence of sediment in a discharge from a construction site is not itself indicative of contact with those materials. Oil and hazardous substances for which there is an RQ under either CERCLA or the CWA, in contrast, is indicative of such contact and are not likely to be found in runoff from oil and gas exploration, production, processing, or treatment operations or transmission facilities except as a result of such contact.

Second, sediment is the pollutant most commonly associated with construction activities, whether at oil and gas sites or elsewhere. 69 FR 22475 (April 26, 2004); 67 FR 42654 (June 24, 2004). EPA's 2003 construction general permit, for example, focuses primarily on limiting discharges of sediment. In EPA's view, to codify a permitting exemption for storm water discharges from oil and gas construction activities but simultaneously to exclude from the new exemption sediment, the discharge most closely associated with construction, would not be consistent with the intent of the CWA amendments enacted by the Energy Policy Act of 2005. This view is consistent with contemporaneous interpretations of the exemption by members of Congress. Several members of Congress opposed this amendment because it would exclude oil and gas construction sites from NPDES permitting requirements.[1] Although these members opposed the amendment to CWA section 502 (which ultimately passed despite their opposition), today's rule is consistent with their descriptions of the impacts this amendment would have on NPDES permit requirements for oil and gas construction sites.

CWA Section 402*(l)*(2) provides that EPA ''shall not require'' an NPDES permit ''for discharges of storm water runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff *and which are not contaminated* by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.'' (emphasis added). In 1990, EPA codified regulations at 40 CFR 122.26(c)(1)(iii) to implement this exemption. Specifically, 40 CFR 122.26(c)(1)(iii) provides that an NPDES permit is required for those storm water discharges from oil and gas field operations resulting in the discharge of reportable quantities (RQs) of hazardous substances or oil that trigger notification requirements pursuant to 40 CFR 110.6, 117.21 or 302.6, or that contribute to a violation of water quality standards. The first of these two conditions, discharge of RQs, reflects specific language in the legislative history of Section 402*(l)*(2) directing EPA to consider exceedances of RQs in determining whether contamination through contact with raw material, intermediate products, finished product, byproduct, or waste products had occurred. The second condition reflects EPA's judgment at the time the Phase I Storm Water rule was promulgated that violation of a water quality standard would also generally be indicative of contamination through contact with raw material, intermediate products, finished product, byproduct, or waste products. However, it is important to bear in mind that EPA has historically interpreted Section 402*(l)*(2) as not applying to construction activities at oil and gas sites, and therefore did not previously need to consider how sediment discharges would be treated by these regulations. These regulations were upheld in *NRDC* v. *EPA,* 966 F.2d 1292, 1306–08 (9th Cir. 1992). EPA did not propose to change the requirements in 40 CFR 122.26(c)(1)(iii), and is not revising that provision in this final rule, although EPA is revising the applicability of 122.26(c)(1)(iii)(C) by including in new 122.26(a)(2)(ii) a provision that (c)(1)(iii)(C) does not apply to sediment discharges. This change reflects EPA's judgment that discharges of sediment, which may become an issue now that Congress has determined that 402*(l)*(2) applies to construction activities at oil and gas sites, do not necessarily indicate contamination through contact with raw material, intermediate products, finished product, byproduct, or waste products. Indeed, the only change that EPA is making to the regulations today is to modify 122.26(a)(2) to expand the NPDES permit exemption to cover storm water discharges of sediment from construction sites associated with oil and gas field operations as mandated by the CWA amendment in the Energy Policy Act of 2005, together with CWA section 402*(l)*(2).

Nothing in the Energy Policy Act amendment altered the structure of section 402*(l)*(2) itself or the conditional nature of that NPDES permitting exemption. Thus, storm water discharges contaminated by contact with raw material, intermediate products, finished product, byproduct, or waste products, as indicated by discharges of reportable quantities of hazardous substances or oil, or by violations of water quality standards for pollutants other than sediment from a construction site associated with oil and gas operations, would continue to be subject to NPDES permitting requirements. By specifically exempting sediment (which is not considered indicative of contact) but no other pollutant, this final rule thus honors both the precise focus of the 2005 amendment and the text of CWA section 402*(l)*(2) itself.

IV. Response to Comments

EPA received over 50 comments on its proposal to codify provisions of the Energy Policy Act of 2005 into the NPDES regulations. EPA's responses to all the comments received on the proposed rule are available in the Response to Comment document that is part of the docket for this final rule (Docket identification number: EPA–HQ–OW–2002–0068). EPA's responses to significant issues raised on the proposed rule are discussed below.

A. Applicability

Several commenters asserted that the Energy Policy Act of 2005 amendment to the CWA effectively excludes almost all oil and gas exploration, production and transmission construction activities from the NPDES permitting requirements regardless of the amount of acreage disturbed. One of these commenters also specifically supported applying the exemption to all site sizes. EPA agrees with these commenters that Congress intended to exempt discharges from the specified oil and gas activities regardless of size; under this final rule, *all* covered oil and gas-related construction activities are eligible for the NPDES permitting exemption for their uncontaminated storm water

[1] See 151 Cong. Rec. S9262, S9339, S9342, S9346, S9347 and E1726.

discharges without regard to the amount of acreage disturbed.

Another commenter agreed with EPA that pipelines and compressor stations should be included in the exemption. One commenter identified a number of what it believed to be exempt construction activities necessary to support construction of pipeline and compressor stations as well as long term maintenance of the system. EPA generally agrees with these commenters' assessments about the applicability of this final rule to natural gas transmission pipelines and their associated infrastructure. Storm water discharges from field activities, such as the clearing, grading, and excavation associated with pipeline and pump station construction, are within the scope of activities eligible for the NPDES permit exemption under this final rule. One commenter interpreted the language in the exemption to include material mining sites (*e.g.*, sand and gravel pits and quarried aggregate) that exist only to support pipeline and pump station construction and maintenance activities. EPA disagrees with this comment. The Agency does not believe that Congress intended the term ''oil and gas exploration, production, processing, or treatment operations or transmission facilities'' to include off-site operations whose only connection to such facilities is that they produce products (*e.g.*, sand, gravel, or aggregate) that are later used by such facilities. Under this theory, producers of any product used at oil and gas sites (*e.g.*, drilling equipment) could similarly claim entitlement to the 402*(l)*(2) exemption. Nothing in the definition provided in the Energy Policy Act of 2005 or Section 402*(l)*(2) itself suggests that Congress intended such a broad reach for this exemption. However, the Agency does consider ''cut and fill'' activities (*i.e.* where excavated earth and rock at the site is used to level the surface of the site) within the project area of a well pad, access road, pipeline, etc., to be an integral part of the on-site construction activities and, thus, within the scope of activities for which storm water discharges are eligible for the NPDES permit exemption under this final rule.

One commenter requested that EPA provide definitions in the rule for the terms ''processing operations,'' ''treatment operations'' and ''transmission facilities.'' EPA believes the terms are generally unambiguous as understood by experienced oil and gas operations personnel and most state regulators and thus the creation of a new set of definitions specific to this rule is unnecessary. These terms are discussed in Section V (Terminology).

One commenter suggested that EPA define the term ''facility'' to mean only those areas subject to oil and gas activity under control of the owner operator. EPA does not think that such a definition is warranted or appropriate because, as used in the proposed rule, the term ''facilities'' simply describes the types of field activities that cannot be subject to NPDES permitting under certain circumstances and is not intended to address ownership or operational issues.

One commenter noted that ''the mining industry and its exemption are distinct from the oil and gas industry and its exemption, both in terms of the nature of the activities involved and the definition of 'contamination' that applies under the statute and EPA's regulations.'' Another commenter stated that the term ''overburden'' is applicable to mining activities only and commended EPA for providing a separate section in the regulatory language [40 CFR 122.26(a)(2)(i)] describing the mining activities eligible for exemption from storm water NPDES permit requirements. EPA acknowledges the commenter's detailed account of the legislative history of the CWA with respect to the definition of the term ''overburden'' and agrees that the language in the proposed rule appropriately differentiates between mining and oil and gas field activities and operations for purposes of implementing Section 402*(l)*(2) and the Energy Policy Act of 2005. EPA notes, however, that this final rule is not intended to make any change to NPDES permit requirements applicable at mining sites.

Two commenters requested general, rather than individual, permit coverage for storm water discharges that do not qualify for the permitting exemption. This would mean, for example, that coverage of releases in excess of reportable quantities (see 40 CFR 110.6, 117.21 and 302.6) in storm water from spills or other releases during pipeline construction be available under a construction general permit or an industrial permit, such as EPA's Multi-Sector General Permit (MSGP) for releases during other field activities or operations. EPA believes an individual permit application will generally be the most appropriate way to address such contaminated discharges and establish appropriate controls to minimize impacts from future discharges. EPA notes, however, that this final rule is not intended to modify any requirements or provisions regarding the availability of general permits in lieu of individual permits.

Several commenters engaged in activities that are not related to oil and gas exploration and production suggested that their industrial sectors should also be exempt from CWA permitting requirements for discharges associated with construction activities because they believe that their construction-related activities result in no significant discharges or impairment of water quality in adjacent water bodies. One trade association, representing the geothermal energy industry, argued that its members used oilfield contractors, suppliers and equipment and constructs well pads, access roads, and pipeline rights-of-way that are virtually identical to those employed by the oil and gas exploration and production industry. This industry, however, is not engaged in oil and gas field operations or activities and, therefore, does not qualify for the exemption that is the subject of this rule.

Similarly, another commenter representing home builders argued that the application of this exemption solely to the oil and gas industry, coupled with regulatory burden on the residential construction industry imposed by the existing Phase II storm water rules, constituted overregulation. This commenter urged EPA ''to defer the regulation of the residential construction industry until adequate data has been collected to provide either outright support for the current regulation or to support its modification so that the impact of the rule is both fair and justified.'' This commenter also provided a discussion of the regulatory burden on the residential construction industry imposed by the final Phase II storm water regulations promulgated in 1999 (64 FR 68722, December 8, 1999).

EPA acknowledges comments raised by the geothermal and home building sectors but notes that this rulemaking is in response to the Energy Policy Act of 2005, and any comments on the applicability of the Phase II regulations to activities other than oil and gas field activities or operations associated with exploration, production, processing, or treatment operations or transmission facilities are outside the scope of this rulemaking. The Energy Policy Act of 2005 merely defines the term ''oil and gas exploration, production, processing, or treatment operations or transmission facilities'' and does not reference any other industrial sectors. Consistent with the Act, EPA's proposal and this final rulemaking are also limited to oil and gas field activities or operations that fall within the definition of this term and do

not address any other industrial sectors. Therefore, these comments are outside the scope of this rulemaking.

Several commenters stated their concerns that all oil and gas-related operations and activities will no longer be held accountable for storm water discharges. EPA acknowledges the commenters' concerns but believes they are outside the scope of this rulemaking. The final rule merely implements clear Congressional intent to exempt certain storm water discharges from NPDES permit requirements. The Agency notes, however, that this exemption is limited to discharges that are not contaminated by contact with raw material, intermediate products, finished product, byproduct, or waste products. EPA has further included in the final regulatory text a note encouraging operators of oil and gas field activities or operations to implement and maintain Best Management Practices (BMPs) to minimize discharges of pollutants, including sediment, in storm water both during and after construction activities to help ensure protection of surface water quality during storm events. EPA further notes that the industry has developed and is promoting the use of a manual designed to assist operators in implementing such practices (see Section IV.B below).

B. BMP Implementation

EPA received a number of comments supporting the use of voluntary Best Management Practices (BMPs) to control erosion and sedimentation runoff from oil and gas construction activities. Several commenters suggested that EPA's proposed approach encouraging the use of BMPs is an appropriate means for controlling runoff. Many of these commenters liked the approach outlined by the Independent Petroleum Association of America in their ''Guidance Document: Reasonable and Prudent Practices for Stabilization (RAPPS) of Oil and Gas Construction Sites'' (Horizon Environmental Services, Inc., April 2004). This guidance advocates the selection and practical application of BMPs based on specific physical characteristics of the site (*e.g.*, proximity to waterbody, slope, vegetative cover, and geographic location). The guidance is presented in a straight-forward format that is appropriate for field personnel to access and understand. Additionally, one commenter indicated that EPA's proposed approach will significantly reduce paperwork and the lead time required to implement a project while still preventing adverse impacts to the environment. Several commenters suggested that not having to obtain permit coverage provides operators with more flexibility to schedule land disturbance activities in a way that minimizes erosion and sedimentation. One commenter suggested that EPA has met Congressional intent by encouraging the voluntary use of BMPs through the implementation of RAPPS or other similar approaches.

Several commenters indicated that similar programs already exist to control erosion and sedimentation from oil and gas activities. Specifically, one commenter described the Federal Energy Regulatory Commission (FERC) requirements for pipeline projects. Although not specifically identified by the commenter, EPA believes that the commenter is likely referring to two documents entitled ''Upland Erosion Control, Revegetation, and Maintenance Plan, January 2003'' and ''Wetland and Water Body Construction and Mitigation Procedures, January 2003'' that are designed to assist pipeline license applicants by identifying ''* * * baseline mitigation measures for minimizing the extent and duration of project-related disturbance of field activities.'' Although less detailed than some BMP guidelines developed by states and industry, the FERC plans are a valuable addition to the information base available to oil and gas operators for minimizing environmental damage. Another commenter noted that the state of West Virginia requires BMPs, consistent with the state environmental agency's erosion and sediment control field manual, through its well drilling and well re-working permit program.

Conversely, several other commenters suggested that the use of voluntary approaches is inadequate to ensure protection of water quality and also suggested that the RAPPS document is overly broad and should focus more on keeping sediment on site than keeping sediment out of nearby waterbodies. Some of these commenters suggested that NPDES permits, which would require BMP implementation, are the best approach for regulating these discharges. Several commenters believe that EPA should do more to encourage and support state efforts to control sediment from oil and gas activities. One commenter suggested that EPA should require operators to utilize BMPs and violations should be subject to enforcement.

In response to comments criticizing the adequacy of the recommended BMP provisions, the Agency again notes that this final rule merely codifies Congress' clear intent to prohibit EPA from requiring an NPDES permit for certain storm water discharges associated with oil and gas construction activities.

EPA believes that a ''one size fits all'' approach or the use of a single suite of BMP is generally inappropriate to control erosion and sedimentation from all types of oil and gas construction activities. The RAPPS document and other relevant guidance are intended to provide information to operators to assist them in selecting appropriate BMPs, and combinations of BMPs, to protect water quality. EPA believes that use of this guidance will result in practical, cost-effective approaches that are flexible enough to address the variety of situations and water quality concerns that might be encountered in the field. EPA also intends to continue to work cooperatively with industry representatives and other interested groups to further develop and refine RAPPS and other industry-specific BMPs to promote even wider acceptance and implementation of these tools for reducing potential environmental impacts associated with oil and gas field operations. Additionally, EPA encourages state regulatory agencies and others with an interest in protecting water quality to assist in this effort to further clarify appropriate erosion and sedimentation control measures for oil and gas field operations.

As in the proposed rule, this final rule includes a note at 40 CFR 122.26(a)(2)(ii) encouraging operators of oil and gas field activities or operations to implement and maintain BMPs to minimize discharges of pollutants, including sediment, in storm water both during and after construction activities. EPA also encourages State and local authorities to address storm water discharges of sediment from construction activities associated with oil and gas field operations through authorities other than the NPDES permit program where appropriate but, as discussed in Section IV.D, Section 402*(l)*(2) prohibits EPA or the States from requiring a permit for these discharges under the authority of the CWA NPDES program.

C. Interpretation of Energy Policy Act Regarding Sediment

EPA received a number of comments both agreeing with and disputing the Agency's interpretation of the Energy Policy Act of 2005, particularly as it applies to discharges of sediment from construction activities. Several commenters stated that the Energy Policy Act simply clarified Congress' original intent with respect to the 1987 amendments to the Clean Water Act exempting certain oil and gas activities from the requirement to obtain NPDES permits when the activity does not involve the discharge of any raw

material into waters of the United States. Others stated simply that they believed EPA's interpretation of the Energy Policy Act to be correct and reasonable.

A number of commenters expressed opposition to EPA's interpretation of the Energy Policy Act. Many of these commenters simply expressed opposition to exempting the oil and gas industry from permitting requirements but did not suggest how their opposition could be reconciled with the statutory revisions of the Energy Policy Act of 2005 which clearly exempts certain oil and gas related construction activities from NPDES permitting requirements. Others expressed their belief that EPA had failed to represent Congressional intent and suggested that storm water discharges of sediment that contribute to a violation of water quality standards should not be exempt from the requirement to obtain NPDES permit coverage.

EPA notes that its interpretation of the CWA amendment found in the Energy Policy Act of 2005 is consistent with contemporaneous Congressional floor statements interpreting the amendment. Even without consideration of these floor statements, however, the Agency views today's rule as adopting the best interpretation of the legislation itself. The amendment to the language in CWA section 502, together with the exemption found in CWA section 402*(l)*(2), clearly conveys Congressional intent to provide oil and gas construction projects with relief from the potential burdens associated with NPDES permits. Accordingly, EPA views sediment from oil and gas construction activities to be the very pollutant being exempted from permitting by the Energy Policy Act of 2005.

Under CWA section 402*(l)*(2), storm water discharges associated with oil & gas exploration, production, processing, or treatment operations or transmission facilities are exempt from NPDES permitting requirements under two scenarios. Under the first scenario, storm water discharges associated with oil & gas activities are exempt if they do not come in contact with, *i.e.*, if they are diverted around, any ''raw materials, intermediate products, finished product, byproduct, or waste products located on the site of such operations.'' (The term ''overburden'' in CWA section 402*(l)*(2) is not commonly associated with oil and gas operations; therefore, it is not relevant to this discussion or today's regulation.) Under the second scenario, the storm water discharges are exempt even if they do come in contact with those materials, provided that the storm water is not contaminated by such contact. Under EPA's regulations, storm water is considered contaminated by contact with these materials if the discharge contains a reportable quantity of certain substances or if the discharge contributes to a violation of a water quality standard. *See* 40 CFR 122.26(c)(iii).

The Energy Policy Act of 2005 did not alter this general regime. Rather, by defining ''oil and gas exploration, production, processing, or treatment operations or transmission facilities'' to include construction activities, the 2005 amendment simply provided that storm water discharges associated with construction at those oil and gas sites are eligible for the statutory exemption.

Some commenters have questioned, however, whether Congress intended to exempt construction-related storm water discharges from NPDES permitting when those discharges contain only sediment. EPA believes the answer is yes. Nothing in the 2005 amendment altered the statutory concept that storm water (of whatever type) is exempt so long as it is not contaminated by contact with ''raw materials, intermediate products, finished product, byproduct, or waste products.'' Further, nothing in the 2005 amendment defined ''raw materials, intermediate products, finished product, byproduct, or waste products''—to include naturally occurring sediment exposed or displaced as a result of construction activity, and those terms are not generally understood in the oil and gas industry to refer to such sediment.

As discussed in more detail in the proposed rule (71 FR 897–898), EPA determined, consistent with the legislative history of CWA section 402*(l)*(2) at the time that it originally promulgated 40 CFR 122.26(c)(1) that exceedence of an RQ for pollutants such as oil and hazardous substances would generally be indicative of contamination through contact with raw material, intermediate products, finished product, byproduct or waste products, and that violation of a water quality standard would also generally be indicative of such contact. However, now that Congress has broadened the 402*(l)*(2) exemption to include construction activities at oil and gas field operations, EPA believes that discharges of sediment are not necessarily indicative of such contact. Sediment is the pollutant most commonly associated with construction activity. Hence, exempting storm water discharges of sediment from oil and gas construction sites from NPDES permitting requirements reflects a reasonable (and EPA believes, the best) interpretation of Congressional intent in limiting the 402*(l)*(2) exemption to discharges not contaminated by contact with raw material, intermediate products, finished product, byproduct or waste products, in the context of the new definition for oil and gas exploration, production, processing or treatment operations or transmissions facilities included in the Energy Policy Act of 2005. Therefore, pursuant to today's rule, discharges of storm water from oil and gas construction sites that do not come in contact with those materials are exempt under CWA section 402*(l)*(2) even if the storm water contains construction-related sediment, and even if those sediment discharges cause water quality impacts. Sediment could, however, serve as a vehicle for discharges of other pollutants, such as oil or grease or hazardous substances (*e.g.*, heavy metals) and if an RQ is exceeded or a water quality standard violated for such other pollutants, such contamination would trigger permitting requirements.

Several commenters suggested the goal of protecting water quality would be better served if discharges associated with small oil and gas construction activity required NPDES permit coverage. EPA believes that it is appropriate for operators of exempted oil and gas facilities to adopt BMPs that will, among other things, minimize the transport of sediments to surface waters, and has included in the final rule language encouraging voluntary adoption of such BMPs. However, the Agency's purpose in promulgating today's final rule is to implement the narrow statutory change relating to Section 402*(l)*(2) that is contained in the Energy Policy Act of 2005. The Agency believes that the best interpretation of this statutory change is that it excludes storm water discharges associated with oil and gas construction activities from regulation under the NPDES program, except where contamination by contact with raw materials, intermediate products, finished product, byproduct, or waste products (as understood within the context of Section 402*(l)*(2)) has occurred.

One commenter thought that EPA should interpret the statutory language more narrowly—in a way that ''gives the benefit of the doubt to the environment.'' The commenter further suggested that the exemption is applicable only if storm water is diverted around operations to prevent contamination. EPA agrees with this commenter up to a point. One way that an operator can ensure that there is no contamination of storm water through contact with raw materials, intermediate

products, finished product, byproduct, or waste products is to ensure either that all such material is covered, or that storm water is diverted around it, and EPA strongly urges operators to do this. Operators that fail to do this will not be eligible for the Section 402*(l)*(2) exemption if an exceedance of an RQ or a violation of a water quality standard occurs as a result of contact with such materials. However, this does not change EPA's determination that the best interpretation of Congressional intent in enacting the revised definition in the Energy Policy Act of 2005 is that contact with naturally occurring sediment which is not itself contaminated with toxic or hazardous substances does not constitute ''contact'' for purposes of Section 402*(l)*(2). The Agency has clearly communicated this through its proposed rule and through today's regulation which does not require an NPDES permit for uncontaminated storm water discharges but encourages the voluntary use of BMPs through a note in the regulation.

D. Non-NPDES Program Authority

One commenter requested clarification on a state's authority to regulate storm water discharges associated with oil and gas construction activities. This rulemaking clarifies that uncontaminated storm water discharges associated with oil and gas field activities cannot be regulated directly or indirectly by either EPA or a state under the authority of the NPDES permit program. Another commenter noted that states are not pre-empted by the CWA amendment or by the Energy Policy Act of 2005 from acting to regulate discharges pursuant to more stringent state programs. EPA agrees with this statement and affirms the fact that States and Indian Tribes have the right to regulate or otherwise reduce pollutants (including sediment) from storm water discharges associated with oil and gas field operations under State or Tribal law, but not under NPDES program authority. While EPA agrees that States and Tribes have broad discretion to use a variety of approaches in instances where water quality standards have been violated, the ability to require an NPDES permit from sites described in CWA section 402(*l*)(2) that discharge storm water from oil and gas activities is limited to those discharges that contain reportable quantities of oil or a toxic and/or hazardous substance or that contribute to a violation of water quality standards for a pollutant other than sediment.

Discharges exempt from NPDES permit requirements in this final rulemaking are exempt from these requirements regardless of whether EPA, a State, or an authorized Tribe is the permitting authority. This final rule is not intended to interfere with the ability of States, Tribes, or local governments to regulate any discharges through a non-NPDES permit program. In fact, EPA expects that operators whose storm water discharges are exempt from NPDES permit requirements will comply with any other applicable Federal, State, tribal, and local controls on oil and gas field operations. This final rule does not in any way curtail the ability of an appropriate environmental management agency (*e.g.*, State, Tribal or local government) to impose specific discharge conditions on an oil and gas operator that is exempted from NPDES requirements under this final rule so long as these requirements are imposed pursuant to authority other than an NPDES permit program. For example, a State or Tribe could choose, under its own authorities, to require that an operator meet certain discharge conditions in sensitive watersheds. However, if a State, Tribe, or local government were to require a permit for discharges exempt from the Clean Water Act NPDES program requirements, those permit requirements would not be considered part of an NPDES program. See 40 CFR 123.1(i)(2).

E. Other Comments

Several commenters suggested that the EPA discussion in the 1990 Phase I Storm Water Application Regulation addressing issues regarding ''stale'' (*i.e.*, dated) data on releases of reportable quantities of oil and/or toxic substances is appropriate to this rulemaking as well. However, these commenters were concerned that there was no specific timetable for them to file an application for a storm water permit necessitated by a discharge of a reportable quantity that took place many months or even years prior to this rulemaking going into effect. Therefore, these commenters suggested that the requirement to seek coverage under an NPDES permit as the result of such a discharge should be limited to discharge events occurring no more than three years prior to the date of the publication of this final rulemaking. EPA finds this comment to be outside the scope of this final rulemaking. EPA notes that under CFR 122.26(c)(1)(iii), an oil or gas exploration or production facility of any size that had a discharge of an RQ at any time after November 16, 1987 was already required to have obtained an NPDES storm water permit for a discharge associated with industrial activity. EPA did not propose to change 40 CFR 122.26(c)(1)(iii), and the Agency is not revisiting that provision in this final rule.

Two commenters suggested that EPA's recognition of States' authority to implement their own regulatory program outside of the ''umbrella'' of the NPDES program should obligate EPA to provide technical expertise and resources to help States act on this authority. To the extent practicable, given its own limited resources, EPA will develop guidance to assist States, Tribes, and local governments in exercising their authority reserved for them by the CWA. EPA has always assisted States and Tribes with responses to technical inquiries relating to interpretation of NPDES program and CWA statutory requirements, and the Agency intends to continue providing such assistance.

One Tribe notes in its comments that EPA did not consult with tribal governments during the rulemaking process, as called for in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' As discussed below, EPA did not need to consult with the Tribes under Executive Order 13175 because the proposed rule would not—and this final rule does not—have any substantial direct effects on tribal governments, on the relationship between Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This final rule does not add to the existing requirements under EPA's regulations. Rather, this final action codifies a recently-enacted amendment to the CWA which exempts certain oil and gas field activities from NPDES permitting requirements.

V. Terminology

As noted earlier in this document, questions have arisen regarding some of the terms used in this final rule. This section collects EPA's interpretation of these terms.

Field Activities or Operations

This final rule adopts in 40 CFR 122.26(a)(2)(ii) language from the Energy Policy Act of 2005. EPA interprets the specific phrase ''all field activities or operations'' in this language to include the construction of drilling sites, drilling waste management pits, access roads, in-field treatment plants and the transportation infrastructure (*e.g.*, crude oil and natural gas pipelines, natural gas treatment plants and both natural gas pipeline compressor and crude oil pump stations) necessary for the operation of most producing oil and

gas fields. Such construction activities may thus be eligible for the CWA section 402(l)(2) exemption from NPDES permitting requirements.

Processing

The terms ''processing,'' ''treatment,'' and ''transmission'' are generally well understood among industry professionals and oilfield personnel engaged in oil and gas exploration, production, processing, or treatment operations or transmission. These terms are described in turn below.

''Processing'' may be used in connection with either oil or gas field activities, but it is more commonly used to describe certain natural gas field activities. Industry professionals generally regard ''processing'' as applying strictly to removal of either contaminants (such as hydrogen sulfide or carbon dioxide), natural gas liquids or rare gasses (such as helium) from produced natural gas.

Most produced natural gas contains over 90 percent methane by volume. ''Pipeline quality'' natural gas sold by intrastate and interstate transmission pipeline companies usually has been upgraded to be as much as 99 percent methane by volume. For the purposes of this final rule, EPA considers the term ''processing'' to refer to those field operations related to either upgrading of natural gas by removal of contaminants (*e.g.*, carbon dioxide, hydrogen sulfide and water) or the extraction of valuable, higher molecular weight ''natural gas liquids'' (*e.g.*, ethane, propane, butane, and condensate) or rare gas constituents (*e.g.*, helium and xenon) prior to sale of the gas to an intrastate or interstate gas transmission pipeline. Regardless of the physical size or throughput capacity of a processing facility or its geographic location (either within a single producing field or at a centralized location serving several producing fields), a gas processing plant merely serves as an intermediate step in the supply-transmission-distribution chain that transports natural gas from the producing well to the ultimate end-user. Gas processing does not physically or chemically change the basic constituent (methane) in natural gas. Gas processing is not analogous to the term ''chemical processing'' as is commonly used by chemical engineers to describe manufacturing operations that create finished products in the petroleum and petrochemical refining industrial sectors. The North American Industrial Classification System (NAICS) codes for oil and gas extraction activities (including ''natural gas processing'') are found under the designation 211 (equivalent to the older Standard Industrial Classification [SIC] code designation 1311). EPA regards the processing described above as an inherent component of natural gas extraction field activities.

Treatment

Similarly, the term ''treatment'' may be used in the context of either the oil or gas industries, but is more commonly used when referring to the removal of contaminants, such as salt water, sediment, pipe scale, rust and organic material (*i.e.*, bacterial growths) from crude oil in the producing field. These contaminants are generally removed (*i.e.*, the crude oil is ''treated'') prior to sale and transportation of the oil via tanker truck or dedicated pipeline to a petroleum or petrochemical refinery.

All crude oil contains physical and chemical contaminants that should be removed prior to sale to a refinery. The term ''treatment'' as used by most oil and gas field operations personnel is applied to a variety of field techniques for removing these naturally occurring contaminants from crude oil. Mature oil wells in the United States often produce large volumes of salt water along with smaller volumes of crude oil. Some oil reservoirs also yield crude oil that contains significant amounts of dissolved natural gas (predominantly methane). This mixture of crude oil, water and (sometimes) gas is treated in order to separate out the oil and gas from the contaminants. In the course of being pumped out of the well and into holding tanks, the crude oil may also pick up additional contaminants such as dirt and sediment from the producing formation, corrosive scale and rust from the steel tubing and flow lines, and bacterial growths present in the formation or the flow lines. The entrained gas, water and various contaminants are removed prior to sale of the crude oil to a refiner or intermediate buyer. The most common technique for removing these contaminants involves using a cylindrical steel tank called a separator which separates the three components of the flow—gas, oil and water. The separator can be either a vertical or a horizontal tank and configured to separate only gas from the liquid (two-phase separation) or to separate gas, oil and water (three-phase separation). This process relies primarily upon simple gravimetric separation of the gas, oil and water. Any small amounts of gas are either vented or drawn off at the top of the tank. The oil and water separates in the tank (the oil will float on top of the water column) and the heavier sediment precipitates out of the mixture and eventually settles to the bottom of the tank as sludge. In some cases chemicals may be added to cause the suspended sediment particles to aggregate and settle out more easily from the crude oil and water. In cold weather or cases where there is bacterial contamination, chemicals may be added to the oil-water mixture to assist in killing the organisms and removing or neutralizing the contaminants. ''Clean'' crude oil is periodically or continually withdrawn from the top of these separators and stored in ''stock'' tanks to await pickup by tanker truck or metered sales to a crude oil pipeline. In some cases, where rain enters a storage tank or the temperature drops precipitously, some additional water may become entrained in the crude oil and form an oil-water emulsion. If the water content is greater then the specifications set by the crude oil purchaser, the stock tank oil may be further treated using chemicals and/or heat to reduce the amount of entrained water prior to sale.

All of the above activities are typically identified as ''treatment'' by oil and gas field operations personnel, and EPA will consider these, and similar field activities necessary to remove contaminants from crude oil, to fall within the scope of ''treatment operations'' as that term is used in CWA section 402(*l*)(2).

Transmission

EPA interprets the term ''transmission facilities'' to include all necessary infrastructure to deliver natural gas or crude oil from the producing fields to the final distribution center (in the case of natural gas) or the refinery (for crude oil).

This interpretation is consistent with the description of ''transmission facilities'' EPA provided in the preamble to the March 10, 2003 ''deferral rule'' described earlier in this notice. See 68 FR 11327. That discussion noted that transmission lines are typically major pipelines (*e.g.*, interstate and intrastate pipelines) that transport crude oil and natural gas over long distances through large-diameter pipes operating at relatively high pressures. ''Transmission facilities'' generally include all pipelines, compressor stations (for natural gas) and pump stations (for crude oil). The line of demarcation between natural gas ''transmission facilities'' and ''distribution facilities'' is generally the point where a local gas utility takes delivery of the gas (often referred to as the ''city gate'') and then distributes it via lower pressure service lines to small industrial, commercial or residential customers. While crude oil pipelines that convey raw material to the

refineries are generally considered ''transmission facilities,'' pipelines that transport *refined* petroleum products from refineries and large petrochemical manufacturing plants to storage tank ''farms'' are not considered ''transmission facilities'' for the purposes of CWA section 402(*l*)(2) and this final rule.

The Pipeline and Hazardous Materials Safety Administration within the U.S. Department of Transportation (DOT) defines a transmission line as ''* * * a pipeline, other than a gathering line, that transports gas from a gathering line or storage facility to a distribution center, storage facility or large volume customer that is not down-stream from a distribution center.'' (49 CFR 192.3). Although EPA has not elected to codify the DOT or any other definition of ''transmission line,'' EPA believes that its interpretation of the term ''transmission facilities'' as used in CWA section 402(*l*)(2) is generally consistent with DOT's terminology and with widely accepted understanding and usage among industry professionals.

VI. Best Management Practices

In accordance with CWA section 402(*l*)(2), this final rule does not *require* that operators select, install, and maintain Best Management Practices (BMPs) to minimize discharges of pollutants (including sediment) in storm water; however, the Agency is *encouraging* operators of oil and gas field activities or operations to institute these practices both during and after construction activities whenever practicable.

Installation of effective BMPs will not only help protect surface water during storm events but will also assist the operator in ensuring that there is no discharge of a reportable quantity or violation of a water quality standard that would trigger permitting requirements. Appropriate controls would be those suitable to the site conditions, both during and after the period of construction, and consistent with generally accepted engineering design criteria and manufacturer specifications. Selection of effective BMPs should include consideration of seasonal and climatic conditions.

Most storm water controls for construction activities can be grouped into three classes: (a) Erosion and sediment controls; (b) storm water management measures; and (c) good housekeeping practices. Erosion and sediment controls address pollutants (*e.g.*, sediment) in storm water generated from the site during active construction-related work. Storm water management measures result in reductions of pollutants in storm water discharged from the site after the construction has been completed. Good housekeeping measures are those practices employed to manage materials on the site and control litter. While not explicitly required by regulation, some good housekeeping practices may be necessary to ensure that runoff satisfies the conditions in 40 CFR 122.26(a)(2)(ii) and (c)(1)(iii) for eligibility for the 402(*l*)(2) permitting exemption.

Effective soil erosion and sedimentation control typically is accomplished through the use of a suite of BMPs. Operators should design control measures that collectively address the multiple needs of holding soil in place, diverting storm water around active areas with bare soil, slowing water down as it crosses the site, and providing settling areas for soil that has become mobilized.

The value of construction site BMPs has already been recognized by many oil and gas site operators. Under the sponsorship of the Independent Petroleum Association of America, the oil and gas industry developed guidance entitled ''Guidance Document: Reasonable and Prudent Practices for Stabilization (RAPPS) of Oil and Gas Construction Sites,'' Horizon Environmental Services, Inc., April 2004, that describes the application of appropriate BMPs based on general geographical location and the distance, slope, and amount of vegetative cover between the construction activity and the nearest water body. This document is a common sense approach to mitigating environmental consequences arising from a variety of oil and gas construction activities. The document has been widely publicized, and a large number of independent oil and gas operating companies have informed EPA that they have adopted the practices outlined in the document in their day-to-day field construction activities.

VII. Post-Proposal Litigation

There is already one published court decision addressing CWA section 402(*l*)(2) in light of the new language in CWA section 502(24). EPA's current NPDES General Permit for Storm Water Discharges From Construction Activities (the ''General Permit'') was issued by EPA on July 1, 2003. 68 FR 39087. The General Permit was challenged by a variety of organizations. Three weeks after proposal of this rule, the last remaining challenges to the General Permit were dismissed. *Texas Independent Producers and Royalty Owners Ass'n, et al.* v. *EPA*, 435 F.3d 758, 767 (7th Cir. 2006). The Court of Appeals took note of the proposal EPA is finalizing today, but did not address the merits of that proposal. *Id.* at 766. The court went on to note the ''limited circumstances'' under which this challenge was brought: ''The Oil and Gas Petitioners represent members seeking to challenge permit requirements for uncontaminated discharges. But Congress made clear in the Energy Policy Act of 2005 that the EPA may not require permits for such discharges. Therefore, the Oil and Gas Petitioners cannot establish standing. Accordingly, we Dismiss this petition for lack of standing.'' Id. at 767. (emphasis added). This Court had no occasion to review facts surrounding the conditions at any particular site, and did not address the issue of what constitutes contaminated storm water discharges.

VIII. Statutory and Executive Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''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) Alter materially 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 the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this is a ''significant regulatory action'' within the meaning of the Executive Order. As such, EPA submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction

Act, 44 U.S.C. 3501 *et seq.*, as this rulemaking is deregulatory and imposes no new requirements.

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; 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.

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 in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this final rule on small entities, small entity is defined 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; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action would not have a significant economic impact on a substantial number of small entities. In determining whether a rule would have a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This final rule, by expanding the scope of oil and gas operations eligible for the NPDES permit exemption under CWA section 402(*l*)(2), would relieve the regulatory burden for certain discharges associated with construction activity at exploration, production, processing, or treatment operations or transmission facilities to obtain an NPDES storm water permit. I have therefore concluded that this final rule would relieve a regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The final rule imposes no enforceable duty on any State, local or tribal governments or the private sector. Rather, today's final rule codifies an amendment to the CWA by expanding the scope of oil and gas operations eligible for the NPDES permit exemption under CWA section 402*(l)*(2), and relieves the regulatory burden for certain discharges associated with construction activity at exploration, production, processing, or treatment operations or transmission facilities of obtaining an NPDES storm water permit. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA. For the same reason, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's final rule is not subject to the requirements of section 203 of UMRA.

E. Executive Order 13132: Federalism

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.'' The phrase ''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 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. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR

67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have any Tribal implications as specified in Executive Order 13175. It does not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. This final rule does not add to the existing requirements under EPA's regulations. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to the Executive Order because it is not economically significant as defined under Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

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

This final rule is not a ''significant energy action'' as defined in Executive Order 13211, ''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.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 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. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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). This rule will be effective on June 12, 2006.

List of Subjects in 40 CFR Part 122

Administrative practice and procedure, Confidential business information, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

Dated: June 7, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons set forth in the preamble, chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

■ 1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C., 1251 *et seq.*

Subpart B—[Amended]

■ 2. Section 122.26 is amended by revising paragraphs (a)(2) and (e)(8) to read as follows:

§ 122.26 Storm water discharges (applicable to State NPDES programs, see § 122.35).

(a) * * *

(2) The Director may not require a permit for discharges of storm water runoff from the following:

(i) Mining operations composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with or that have not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations, except in accordance with paragraph (c)(1)(iv) of this section.

(ii) All field activities or operations associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities, except in accordance with paragraph (c)(1)(iii) of this section. Discharges of sediment from construction activities associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities are not subject to the provisions of paragraph (c)(1)(iii)(C) of this section.

Note to paragraph (a)(2)(ii): EPA encourages operators of oil and gas field activities or operations to implement and maintain Best Management Practices (BMPs) to minimize discharges of pollutants, including sediment, in storm water both during and after construction activities to help ensure protection of surface water quality during storm events. Appropriate controls would be those suitable to the site conditions and consistent with generally accepted engineering design criteria and manufacturer specifications. Selection of BMPs could also be affected by seasonal or climate conditions.

* * * * *

(e) * * *

(8) For any storm water discharge associated with small construction activities identified in paragraph (b)(15)(i) of this section, see § 122.21(c)(1). Discharges from these sources require permit authorization by

March 10, 2003, unless designated for coverage before then.

* * * * *

[FR Doc. E6–9079 Filed 6–9–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 704, 707, 717, 720, 721, 723, 761, 790, and 799

[EPA–HQ–OPPT–2006–0405; FRL–7336–5]

Change of Official Office of Pollution Prevention and Toxics' Mailing Address; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA's Office of Pollution Prevention and Toxics (OPPT) has discovered an error in the mailing address that appears in certain sections of 40 CFR chapter I, subchapter R. By these technical amendments, OPPT corrects those errors.

DATES: This final rule is effective June 12, 2006.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2006–0405. 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.

FOR FURTHER 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*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and has particular applicability to anyone who might need or want to communicate in writing with OPPT or submit information to OPPT. Since this action may apply to anyone, OPPT has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR parts 704, 707, 717, 720, 721, 723, 761, 790, and 799 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

II. Background

A. What Action is the Agency Taking?

In this technical amendments document, OPPT is correcting errors found in the mailing address in certain sections in 40 CFR chapter I, subchapter R.

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

This document is issued by OPPT under its general rulemaking authority, the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 *et seq.*). In addition, section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. OPPT has determined that there is good cause for making this a rule final without prior proposal and opportunity for comment. OPPT has determined that these amendments are technical and non-substantive. Thus, notice and public procedure are unnecessary. OPPT finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

III. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

No. This final rule implements technical amendments to 40 CFR chapter I, subchapter R, to correctly reflect the change in OPPT's official mailing address, and it does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical correction is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Nor does this rule contain any information collection requirements that require review and approval by OMB pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action will not result in environmental justice related issues and does not, therefore, require special consideration under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). Since the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute (see Unit II.B.), this action is not subject to provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 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. Nor does this action significantly or uniquely affect the communities of tribal governments as specified by Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). This action does not

involve any technical standards that require the Agency's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). This rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use. In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive order.

IV. Congressional Review Act

Yes. The Congressional Review Act (CRA) (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, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 of CRA 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. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of June 12, 2006. 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Parts 704, 707, 717, 720, 721, 723, 761, 790, 799

Environmental protection, Administrative practice and procedure.

Dated: May 25, 2006.

Margaret N. Schneider,

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

■ Therefore, 40 CFR chapter I is amended as follows:

PART 704—[AMENDED]

■ 1. The authority citation for part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ § 704.9 and 704.25 [Amended]

■ 2. By removing the phrase ''Document Control Office (7407), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room G–099, 1200 Pennsylvania Ave., NW., Washington, DC 20460, ATT:'' and adding in its place ''Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, ATTN:'' in § § 704.9 and 704.25(g).

§ 704.104 [Amended]

■ 3. By removing the phrase ''Document Control Office (7407), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room G–099, 1200 Pennsylvania Ave., NW., Washington, DC 20460'' and adding in its place ''Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001'' in § 704.104(g).

PART 707—[AMENDED]

■ 4. The authority citation for part 707 continues to read as follows:

Authority: 15 U.S.C. 2611(b) and 2612.

■ 5. By revising paragraph (c) in § 707.65 to read as follows:

§ 707.65 Submission to agency.

* * * * *

(c) You must submit TSCA section 12(b) notices by one of the following methods:

(1) Mail to the Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, ATTN: TSCA 12(b) Notice.

(2) Hand delivery to OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC, ATTN: TSCA 12(b) Notice. 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.

PART 717—[AMENDED]

■ 6. The authority citation for part 717 continues to read as follows:

Authority: 15 U.S.C. 2607(c).

§ 717.17 [Amended]

■ 7. By removing the phrase ''Document Control Office (7407), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room G–099, 1200 Pennsylvania Ave., NW., Washington, DC 20460'' and adding in its place ''Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001'' in § 717.17(c).

PART 720—[AMENDED]

■ 8. The authority citation for part 720 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2613.

§ § 720.75 and 720.102 [Amended]

■ 9. By removing the phrase ''Document Control Office (7407), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room G–099, 1200 Pennsylvania Ave., NW., Washington, DC 20460'' and adding in its place ''Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001'' in § § 720.75(b)(2) and (e)(1) and 720.102(d).

PART 721—[AMENDED]

■ 10. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ § 721.11, 721.30, and 721.185 [Amended]

■ 11. By removing the phrase ''Document Control Office (7407), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room G–099, 1200 Pennsylvania Ave.,

NW., Washington, DC 20460'' and adding in its place ''Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001'' in § § 721.11(b) introductory text, 721.30(b) introductory text, and 721.185(b)(1).

PART 723—[AMENDED]

■ 12. The authority citation for part 723 continues to read as follows:

Authority: 15 U.S.C. 2604.

§ 723.50 [Amended]

■ 13. Section 723.50, paragraph (e)(1) is amended as follows:

■ a. By removing the phrase ''TSCA Document Control Officer (7407), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room G–099, 1200 Pennsylvania Ave., NW., Washington, DC 20460'' and adding in its place ''TSCA Document Control Officer, Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001''.

■ b. By removing the phrase ''EPA by writing the Environmental Assistance Division, (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, or by calling the TSCA Assistance Information Service at (202) 554–1404; TDD (202) 554–0551; online service modem (202) 554–5603'' and adding its place ''the Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*''.

§ 723.175 [Amended]

■ 14. By removing the phrase ''Document Control Office (7407), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room G–099, 1200 Pennsylvania Ave., NW., Washington, DC 20460'' and adding in its place ''Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001'' in § 723.175(i)(3).

PART 761—[AMENDED]

■ 15. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

§ § 761.185 and 761.187 [Amended]

■ 16. By removing the phrase ''Document Control Office (7407), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room G–099, 1200 Pennsylvania Ave., NW., Washington, DC 20460'' and adding in its place ''Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001'' in § § 761.185(f) and 761.187(d).

PART 790—[AMENDED]

■ 17. The authority citation for part 790 continues to read as follows:

Authority: 15 U.S.C. 2603.

§ 790.5 [Amended]

■ 18. By removing the phrase ''Document Control Office (7407), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room G–099, 1200 Pennsylvania Ave., NW., Washington, DC 20460'' and adding in its place ''Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001'' in § 790.5(b).

PART 799—[AMENDED]

■ 19. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

§ 799.5 [Amended]

■ 20. By removing the phrase ''Document Control Office (7407), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room G–099, 1200 Pennsylvania Ave., NW., Washington, DC 20460'' and adding in its place ''Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001'' in § 799.5.

[FR Doc. E6–9078 Filed 6–9–06; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7929]

Suspension of Community Eligibility

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

ACTION: Final rule.

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

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

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

FOR FURTHER INFORMATION CONTACT: William H. Lesser, Mitigation Division, 500 C Street SW., Washington, DC 20472, (202) 646–2807.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance

with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

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

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days. *National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

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

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

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

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

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

List of Subjects in 44 CFR Part 64.

Flood insurance, Floodplains.

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

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Virginia:				
Fairfax, City of, Independent City	515524	May 8, 1970, Emerg; December 17, 1971, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Region IV				
North Carolina:				
Bald Head Island, Village of, Brunswick County.	370442	February 26, 1986, Emerg; May 15, 1986, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Belville, Town of, Brunswick County	370545	September 15, 2004, Emerg; June 2, 2006, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Boiling Spring Lake, City of, Brunswick County.	370453	March 2, 1989, Emerg; March 2, 1989, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Bolivia, Town of, Brunswick County	370394	May 19, 2005, Emerg; June 2, 2006, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Bolton, Town of, Columbus County	370295	September 23, 1977, Emerg; July 1, 1987, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Brunswick County, Unincorporated Areas	370295	July 7, 1975, Emerg; May 15, 1987, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Calabash, Town of, Brunswick County	370395	June 9, 1986, Emerg; February 4, 1988, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Carolina Shores, Town of, Brunswick County.	370517	January 26, 1999, Emerg; January 26, 1999, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Caswell Beach, Town of, Brunswick County.	370391	May 6, 1976, Emerg; January 17, 1986, Reg; June 2, 2006, Susp.	06/02/06	06/02/06

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Cerro Gordo, Town of, Columbus County	370311	October 10, 1975, Emerg; July 3, 1986, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Chadbourn, Town of, Columbus County ..	370065	July 9, 1975, Emerg; September 30, 1987, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Columbus County, Unincorporated Areas	370305	July 6, 1979, Emerg; June 3, 1991, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Fair Bluff, Town of, Columbus County	370067	April 29, 1975, Emerg; June 1, 1987, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Holden Beach, Town of, Brunswick County.	375352	March 19, 1971, Emerg; May 26, 1972, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Lake Waccamaw, Town of, Columbus County.	370069	July 2, 1975, Emerg; June 3, 1986, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Leland, Town of, Brunswick County	370471	October 19, 1992, Emerg; October 19, 1992, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Navassa, Town of, Brunswick County	370593	May 19, 2005, Emerg; June 2, 2006, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Northwest, City of, Brunswick County	370513	November 12, 1998, Emerg; November 12, 1998, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Oak Island, Town of, Brunswick County ..	370523	July 1, 1999, Emerg; July 1, 1999, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Shallotte, Town of, Brunswick County	370388	July 1, 1975, Emerg; January 3, 1986, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Southport, City of, Brunswick County	370028	April 11, 1973, Emerg; April 15, 1977, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
St. James, Town of, Brunswick County ...	370530	June 27, 2000, Emerg; June 27, 2000, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Sunset Beach, Town of, Brunswick County.	375359	October 15, 1971, Emerg; November 17, 1972, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Tabor City, Town of, Columbus County ...	370070	January 29, 1975, Emerg; July 17, 1986, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Varnamtown, Town of, Brunswick County	370648	May 30, 2001, Emerg; May 30, 2001, Reg; June 2, 2006, Susp.	06/02/06	06/02/06
Whiteville, City of, Columbus County	370071	September 3, 1974, Emerg; July 1, 1991, Reg; June 2, 2006, Susp.	06/02/06	06/02/06

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: May 30, 2006.

Michael K. Buckley,

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

[FR Doc. E6–9051 Filed 6–9–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket No. FEMA–D–7585]

Changes in Flood Elevation Determinations

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

ACTION: Interim rule.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., CFM, Acting Section Chief, Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

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

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

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

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

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in

the National Flood Insurance Program (NFIP).

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains, reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

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

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as shown below:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Georgia: Gwinnett	Unincorporated Areas.	January 5, 2006, January 12, 2006, *Gwinnett Daily Post.*	Mr. Charles Bannister, Chairman of the Gwinnett County, Board of Commissioners, Justice and Administration Building, 75 Langley Drive, Lawrenceville, Georgia 30045–6935.	April 13, 2006	130322 C

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

Dated: June 5, 2006.

David I. Maurstad,

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

[FR Doc. E6–9128 Filed 6–9–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

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

ACTION: Final rule.

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

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

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

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., CFM, Acting Section Chief, Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

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

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

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

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

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

Regulatory Flexibility Act. The Mitigation Division Director certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the

NFIP. No regulatory flexibility analysis has been prepared.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

■ Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for Part 67 continues to read as follows:

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

§ 67.11 [Amended]

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

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) *Elevation in feet (NAVD)
Pago Pago	
Territory of American Samoa (FEMA Docket No. D–7638)	
South Pacific Ocean (Aunuu Island):	
Approximately 1,000 feet northwest of the center of Aunuu Village	*10
Approximately 3,500 feet northeast of the center of Aunuu Village	*18
South Pacific Ocean (Ofu Island):	
Approximately 400 feet northwest of Nuupule Rock	*12
Approximately 550 feet northeast of Tuumuai Point	*21
South Pacific Ocean (Olosega Island):	
Approximately 1,300 feet northwest of Pouono Point	*9
Approximately 770 feet southeast of Pouono Point	*20
South Pacific Ocean (Tau Island):	
Approximately 1,000 feet northwest of the center of Faleasao Village	*14
Approximately 1,450 feet northeast of the center of Faleasao Village	*24
South Pacific Ocean (Tutuila Island):	
Approximately 300 feet southeast of the intersection of Highway 1 and Rainmaker Hotel Drive	*5
Approximately 330 feet southeast of the center of Fagneanea Village	*42
Maps available for inspection at the American Samoa Department of Public Works, American Samoa Government Center, Pago Pago, American Samoa.	

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

Dated: June 5, 2006.

David I. Maurstad,

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

[FR Doc. E6–9129 Filed 6–9–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

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

ACTION: Final rule.

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

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

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

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr. CFM, Acting Section Chief, Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

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

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

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

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

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

Regulatory Flexibility Act. The Mitigation Division Director certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

■ Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for Part 67 continues to read as follows:

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

§ 67.11 [Amended]

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

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
ARIZONA	
Coconino County (FEMA Docket No. D–7642)	
Bow and Arrow Wash:	
Just downstream of Lone Tree Road	•6,878
Approximately 0.3 mile upstream of Lake Mary Road	•6,849
City of Flagstaff	
Peak View Wash:	
At the confluence with Rio de Flag	•7,112
Approximately 120 feet upstream of Lois Lane	•7,123
Rio de Flag:	
Approximately 868 feet upstream of Townsend-Winona Road	•6,617
Approximately 580 feet downstream of Hidden Hollow Road	•7,148
City of Flagstaff, Coconino County (Unincorporated Areas)	
Schultz Creek:	
At the confluence with Rio de Flag	•7,006
Approximately 125 feet upstream of North Fort Valley Road	•7,140
Switzer Canyon Wash:	
Approximately 170 feet upstream of U.S. Route 66 (Santa Fe Avenue)	•6,869
Approximately 0.6 mile upstream of West Fir Avenue	•7,030
City of Flagstaff, Coconino County (Unincorporated Areas)	
City of Flagstaff	
Maps available for inspection at the City of Flagstaff Community Development, 211 West Aspen Avenue, Flagstaff, Arizona.	
Coconino County (Unincorporated Areas)	
Maps available for inspection at the Coconino County Community Development, 2500 North Fort Valley Road, Flagstaff, Arizona.	
Yuma County (FEMA Docket No. D–7642)	
Colorado River:	
At the downstream county boundary	•94
At the upstream county boundary	•202
Yuma County (Unincorporated Areas)	
Maps available for inspection at the Yuma County Department of Development Services, 2351 West 26th Street, Yuma, Arizona.	
City of Yuma	
Maps available for inspection at the City of Yuma Community Development Department, One City Plaza, Yuma, Arizona.	
City of San Luis	
Maps available for inspection at the City of San Luis Public Works Administration Office, 751 North 4th Avenue, San Luis, Arizona.	
FLORIDA	
Flagler County (FEMA Docket No. D–7594)	
Big Mulberry Branch:	
Approximately 1,620 feet downstream of Palm Harbor Parkway	*7
Approximately 3,500 feet upstream of Belle Terre Parkway	*24
City of Palm Coast	
Black Branch:	
At the confluence with Haw Creek	*12
Approximately 0.75 mile upstream of Old Haw Creek Road	*16
Flagler County (Unincorporated Areas), City of Bunnell	
Black Point Swamp:	
At the confluence with Black Branch	*12
At the upstream side of State Routes 20/100	*14
Flagler County (Unincorporated Areas)	
Wadsworth/Korona Canal:	
Approximately 75 feet downstream of Old Kings Road	*12
At the upstream side of County Road 325	*27
Bull Creek:	
At the confluence with Crescent Lake	*7
At the upstream side of State Route 100	*19
Bull Creek Tributary:	
At the confluence with Bull Creek	*11
Approximately 20 feet upstream of County Route 305	*24
Bulow Creek:	
Approximately 1.3 miles upstream of Old Kings Road	*8
At the upstream side of Old Kings Road	*21
Bulow Creek Tributary:	
Approximately 500 feet downstream of the confluence with Bulow Creek	*13
Approximately 2,000 feet downstream of the confluence with Bulow Creek	*18
Haw Creek:	
At the confluence with Crescent Lake	*7
Approximately 3.48 miles upstream of County Route 305	*12
Graham Swamp:	
At the confluence with the Intracoastal Waterway	*6
Approximately 1.6 miles downstream of East Highway	*11
Flagler County (Unincorporated Areas), City of Palm Coast	
Parker Canal:	
At the confluence with Black Branch	*12
At the confluence with Sweetwater Branch	*23
Flagler County (Unincorporated Areas)	
Atlantic Ocean:	
Approximately 100 feet south of the intersection of North Shore Boulevard and Camino Del Ray Parkway	*7
Approximately 475 feet east of the intersection of Deerwood Street and North Ocean Shore Boulevard	*16
Flagler County (Unincorporated Areas), Town of Beverly Beach, City of Flagler Beach, Town of Marineland, City of Palm Coast	
Town of Beverly Beach	
Maps available for inspection at the Beverly Beach Town Hall, 2770 North Oceanshore Boulevard, Beverly Beach, Florida.	
City of Bunnell	
Maps available for inspection at the Bunnell City Hall, 200 South Church Street, Bunnell, Florida.	
City of Flagler Beach	
Maps available for inspection at the Flagler Beach City Hall, 105 South 2nd Street, Flagler Beach, Florida.	
Flagler County (Unincorporated Areas)	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Maps available for inspection at the Flagler County Planning and Zoning Department, 1200 East Moody Boulevard, Suite 2, Bunnell, Florida.	
Town of Marineland	
Maps available for inspection at the Marineland Town Office, 9507 Oceanshore Boulevard, St. Augustine, Florida.	
City of Palm Coast	
Maps available for inspection at the Palm Coast City Hall, 2 Commerce Boulevard, Palm Coast, Florida.	
NEW JERSEY	
Ocean County (FEMA Docket No. D–7642)	
Cedar Creek:	
Approximately 0.37 mile downstream of U.S. Route 9	•5
Just upstream of the southbound lanes of Garden State Parkway	•19
Township of Lacey	
Jakes Branch:	
Just upstream of County Route 619	•16
Approximately 0.34 mile upstream of County Route 619	•19
Township of Beachwood	
North Branch Metedeconk River:	
Approximately 95 feet downstream of State Route 88	•9
Township of Brick	
Atlantic Ocean:	
Approximately 0.31 mile southeast of the intersection of State Route 88 and County Route 604	•10
Borough of Point Pleasant	
North Branch Beaverdam Creek:	
Entire shoreline	•5
Barnegat Bay:	
Entire shoreline	•5
Bayhead Harbor:	
Entire shoreline	•5
Borough of Point Pleasant	
Borough of Beachwood	
Maps available for inspection at the Beachwood Borough Municipal Building, 1600 Pinewald Road, Beachwood, New Jersey.	
Township of Brick	
Maps available for inspection at the Brick Municipal Building, 401 Chambersbridge Road, Brick, New Jersey.	
Township of Lacey	
Maps available for inspection at the Lacey Township Municipal Building, 818 Lacey Road, Forked River, New Jersey.	
Borough of Point Pleasant	
Maps available for inspection at the Point Pleasant Borough Municipal Building, 2233 Bridge Avenue, Point Pleasant, New Jersey.	
NEW JERSEY	
Union County (FEMA Docket No. D–7598)	
Rahway River:	
At a point immediately upstream of Lawrence Street	*9
Approximately 650 feet downstream of Springfield Avenue	*91
City of Rahway, Townships of Clark, Cranford, Springfield, Union, Winfield, Borough of Kenilworth	
Black Brook:	
At the confluence with Rahway River	*75
Approximately 180 feet downstream of Springfield Road	*75
Borough of Kenilworth, Township of Union	
Branch 10–30–1:	
At the confluence with Drainage Ditch	*75
Approximately 350 feet upstream of Lafayette Place	*75
Borough of Kenilworth	
College Branch:	
At the confluence with Rahway River	*72
At a point immediately upstream of Springfield Avenue	*72
Township of Cranford	
Drainage Ditch:	
At the confluence with Rahway River	*73
At the confluence of Branch 10–30–1	*75
Borough of Kenilworth, Township of Springfield	
Gallows Hill Road Branch:	
At the confluence with Rahway River	*68
Approximately 350 feet upstream of Pittsfield Street	*71
Township of Cranford	
Nomahegan Brook:	
At the confluence with Rahway River	*74
Approximately 580 feet downstream of Springfield Avenue	*74
Townships of Cranford and Springfield, Town of Westfield	
Robinsons Branch:	
At the confluence with Rahway River	*14
At the confluence of Robinsons Branch	*50
City of Rahway, Town of Westfield, Township of Clark	
South Branch Rahway River:	
At the confluence with Rahway River	*9
Approximately 100 feet upstream of East Inman Avenue	*10
City of Rahway	
Stream 10–30:	
At the confluence with Drainage Ditch	*74
Approximately 100 feet downstream of Willshire Drive	*74
Borough of Kenilworth	
Vauxhall Branch:	
At the confluence with Rahway River	*91
At Liberty Avenue	*91
Township of Union	
Cedar Brook:	
At Terrill Road	*131
A point immediately upstream of Willow Avenue	*141
Borough of Fanwood	
Vauxhall Sub Branch:	
At the confluence with Vauxhall Branch	*91
At Interstate 78	*91
Township of Union	
West Branch:	
At the confluence with Elizabeth River	*42
Approximately 1,400 feet upstream of Garden State Parkway entrance ramp	*60
Lightning Brook:	
At the confluence with Elizabeth River	*55
Approximately 950 feet downstream of Union Avenue	*55
Elizabeth River:	
At Trotters Lane	*18
Approximately 1,050 feet upstream of Union Avenue	*68
Townships of Union and Hillside	
Trotters Lane Branch:	
At Morris Avenue	*27
Approximately 300 feet downstream of North Avenue	*28
City of Elizabeth	
Kings Creek:	
A point immediately upstream of Barnett Street	*10
Approximately 1,000 feet upstream of Lower Road to Rahway	*13
City of Rahway	
East Branch Rahway River:	
Approximately 450 feet upstream of the confluence with Rahway River	*91
Approximately 2,800 feet downstream of Vauxhall Road	*91
Townships of Union and Springfield	
Kings Creek:	
Approximately 715 feet downstream of U.S. Route 9	*14
Just downstream of U.S. Route 9	*17
City of Linden	
Township of Clark	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Maps available for inspection at the Clark Township Engineer's Office, Municipal Building, 430 Westfield Avenue, Clark, New Jersey.	
Township of Cranford	
Maps available for inspection at the Cranford Township Engineer's Office, Municipal Building, 8 Springfield Avenue, Cranford, New Jersey.	
City of Elizabeth	
Maps available for inspection at the Elizabeth City Engineer's Office, 50 Winfield Scott Plaza, Elizabeth, New Jersey.	
Borough of Fanwood	
Maps available for inspection at the Fanwood Borough Engineer's Office, 75 North Martine Avenue, Fanwood, New Jersey.	
Township of Hillside	
Maps available for inspection at the Hillside Township Engineer's Office, JFK Plaza, Hillside and Liberty Avenue, Hillside, New Jersey.	
Borough of Kenilworth	
Maps available for inspection at the Kenilworth Borough Engineer's Office, Municipal Building, 567 Boulevard, Kenilworth, New Jersey.	
City of Linden	
Maps available for inspection at the Linden City Engineer's Office, Municipal Building, 301 North Wood Avenue, Linden, New Jersey.	
City of Rahway	
Maps available for inspection at the Rahway City Engineer's Office, 1 City Hall Plaza, Rahway, New Jersey 07065.	
Township of Springfield	
Maps available for inspection at the Springfield Township Engineer's Office, Municipal Building, 100 Mountain Avenue, Springfield, New Jersey.	
Township of Union	
Maps available for inspection at the Union Township Engineer's Office, Municipal Building, 1976 Morris Avenue, Union, New Jersey.	
Town of Westfield	
Maps available for inspection at the Westfield Town Engineer's Office, Municipal Building, 425 East Broad Street, Westfield, New Jersey.	
Township of Winfield	
Maps available for inspection at the Winfield Township Municipal Building, 12 Gulfstream Avenue, New Jersey.	
NORTH CAROLINA	
Alamance County (FEMA Docket No. D–7646)	
Back Creek:	
At the confluence with West Black Creek and Michaels Branch	•576
At the Guilford County/Town of Gibsonville jurisdictional boundary	•616
Alamance County (Unincorporated Areas), City of Burlington, Town of Gibsonville	
Back Creek Tributary 2:	
At the confluence with Back Creek	•589
Approximately 0.7 mile upstream of the Alamance/Guilford County boundary	•667
Beaver Creek:	
At the confluence with Lake Macintosh	•557
Approximately 1,000 feet upstream of the Alamance/Guilford County boundary	•572
Alamance County (Unincorporated Areas)	
Big Alamance Creek:	
Approximately 500 feet upstream of the confluence with Haw River	•480
At the Alamance/Guilford County boundary	•557
Alamance County (Unincorporated Areas), Village of Alamance, Cities of Burlington and Graham, and Town of Swepsonville	
Big Branch:	
Approximately 1,000 feet upstream of the confluence with Haw River	•410
Approximately 0.7 mile upstream from Mandale Road	•465
Alamance County (Unincorporated Areas)	
Boyd Branch:	
At the confluence with Little Alamance Creek	•516
At Hanford Road	•516
City of Burlington, City of Graham	
Boyds Creek:	
Approximately 0.3 mile downstream of Luckstone Road	•570
Approximately 1.1 miles upstream of Sandy Cross Road	•653
Alamance County (Unincorporated Areas)	
Boyds Creek Tributary 1:	
Approximately 350 feet upstream of the confluence with Boyds Creek	•512
Approximately 0.9 mile upstream of Lakeview Drive	•677
Alamance County (Unincorporated Areas), Town of Haw River	
Boyds Creek Tributary 2:	
At the confluence with Boyds Creek	•586
Approximately 0.8 mile upstream of Sandy Cross Road	•636
Alamance County (Unincorporated Areas)	
Burlington Reservoir:	
Entire shoreline within community	•579
Buttermilk Creek:	
Approximately 1,000 feet upstream of the confluence with Stony Creek	•555
Approximately 1.0 mile upstream of Reid Road	•715
Buttermilk Creek Tributary 1:	
At the confluence with Buttermilk Creek	•601
Approximately 1.1 miles upstream of the confluence with Buttermilk Creek	•713
Buttermilk Creek Tributary 2:	
At the confluence with Buttermilk Creek	•621
Approximately 1,000 feet upstream of the confluence with Buttermilk Creek Tributary 3	•708
Buttermilk Creek Tributary 3:	
At the confluence with Buttermilk Creek Tributary 2	•694
Approximately 1,500 feet upstream of the confluence with Buttermilk Creek Tributary 2	•709
Cane Creek (North):	
Approximately 850 feet upstream of the confluence with Haw River	•429
At the Alamance/Orange County boundary	•429
Cane Creek (South):	
Approximately 210 feet upstream of Bethel South Fork Road	•501
Approximately 1.5 miles upstream of the confluence with Well Creek	•596
Cane Creek (South) Tributary 1:	
At the confluence with Cane Creek (South)	•535
Approximately 1.3 miles upstream of Old Dam Road	•608
Cane Creek (South) Tributary 2:	
At the confluence with Cane Creek (South) Tributary 1	•586
Approximately 0.7 mile upstream of Old Dam Road	•595
Cane Creek (South) Tributary 3:	
At the confluence with Cane Creek (South)	•558
Approximately 2.3 miles upstream of the confluence with Cane Creek (South)	•599
Cane Creek (North) Tributary 4:	
At the confluence with Cane Creek (North)	•429
Approximately 3,000 feet upstream from the confluence with Cane Creek (North)	•456
Coblebrook Creek:	
At the confluence with Little Alamance Creek	•606

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 250 feet upstream of Edgewood Avenue	•688
City of Burlington	
Deep Creek:	
At the confluence with Stony Creek	•543
Approximately 2,800 feet upstream of Jefferies Cross Road	•698
Alamance County (Unincorporated Areas)	
Dry Creek:	
Approximately 320 feet upstream of Power Line Road	•630
Approximately 0.7 mile upstream of Power Line Road	•656
Alamance County (Unincorporated Areas), Town of Elon	
East Back Creek:	
Approximately 1,500 feet downstream of State Route 119	•533
At the Alamance/Orange County boundary	•559
Alamance County (Unincorporated Areas), City of Mebane	
Eastside Creek:	
Approximately 400 feet upstream of East Stage Coach Road	•612
Approximately 350 feet upstream of the Alamance/Orange County boundary	•655
City of Mebane	
Eastside Creek Tributary:	
At the confluence with Eastside Creek	•617
Approximately 530 feet upstream of the confluence with Eastside Creek	•621
Foust Creek:	
At the confluence with Cane Creek (South)	•505
Approximately 0.7 mile upstream from Snow Camp Road	•575
Alamance County (Unincorporated Areas)	
Greenbriar Creek:	
At the Alamance/Chatham County boundary	•633
Approximately 1.1 miles upstream of Staley Store Road	•667
Gunn Creek:	
At the confluence with Big Alamance Creek	•503
Approximately 0.8 mile upstream of the confluence with Big Alamance Creek	•503
City of Burlington	
Gunn Creek:	
Approximately 150 feet downstream of Mill Pointe Way	•638
Approximately 0.8 mile upstream of Mill Pointe Way	•684
Alamance County (Unincorporated Areas), City of Burlington	
Haw Creek Tributary 1:	
Approximately 1,350 feet upstream of the confluence with Haw Creek	•506
Approximately 1.5 miles upstream of Turner Road	•575
Alamance County (Unincorporated Areas), City of Mebane	
Haw River Tributary 2:	
Approximately 1,400 feet upstream of the confluence with Haw River	•435
Approximately 1.2 miles upstream from the confluence with Haw River	•534
Alamance County (Unincorporated Areas)	
Haw River Tributary 3:	
Approximately 1,600 feet upstream of the confluence with Haw River	•437
Approximately 0.6 mile upstream of Austin Quarter Road	•609
Haw River Tributary 4:	
Approximately 0.5 mile upstream of the confluence with Haw River	•439
Approximately 0.9 mile upstream of Saxaphaw Bethlehem Church Road	•623
Haw River Tributary 5:	
At the confluence with Haw River Tributary 4	•472
Approximately 400 feet upstream from John Thompson Road	•553
Haw River Tributary 6:	
Approximately 1,300 feet upstream of the confluence with Haw River	•460
Approximately 0.6 mile upstream of NC Highway 87	•539
Haw River Tributary 8:	
At the confluence with Haw River	•558
Approximately 2,250 feet upstream of Atwater Road	•649
Haw River Tributary 10:	
At the confluence with Unnamed Tributary to Haw River at Glencoe	•573
Approximately 1.3 miles upstream of Mansfield Road	•670
Haw River Tributary 11:	
Approximately 750 feet upstream of the confluence with Haw River	•589
Approximately 1,300 feet upstream of Lonzie Foster Trail	•710
Haw River Tributary 12:	
At the confluence with Haw River Tributary 11	•609
Approximately 600 feet upstream of Altamahaw Race Track Road	•742
Haw River Tributary 13:	
At the upstream side of Altamahaw Union Ridge Road	•608
Approximately 0.6 mile upstream of Mack's Chapel Road	•689
Haw River Tributary 14:	
Approximately 0.4 mile upstream with the confluence of Haw River	•620
Approximately 0.6 mile upstream of Gilliam Church Road	•696
Haw River Tributary 15:	
At the Alamance/Guilford County boundary	•664
Approximately 0.6 mile upstream of Lee Lewis Road	•712
Hughes Mill Creek:	
At the confluence with Jordan Creek	•603
Approximately 150 feet above the Alamance/Caswell County boundary	•618
Jones Creek:	
At the confluence with Buttermilk Creek	•608
Approximately 1,850 feet upstream of Altamahaw Race Track Road	•684
Jordan Creek:	
Approximately 1,500 feet upstream of the confluence with Stony Creek	•552
Approximately 1.3 miles upstream of Hughes Mill Road	•635
Laughin Creek:	
At the confluence with Buttermilk Creek	•589
Approximately 300 feet downstream of Alamance/Caswell County boundary	•739
Laughin Creek Tributary 1:	
At the confluence with Laughin Creek	•609
Approximately 1.0 mile upstream of the confluence with Laughin Creek	•680
Little Alamance Creek:	
Approximately 1.7 miles upstream of Big Alamance Creek	•490
Approximately 0.9 mile upstream of Interstates 40 and 85	•571
Alamance County (Unincorporated Areas), City of Burlington	
Little Alamance Creek Tributary:	
At the confluence with Little Alamance Creek	•565
Approximately 350 feet upstream of Maple Avenue	•613
City of Burlington	
Little Creek:	
At the confluence with Sinking Quarter Creek	•542
Approximately 0.9 mile upstream of the confluence with Little Creek Tributary 2	•608
Alamance County (Unincorporated Areas)	
Little Creek Tributary 1:	
At the confluence with Little Creek	•552

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 0.7 mile upstream of the confluence with Little Creek	•591
Little Creek Tributary 2:	
At the confluence with Little Creek	•570
Approximately 0.5 mile upstream of Vernon Lane	•652
Long Branch:	
At the confluence with Marys Creek	•461
Approximately 0.9 mile upstream of Stockard Road	•511
Marys Creek:	
Approximately 1,400 feet upstream of the confluence with Haw River	•436
Approximately 0.7 mile upstream from Snow Camp Road	•578
McAdams Creek Tributary:	
Approximately 500 feet upstream of the confluence with McAdams Creek	•588
Approximately 0.6 mile upstream of 3rd Street	•645
City of Mebane	
Meadow Creek:	
Approximately 110 feet upstream of NC Highway 54	•580
Approximately 1.2 miles upstream of NC Highway 54	•605
Alamance County (Unincorporated Areas)	
Michaels Branch:	
At the confluence with West Back Creek and Back Creek	•576
Approximately 290 feet upstream of Long Street	•692
Alamance County (Unincorporated Areas), City of Burlington, Town of Elon	
Michaels Branch Tributary:	
At the confluence with Michaels Branch	•633
Approximately 350 feet upstream of Driftwood Drive	•665
Town of Elon, Town of Gibsonville	
Mine Creek:	
Approximately 400 feet upstream of the confluence with Stony Creek	•549
Approximately 2.5 miles upstream of Mine Creek Road	•658
Alamance County (Unincorporated Areas)	
Motes Creek:	
Approximately 500 feet upstream of the confluence with Haw River	•441
Approximately 100 feet upstream of NC Highway 54	•569
Motes Creek Tributary:	
At the confluence with Motes Creek	•517
Approximately 0.6 mile upstream from Mineral Springs Road	•557
North Prong Creek:	
At the confluence with North Prong Rocky River	•658
At the Alamance/Randolph County boundary	•686
North Prong Rocky River:	
Approximately 800 feet downstream of the Alamance/Chatham County boundary	•647
At the Alamance/Randolph County boundary	•676
North Prong Stinking Quarter Creek:	
At the confluence with Stinking Quarter Creek	•508
At the Alamance/Guilford County boundary	•589
Alamance County (Unincorporated Areas), Village of Alamance	
Owens Creek:	
At the confluence with Jordan Creek	•563
Approximately 1.8 miles upstream of Blanchard Road	•647
Alamance County (Unincorporated Areas)	
Parks Creek:	
Approximately 700 feet upstream of the confluence with Reedy Fork	•612
Approximately 0.7 mile upstream of Shepherd Road	•645
Pine Branch:	
At the confluence with Cane Creek (South)	•448
Approximately 740 feet upstream of the confluence with Cane Creek (South)	•448
Pine Hill Branch:	
At the confluence with South Fork	•475
Approximately 1,400 feet upstream from Clark Road	•547
Pine Hill Branch Tributary:	
At the confluence with Pine Hill Branch	•502
Approximately 320 feet upstream from Quackenbush Road	•522
Poppaw Creek:	
At the confluence with Stinking Quarter Creek	•543
Approximately 4.5 miles downstream of Foster Store Road	•649
Poppaw Creek Tributary 1:	
At the confluence with Poppaw Creek	•612
Approximately 100 feet upstream of Timber Ridge Lake Road	•647
Poppaw Creek Tributary 2:	
At the confluence with Poppaw Creek	•613
Approximately 0.9 mile upstream of the confluence with Poppaw Creek	•660
Quaker Creek:	
Approximately 0.7 mile downstream of Dickey Mill Road	•534
Approximately 2.4 miles upstream of the confluence with Quaker Creek Tributary 2	•696
Quaker Creek Tributary 1:	
At the confluence with Quaker Creek	•594
Approximately 0.5 mile upstream of Cates Loop Road	•676
Quaker Creek Tributary 2:	
At the confluence with Quaker Creek	•612
Approximately 0.9 mile upstream of Tangle Ridge Trail	•673
Reedy Branch:	
At the confluence with Cane Creek (South)	•509
Approximately 0.4 mile upstream of Clark Road	•606
Rock Creek:	
Upstream side of Friendship Patterson Mill Road	•538
Approximately 1.2 miles upstream of Beale Road	•637
Rock Creek Tributary:	
At the confluence with Rick Creek	•560
Approximately 1.3 miles upstream of NC Highway 49	•594
Serub Creek:	
Approximately 1,250 feet upstream of Mebane Rogers Road	•534
Approximately 1,950 feet upstream of Dickey Mill Road	•595
Servis Creek:	
Approximately 1,600 feet downstream of Burch Bridge Road	•611
Approximately 500 feet upstream of Cadiz Street	•665
Alamance County (Unincorporated Areas), City of Burlington	
South Fork:	
Approximately 0.4 mile upstream of the confluence with Cane Creek (South)	•449
At the Alamance/Chatham County boundary	•525
Alamance County (Unincorporated Areas)	
Stagg Creek:	
Approximately 0.8 mile downstream of State Route 119	•536
At the Alamance/Orange County boundary	•605
Stagg Creek Tributary 1:	
At the confluence with Stagg Creek	•580
Approximately 500 feet upstream of Corbett Road	•734
Stagg Creek Tributary 2:	
At the confluence with Stagg Creek	•604
At the Alamance/Orange County boundary	•608
Staley Creek:	
Approximately 100 feet upstream of Rauhut Street	•594
Approximately 200 feet upstream of Chestnut Street	•664
Alamance County (Unincorporated Areas), City of Burlington	
Steelhouse Branch:	
Approximately 350 feet upstream of the confluence with Town Branch	•493

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 650 feet upstream of East Crescent Square Drive	•572
City of Graham	
Stinking Quarter Creek:	
Approximately 350 feet upstream of the confluence with Rock Creek	•496
Approximately 100 feet upstream of the Alamance/Guilford County boundary	•556
Alamance County (Unincorporated Areas)	
Stony Creek:	
At the confluence with Burlington Reservoir	•579
At the Alamance/Orange County boundary	•596
Tickle Creek:	
Approximately 200 feet downstream of the Alamance/Guilford County boundary	•644
At the Alamance/Guilford County boundary	•645
Toms Creek:	
At the confluence with Burlington Reservoir	•579
At the Alamance/Caswell County boundary	•599
Travis Creek:	
Approximately 1,100 feet upstream of the confluence with Tributary A to Travis Creek	•618
At the Alamance/Guilford County boundary	•618
Alamance County (Unincorporated Areas), Town of Gibsonville	
Travis Creek Tributary 2:	
Approximately 700 feet upstream of the confluence with Travis Creek	•596
Approximately 250 feet upstream of Burlington Avenue	•678
Alamance County (Unincorporated Areas), Town of Elon, Town of Gibsonville	
Tributary A to Haw Creek:	
Approximately 75 feet upstream of Jones Drive	•551
At the Alamance/Orange County boundary	•572
Alamance County (Unincorporated Areas)	
Tributary A to Travis Creek:	
Approximately 500 feet downstream of the Alamance/Guilford County boundary	•623
At the Alamance/Guilford County boundary	•623
Tributary to Travis Creek:	
Approximately 250 feet downstream of the Alamance/Guilford County boundary	•629
At the Alamance/Guilford County boundary	•630
Town of Gibsonville	
Unnamed Tributary to Haw River at Glencoe:	
Approximately 30 feet upstream of Greenwood Drive	•578
Approximately 1.6 miles upstream of Isley School Road	•665
Alamance County (Unincorporated Areas)	
Varnals Creek:	
Approximately 0.4 mile downstream of Bass Mountain Road	•554
Approximately 0.9 mile upstream of Bass Mountain Road	•571
Varnals Creek Tributary:	
Approximately 275 feet upstream of the confluence with Varnals Creek	•481
Approximately 1.9 miles upstream of the confluence with Varnals Creek	•553
Well Creek:	
At the confluence with Cane Creek (South)	•573
Approximately 0.6 mile upstream of Longest Acres Road	•662
Whittie Creek:	
At the confluence with Buttermilk Creek	•568
Approximately 0.6 mile upstream of Baker Bell Farm Road	•655
Willowbrook Creek:	
At the confluence with Little Alamance Creek	•575
Approximately 50 feet upstream of Allbright Avenue	•672
City of Burlington	
Alamance County (Unincorporated Areas)	
Maps available for inspection at the Alamance County Annex Building, Planning Department, 124 West Elm Street, Graham, North Carolina.	
Village of Alamance	
Maps available for inspection at the Alamance Village Hall, 2879 Rob Shepard Drive, Alamance, North Carolina.	
City of Burlington	
Maps are available for inspection at the Burlington City Hall, Engineering Department, 425 South Lexington Avenue, Burlington, North Carolina.	
Town of Elon	
Maps available for inspection at the Elon Town Hall, 104 South Williamson Avenue, Elon, North Carolina.	
Town of Gibsonville	
Maps are available for inspection at the Town of Gibsonville Planning Department, 129 West Main Street, Gibsonville, North Carolina.	
City of Graham	
Maps available for inspection at the Graham City Hall, Planning Department, 201 South Main Street, Graham, North Carolina.	
Town of Green Level	
Maps available for inspection at the Green Level Town Hall, 2510 Green Level Church Road, Green Level, North Carolina.	
Town of Haw River	
Maps available for inspection at the Haw River Town Hall, 403 East Main Street, Haw River, North Carolina.	
City of Mebane	
Maps available for inspection at the Mebane City Hall, 106 East Washington Street, Mebane, North Carolina.	
Town of Swepsonville	
Maps available for inspection at the Alamance County Planning Department, Annex Building, 124 West Elm Street, Graham, North Carolina.	
Dare County (FEMA Docket No. D–7622)	
Atlantic Ocean:	
Approximately 900 feet south of the intersection of Lighthouse Road and Hatteras Court	•5
Approximately 1,600 feet northeast of the intersection of State Route 12 and Baum Trail	•15
Dare County (Unincorporated Areas), and Towns of Duck, Kill Devil Hills, Kitty Hawk, Manteo, Nags Head, and Southern Shores	
Roanoke Sound:	
At the intersection of Cedar Drive and Captains Lane	•9
Approximately 1,200 feet east of the intersection of Sailfish Drive and Sailfish Court	•12
Dare County (Unincorporated Areas), Towns of Kill Devil Hills, and Nags Head	
Pamlico Sound:	
Along Oregon Inlet Channel, west of State Route 12	•9
Approximately 1,750 feet north of the intersection of Mail Landing Lane and State Route 12	•12
Dare County (Unincorporated Areas)	
Croatan Sound:	
Southeast corner of U.S. Route 264 and Old Ferry Dock Road	•6
At the intersection of Hassell Road and Shipyard Road	•7
Currituck Sound:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 500 feet west of the intersection of North Dune Loop and Soundview Trail	•7
Approximately 0.9 mile west of the intersection of Baum Trail and State Route 12	•9
Dare County (Unincorporated Areas), Towns of Duck and Southern Shores	
Dare County (Unincorporated Areas)	
Maps available for inspection at the Dare County Justice Center, Tax Mapping Department, 211 Budleigh Street, Manteo, North Carolina.	
Town of Duck	
Maps available for inspection at the Town of Duck Planning and Zoning Department, 1240 Duck Road, Duck, North Carolina.	
Town of Kill Devil Hills	
Maps available for inspection at the Town of Kill Devil Hills Planning and Building Directors Office, 102 Town Hall Drive, Kill Devil Hills, North Carolina.	
Town of Kitty Hawk	
Maps available for inspection at the Kitty Hawk Town Hall, 101 Veterans Memorial Drive, Kitty Hawk, North Carolina.	
Town of Manteo	
Maps available for inspection at the Manteo Town Hall, 407 Budleigh Street, Manteo, North Carolina.	
Town of Nags Head	
Maps available for inspection at the Town of Nags Head Planning Department, 5401 South Croatan Highway, Nags Head, North Carolina.	
Town of Southern Shores	
Maps available for inspection at the Town of Southern Shores Building Inspections Department, 6 Skyline Road, Southern Shores, North Carolina.	
Harnett County (FEMA Docket No. D–7640)	
Anderson Creek:	
At the confluence with Lower Little River	•103
At the confluence with North Prong Anderson Creek and South Prong Anderson Creek	•137
Unincorporated Areas of Harnett County	
Anderson Creek Tributary 1:	
At the confluence with Anderson Creek	•129
Approximately 0.7 mile upstream of Elliott Bridge Road	•136
Avents Creek:	
At the confluence with Cape Fear River	•141
Approximately 0.8 mile upstream of Oakridge River Road	•235
Barbecue Creek:	
At the confluence with Upper Little River	•193
Approximately 700 feet upstream of NC State Route 27	•280
Beaver Creek:	
Approximately 500 feet downstream of the Moore/Lee/Harnett County boundary	•307
Approximately 1.3 miles upstream of the Harnett/Moore County boundary	•409
Big Branch (into Barbecue Creek):	
At the confluence with Barbecue Creek	•214
Approximately 0.5 mile upstream of McCormick Road	•252
Big Branch (into Black River):	
At the confluence with Black River	•206
Approximately 0.8 mile upstream of Johnson Road	•219
Black River:	
At the Harnett/Cumberland County boundary	•139
Approximately 2.1 miles upstream of Guy Road	•260
Unincorporated Areas of Harnett County, City of Dunn, Town of Angier	
Buffalo Creek:	
At the Harnett/Moore County boundary	•218
At the confluence with Duncan Creek	•251
Unincorporated Areas of Harnett County	
Buffalo Creek Tributary 2:	
At the confluence with Buffalo Creek	•220
Approximately 2.6 miles upstream of Hillmon Grove Road	•276
Buffalo Creek Tributary 3:	
At the confluence with Buffalo Creek	•239
Approximately 1.4 miles upstream of the confluence with Buffalo Creek	•292
Buffalo Meadows Creek:	
At the confluence with Anderson Creek	•120
Approximately 1.3 miles upstream of the confluence with Anderson Creek	•140
Buies Creek:	
At the upstream side of Sheriff Johnson Road	•176
Approximately 0.8 mile upstream of Sheriff Johnson Road	•184
Camels Creek:	
At the confluence with Cape Fear River	•142
Approximately 0.9 mile upstream of Cool Springs Road	•245
Cedar Creek:	
Approximately 0.8 mile upstream of the confluence with Cape Fear River	•145
Approximately 2.9 miles upstream of the confluence with Cape Fear River	•198
Cypress Creek (into Crane Creek):	
At the Moore/Harnett County boundary	•226
Approximately 1.8 miles upstream of Cypress Road	•265
Cypress Creek (into Gum Swamp):	
At the confluence with Gum Swamp	•239
Approximately 1.5 miles upstream of the confluence with Lower Run	•307
Daniels Creek:	
Approximately 0.9 mile upstream of the confluence with Cape Fear River	•148
Approximately 5.8 miles upstream of the confluence with Cape Fear River	•244
Dry Creek:	
At the confluence with Gum Swamp	•232
Approximately 1.1 miles upstream of the confluence with Gum Swamp	•249
Duncans Creek:	
At the confluence with Buffalo Creek	•251
At the confluence with Duncans Creek Tributary 1	•265
Duncans Creek Tributary 1:	
At the confluence with Duncans Creek	•265
Approximately 0.4 mile upstream of the confluence with Duncans Creek	•274
East Buies Creek:	
Approximately 100 feet upstream of Sheriff Johnson Road	•196
Approximately 1.2 miles upstream of Sheriff Johnson Road	•205
Gum Swamp:	
At the confluence with Barbeque Creek	•222
Approximately 0.8 mile upstream of Ponderosa Road	•281
Hector Creek (into Cape Fear River):	
At the downstream side of Christian Light Road	•136
Approximately 1,200 feet downstream of Rawls Church Road	•240
Hector Creek (into Little River):	
At the Harnett/Cumberland/Moore County boundary	•194
Approximately 1.6 miles upstream of the Harnett/Cumberland/Moore County boundary	•226
Jumping Run Creek:	
Approximately 1.8 miles downstream of the Harnett/Cumberland County boundary	•141
At the Reedy Swamp/McLeod Creek confluences	•194

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Jumping Run Creek Tributary 1:	
At the confluence with Jumping Run Creek	•176
Approximately 0.2 mile upstream of the confluence with Jumping Run Creek Tributary 2	•199
Jumping Run Creek Tributary 2:	
At the confluence with Jumping Run Creek Tributary 1	•193
Approximately 400 feet upstream of the confluence with Jumping Run Creek Tributary 1	•195
Juniper Creek (into Black River) Tributary:	
At the confluence with Juniper Creek (into Black River)	•191
Approximately 0.5 mile upstream of the confluence with Juniper Creek (into Black River)	•197
City of Dunn	
Juniper Creek (into Black River):	
Approximately 600 feet upstream of the confluence with Black River	•159
Approximately 340 feet upstream of Friendly Road	•213
Unincorporated Areas of Harnett County	
Kates Creek:	
At the confluence with North Prong Anderson Creek	•155
Approximately 0.4 mile upstream of Elliott Bridge Road	•172
Unincorporated Areas of Harnett County	
Kenneth Creek:	
At the confluence with Neills Creek	•202
At the Wake/Harnett County boundary	•256
Lower Little River:	
Approximately 1.1 miles upstream of Mill Road	•103
Approximately 750 feet downstream of McCormick Bridge Road (At the Harnett/Cumberland County boundary)	•135
Lower Run:	
At the confluence with Cypress Creek (into Gum Swamp)	•272
Approximately 0.9 mile upstream of the confluence with Cypress Creek (into Gum Swamp)	•338
McDougald Branch:	
At the confluence with Cypress Creek (into Crane Creek)	•234
At the confluence with McDougald Branch Tributary	•249
McDougald Branch Tributary:	
At the confluence with McDougald Branch	•249
Approximately 0.5 mile upstream of the confluence with McDougald Branch	•274
McLeans Creek:	
At the confluence with Upper Little River	•136
Approximately 800 feet downstream of Thompson Road	•154
McLeod Creek:	
At the confluence with Jumping Run Creek and Reedy Swamp	•194
Approximately 2.8 miles upstream of the confluence with Jumping Run Creek and Reedy Swamp	•247
Mill Creek:	
At the confluence with Avents Creek	•152
Approximately 0.8 mile upstream of the confluence with Avents Creek	•183
Mingo Swamp:	
At the Cumberland/Sampson/Harnett County boundary	•134
Approximately 0.7 mile upstream of Red Hill Church Road	•255
Mingo Swamp Tributary 1:	
At the confluence with Mingo Swamp	•179
Approximately 1,100 feet upstream of I–95	•234
Mire Branch:	
At the confluence with Barbeque Creek	•249
Approximately 0.7 mile upstream of NC State Route 87	•279
Muddy Creek:	
At the Cumberland/Harnett County boundary	•175
Approximately 2.3 miles upstream of the confluence with Muddy Creek Tributary 3	•244
Muddy Creek Tributary 1:	
At the confluence with Muddy Creek	•186
Approximately 1.2 miles upstream of the confluence with Muddy Creek	•222
Muddy Creek Tributary 2:	
At the confluence with Muddy Creek	•199
Approximately 1.4 miles upstream of the confluence with Muddy Creek	•222
Muddy Creek Tributary 3:	
At the confluence with Muddy Creek	•207
Approximately 1.0 mile upstream of the confluence with Muddy Creek	•250
Neills Creek:	
Approximately 1,800 feet downstream of Route 401	•130
At the Wake/Harnett County boundary	•264
Neills Creek Tributary 1:	
At the confluence with Neills Creek	•221
Approximately 0.4 mile upstream of Chalybeate Springs Road	•242
North Prong Anderson Creek:	
At the confluence with Anderson Creek and South Prong Anderson Creek	•137
Approximately 0.9 mile upstream of Powell Farm Road	•225
North Prong Anderson Creek Tributary 1:	
At the confluence with North Prong Anderson Creek	•152
Approximately 0.6 mile upstream of the confluence with North Prong Anderson Creek	•158
Parker Creek:	
Approximately 0.3 mile upstream of the confluence with Cape Fear River	•151
Approximately 3.9 miles upstream of the confluence with Cape Fear River	•237
Reedy Branch:	
At the confluence with Cypress Creek (into Crane Creek)	•237
Approximately 1.8 miles upstream of Cypress Road	•282
Reedy Swamp:	
At the confluence with Jumping Run Creek and McLeod Creek	•194
Approximately 300 feet downstream of Buffalo Lake Road	•302
South Prong Anderson Creek:	
At the confluence with Anderson Creek	•137
Approximately 0.7 mile upstream of Bernard Street	•187
South Prong Anderson Creek Tributary 1:	
At the confluence with South Prong Anderson Creek	•156
Approximately 1.0 mile upstream of the confluence with South Prong Anderson Creek	•168
Stewarts Creek:	
Approximately 100 feet upstream of Ashe Avenue	•163
Approximately 1.4 miles upstream of Ashe Avenue	•183
Stewarts Creek Tributary 1:	
At the confluence with Stewarts Creek	•166
Approximately 0.4 mile upstream of Daniels Road	•184
Stony Run Tributary 1:	
Approximately 500 feet upstream of the confluence with Stony Run	•190
Approximately 0.9 mile upstream of the confluence with Stony Run	•198
Tributary 1:	
At the confluence with Little River	•134
Approximately 0.3 mile upstream of Rambeaut Road	•170
Tributary 2:	
Approximately 800 feet downstream of Rambeaut Road	•175

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 100 feet downstream of Rambeaut Road	•181
Upper Little River:	
Approximately 0.9 mile upstream of Titan Roberts Road	•110
At the Lee/Harnett County boundary	•240
Walkers Creek:	
At the confluence with Upper Little River	•157
Approximately 340 feet upstream of Tim Currin Road	•201
West Buies Creek:	
Approximately 1,000 feet upstream of East Cornelius Harnett Boulevard	•155
Approximately 1.6 miles upstream of Sheriff Johnson Road	•216
City of Dunn	
Maps are available for inspection at the Dunn Town Hall, 401 East Broad Street, Dunn, North Carolina.	
Town of Angier	
Maps are available for inspection at the Angier Town Hall, 55 North Broad West, Angier, North Carolina.	
Unincorporated Areas of Harnett County	
Maps are available for inspection at the Harnett County Planning Department, 102 East Front Street, Lillington, North Carolina.	
Lee County (FEMA Docket No. FEMA–D–7646)	
Beaver Creek:	
At the Lee/Moore County boundary	•307
At the Lee/Harnett County boundary	•310
Unincorporated Areas of Lee County	
Big Branch:	
At the Lee/Moore County boundary	•296
Approximately 0.6 mile upstream of the Lee/Moore County boundary	•304
Big Buffalo Creek:	
At the confluence with Deep River	•228
Approximately 0.3 mile upstream of U.S. Route 1	•289
Unincorporated Areas of Lee County, City of Sanford	
Big Buffalo Creek Tributary 1:	
At the confluence with Big Buffalo Creek	•253
Approximately 0.5 mile upstream of Valley Road	•297
City of Sanford, Unincorporated Areas of Lee County	
Big Governors Creek:	
At the confluence with Deep River	•257
At the confluence of Little Governors Creek	•257
Unincorporated Areas of Lee County	
Bush Creek:	
At the confluence with Cape Fear River	•169
Approximately 3.7 miles upstream of the confluence with Cape Fear River	•234
Bush Creek Tributary 1:	
At the confluence with Bush Creek	•170
Approximately 1,000 feet upstream of Poplar Springs Church Road	•239
Cape Fear River:	
At the Lee/Harnett County boundary	•152
At the confluence of Deep River	•177
Cape Fear River Tributary 1:	
At the confluence with Cape Fear River	•172
Approximately 1.2 miles upstream of Poplar Springs Church Road	•256
Carrs Creek:	
At the confluence with Upper Little River	•259
Approximately 0.3 mile upstream of the confluence with Upper Little River	•264
Copper Mine Creek:	
At the confluence with Hughes Creek and Gum Fork Creek	•199
Approximately 0.6 mile upstream of Farrell Road	•230
Deep River:	
At the confluence with Cape Fear River	•177
At the confluence of Big Governors Creek	•257
Deep River Tributary 1:	
At the confluence with Deep River	•227
Approximately 1.4 miles upstream of the confluence of Deep River Tributary 3	•237
Unincorporated Areas of Lee County, City of Sanford	
Deep River Tributary 10:	
At the confluence with Deep River	•255
Approximately 1.3 miles upstream of the confluence with Deep River	•261
Unincorporated Areas of Lee County	
Deep River Tributary 11:	
At the confluence with Deep River	•256
Approximately 1.0 mile upstream of the confluence of Tributary to Deep RiverTributary 11	•282
Deep River Tributary 2:	
At the confluence with Deep River Tributary 1	•227
Approximately 0.8 mile upstream of the confluence with Deep River Tributary 1	•235
Deep River Tributary 3:	
At the confluence with Deep River Tributary 1	•227
Approximately 1.0 mile upstream of the confluence with Deep River Tributary 1	•247
Deep River Tributary 9:	
At the confluence with Deep River	•252
Approximately 0.9 mile upstream of the confluence with Deep River	•256
Dry Fork:	
At the confluence with Pocket Creek	•299
Approximately 2.4 miles upstream of Dycus Road	•476
Fall Creek:	
At the confluence with Cape Fear River	•156
Approximately 0.4 mile upstream of Copeland Road	•329
Gasters Creek West:	
At the confluence with Upper Little River	•312
Approximately 0.4 mile upstream of Minter School Road	•401
Unincorporated Areas of Lee County, City of Sanford	
Gasters Creek West Tributary 1:	
At the confluence with Gasters Creek West	•337
Approximately 520 feet upstream of Lemon Springs Road	•372
Unincorporated Areas of Lee County	
Gum Fork Creek:	
At the confluence with Copper Mine Creek and Hughes Creek	•199
Approximately 1.3 miles upstream of US–1	•269
Hughes Creek:	
At the confluence with Lick Creek	•173
At the confluence of Copper Mine Creek and Gum Fork Creek	•199
Hughes Creek Tributary 1:	
At the confluence with Hughes Creek	•173
Approximately 0.5 mile upstream of Cletus Hall Road	•194
Juniper Creek:	
At the confluence with Upper Little River	•266
Approximately 1.0 mile upstream of Nicholson Road	•363
Kendale Creek:	
Approximately 1,400 feet upstream of Hiawatha Trail	•352
Approximately 2,000 feet upstream of Hiawatha Trail	•353
City of Sanford, Unincorporated Areas of Lee County	
Lick Creek:	
At the confluence with Cape Fear River	•173
Approximately 1.0 mile upstream of Pumping Station Road	•373
Unincorporated Areas of Lee County, City of Sanford	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Lick Creek Tributary 1:	
At the confluence with Lick Creek	•173
Approximately 0.6 mile upstream of Cletus Hall Road	•225
Unincorporated Areas of Lee County	
Lick Creek Tributary 2:	
At the confluence with Lick Creek	•239
Approximately 1.6 miles upstream of the confluence with Lick Creek	•325
Unincorporated Areas of Lee County, City of Sanford	
Lick Creek Tributary 3:	
At the confluence with Lick Creek	•296
Approximately 0.9 mile upstream of the confluence with Lick Creek	•338
Unincorporated Areas of Lee County	
Little Buffalo Creek:	
At the confluence with Deep River	•222
Approximately 1,000 feet upstream of Highway 421/ Highway 87	•406
Unincorporated Areas of Lee County, City of Sanford	
Little Crane Creek Tributary 2:	
Approximately 1,300 feet upstream of the confluence with Little Crane Creek	•332
Approximately 1.3 miles upstream of the confluence with Little Crane Creek	•384
Unincorporated Areas of Lee County	
Little Crane Creek Tributary 3:	
Approximately 700 feet upstream of the confluence with Little Crane Creek	•347
Approximately 0.4 mile upstream of the confluence with Little Crane Creek	•370
Little Crane Creek Tributary 4A:	
At the confluence with Little Crane Creek Tributary 4	•363
Approximately 1,500 feet upstream of Eakes Road	•425
Little Crane Creek Tributary 4B:	
At the confluence with Little Crane Creek Tributary 4	•370
Approximately 750 feet upstream of White Meadows Drive	•411
Little Crane Tributary 4:	
Approximately 600 feet upstream of the confluence with Little Crane Creek	•349
Approximately 1.4 miles upstream of the confluence of Little Crane Creek Tributary 4B	•428
Little Governors Creek:	
At the confluence with Big Governors Creek	•257
Approximately 8.3 miles upstream of the confluence with Big Governors Creek	•360
Little Juniper Creek:	
At the confluence with Upper Little River and Mulatto Branch	•332
Approximately 1.2 miles upstream of Rocky Fork Church Road	•403
Little Juniper Creek Tributary 1:	
At the confluence with Little Juniper Creek	•347
Approximately 0.6 mile upstream of the confluence with Little Juniper Creek	•369
Little Juniper Creek Tributary 2:	
At the confluence with Little Juniper Creek	•357
Approximately 600 feet upstream of Lemon Springs Road	•408
Little Juniper Creek Tributary 3:	
At the confluence with Little Juniper Creek	•360
Approximately 1.2 miles upstream of Willett Road	•457
Little Juniper Creek Tributary 4:	
At the confluence with Little Juniper Creek	•366
Approximately 0.3 mile upstream of the confluence with Little Juniper Creek	•376
Little Lick Creek:	
At the confluence with Lick Creek	•193
Approximately 1.2 miles upstream of Kids Lane	•365
Little Lick Creek Tributary 1:	
At the confluence with Little Lick Creek	•206
Just downstream of Womack Lake Circle	•351
Little Lick Creek Tributary 1A:	
At the confluence with Little Lick Creek Tributary 1	•226
Approximately 1.7 miles upstream of the confluence with Little Lick Creek Tributary 1	•365
Little Lick Creek Tributary 1B:	
At the confluence with Little Lick Creek Tributary 1	•247
Approximately 1,000 feet upstream of NC 42 (Avents Ferry Road)	•390
Little Pocket Creek:	
At the confluence with Pocket Creek	•238
Approximately 1.2 miles upstream of McPherson Road	•383
Little Shaddox Creek:	
At the confluence with Cape Fear River	•175
Approximately 450 feet upstream of Lower Moncure Road	•196
Long Branch:	
At the confluence with Juniper Creek	•311
Approximately 0.9 mile upstream of John Godfrey Road	•341
Lonnie Wombles Creek:	
At the confluence with Cape Fear River	•175
Approximately 0.6 mile upstream of US–1	•329
Lonnie Wombles Creek Tributary 1:	
At the confluence with Lonnie Wombles Creek	•182
Approximately 0.9 mile upstream of US–1	•324
Lonnie Wombles Creek Tributary 2:	
At the confluence with Lonnie Wombles Creek Tributary 1	•206
Approximately 770 feet upstream of US–1	•266
Mare Branch:	
At the confluence with Juniper Creek	•306
Approximately 0.6 mile upstream of Landfill Road	•380
Mulatto Branch:	
At the confluence with Upper Little River and Little Juniper Creek	•332
Approximately 830 feet upstream of Minter School Road	•368
Patchet Creek:	
At the confluence with Upper Little River	•245
Approximately 630 feet upstream of John Rosser Road	•325
Patterson Creek:	
At the confluence with Deep River	•236
Approximately 1,600 feet upstream of Wicker Street	•391
Persimmon Creek:	
At the confluence with Big Buffalo and Skunk Creeks	•289
Approximately 1.5 miles upstream of Carthage Street	•411
Pocket Creek:	
At the confluence with Deep River	•238
Approximately 250 feet upstream of Chris Cole Road	•342
Unincorporated Areas of Lee County	
Purgatory Branch:	
At the confluence with Big Buffalo Creek	•235
Approximately 1.6 miles upstream of Forestwood Park Road	•305
Racoon Creek:	
At the confluence with Pocket Creek	•271
Approximately 1.7 miles upstream of South Franklin Drive	•476
Unincorporated Areas of Lee County, City of Sanford	
Racoon Creek Tributary 1:	
At the confluence with Racoon Creek	•295
Approximately 0.9 mile upstream of the confluence with Racoon Creek	•361
Unincorporated Areas of Lee County	
Racoon Creek Tributary 2:	
At the confluence with Racoon Creek	•317
Approximately 1,700 feet upstream of the confluence with Racoon Creek	•338

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Reedy Branch:	
At the confluence with Juniper Creek	•321
Approximately 1,700 feet upstream of Blacks Chapel Road	•378
Roberts Creek:	
At the confluence with Hughes Creek	•175
Approximately 0.4 mile upstream of Railroad	•271
Run Branch:	
At the confluence with Reedy Branch	•324
Approximately 1.4 miles upstream of the confluence with Reedy Branch	•400
Skunk Creek:	
Approximately 10 feet upstream of West Garden Street	•320
Approximately 0.5 mile upstream of West Garden Street	•343
City of Sanford, Unincorporated Areas of Lee County	
Smith Creek:	
At the confluence with Deep River	•244
Approximately 1.1 miles upstream of Carbonton Road	•269
Unincorporated Areas of Lee County	
Stony Creek:	
At the confluence with Lick Creek	•191
Approximately 2.1 miles upstream of Poplar Springs Church Road	•358
Sugar Creek:	
At the confluence with Pocket Creek	•308
Approximately 1.2 miles upstream of the confluence with Pocket Creek	•337
Tributary to Deep River Tributary 11:	
At the confluence with Deep River Tributary 11	•256
Approximately 2.1 miles upstream of the confluence with Deep River Tributary 11	•275
Upper Little River:	
At the Lee/Harnett County boundary	•240
At the confluence of Mulatto Branch and Little Juniper Creek	•332
Upper Little River Tributary 1:	
At the confluence with Upper Little River	•290
Approximately 0.3 mile upstream of Holder Road	•355
Wallace Branch:	
At the confluence with Lick Creek	•217
Approximately 1.3 miles upstream of F.L. Dowdy Lane	•268
Wallace Branch Tributary 1:	
At the confluence with Wallace Branch	•218
Approximately 0.8 mile upstream of Riddle Road	•279
Wallace Branch Tributary 2:	
At the confluence with Wallace Branch	•220
Approximately 0.6 mile upstream of Riddle Road	•246
Wallace Branch Tributary 3:	
At the confluence with Wallace Branch	•222
Approximately 1.6 miles upstream of Riddle Road	•317
Whitehorse Branch:	
At the confluence with Mulatto Branch	•358
Approximately 0.2 mile upstream of Hickory House Road	•382
Unincorporated Areas of Lee County	
City of Sanford	
Maps are available for inspection at the City of Sanford Planning Department, 900 Woodland Avenue, Sanford, North Carolina.	
Unincorporated Areas of Lee County	
Maps are available for inspection at the Lee County Planning Department, 900 Woodland Avenue, Sanford, North Carolina.	
WEST VIRGINIA	
Raleigh County (FEMA Docket No. D–7642)	
Breckenridge Creek:	
Approximately 90 feet upstream of the confluence with Marsh Fork	•1,762
Approximately 0.2 mile upstream of State Route 99	•1,991
Raleigh County (Unincorporated Areas)	
Clear Fork:	
Approximately 0.4 mile upstream of Clear Fork Road	•1,126
Approximately 250 feet upstream of CR 119	•1,602
Crab Orchard Creek:	
Approximately 250 feet upstream of the confluence with Piney Creek	•2,231
Approximately 0.4 mile upstream of Route 54/24	•2,320
Cranberry Creek:	
At the confluence of Piney Creek	•1,679
Approximately 2.3 miles upstream of the upstream side of Stanford Road	•2,311
Raleigh County (Unincorporated Areas), City of Beckley	
North Sand Branch:	
Approximately 40 feet upstream of the confluence with Sand Branch	•1,767
Approximately 3.9 miles upstream of the confluence with Sand Branch	•2,280
Raleigh County (Unincorporated Areas)	
Sycamore Creek:	
At the confluence with Clear Fork	•1,021
Approximately 2.2 miles upstream of the confluence with Clear Fork	•1,230
Tributary 1 to Breckenridge Creek:	
At the confluence with Breckenridge Creek	•1,973
Approximately 0.4 mile upstream of the confluence with Breckenridge Creek	•1,990
Tributary 2 to Breckenridge Creek:	
At the confluence with Breckenridge Creek	•1,976
Approximately 700 feet upstream of the confluence with Breckenridge Creek	•1,983
Tributary 3 to Breckenridge Creek:	
At the confluence with Breckenridge Creek	•1,981
Approximately 1,000 feet upstream of the confluence with Breckenridge Creek	•1,987
White Oak Creek:	
Approximately 650 feet upstream of the confluence with Clear Fork	•1,336
Approximately 3.3 miles upstream of the confluence with Clear Fork	•1,827
Raleigh County (Unincorporated Areas)	
City of Beckley	
Maps available for inspection at the Beckley City Municipal Building, 409 South Kanawha Street, Beckley, West Virginia.	
Raleigh County (Unincorporated Areas)	
Maps available for inspection at the Raleigh County Commission Building, 16½ North Herber Street, Beckley, West Virginia.	

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

Dated: June 5, 2006.

David I. Maurstad,

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

[FR Doc. E6–9127 Filed 6–9–06; 8:45 am]

BILLING CODE 9110–12–P

Proposed Rules

Federal Register
Vol. 71, No. 112
Monday, June 12, 2006

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA 2006–24983; Directorate Identifier 2005–NM–196–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Airbus Model A318, A319, A320, and A321 airplanes. The existing AD currently requires a one-time inspection to determine the serial number of both main landing gear (MLG) sliding tubes, repetitive detailed inspections for cracking of the affected MLG sliding tubes, and corrective actions if necessary. This proposed AD would retain these inspections and add new repetitive inspections for cracking of the MLG sliding tubes. This proposed AD would also require eventual replacement of both MLG shock absorbers. Doing this replacement would terminate the repetitive inspection requirements of this proposed AD. This proposed AD results from a determination that additional inspections and mandatory replacement of the MLG shock absorbers are necessary. We are proposing this AD to detect and correct cracking in an MLG sliding tube, which could result in failure of the sliding tube, loss of one axle, and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by July 12, 2006.

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

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

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

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. FAA–2006–24983; Directorate Identifier 2005–NM–196–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

On May 28, 2004, we issued AD 2004–11–13, amendment 39–13659 (69 FR 31867, June 8, 2004), for all Airbus Model A318, A319, A320, and A321 airplanes. That AD currently requires a one-time inspection to determine the serial number (S/N) of both main landing gear (MLG) sliding tubes, repetitive inspections for cracking of the MLG sliding tubes, and corrective actions if necessary. That AD resulted from a report that a linear crack was found in a MLG sliding tube at the intersection of the cylinder and the axle due to a non-metallic inclusion in the base metal, and another report that the number of MLG sliding tubes subject to the identified unsafe condition had expanded. We issued that AD to detect and correct cracking in an MLG sliding tube, which could result in failure of the sliding tube, loss of one axle, and consequent reduced controllability of the airplane.

Actions Since Existing AD Was Issued

The preamble to AD 2004–11–13 specified that we considered the requirements ''interim action'' and that the manufacturer was developing a modification to address the unsafe condition. That AD explained that we may consider further rulemaking if a modification is developed, approved, and available. We have now determined that additional detailed inspections and magnetic particle inspections (MPI) and eventual sliding tube replacement are necessary to ensure safe operation and has issued revised service information. Therefore, we have determined that further rulemaking is indeed necessary;

this proposed AD follows from that determination.

Relevant Service Information

Airbus has issued Service Bulletin A320–32A1273, Revision 02, including Appendix 01; dated May 26, 2005, to replace All Operators Telex (AOT) 32A1273, Revision 01, dated May 6, 2004. (AD 2004–11–13 refers to Revision 01 of the AOT as the appropriate source of service information for certain actions.) The service bulletin retains the one-time general visual inspection to determine the S/N of both MLG sliding tubes and the repetitive detailed inspections for cracking of the sliding tube of the MLG shock absorber described by the AOT. The service bulletin also describes procedures for new repetitive detailed inspections and new MPIs of the sliding tube, and eventual replacement of both MLG shock absorbers with new or serviceable MLG shock absorbers equipped with sliding tubes having S/Ns not listed in the service information. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

The service bulletin refers to Messier-Dowty Service Bulletins 201–32–43, Revision 1 (for Airbus Model A321 airplanes), and 200–32–286, Revision 1 (for Airbus Model A318, A319, and A320 airplanes); both dated May 1, 2005, as additional sources of service information for accomplishing the detailed inspections and MPIs.

The Direction Générale de l'Aviation Civile (DGAC) mandated the service information and issued French airworthiness directive F–2005–115, dated July 6, 2005, to ensure the continued airworthiness of these airplanes in France. French airworthiness directive F–2005–115 replaces French airworthiness directive UF–2004–065, dated May 11, 2004, which was referenced in AD 2004–11–13.

FAA's Determination and Requirements of the Proposed AD

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

This proposed AD would supersede AD 2004–11–13 and would continue to require a one-time general visual inspection to determine the S/N of both MLG sliding tubes and the repetitive detailed inspections for cracking of the sliding tube of the MLG shock absorber. This proposed AD would also require accomplishing the actions specified in Airbus Service Bulletin A320–32A1273, Revision 02, described previously.

Changes to Existing AD

Due to the new requirements of this proposed AD, paragraphs (h), (i), and (j) of AD 2004–11–13 have been revised as applicable and incorporated as new paragraphs (l), (m), and (n) of this proposed AD.

Clarification of Inspection Terminology

In this proposed AD, the ''detailed visual inspection'' specified in French airworthiness directive F–2005–115 is referred to as a ''detailed inspection.'' We have included the definition for a detailed inspection in a note in the proposed AD.

Costs of Compliance

This proposed AD would affect about 720 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD at an estimated cost of $80 per work hour. Operators should note that, although all U.S.-registered airplanes are subject to the requirements of the existing AD, there are only 297 possible affected MLG sliding tubes in the worldwide fleet. We have no way of knowing how many affected MLG sliding tubes, if any, are installed in U.S.-registered airplanes. Therefore, the estimated costs to perform the new requirements of this proposed AD apply only to individual sliding tubes; no fleet cost can be determined for these actions.

ESTIMATED COSTS TO PERFORM REQUIREMENTS OF EXISTING AD 2004–11–13

Action	Work hours	Parts	Cost per airplane	Fleet cost
General visual inspection to determine serial number	1	None	$80	$57,600

ESTIMATED COSTS TO PERFORM NEW REQUIREMENTS OF THIS PROPOSED AD

Action	Work hours	Parts	Cost per sliding tube
Detailed inspection	1	None	$80, per inspection cycle.
Detailed inspection and MPI	9	None	$720, per inspection cycle.
Replacement of sliding tube.	8	$38,278 to $45,310	$39,918 to $45,950

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order

13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–13659 (69 FR 31867, June 8, 2004) and adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2006–24983; Directorate Identifier 2005–NM–196–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by July 12, 2006.

Affected ADs

(b) This AD supersedes AD 2004–11–13.

Applicability

(c) This AD applies to all Airbus Model A318, A319, A320, and A321 airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a determination that additional inspections and mandatory replacement of the MLG shock absorbers are necessary. We are issuing this AD to detect and correct cracking in an MLG sliding tube, which could result in failure of the sliding tube, loss of one axle, and consequent reduced controllability of the airplane.

Compliance

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

Service Information References

(f) The term ''service information,'' as used in this AD, means Airbus All Operators Telex (AOT) A320–32A1273, Revision 01, dated May 6, 2004; or the Accomplishment Instructions of Airbus Service Bulletin A320–32A1273, Revision 02, including Appendix 01, dated May 26, 2005. After the effective date of this AD, only Airbus Service Bulletin A320–32A1273, Revision 02, may be used.

Note 1: Airbus AOT A320–32A1273, Revision 01, and Airbus Service Bulletin A320–32A1273, Revision 02, refer to Messier-Dowty Service Bulletins 201–32–43 and 200–32–286, both currently at Revision 1, dated May 1, 2005, as additional sources of service information for accomplishing the detailed inspections and magnetic particle inspections (MPI).

Restatement of Certain Requirements of AD 2004–11–13

Serial Number (S/N) Identification

(g) For all airplanes: Within 30 days after June 23, 2004 (the effective date of AD 2004–11–13), do a one-time general visual inspection to determine the S/N of both MLG sliding tubes, in accordance with the service information. Instead of inspecting the MLG sliding tubes, reviewing the airplane maintenance records is acceptable if the S/N of the MLG sliding tubes can be positively determined from that review.

(1) If the S/N of the MLG sliding tube is not listed in the service information: No further action is required by this paragraph for that sliding tube.

(2) If the S/N of the MLG sliding tube is listed in the service information: Do the actions in paragraph (g)(2)(i) or (g)(2)(ii) of this AD, as applicable.

(i) For any MLG not inspected before June 23, 2004: Before further flight, do a detailed inspection of the MLG for cracking in accordance with the service information.

(A) If no cracking is found in any MLG sliding tube: Repeat the detailed inspection thereafter at intervals not to exceed 10 days, until the MLG replacement specified by paragraph (g)(2)(i)(B), (h), or (i) of this AD has been accomplished.

(B) If any cracking is found in any MLG sliding tube: Before further flight replace the part with a new or serviceable part in accordance with a method approved by either the FAA or the Direction Generale de l'Aviation Civile (DGAC) (or its delegated agent). Chapter 32 of the Airbus A318/A319/A320/A321 Aircraft Maintenance Manual (AMM) is one approved method. Installing an MLG sliding tube having an S/N that is not listed in the service information terminates the repetitive inspections required by paragraph (h) of this AD for that MLG sliding tube only.

(ii) For any MLG that has been inspected before June 23, 2004: Within 10 days after that inspection, do the detailed inspection required by paragraph (g)(2)(i) of this AD.

New Requirements of This AD

Detailed Inspection and MPI

(h) For any airplane equipped with any MLG having a sliding tube installed that is identified with a S/N listed in the service information: Within 500 flight cycles after the effective date of this AD, perform a detailed inspection and an MPI of the MLG sliding tube for cracking in accordance with the service information. Repeat these inspections thereafter at intervals not to exceed 1,200 flight cycles until paragraph (i) of this AD has been accomplished. If any cracking is discovered during any inspection required by this paragraph, before further flight, replace the cracked sliding tube with a new or serviceable sliding tube in accordance with the service information. Replacing the MLG sliding tube with a sliding tube having a S/N not listed in the service information terminates the repetitive inspection requirements of this paragraph and paragraph (g)(2)(i)(A) of this AD for that sliding tube only.

Terminating Action

(i) Within 41 months after the effective date of this AD, replace all MLG shock absorbers equipped with sliding tubes having S/Ns listed in the service information with new or serviceable MLG shock absorbers equipped with sliding tubes having S/Ns not listed in the service information, using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the DGAC (or its delegated agent). Chapter 32, page block 401, of the Airbus A318/A319/A320/A321 AMM is one approved method. Replacing the MLG shock absorbers in accordance with this paragraph terminates all repetitive inspections required by this AD.

Submission of Cracked Parts Not Required

(j) The service information has instructions to send any cracked part to Messier-Dowty. This AD does not include such a requirement.

Reporting Requirement

(k) Prepare a report of any crack found during any inspection required by paragraph (g) or (h) of this AD. Submit the report to Airbus Customer Services, Engineering and Technical Support, Attention: M.Y. Quimiou, SEE33, fax +33+ (0) 5.6193.32.73, at the applicable time specified in paragraph (k)(1) or (k)(2) of this AD. The report must include the MLG sliding tube P/N and S/N, date of inspection, a description of any cracking found, the airplane serial number, and the number of flight cycles on the MLG at the time of inspection. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) For any inspection done after June 23, 2004, but before the effective date of this AD: Within 30 days after the inspection or 30 days after the effective date of this AD, whichever comes first.

(2) For any inspection done after the effective date of this AD: Within 30 days after the inspection.

Parts Installation

(l) As of the effective date of this AD, no person may install, on any airplane, any sliding tube, or MLG shock absorber having a sliding tube installed, if the sliding tube has a S/N identified in the service information, unless the sliding tube has been inspected, and any applicable corrective actions have been done, in accordance with paragraph (g)(2)(i), (h), or (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, International Branch, ANM–116, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Related Information

(n) French airworthiness directive F–2005–115, dated July 6, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on May 31, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–9062 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24990; Directorate Identifier 2006–NM–013–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A319, A320, and A321 airplanes. This proposed AD would require an inspection to determine if the stiff part of the girt and girt bar position of the forward left-hand and right-hand passenger doors is incorrect, and repair if necessary. This proposed AD results from cases of girt bar disengagement from the floor fitting during deployment tests of slide rafts at the forward passenger doors. We are proposing this AD to prevent disengagement of the telescopic girt bar from the airplane when the door is opened in emergency situations, which could result in the inability to open the passenger door and to use the escape slide/raft at that door during an emergency evacuation of the airplane.

DATES: We must receive comments on this proposed AD by July 12, 2006.

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

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–24990; Directorate Identifier 2006–NM–013–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on certain Airbus Model A319, A320, and A321 airplanes. The DGAC advises that, during deployment tests of slide rafts at the forward passenger doors, cases of girt bar disengagement from the floor fitting were reported. Investigations have demonstrated that the girt bar disengagements were due to incorrect position of the stiff part of the girt bar during installation of the slide raft on airplanes. This may cause inboard-directed loads on the girt bar, preventing a correct engagement in the floor fittings. This condition, if not corrected, could result in disengagement of the telescopic girt bar from the airplane when the door is opened in emergency situations, which could result in the inability to open the passenger door and to use the escape slide/raft at that door during an emergency evacuation of the airplane.

Relevant Service Information

Airbus has issued Service Bulletin A320–25–1394, Revision 01, dated December 12, 2005. The service bulletin describes procedures for a general visual inspection to determine whether the stiff part of the girt and girt bar position of the forward left-hand and right-hand passenger doors is incorrect, and repair if necessary. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive F–2005–

172 on December 21, 2005, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of the Proposed AD

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

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

Costs of Compliance

This proposed AD would affect about 719 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $57,520, or $80 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2006–24990; Directorate Identifier 2006–NM–013–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by July 12, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A319, A320, and A321 airplanes, certificated in any category; on which Airbus Modification 20233, 25902, or 24365 (installation of slide raft) has been done in production; excluding those airplanes having manufacturer's serial numbers 1794, 2155, 2195, 2204, 2231, 2239, 2244, 2246, 2247, 2252, 2254, 2255, 2257, 2259, 2261, 2263, 2267, 2273, 2274, 2275, 2278, 2280, 2282, 2284, 2286, 2288, 2297, 2301, 2307, 2310, 2314, 2327, 2369, and subsequent.

Unsafe Condition

(d) This AD results from cases of girt bar disengagement from the floor fitting during deployment tests of slide rafts at the forward passenger doors. We are issuing this AD to prevent disengagement of the telescopic girt bar from the airplane when the door is opened in emergency situations, which could result in the inability to open the passenger door and to use the escape slide/raft at that door during an emergency evacuation 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.

Inspection and Repair

(f) Within 200 days after the effective date of this AD, do a general visual inspection to determine if the stiff part of the girt and girt bar position of the forward left-hand and right-hand passenger doors is incorrect, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–25–1394, Revision 01, dated December 12, 2005. If the stiff part of the girt or the girt bar position is incorrect, before further flight, repair in accordance with the service bulletin.

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.''

(g) Inspecting and repairing if necessary before the effective date of this AD in accordance with Airbus Service Bulletin A320–25–1394, dated July 23, 2004, is acceptable for compliance with the requirements of paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(i) French airworthiness directive F–2005–172, issued December 21, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on May 31, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–9061 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24999; Directorate Identifier 2006–NM–060–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10 and DC–10–10F Airplanes; and Model MD–10–10F Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain McDonnell Douglas Model DC–10–10 and DC–10–10F airplanes; and Model MD–10–10F airplanes. This proposed AD would require replacing the clamp bases for the fuel vent pipe with improved clamp bases. This proposed AD results from reports that the foil wrapping on existing plastic clamp bases has migrated out of position, which compromises the bonding of the fuel vent pipes to the airplane structure. We are proposing this AD to ensure that the fuel vent pipes are properly bonded to the airplane structure. Improper bonding could prevent electrical energy from a lightning strike from dissipating to the airplane structure, and create an ignition source, which could result in a fuel tank explosion.

DATES: We must receive comments on this proposed AD by July 27, 2006.

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

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

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

FOR FURTHER INFORMATION CONTACT: Serj Harutunian, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5254; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–24999; Directorate Identifier 2006–NM–060–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (67 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination

with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Foil-wrapped plastic clamp bases are used to bond the fuel vent pipes to the airplane structure in parts of the fuel vent system on McDonnell Douglas Model DC–10–10 and DC–10–10F airplanes; and Model MD–10–10F airplanes. We have received reports that the foil wrapping on existing plastic clamp bases has migrated out of position on several airplanes, which compromises the bonding of the fuel vent pipes to the airplane structure. (Bonding of the fuel vent pipes to the airplane structure is critical to ensure that the electrical energy from a lightning strike dissipates to the airplane structure.) This condition, if not corrected, could create an ignition source and result in a fuel tank explosion.

Relevant Service Information

We have reviewed Boeing Service Bulletin DC10–28–243, dated February 22, 2005. The service bulletin describes procedures for replacing existing foil-wrapped plastic clamp bases for the fuel vent pipe with improved metal clamp bases. These replacement procedures include verifying the electrical conductivity of the structural bracket and vent pipe surfaces and performing corrective action if necessary. The corrective action includes prepping and applying chemical conversion coating to the surface of the structural bracket and/or vent pipe, as applicable. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 12 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 12 airplanes of U.S. registry. The proposed actions would take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Required parts would cost about $502 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $7,944, or $662 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket No. FAA–2006–24999; Directorate Identifier 2006–NM–060–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by July 27, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Model DC–10–10 and DC–10–10F airplanes; and Model MD–10–10F airplanes, certificated in any category; as identified in Boeing Service Bulletin DC10–28–243, dated February 22, 2005.

Unsafe Condition

(d) This AD results from reports that the foil wrapping on existing plastic clamp bases has migrated out of position, which compromises the bonding of the fuel vent pipes to the airplane structure. We are issuing this AD to ensure that the fuel vent pipes are properly bonded to the airplane structure. Improper bonding could prevent electrical energy from a lightning strike from dissipating to the airplane structure, and create an ignition source, which could result in a fuel tank explosion.

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.

Clamp Base Replacement

(f) Within 60 months after the effective date of this AD: Replace the existing plastic clamp bases for the fuel vent pipe with improved metal clamp bases, by doing all of the applicable actions as specified in the Accomplishment Instructions of Boeing Service Bulletin DC10–28–243, dated February 22, 2005. All corrective actions that are required following the conductivity verification, which is included in the replacement procedures, must be done before further flight.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Los Angeles 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 § 39.19 on any airplane to which the AMOC applies, notify the

appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on June 5, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–9063 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–24317; Airspace Docket No. 06–AEA–006]

Establishment of Class E Airspace; Robert Packer Hospital, Sayre, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Robert Packer Hospital, Sayre, PA. The development of an Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) and Helicopter RNAV (GPS) 135 approach for the Robert Packer Hospital to serve flights operating into the airport during Instrument Flight Rules (IFR) conditions makes this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing an approach. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before July 12, 2006.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. FAA–2006–24317; Airspace Docket No. 06–AEA–006, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–24317; Airspace Docket No. 06–AEA–006''. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace area at Robert Packer Hospital, PA. The development of SIAPs to serve flights operating into the airport during IFR conditions makes this action necessary. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAPs. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9N, dated September 1, 2005, and effective September 16, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a ''significant regulatory action''under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulation Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N dated September 1, 2005, and effective September 16, 2005, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

AEA PA E5 Robert Packer Hospital, [New]

Sayre, Pennsylvania

(Lat. 41°58′46″ N., long. 76° 31′15″ W.)

That airspace extending upward from 700 feet above the surface within a 6.0 mile radius of the Robert Packer Hospital, Sayre, PA.

Issued in Jamaica, New York, on March 30, 2006.

John G. McCartney,

Acting Area Director, Eastern Terminal Operations.

[FR Doc. 06–5306 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–24318; Airspace Docket No. 06–AEA–007]

Establishment of Class E Airspace; Hill Top Heliport, Troy, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Hill Top Heliport, Troy, PA. The development of an Area Navigation (RNAV), Standard Instrument Approach Procedures (SIAP) and Helicopter RNAV (GPS) 186 approach for the Hill Top Heliport to serve flights operating into the airport during Instrument Flight Rules (IFR) conditions makes this action necessary. Controlled airspace extending upward from 700 feed Above Ground Level (AGL) is needed to contain aircraft executing an approach. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before July 12, 2006.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. FAA–2006–24318; Airspace Docket No. 06–AEA–007, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–24318; Airspace Docket No. 06–AEA–007''. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace area at Hill Top Heliport, Troy, PA. The development of SIAPs to serve flights operating into the airport during IFR conditions makes this action necessary. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAPs. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9N, dated September 1, 2005, and effective September 16, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N dated September 1, 2005, and effective September 16, 2005, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

AEA PA E5 Hill Top Heliport, [New]

Troy, Pennsylvania

(Lat. 41°46′55″ N., long. 76°48′23″ W.)

That airspace extending upward from 700 feet above the surface within a 6.0 mile radius of the Hill Top Heliport, Troy, PA.

Issued in Jamaica, New York, on March 30, 2006.

John G. McCartney,

Acting Area Director, Eastern Terminal Operations.

[FR Doc. 06–5307 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–24319; Airspace Docket No. 06–AEA–008]

Establishment of Class E Airspace; St. Joseph Medical Center, Maryland

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at St. Joseph Medical Center, Towson, Maryland. The development of an Area Navigation (RNAV), Standard instrument Approach Procedures (SIAP) and Helicopter RNAV (GPS) 269 approach for the St. Joseph Medical Center to serve flights operating into the airport during Instrument Flight Rules (IFR) conditions makes this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing an approach. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before July 12, 2006.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. FAA–2006–24319; Airspace Docket No. 06–AEA–008, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–24319; Airspace Docket No. 06–AEA–008''. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments wilt be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace area at St. Joseph Medical Center, Towson, Maryland. The development of SIAPs to serve flights operating into the airport during IFR conditions makes this action necessary. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAPs.

Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9N, dated September 1, 2005, and effective September 16, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N dated September 1, 2005, and effective September 16, 2005, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

AEA MD E5 St. Joseph Medical Center, [New]

Towson, Maryland
(Lat. 39°23′28″ N., long. 76°33′04″ W.)

That airspace extending upward from 700 feet above the surface within a 6.0 mile

radius of the St. Joseph Medical Center, Towson, Maryland.

Issued in Jamaica, New York, on March 30, 2006.

John G. McCartney,

Acting Area Director, Eastern Terminal Operations.

[FR Doc. 06–5308 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL INDIAN GAMING COMMISSION

25 CFR Parts 502 and 546

Consultation on Classification on Standards and Definitions

AGENCY: National Indian Gaming Commission.

ACTION: Notice of consultation with tribal governments.

SUMMARY: The purpose of this document is to publish the schedule for government-to-government consultation on proposed revisions to 25 CFR part 502 and new part 546.

FOR FURTHER INFORMATION CONTACT: Natalie Hemlock at 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: Congress established the National Indian Gaming Commission (NIGC or Commission) under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701 *et seq.*) (IGRA) to regulate gaming on Indian lands. In accordance with the NIGC's tribal consultation policy, the Commission will engage in consultation with tribal governments on the proposed regulations that will clearly distinguish technologically-aided Class II games from Class III ''electronic or electromechanical facsimiles of any game of chance'' or ''slot machines of any kind.'' The proposed Class II definitions and game classification standards were published in the **Federal Register** on May 25, 2006 (71 FR 30238).

Consultation Schedule: The Commission will be conducting government-to-government consultations with Tribes on this proposed rule on the following dates:

July 12–13, Washington, DC.
July 17–18, Bloomington, Minnesota.
July 19–20, Denver, Colorado.
July 24–25, Tacoma, Washington.
July 26–27, Ontario, California.
August 8–9, Oklahoma City, Oklahoma.

Invitations will be mailed out to Tribal leaders in the coming weeks. These consultation meetings will be transcribed.

Dated: June 6, 2006.

Philip N. Hogen,

Chairman, National Indian Gaming Commission.

[FR Doc. E6–9044 Filed 6–9–06; 8:45 am]

BILLING CODE 7565–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2006–0462; FRL–8181–9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is approving a revision to the Missouri State Implementation Plan (SIP). This approval pertains to revisions to the state's rule which restricts emissions from specific Missouri lead smelter-refinery installations. The effect of this approval is to remove duplication between two SIP-approved documents, and does not affect the stringency of the requirements.

DATES: Comments must be received on or before July 12, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2006–0462 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. E-mail: Gwen Yoshimura at *yoshimura.gwen@epa.gov.*
3. Mail: Gwen Yoshimura, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. Hand Delivery or Courier: Deliver your comments to: Gwen Yoshimura, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Gwen Yoshimura at (913) 551–7073, or E-mail her at *yoshimura.gwen@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: May 31, 2006.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 06–5249 Filed 6–9–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0004; FRL–8176–5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Indiana State Implementation Plan (SIP) for ozone. The state is adding four chemical compounds to its list of compounds that are now exempt from being considered a volatile organic compound (VOC). Indiana also is removing a compound from the list of hazardous air pollutants (HAP). The revisions Indiana made parallel the changes EPA made to our VOC definitions and HAP list on November 29, 2004 and that became effective on December 29, 2004.

Four VOCs were found by EPA to make a negligible contribution to

tropospheric ozone formation. The compounds are: 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane, 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane, 1,1,1,2,3,3,3-heptafluoropropane, and methyl formate. Companies producing or using the four compounds will no longer need to follow the VOC rules for these compounds.

The requirements for t-butyl acetate are also modified. It is not considered a VOC for emission limits and content requirements. T-butyl acetate will still be considered a VOC for the recordkeeping, emissions reporting, and inventory requirements.

Indiana is removing ethylene glycol monobutyl ether (EGBE) (2-Butoxyethanol) from its HAP list, too. EGBE will no longer be considered a hazardous air pollutant.

DATES: Written comments must be received on or before July 12, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0004, by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: mooney.john@epa.gov.*
- *Fax:* (312) 886–5824.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m.to 4:30 p.m. excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submission as a direct final rule without prior proposal because the Agency views this as a noncontroversial submission and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: May 16, 2006.

Norman Niedergang,

Acting Regional Administrator, Region 5.

[FR Doc. 06–5251 Filed 6–9–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2005–VA–0010; FRL–8182–9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to Existing Regulation Provisions Concerning Maintenance, Nonattainment, and Prevention of Significant Deterioration Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. These revisions consist of amendments to state regulation provisions concerning maintenance, nonattainment, and prevention of significant deterioration (PSD) areas for incorporation into the Virginia SIP. This action is being taken under the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before July 12, 2006.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2005–VA–0010 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: morris.makeba@epa.gov.*

C. *Mail:* EPA–R03–OAR–2005–VA–0010, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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 No. EPA–R03–OAR–2005–VA–0010. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *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.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, 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 *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 15, 17, 19, September 28, and October 3, 2005, the Commonwealth of Virginia, Department of Environmental Quality, submitted revisions to its SIP. These revisions consisted of amendments to Virginia's regulations pertaining to nonattainment, maintenance, and prevention of significant deterioration (PSD) areas. More detailed information on these proposed revisions can be found in the technical support document (TSD) prepared for this rulemaking.

Listed below is a summary of each of the revisions that is being proposed for incorporation into the Virginia SIP.

II. Summary of SIP Revisions

A. On August 15, 2005, the Commonwealth of Virginia submitted a revision to its SIP. This revision eliminates the air quality maintenance area (AQMA) concept found in 9 VAC 5–20–203, which was promulgated by the EPA in the 1970's, and replaces it with the maintenance area concept consistent with the 1990 Clean Air Act Amendments (CAAA). This action will not result in the backsliding of any control measures that have been submitted by the Commonwealth and approved by EPA into the Commonwealth of Virginia SIP. The August 15, 2005 revision also reflects the redesignation of the Hampton Roads Area to attainment of the 1-hour ozone national ambient air quality standards (NAAQS) (62 FR 34408, June 26, 1997), by adding the area to the list of ozone maintenance areas found in 9 VAC 5–20–203.1, and deleting the area from the list of 1-hour ozone nonattainment areas found in 9 VAC 5–20–204.1(c). Additionally, this revision removes the exclusion of the Hampton Roads Area from the list of PSD areas found in 9 VAC 5–20–205.A.4(f).

B. On August 17, 2005, the Commonwealth of Virginia submitted a revision to its SIP. This revision reflects the redesignation of the Richmond 1-hour ozone nonattainment area to attainment (62 FR 61237, November 17, 1997), of the 1-hour standard by amending 9 VAC 5–20–204.1(b) to remove the Richmond Area from the list of areas regulated as nonattainment areas, and adding it to the list of maintenance areas found in 9 VAC 5–20–203.1. The revision also reflects the removal of the exemption of the Richmond Area from the list of PSD areas found in 9 VAC 5–20–205.A(e).

C. On August 19, 2005, the Commonwealth of Virginia submitted a revision to its SIP. This revision reflects the first repeal of the 1-hour ozone NAAQS (63 FR 31087, June 5, 1998), by removing the White Top Mountain Area from the list of 1-hour ozone nonattainment areas found in 9 VAC 5–20–204.1(b). The revision further amends 9 VAC 5–20–205.A(4) by removing the exemption of the White Top Mountain Area from the list of areas subject to regulation as a PSD area.

In the June 5, 1998 (63 FR 31087) final rulemaking, the 1-hour ozone standard was repealed for areas that had not measured a current violation of the 1-hour standard. All of Smyth County, Virginia, including the White Top Mountain Area, was one of the areas where the 1-hour standard no longer applied. The August 19, 2005 SIP revision reflects this repeal of the 1-hour ozone NAAQS by removing the White Top Mountain Area from the list of 1-hour ozone nonattainment areas in 9 VAC 5–20–204.1(b) and removing its exclusion from the list of PSD areas in 9 VAC 5–20–205.A(4). However, in a 1999 court decision, EPA's previous determinations on the applicability of the 1-hour ozone standard (63 FR 31014 June 5, 1998), were challenged, and as a result, on October 25, 1999 (64 FR 57424), EPA proposed that the 1-hour ozone standard would be reinstated in those areas where it had previously been revoked and the associated designations and classifications that previously applied in such areas with respect to the 1-hour NAAQS would also be reinstated. In a July 20, 2000 (65 FR 45182) final rule, EPA reinstated the White Top Mountain Area as a rural transport (marginal) ozone nonattainment area under the 1-hour ozone NAAQS. The effective date for the reinstatement of the 1-hour ozone NAAQS in the White Top Mountain Area was January 16, 2001 (65 FR 45182).

On April 30, 2004 (69 FR 23951), EPA published the first phase of its final rule to implement the 8-hour ozone NAAQS (Phase I Rule). Also on April 30, 2004 (69 FR 23858), EPA published 8-hour ozone designations for all areas of the country. For most areas, including the White Top Mountain Area, the designations under the 8-hour ozone NAAQS became effective on June 15, 2004. The Phase I Rule provided that the 1-hour ozone NAAQS would no longer apply for an area one year following the effective date of the area's designation for the 8-hour ozone NAAQS. On August 3, 2005 (70 FR 44470), EPA issued a final rule that codified the revocation of the 1-hour standard for those areas with effective 8-hour ozone designations. On June 15, 2005, all of Smyth County, Virginia was no longer subject to the 1-hour ozone NAAQS and was designated attainment of the 8-hour ozone NAAQS. Now that the 1-hour standard has been revoked and the White Top Mountain Area is designated attainment for all NAAQS, the only permitting program Virginia must have under Title 1 of the CAA is the PSD program. Therefore, EPA can now approve these changes to 9 VAC 5–20–204.1(b) and 9 VAC 5–20–205.A(4) for the White Top Mountain Area that were submitted on August 19, 2005 into the Virginia SIP.

D. On September 28, 2005, the Commonwealth of Virginia submitted a revision to its SIP. The revision consists of updates to existing regulations by incorporating the new 8-hour ozone nonattainment areas into the list of Virginia's nonattainment areas found in 9 VAC 5–20–204.A and revising the list of PSD areas found in 9 VAC 5–20–205.A. The revision also adds a provision, 9 VAC 5–20–204.B., which removes the severe area program in the Northern Virginia Ozone Nonattainment Area as the area was constituted under the 1-hour standard. Because the severe area program imposed more stringent requirements than required under section 184 of the CAA in that area, Virginia did not need to have a separate new source review (NSR) program meeting the section 184 requirements. On January 6, 2006, (FR 71 890), EPA proposed to approve a SIP revision to implement the NSR program required under section 184 of the CAA in Virginia's portion of the Ozone Transport Region (OTR). EPA is proposing approval of the September 28, 2005 SIP revision contingent upon EPA issuing a final action approving the January 6, 2006 (71 FR 890) rulemaking. It should be noted that since the September 28, 2005 SIP revision submittal, EPA has redesignated the Fredericksburg (December 23, 2005, 70 FR 76165), and Shenandoah National Park (January 3, 2006, 71 FR 24) areas

to attainment of the 8-hour ozone NAAQS.

The revision to 9 VAC 5–20–205.A amends the list of PSD areas by deleting the list of specific localities and incorporating language indicating that the areas subject to PSD are those areas that are not designated as nonattainment in 9 VAC 5–20–204.A. The September 28, 2005 SIP submittal also removes mercury, beryllium, asbestos, and vinyl chloride from the list of pollutants found in 9 VAC 5–20–205.B for which PSD areas are defined. The 1990 Amendments to the CAA at section 112(b)(6) exempted hazardous air pollutants (HAPs) listed under section 112(b)(1) from the PSD requirements in part C of the CAA. These HAPS include: arsenic, asbestos, benzene, beryllium, mercury, radionuclides, and vinyl chloride, all of which were previously regulated under the PSD rules. Virginia has consequently removed these pollutants from 9 VAC 5–205.B to conform to the 1990 CAA Amendments.

E. On October 3, 2005, the Commonwealth of Virginia submitted a revision to its SIP. This revision updates existing regulations to 9 VAC 5–20–204.A.2 by changing the nonattainment classification of the Richmond 8-hour ozone nonattainment area from ''moderate'' to ''marginal.'' This change reflects EPA's reclassification of the Richmond Area which was published on September 22, 2004 (69 FR 56697).

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege''' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) That are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law,Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. * * *'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

IV. Proposed Action

EPA is proposing to approve the Commonwealth of Virginia's SIP revisions amending existing regulations pertaining to nonattainment, maintenance and PSD areas which were submitted on August 15, 17, 19, September 28, and October 3, 2005. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule 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), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule 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 proposed rule, pertaining to amendments to existing regulation provisions concerning Virginia's nonattainment, maintenance, and PSD areas, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 1, 2006.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E6–9081 Filed 6–9–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–D–7660]

Proposed Flood Elevation Determinations

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

ACTION: Proposed rule.

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

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

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

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr. CFM, Acting Section Chief, Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

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

Regulatory Flexibility Act. The Mitigation Division Director certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

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

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

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

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
FLORIDA **Santa Rosa County**				
Pace Mill Creek	Approximately 1,300 feet downstream of U.S. Route 90.	•11	•12	Santa Rosa County (Unincorporated Areas).
	At downstream side of Chumuckla Highway	None	•127	
Pond Creek	Approximately 500 feet upstream of CSX Railroad	•9	•10	Santa Rosa County (Unincorporated Areas), City of Milton.
	At upstream side of William Norris Road	None	•68	

Santa Rosa County (Unincorporated Areas)
Maps available for inspection at the Santa Rosa County Public Services Department, 6051 Old Bagdad Highway, Milton, Florida.
Send comments to Mr. Hunter Walker, Santa Rosa County Administrator, 6495 Caroline Street, Suite D, Milton, Florida 32570–4592.
City of Milton
Maps available for inspection at the City of Milton Planning and Development Department, 6738 Dixon Street, Milton, Florida.
Send comments to The Honorable Guy Thompson, Mayor of the City of Milton, P.O. Box 909, Milton, Florida 32572.

NEW JERSEY **Somerset County**				
Cory's Brook	At the confluence with Passaic River	•214	•207	Township of Warren.
	Approximately 1,800 feet upstream of Powder Horn Road.	None	•405	
Dead River	At the confluence with Passaic River	•215	•213	Townships of Bernards and Warren.
	Approximately 300 feet upstream of Annin Road	None	•269	
Harrison Brook	At the confluence of Dead River	•221	•220	Township of Bernards.
	Approximately 250 feet upstream of South Alward Avenue.	None	•327	
Harrison Brook Branch 2	At the confluence with Harrison Brook	•241	•238	Township of Bernards.
	Approximately 875 feet upstream of Private Road	None	•272	
Holland Brook	At the confluence of South Branch Raritan River	•62	•61	Township of Branchburg.
	Approximately 1,000 feet upstream of Old York Road	None	•89	
Middle Brook (to Raritan River).	At the confluence with Raritan River	•36	•38	Township of Bridgewater, Borough of Bound Brook.
	At State Route 22	•66	•74	
Neshanic River	At the confluence with South Branch Raritan River	•81	•82	Township of Hillsborough.
	Approximately 0.8 mile upstream of Private Road	•103	•101	
North Branch Raritan River	At the confluence with Raritan River	•63	•61	Boroughs of Bernardsville, Far Hills, Peapack and Gladstone, Townships of Branchburg, Bedminster and Bridgewater.
	At the Somerset and Morris County boundary	•296	•294	
Pike Run	At the downstream side of Township Line Road	•70	•71	Townships of Montgomery and Hillsborough.
	Approximately 1.1 miles upstream of Pleasant View Road.	None	•114	
Pike Run Tributary	At the confluence with Pike Run	•85	•86	Township of Hillsborough.
	Approximately 500 feet upstream of the confluence with Pike Run.	•85	•86	
Raritan River	At the Somerset and Middlesex County boundary	•17	•18	Townships of Branchburg, Bridgewater and Franklin, Boroughs of Bound Brook, Manville, Raritan, Somerville, and South Bound Brook.
	At the confluence with North Branch and South Branch Raritan River.	•63	•61	
Royce Brook	Approximately 6,500 feet upstream of the confluence with Millstone River.	•45	•41	Township of Hillsborough, Borough of Manville.
	Approximately 1,000 feet upstream of East Mountain Road.	None	•137	
Royce Brook Tributary A	At the confluence with Royce Brook	•71	•69	Township of Hillsborough.
	Approximately 200 feet upstream of the confluence with Royce Brook.	•71	•70	
Royce Brook Tributary B	At the confluence with Royce Brook	•51	•50	Township of Hillsborough.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 200 feet upstream of the confluence with Royce Brook.	•51	•50	
Royce Brook Tributary C	At the confluence with Royce Brook	•42	•43	Township of Hillsborough.
	Approximately 500 feet upstream of the confluence with Royce Brook.	•42	•43	
South Branch Raritan River	At the confluence with Raritan River	•63	•61	Townships of Branchburg, Bridgewater and Hillsborough.
	At the Somerset and Hunterdon county boundary	•97	•96	

Borough of Bedminster

Maps available for inspection at the Bedminster Township Municipal Building, 130 Hillside Avenue, Bedminster, New Jersey.

Send comments to The Honorable Amey Mesko, Mayor of the Township of Bedminster, Bedminster Township Municipal Building, 130 Hillside Avenue, Bedminster, New Jersey 07921.

Township of Bernards

Maps available for inspection at the Bernards Township Engineering Services Building, 277 South Maple Avenue, Basking Ridge, New Jersey.

Send comments to The Honorable John Malay, Mayor of the Township of Bernards, 1 Collyer Lane, Basking Ridge, New Jersey 07920.

Borough of Bernardsville

Maps available for inspection at the Bernardsville Municipal Building, 166 Mine Brook Road, Bernardsville, New Jersey.

Send comments to The Honorable Jay Parsons, Mayor of the Borough of Bernardsville, P.O. Box 158, Bernardsville, New Jersey 07924.

Borough of Bound Brook

Maps available for inspection at the Bound Brook Borough Municipal Building, 230 Hamilton Street, Bound Brook, New Jersey.

Send comments to Mr. John J. Kennedy, Bound Brook Borough Administrator, Bound Brook Municipal Building, 230 Hamilton Street, Bound Brook, New Jersey 08805.

Township of Branchburg

Maps available for inspection at the Branchburg Township Engineering Department, 1077 Route 202 North, Branchburg, New Jersey.

Send comments to The Honorable Kate Sarles, Mayor of the Township of Branchburg, 1077 Route 202 North, Branchburg, New Jersey 08876.

Township of Bridgewater

Maps available for inspection at the Bridgewater Township Code Enforcement Office, 700 Garretson Road, Bridgewater, New Jersey.

Send comments to The Honorable Patricia Flannery, Mayor of the Township of Bridgewater, 700 Garretson Road, Bridgewater, New Jersey 08807.

Borough of Far Hills

Maps available for inspection at the Far Hills Borough Municipal Building, 6 Prospect Street, Far Hills, New Jersey.

Send comments to The Honorable Carl J. Torsilieri, Far Hills Borough Municipal Building, P.O. Box 477, Far Hills, New Jersey 07931.

Township of Franklin

Maps available for inspection at the Franklin Township Engineering Department, 475 De Mott Lane, Somerset, New Jersey.

Send comments to Mr. Kenneth W. Daly, Franklin Township Manager, 475 De Mott Lane, Somerset, New Jersey 08873.

Township of Hillsborough

Maps available for inspection at the Hillsborough Township Municipal Complex, 379 South Branch Road, Hillsborough, New Jersey.

Send comments to The Honorable Carl Suraci, Mayor of the Township of Hillsborough, 379 South Branch Road, Hillsborough, New Jersey 08844.

Borough of Manville

Maps available for inspection at the Manville Borough Municipal Building, 325 North Main Street, Manville, New Jersey.

Send comments to The Honorable Angelo Corradino, Mayor of the Borough of Manville, 325 North Main Street, Manville, New Jersey 08835.

Township of Montgomery

Maps available for inspection at the Montgomery Township Municipal Building, 2261 Van Horne Road, Route 206, Belle Mead, New Jersey.

Send comments to The Honorable Louise Wilson, 2261 Van Horne Road, Route 206, Belle Mead, New Jersey 08502.

Borough of Peapack and Gladstone

Maps available for inspection at the Peapack and Gladstone Borough Municipal Building, 1 School Street, Peapack, New Jersey.

Send comments to The Honorable Vincent A. Girardy, Mayor of the Borough of Peapack and Gladstone, P.O. Box 218, 1 School Street, Peapack, New Jersey 07977.

Borough of Raritan

Maps available for inspection at the Raritan Borough Municipal Building, 22 First Street, Raritan, New Jersey.

Send comments to The Honorable Philip M. Possessky, Mayor of the Borough of Raritan, 22 First Street, Raritan, New Jersey 08869.

Borough of Somerville

Maps available for inspection at the Somerville Borough Hall, 25 West End Avenue, Somerville, New Jersey

Send comments to The Honorable Brian G. Gallagher, 25 West End Avenue, Somerville, New Jersey 08876.

Borough of South Bound Brook

Maps available for inspection at the Borough of South Bound Brook Municipal Building, 12 Main Street, South Bound Brook, New Jersey.

Send comments to The Honorable Jo-Anne B. Schubert, Mayor of the Borough of South Bound Brook, Borough of South Bound Brook Municipal Building, 12 Main Street, South Bound Brook, New Jersey 08880.

Township of Warren

Maps available for inspection at the Warren Township Engineering Department, 48 Mountain Boulevard, Warren, New Jersey.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Send comments to The Honorable Carolyn Garafola, Mayor of the Township of Warren, 48 Mountain Boulevard, Warren, New Jersey 07059.				
NORTH CAROLINA Bladen County				
Bryant Swamp	At the Bladen/Robeson County boundary	None	•96	Town of Bladenboro, Bladen County (Uunincorporated Areas).
	Approximately 0.3 mile upstream of State Route 211 Bypass.	None	•107	
Goodman Swamp (formerly Crooked Bay).	At the Bladen/Robeson County boundary	None	•109	Bladen County (Unincorporated Areas).
	Approximately 1,200 feet downstream of Tar-heel Ferry Road.	None	113	
Elkton Marsh	At the confluence with Brown Marsh Swamp	None	•75	Bladen County (Unincorporated Areas).
	Approximately 150 feet downstream of Burney Ford Road.	None	•81	
Horsepen Branch	Approximately 1,500 feet downstream of the confluence of Spring Branch.	None	•89	Bladen County (Unincorporated Areas).
	Approximately 0.5 mile upstream of State Route 410	None	•100	
Rattlesnake Creek	At the confluence of Spring Branch	None	•89	Bladen County (Unincorporated Areas).
	At the Bladen-Columbus County boundary	None	•96	

Town of Bladenboro

Maps available for inspection at the Bladenboro Town Hall, 305 South Main Street, Bladenboro, North Carolina.

Send comments to The Honorable Livingston Lewis, Mayor of the Town of Bladenboro, P.O. Box 455, Bladenboro, North Carolina 28320.

Bladen County (Unincorporated Areas)

Maps available for inspection at the Bladen County Courthouse, 106 East Broad Street, Room 107, Elizabethtown, North Carolina.

Send comments to Mr. Gregory Martin, Bladen County Manager, P.O. Box 1048, Elizabethtown, North Carolina 28337.

Chatham County				
Bear Creek	Approximately 0.6 mile upstream of Edwards Hill Church Road.	None	•456	Chatham County (Unincorporated Areas).
	Approximately 2.7 miles upstream of confluence of Bear Creek Tributary.	None	•479	
Bear Creek Tributary 1	At the confluence with Bear Creek	None	•457	Chatham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of confluence with Bear Creek.	None	•459	
Brooks Creek Tributary	At the confluence with Brooks Creek	None	•384	Chatham County (Unincorporated Areas) Town of Pittsboro.
	Approximately 970 feet upstream of Russells Chapel Church Road.	None	•397	
Tick Creek Tributary 1	At the confluence with Tick Creek	None	•498	Chatham County (Unincorporated Areas), Town of Siler City.
	Approximately 0.9 mile upstream of Mount Vernon Springs Road.	None	•531	
West Price Creek	At the Chatham/Orange County boundary	None	•467	Chatham County (Unincorporated Areas).
	Approximately 1,930 feet upstream of the Chatham/Orange County boundary.	None	•480	
Harlands Creek	Approximately 800 feet upstream of U.S. 64	None	•428	Chatham County (Unincorporated Areas), Town of Pittsboro.
	Approximately 1.6 miles upstream of U.S. 64	None	•445	
Tysons Creek Tributary	At the confluence with Tysons Creek	None	•341	Chatham County (Unincorporated Areas).
	Approximately 0.8 mile upstream of State Route 42	None	•386	

Chatham County (Unincorporated Areas)

Maps available for inspection at the Chatham County Planning Department, 80-A East Street, Pittsboro, North Carolina

Send comments to Mr. Charlie Horne, Chatham County Manager, P.O. Box 87, Pittsboro, North Carolina 27312.

Town of Pittsboro

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Maps available for inspection at the Pittsboro Town Planning Office, Town Hall, 635 East Street, Pittsboro, North Carolina.				
Send comments to the Honorable Nancy May, Mayor of the Town of Pittsboro, P.O. Box 759, Pittsboro, North Carolina 27312.				
Town of Siler City				
Maps available for inspection at the Town of Siler City Zoning Office, Town Hall, 311 North Second Avenue, Room 301, Siler City, North Carolina.				
Send comments to Mr. Joel Brower, Siler City Town Manager, P.O. Box 769, Siler City, North Carolina 27344.				
Cumberland County				
Cape Fear River Tributary 2.	At the confluence with Cape Fear River	•95	•96	Cumberland County (Unincorporated Areas), Town of Wade.
	Approximately 0.4 mile upstream of Interstate 95	None	•131	
Little Rockfish Creek	Approximately 50 feet upstream of Cameron Road	•80	•81	Cumberland County (Unincorporated Areas), Town of Hope Mills.
	Approximately 500 feet downstream of Plank Road	None	•182	
Muddy Creek	At the confluence with Little River	•152	•150	Cumberland County (Unincorporated Areas), Town of Spring Lake.
	At the Cumberland/Harnett County boundary	None	•175	
Cumberland County (Unincorporated Areas):				
Maps available for inspection at the Cumberland County Mapping Department, 117 Dick Street, Fayetteville, North Carolina.				
Send comments to Mr. James E. Martin, Cumberland County Manager, P.O. Box 1829, Fayetteville, North Carolina 28302.				
Hope Mills (Town):				
Maps available for inspection at the Hope Mills Town Hall, 5770 Rockfish Road, Hope Mills, North Carolina.				
Send comments to The Honorable Eddie Dees, Mayor of the Town of Hope Mills, P.O. Box 367, Hope Mills, North Carolina 28348.				
Spring Lake (Town):				
Maps available for inspection at the Spring Lake Town Hall, 300 Ruth Street, Spring Lake, North Carolina.				
Send comments to The Honorable Ethel Clark, Mayor of the Town of Spring Lake, P.O. Box 617, Spring Lake, North Carolina 28390.				
Wade (Town):				
Maps available for inspection at the Wade Town Hall, 7128 Main Street, Wade, North Carolina.				
Send comments to The Honorable Huell Aekins, Mayor of the Town of Wade, P.O. Box 127, Wade, North Carolina 28395.				
Forsyth County				
Ader Creek	At the confluence with Lick Creek	None	•721	Unincorporated Areas of Forsyth County.
	Approximately 0.4 mile upstream of the confluence with Lick Creek.	None	•732	
Belews Creek	At the Forsyth/Stokes County boundary	None	•737	Unincorporated Areas of Forsyth County.
	Approximately 0.8 mile upstream of Old Valley School Road (SR 2024).	None	•821	
Belews Creek Tributary 4	At the confluence with Belews Creek	None	•749	Unincorporated Areas of Forsyth County.
	Approximately 1,500 feet upstream of the confluence with Belews Creek.	None	•758	
Belews Creek Tributary 5	Approximately 750 feet upstream of the confluence with Belews Creek.	None	•786	Unincorporated Areas of Forsyth County.
	Approximately 1.6 miles upstream of the confluence with Belews Creek.	None	•850	
Belews Lake	Entire shoreline	None	•737	Unincorporated Areas of Forsyth County.
Buffalo Creek (into Town Fork Creek).	Approximately 500 feet downstream of the Forsyth/Stokes County boundary.	None	•667	Unincorporated Areas of Forsyth County.
	Approximately 50 feet upstream of the Forsyth/Stokes County boundary.	•669	•668	
Buffalo Creek Tributary	At the upstream side of Shiloh Church Road	•738	•740	Unincorporated Areas of Forsyth County.
	Approximately 0.6 mile upstream of Shiloh Church Road (SR 1932).	•759	•761	
Crooked Run Creek	Approximately 480 feet upstream of Meadowbrook Road (SR 1105).	None	•856	Unincorporated Areas of Forsyth County, Village of Tobaccoville.
	Approximately 850 feet upstream of the Forsyth/Stokes County boundary.	None	•884	

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Crooked Run Creek Tributary.	At the Forsyth/Stokes County boundary	None	•935	Unincorporated Areas of Forsyth County, Village of Tobaccoville.
	Approximately 0.4 mile upstream of the confluence of Crooked Run Creek Tributary 2 of Tributary.	None	•992	
Crooked Run Creek Tributary 1 of Tributary.	At the confluence with Crooked Run Creek Tributary	None	•953	Unincorporated Areas of Forsyth County, Village of Tobaccoville.
	Approximately 1,100 feet upstream of the confluence with Crooked Run.	None	•973	
Dean Creek	Approximately 0.6 mile upstream of Lenbrook Road (SR 2074).	None	•816	Unincorporated Areas of Forsyth County.
	Approximately 0.9 mile upstream of Lenbrook Road (SR 2074).	None	•827	
Dean Creek Tributary	Approximately 450 feet upstream of the confluence with Dean Creek.	None	•789	Unincorporated Areas of Forsyth County.
	Approximately 0.5 mile upstream of the confluence with Dean Creek.	None	•802	
East Belews Creek	At the confluence with Belews Creek	None	•737	Unincorporated Areas of Forsyth County, Town of Kernersville.
	Approximately 2.1 miles upstream of Warren Road (SR 2019).	None	•913	
East Belews Creek Tributary 1.	At the confluence with East Belews Creek	None	•737	Unincorporated Areas of Forsyth County.
	At the Forsyth/Guilford County boundary	None	•737	
East Belews Creek Tributary 1 of Tributary 1.	At the confluence with East Belews Creek Tributary 1	None	•737	Unincorporated Areas of Forsyth County.
	At the Forsyth/Guilford County boundary	None	•737	
East Belews Creek Tributary 2.	At the confluence with East Belews Creek	None	•737	Unincorporated Areas of Forsyth County.
	Approximately 0.7 mile upstream of Benefit Church Road (SR 1970).	None	•750	
Harley Creek	Approximately 350 feet upstream of the confluence with Belews Creek.	None	•759	Unincorporated Areas of Forsyth County.
	Approximately 1.9 mile upstream of the confluence with Belews Creek.	None	•796	
Kansas Branch	At the confluence with Old Field Creek	None	•715	Unincorporated Areas of Forsyth County.
	Approximately 1.3 mile upstream of the confluence with Old Field Creek.	None	•890	
Kings Creek	At the confluence with East Belews Creek	None	•737	Unincorporated Areas of Forsyth County.
	At the Forsyth/Guilford County boundary	None	•737	
Leak Branch	Approximately 50 feet downstream of the Forsyth/Stokes County boundary.	None	•703	Unincorporated Areas of Forsyth County.
	Approximately 1.7 miles upstream of the Forsyth/Stokes County boundary.	None	•878	
Left Fork Belews Creek	At the confluence with Belews Creek	None	•750	Unincorporated Areas of Forsyth County.
	Approximately 1.2 miles upstream of Rail Fence Road (SR 2009).	None	•860	
Lick Creek	Approximately 700 feet upstream of the confluence of Right Prong Lick Creek.	None	•647	Unincorporated Areas of Forsyth County.
	At the confluence of Ader Creek	None	•721	
Lick Creek Tributary 1	At the Forsyth/Stokes County boundary	None	•647	Unincorporated Areas of Forsyth County.
	Approximately 1.4 miles upstream of the Forsyth/Stokes County boundary.	None	•685	
Lick Creek Tributary 2	At the confluence with Lick Creek	None	•678	Unincorporated Areas of Forsyth County.
	Approximately 750 feet upstream of the confluence with Lick Creek.	None	•687	
Little Yadkin River	Approximately 0.8 mile upstream of the confluence with Yadkin River.	None	•765	Unincorporated Areas of Forsyth County.
	Approximately 0.9 mile upstream of Spainhour Mill Road.	None	•786	
Little Yadkin River Tributary near Perch Road.	At the confluence with Little Yadkin River	None	•775	Unincorporated Areas of Forsyth County.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 2,100 feet upstream of the confluence with Little Yadkin River.	None	•775	
Little Yadkin River Tributary of Tributary near Perch Road.	At the confluence with Little Yadkin River Tributary near Perch Road.	None	•775	Unincorporated Areas of Forsyth County.
	Approximately 1,000 feet upstream of the confluence with Little Yadkin River Tributary near Perch Road.	None	•800	
Mill Creek (into Old Field Creek).	At the confluence with Old Field Creek	None	•718	Unincorporated Areas of Forsyth County.
	Approximately 0.5 mile upstream of the confluence with Old Field Creek.	None	•731	
Old Field Creek	Approximately 0.4 mile downstream of Dennis Road (SR 1943).	None	•653	Unincorporated Areas of Forsyth County.
	Approximately 0.6 mile upstream of the confluence of Mill Creek (into Old Field Creek).	None	•757	
Paynes Branch	Approximately 50 feet downstream of the Forsyth/Stokes County boundary.	None	•778	Unincorporated Areas of Forsyth County.
	Approximately 1.1 miles upstream of the Forsyth/Stokes County boundary.	None	•890	
Paynes Branch Tributary	At the Forsyth/Stokes County boundary	None	•863	Unincorporated Areas of Forsyth County.
	Approximately 0.5 mile upstream of the Forsyth/Stokes County boundary.	None	•898	
Red Bank Creek	At the Forsyth/Stokes County boundary	None	•694	Unincorporated Areas of Forsyth County.
	Approximately 3.9 miles upstream of the Forsyth/Stokes County boundary.	None	•904	
Right Prong Lick Creek	At the confluence with Lick Creek	None	651	Unincorporated Areas of Forsyth County.
	Approximately 0.6 mile upstream of West Road (SR 1954).	None	•681	
Rough Fork	Approximately 1,700 feet upstream of the confluence with Buffalo Creek (into Town Fork Creek).	•709	•705	Unincorporated Areas of Forsyth County.
	Approximately 1.3 miles upstream of Germanton Road (SR 1725).	None	•736	
Town Fork Creek	Approximately 100 feet downstream of the Forsyth/Stokes County boundary.	None	•687	Unincorporated Areas of Forsyth County.
	At the confluence of Leak Branch	None	•703	
Town Fork Creek Tributary 5.	At the confluence with Town Fork Creek	None	•689	Unincorporated Areas of Forsyth County.
	Approximately 1,000 feet upstream of the confluence with Town Fork Creek.	None	•705	
Town Fork Creek Tributary 6.	At the confluence with Town Fork Creek	None	•698	Unincorporated Areas of Forsyth County.
	Approximately 0.6 mile upstream of Par Farm Road	None	•768	
West Belews Creek	Approximately 0.8 mile downstream of NC–69	None	•737	Unincorporated Areas of Forsyth County.
	Approximately 1 mile upstream of Tyner Road (SR 2008).	None	•810	
West Belews Creek Tributary.	At the confluence with West Belews Creek	None	•767	Unincorporated Areas of Forsyth County.
	Approximately 1.2 miles upstream of the confluence with West Belews Creek.	None	•799	

Town of Kernersville

Maps are available for inspection at Kernersville Town Hall, 134 East Mountain Street, Kernersville, North Carolina.

Send comments to The Honorable Curtis Swisher, Mayor, Town of Kernersville, P.O. Drawer 728, Kernersville, North Carolina 27285.

Unincorporated Areas of Forsyth County

Maps are available for inspection at City/County Planning Board Office, 100 East First Street, Winston-Salem, North Carolina.

Send comments to Mr. Graham Pervier, Forsyth County Manager, Forsyth County Government Center, Winston-Salem, North Carolina 27101.

Village of Tobaccoville

Maps are available for inspection at Tobaccoville Village Hall, 6936 Doral Drive, Tobaccoville, North Carolina.

Send comments to The Honorable Keith Snow, Mayor, Village of Tobaccoville, P.O. Box 332, Tobaccoville, North Carolina 27050.

Granville County

Aarons Creek	At the North Carolina/Virginia State boundary	None	•381	Unincorporated Areas of Granville County.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 3.2 miles upstream of Grassy Creek Virgilina Road.	None	•414	
Bearskin Creek	At the confluence with Grassy Creek	None	•414	Unincorporated Areas of Granville County.
	Approximately 820 feet upstream of NC Highway 96	None	•443	
Beech Creek	At the confluence with Kerr Reservoir (Johnson Creek)	None	•320	Unincorporated Areas of Granville County.
	Approximately 0.9 mile upstream of the confluence with Kerr Reservoir (Johnson Creek).	None	•320	
Blue Creek	At the confluence with Little Grassy Creek	None	•363	Unincorporated Areas of Granville County.
	Approximately 0.9 mile upstream of Sam Hall Road	None	•405	
Blue Creek Tributary 1	At the confluence with Blue Creek	None	•402	Unincorporated Areas of Granville County.
	Approximately 0.7 mile upstream of the confluence with Blue Creek.	None	414	
Cedar Branch	At the confluence with John H. Kerr Reservoir/Grassy Creek.	None	•320	Unincorporated Areas of Granville County.
	Approximately 1.1 miles upstream of the North Carolina/Virginia State boundary.	None	•320	
Deer Pond Branch	At the confluence with Spewmarrow Creek	None	•320	Unincorporated Areas of Granville County.
	Approximately 0.5 mile upstream of the confluence with Spewmarrow Creek.	None	•325	
Grassy Creek	At the North Carolina/Virginia State boundary	None	•320	Unincorporated Areas of Granville County.
	Approximately 0.4 mile upstream of Noel Tuck Road	None	•539	
Grassy Creek Tributary 1	At the confluence with John H. Kerr Reservoir (Grassy Creek).	None	•320	Unincorporated Areas of Granville County.
	At the North Carolina/Virginia State boundary	None	•322	
Grassy Creek Tributary 2	At the confluence with Grassy Creek	None	•475	Unincorporated Areas of Granville County.
	Approximately 0.5 mile upstream of the confluence with Grassy Creek.	None	•495	
Grassy Creek Tributary 3	At the confluence with Grassy Creek	None	•497	Unincorporated Areas of Granville County.
	Approximately 1,000 feet upstream of Walnut Grove Road.	None	•518	
Howlett Creek	At the confluence with Little Island Creek	None	•363	Unincorporated Areas of Granville County.
	Approximately 0.6 mile upstream of the confluence with Little Island Creek.	None	•374	
Island Creek	At the North Carolina/Virginia State boundary	None	•289	Unincorporated Areas of Granville County.
	Approximately 0.5 mile upstream of Rockwell Road	None	•363	
Island Creek Tributary 1	At the confluence with Island Creek	None	•289	Unincorporated Areas of Granville County.
	Approximately 0.8 mile upstream of the confluence with Island Creek.	None	•299	
Island Creek Tributary 2	At the confluence with Island Creek	None	•297	Unincorporated Areas of Granville County.
	Approximately 0.7 mile upstream of the confluence with Island Creek.	None	•312	
Island Creek Tributary 3	At the confluence with Island Creek	None	•332	Unincorporated Areas of Granville County.
	Approximately 0.5 mile upstream of the confluence with Island Creek.	None	•353	
Island Reservoir	Entire shoreline within Granville County	None	•289	Unincorporated Areas of Granville County.
John H. Kerr Reservoir	Entire shoreline within Granville County	None	•320	Unincorporated Areas of Granville County.
Johnson Creek	At the confluence with Grassy Creek	None	•320	Unincorporated Areas of Granville County.
	Approximately 0.4 mile upstream of Lee Yancey Road	None	•336	
Lick Branch	At the confluence with Spewmarrow Creek	None	•320	Unincorporated Areas of Granville County.
	Approximately 1.2 miles upstream of Tilley Road	None	•325	
Little Grassy Creek	At the confluence with Grassy Creek	None	•335	Unincorporated Areas of Granville County.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 1.3 miles upstream of Gela Road	None	•417	
Little Island Creek	At the confluence with Island Creek	None	•363	Unincorporated Areas of Granville County.
	Approximately 1.5 miles upstream of Hill Airy Road	None	•433	
Little Island Creek Tributary 1.	At the confluence with Little Island Creek	None	•372	Unincorporated Areas of Granville County.
	Approximately 640 feet upstream of Hill Airy Road	None	•405	
Little Johnson Creek	At the confluence with Johnson Creek	None	•321	Unincorporated Areas of Granville County.
	Approximately 1,400 feet upstream of Oak Hill Road	None	•394	
Michael Creek	At the Granville/Vance County. boundary	None	•337	Unincorporated Areas of Granville County.
	Approximately 1.7 miles upstream of Rockwell Road	None	•387	
Mountain Creek	At the confluence with Grassy Creek	None	•355	Unincorporated Areas of Granville County.
	Approximately 1.5 miles upstream of Cornwall Road	None	•412	
Spewmarrow Creek	At the confluence with John H. Kerr Reservoir (Grassy Creek).	None	•320	Unincorporated Areas of Granville County.
	Approximately 1.1 miles upstream of Herbert Faucette Road.	None	•330	
Spewmarrow Creek Tributary 1.	At the confluence with Spewmarrow Creek	None	•320	Unincorporated Areas of Granville County.
	Approximately 1.2 miles upstream of the confluence with Spewmarrow Creek.	None	•339	

Unincorporated Areas of Granville County

Maps are available for inspection at the Granville County Planning Department, 122 Williamsboro Street, Oxford, NC 27565.

Send comments to Mr. J. Dudley Watts, Jr., Granville County Manager, P.O. Box 906, Oxford, NC 27565.

Halifax County

Bells Branch	At the confluence with Chockoyotte Creek	•117	•116	City of Roanoke Rapids.
	Approximately 850 feet upstream of the confluence with Chockoyotte Creek.	•117	•116	
Bens Creek	Approximately 1.5 miles upstream of the Halifax/Warren County boundary.	None	•199	Unincorporated Areas of Halifax County.
Chockoyotte Creek	At the confluence with Roanoke River	•56	•57	Unincorporated Areas of Halifax County, City of Roanoke Rapids, Town of Weldon.
	Approximately 2.0 miles upstream of Zoo Road	None	•202	
Chockoyotte Creek Tributary.	At the confluence with Chockoyotte Creek	•83	•79	Town of Weldon, City of Roanoke Rapids, Unincorporated Areas of Halifax County.
	Approximately 30 feet downstream of County Road	•88	•87	
Chockoyotte Creek Tributary A.	At the confluence with Chockoyotte Creek	•92	•94	Unincorporated Areas of Halifax County, City of Roanoke Rapids.
	Approximately 1,490 feet upstream of American Legion Road.	None	•135	
Chokoyotte Creek Tributary B.	At the confluence with Chockoyotte Creek	•112	•114	City of Roanoke Rapids.
	At the downstream side of Julian R. Allsbrook Highway	None	•127	
Conoconnara Swamp	At the confluence with Roanoke River	•41	•43	Unincorporated Areas of Halifax County.
	Approximately 1,000 feet upstream of NC–481	None	•80	
Conoconnara Swamp Tributary 1.	At the confluence with Conoconnara Swamp	None	•58	Unincorporated Areas of Halifax County.
	Approximately 3.5 miles upstream of the confluence with Conoconnara Swamp.	None	•67	
Conoconnara Swamp Tributary 2.	At the confluence with Conoconnara Swamp	None	•72	Unincorporated Areas of Halifax County.
	Approximately 0.7 mile upstream of the confluence with Conoconnara Swamp.	None	•78	
Conoconnara Swamp Tributary 2A.	At the confluence with Conoconnara Swamp Tributary 2.	None	•77	Unincorpoated Areas of Halifax County.
	Approximately 0.8 mile upstream of the confluence with Conoconnara Swamp.	None	•85	

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Deep Creek (into Roanoke River).	Approximately 0.7 mile downstream of Thelma Road (SR 1400).	None	•133	Unincorporated Areas of Halifax County.
	Approximately 80 feet downstream of Roper Springs Road (SR 1525).	None	•189	
Deep Creek (into Roanoke River) Tributary 1.	At the confluence with Deep Creek (into Roanoke River).	None	•136	Unincorporated Areas of Halifax County.
	Approximately 0.4 mile upstream of the confluence with Deep Creek (into Roanoke River).	None	•151	
Deep Creek (into Roanoke River) Tributary 2.	At the confluence with Deep Creek (into Roanoke River).	None	•146	Unincorporated Areas of Halifax County.
	Approximately 1,375 feet upstream of the confluence with Deep Creek (into Roanoke River) Tributary 2A.	None	•162	
Deep Creek (into Roanoke River) Tributary 2A.	At the confluence with Deep Creek (into Roanoke River) Tributary 2.	None	•146	Unincorporated Areas of Halifax County.
	Approximately 1,300 feet upstream of the confluence with deep Creek (into Roanoke River) Tributary 2.	None	•159	
Deep Creek (into Roanoke River) Tributary 4.	At the confluence with Deep Creek (into Roanoke River).	None	•175	Unincorporated Areas of Halifax County.
	Approximately 0.5 mile upstream of the confluence with Deep Creek (into Roanoke River).	None	•181	
Deep Creek (into Roanoke River) Tributary 3.	At the confluence with Deep Creek (into Roanoke River).	None	•154	Unincorporated Areas of Halifax County.
	Approximately 1,700 feet upstream of the confluence with Deep Creek (into Roanoke River).	None	•163	
Hales Branch	At the upstream side of Zoo Road	None	•215	Unincorporated Areas of Halifax County.
	Approximately 1,200 feet upstream of Zoo Road	None	•227	
Hales Mill Pond Branch	At the confluence with Conoconnara Swamp	None	•67	Unincorporated Areas of Halifax County.
	Approximately 300 feet upstream of Old 125 Road (SR 1103).	None	•73	
Keehukee Swamp	At the confluence with Roanoke River	None	•28	Unincorporated Areas of Halifax County.
	Approximately 250 feet downstream of Railroad	None	•61	
Keehukee Swamp Tributary 1.	At the confluence with Keehukee Swamp	None	•28	Unincorporated Areas of Halifax County.
	Approximately 1,650 feet upstream of the confluence with Keehukee Swamp.	None	•28	
Keehukee Swamp Tributary 2.	Approximately 2.1 miles upstream of the confluence with Keehukee Swamp.	None	•27	Unincorporated Areas of Halifax County.
	At the confluence with Keehukee Swamp	None	•29	
Little Quankey Creek	Approximately 750 feet upstream of Interstate 95	None	•134	Unincorporated Areas of Halifax County.
	Approximately 600 feet upstream of NC–48	None	•176	
Little Quankey Creek	At the confluence with Quankey Creek	None	•87	Town of Halifax.
	Approximately 0.75 mile upstream of NC–903	None	•87	
Nash Creek	Approximately 1.1 miles upstream of the confluence with Bells Branch.	None	•143	Unincorporated Areas of Halifax County.
	Approximately 2.5 miles upstream of the confluence with Bells Branch.	None	•172	
Quankey Creek	At the confluence with Roanoke River	None	•50	Unincorporated Areas of Halifax County.
	Approximately 0.5 mile upstream of SR–301 (South King Street).	None	•87	
Quankey Creek	At the confluence with Roanoke River	None	•50	Town of Halifax.
	At the confluence with Little Quankey Creek	None	•87	
Roanoke River	At the Martin/Bertie/Halifax County boundary	None	•28	Unincorporated Areas of Halifax County, City of Roanoke Rapids, Town of Halifax, Town of Weldon.
	At the downstream side of Gaston Dam	•133	•136	
Webbs Mill Branch	At the confluence with Keehukee Swamp	None	•34	Unincorporated Areas of Halifax County.
	Approximately 0.3 mile upstream of the confluence with Webbs Mill Branch Tributary 2.	None	•50	
Webbs Mill Branch Tributary 1.	At the confluence with Webbs Mill Branch	None	•38	Unincorporated Areas of Halifax County.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 0.7 mile upstream of the confluence with Webbs Mill Branch.	None	•57	
Webbs Mill Branch Tributary 2.	At the confluence with Webbs Mill Branch	None	•45	Unincorporated Areas of Halifax County, Town of Scotland Neck.
	Approximately 0.6 mile upstream of the confluence with Webbs Mill Branch.	None	•51	

City of Roanoke Rapids

Maps are available for inspection at the City of Roanoke Rapids Planning Department, 1040 Roanoke Avenue, Roanoke Rapids, North Carolina.

Send comments to The Honorable D.N. Bealle, Mayor, City of Roanoke Rapids, P.O. Box 38, Roanoke Rapids, North Carolina 27870.

Town of Halifax

Maps are available for inspection at the Halifax Town Hall, 24 South King Street, Halifax, North Carolina.

Send comments to The Honorable Gerald Wright, Mayor, Town of Halifax, P.O. Box 222, Halifax, North Carolina 27839.

Town of Scotland Neck

Maps are available for inspection at the Scotland Neck Town Hall, 1310 Main Street, Scotland Neck, North Carolina.

Send comments to The Honorable Robert Partin, Mayor, Town of Scotland Neck, P.O. Box 537, Scotland Neck, North Carolina 27874.

Town of Weldon

Maps are available for inspection at the Weldon Town Hall, 109 Washington Street, Weldon, North Carolina.

Send comments to The Honorable G.W. Draper, Jr., Mayor, Town of Weldon, P.O. Box 551, Weldon, North Carolina 27890.

Unincorporated Areas of Halifax County

Maps are available for inspection at the Halifax County Public Works Department, 26 North King Street, Room 102, Halifax, North Carolina.

Iredell County

Buffalo Shoals Creek	At the confluence with Catawba River	None	•765	Unincorporated Areas of Iredell County.
	Approximately 0.5 mile upstream of New Sterling Road	None	•876	
Catawba River	Approximately 0.6 mile downstream of Buffalo Shoals Road.	None	•762	Unincorporated Areas of Iredell County.
	At the downstream side of Lookout Shoals Dam	None	•781	
Cornelius Creek (Lake Norman Cornelius Creek).	Approximately 0.6 mile downstream of Cornelius Road	None	•760	Unincorporated Areas of Iredell County, Town of Mooresville.
	Approximately 500 feet upstream of Rankin Hill Road	None	•769	
Goble Creek	At the confluence with Buffalo Shoals Creek	None	•827	Unincorporated Areas of Iredell County.
	Approximately 1.4 miles upstream of I–40	None	•853	
Norwood Creek	Approximately 0.6 mile downstream of State Park Road (SR 1321).	None	•761	Unincorporated Areas of Iredell County.
	Approximately 0.9 mile upstream of Ivey Ostwalt Road	None	•801	
Powder Spring	At the confluence with Norwood Creek	None	•780	Unincorporated Areas of Iredell County.
	Approximately 0.4 mile upstream of Pilgrim Circle	None	•901	
Powder Spring Branch	Approximately 0.4 mile downstream of State Park Road (SR 1321).	None	•761	Unincorporated Areas of Iredell County, Town of Troutman.
	Approximately 1.3 miles upstream of Hicks Creek Road.	None	•800	
Reeder Creek	At the confluence with Lake Norman (Catawba River)	None	•764	Unincorporated Areas of Iredell County.
	Approximately 1,100 feet upstream of Rosebud Lane	None	•821	
Reeder Creek Tributary 1	At the confluence with Reeder Creek	None	•782	Unincorporated Areas of Iredell County.
	Approximately 200 feet upstream of railroad	None	•803	
Reeds Creek	Approximately 150 feet downstream of U.S. Highway 21.	•760	•761	Unincorporated Areas of Iredell County, Town of Mooresville.
	Approximately 0.6 mile upstream of West Plaza Drive	None	•808	
Reeds Creek Tributary 2	Upstream side of East Plaza Drive	None	•808	Unincorporated Areas of Iredell County, Town of Mooresville.
	Approximately 0.5 mile upstream of East Plaza Drive	None	•825	
Reeds Creek Tributary 3	At the confluence with Reeds Creek Tributary 2	None	•817	Town of Mooresville.
	Approximately 0.4 mile upstream of the confluence with Reeds Creek Tributary 2.	None	•844	

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Rocky Creek	At the upstream side of Perth Road	None	•760	Unincorporated Areas of Iredell County, Town of Troutman.
	Approximately 1.1 miles upstream of Perth Road	None	•774	

Town of Mooresville

Maps are available for inspection at the City of Mooresville Office of Planning, 413 North Main Street, Unit C, Mooresville, NC 28115.

Send comments to The Honorable Bill Thundberg, Mayor of the City of Mooresville, P.O. Box 878, Mooresville, NC 28115.

Town of Troutman

Maps are available for inspection at the Troutman Town Hall, 400 North Eastway Drive, Troutman, NC 28166.

Send comments to The Honorable Elbert Richardson, Mayor of the Town of Troutman, P.O. Box 26, Troutman, NC 28166.

Unincorporated Areas of Iredell County

Maps are available for inspection at the Iredell County Planning Department, City Hall, 227 South Center Street, Statesville, NC 28687.

Send comments to Mr. Joel Mashburn, Iredell County Manager, P.O. Box 788, Statesville, NC 28687.

Orange County

Battle Branch	At the confluence with Bolin Creek	•260	•263	Town of Chapel Hill.
	Approximately 1.5 miles upstream of the confluence with Bolin Creek.	None	•387	
Cedar Fork	At North Lakeshore Drive	•307	•309	Town of Chapel Hill.
	Approximately 600 feet upstream of Kingston Drive	None	•554	
Crow Branch	At the confluence with Booker Creek	None	•400	Town of Chapel Hill.
	Approximately 0.5 mile upstream of dam	None	•500	
Jones Creek	Approximately 0.4 mile upstream of the confluence with Bolin Creek.	None	•482	Town of Carrboro, Orange County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Old NC 86	None	•571	
Little Creek	At the Orange County/Durham County boundary	•250	•249	Town of Chapel Hill.
	Approximately 1,000 feet downstream of the confluence with Booker Creek and Bolin Creek.	•254	•253	
McGowan Creek	Approximately 1,600 feet upstream of the confluence with Eno River.	•548	•549	Orange County (Unincorporated Areas).
	Approximately 300 feet upstream of Frazier Road	None	•690	
Morgan Creek	Approximately 2.7 miles downstream of the Orange County/Chatham County boundary.	None	•238	Orange County (Unincorporated Areas), Town of Carrboro, Town of Chapel Hill.
	Approximately 2.7 miles downstream of Dairyland Road.	•560	•559	
Mountain Creek	Approximately 1,100 feet upstream of the confluence with New Hope Creek.	None	•474	Orange County (Unincorporated Areas).
	Approximately 1.8 miles upstream of the confluence with New Hope Creek.	None	•506	
New Hope Creek	Approximately 200 feet upstream of Old NC 86	None	•497	Orange County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Arthur Minnis Road.	None	•529	
Price Creek	At the confluence with University Lake	None	•358	Orange County (Unincorporated Areas).
	Approximately 350 feet upstream of Damascus Church Road.	None	•359	
Rhodes Creek	Approximately 850 feet upstream of Cornwallis Road	None	•449	Orange County (Unincorporated Areas).
	Approximately 1.2 miles upstream of Cornwallis Road	None	•507	
Toms Creek	Approximately 50 feet upstream of NC 54	None	•418	Town of Carrboro.
	Approximately 700 feet upstream of Rainbow Drive	None	•468	
Turkey Hill Creek	At the confluence with Cane Creek	None	•511	Orange County (Unincorporated Areas).
	Approximately 0.8 mile upstream of Private Road	None	•610	
University Lake (Price Creek).	Entire shoreline within communities	None	•358	Orange County (Unincorporated Areas), Town of Carrboro.

Town of Carrboro

Maps available for inspection at the Town of Carrboro Planning Department, 301 West Main Street, Carrboro, North Carolina.

Send comments to Mr. Steve Stewart, Carrboro Town Manager, 301 West Main Street, Carrboro, North Carolina 27510.

Town of Chapel Hill

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	

Maps available for inspection at the Town of Chapel Hill Stormwater Management Program Office, 209 North Columbia Street, Chapel Hill, North Carolina.

Send comments to The Honorable Kevin C. Foy, Mayor of the Town of Chapel Hill, Chapel Hill Town Hall, 405 Martin Luther King Jr. Boulevard, Chapel Hill, North Carolina 27514.

Orange County (Unincorporated Areas)

Maps available for inspection at the Orange County Planning and Inspections Department, 306F Revere Road, Hillsborough, North Carolina.

Send comments to Mr. John M. Link, Jr., Orange County Manager, 200 South Cameron Street, Hillsborough, North Carolina 27278.

Rockingham County

Belews Creek	At the confluence with Dan River	None	•588	Unincorporated Areas of Rockingham County.
	At the confluence with Belews Lake	None	•737	
Belews Creek Tributary 1	At the confluence with Belews Creek	None	•588	Unincorporated Areas of Rockingham County.
	Approximately 1.0 mile upstream of the confluence with Belews Creek Tributary 2 of Tributary 1.	None	•636	
Belews Creek Tributary 1 of Tributary 1.	At the confluence with Belews Creek Tributary 1	None	•588	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of the confluence with Belews Creek Tributary 1.	None	•662	
Belews Creek Tributary 1 of Tributary 2.	At the confluence with Belews Creek Tributary 2	None	•780	Unincorporated Areas of Rockingham County.
	Approximately 1,450 feet upstream of the confluence with Belews Creek Tributary 2.	None	•854	
Belews Creek Tributary 1 of Tributary 3.	At the Rockingham/Stokes County boundary	None	•737	Unincorporated Areas of Rockingham County.
	Approximately 1.5 miles upstream of the confluence with Belews Lake.	None	•785	
Belews Creek Tributary 2	At the confluence with Belews Lake	None	•737	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of the confluence of Belews Creek Tributary 1 of Tributary 2.	None	•822	
Belews Creek Tributary 2 of Tributary 1.	At the confluence with Belews Creek Tributary 1	None	•588	Unincorporated Areas of Rockingham County.
	Approximately 0.7 mile upstream of the confluence with Belews Creek Tributary 1.	None	•645	
Belews Lake	The entire shoreline within the county	None	•737	Unincorporated Areas of Rockingham County.
Big Beaver Island Creek	Approximately 0.5 mile downstream of Park Road	None	•663	Unincorporated Areas of Rockingham County.
	At the Rockingham/Stokes County boundary	None	•768	
Big Beaver Island Creek Tributary 10.	At the confluence with Big Beaver Island Creek	None	•738	Unincorporated Areas of Rockingham County.
	Approximately 700 feet upstream of the confluence with Big Beaver Island Creek.	None	•746	
Big Beaver Island Creek Tributary 11.	At the confluence with Big Beaver Island Creek	None	•760	Unincorporated Areas of Rockingham County.
	At the Rockingham/Stokes County boundary	None	•765	
Big Beaver Island Creek Tributary 12.	At the confluence with Big Beaver Island Creek	None	•764	Unincorporated Areas of Rockingham County.
	Approximately 950 feet upstream of the confluence with Big Beaver Island Creek.	None	•798	
Big Beaver Island Creek Tributary 7.	At the confluence with Big Beaver Island Creek	None	•688	Unincorporated Areas of Rockingham County.
	Approximately 850 feet upstream of the confluence with Big Beaver Island Creek.	None	•696	
Boaz Creek	At the confluence with Mayo River	None	•654	Unincorporated Areas of Rockingham County, Town of Stoneville.
	Approximately 0.5 mile upstream of the confluence with Boaz Creek Tributary.	None	•657	
Boaz Creek Tributary	At the confluence with Boaz Creek	None	•654	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of the confluence with Boaz Creek.	None	•667	
Brushy Creek	At the confluence with Jacobs Creek	None	•578	Unincorporated Areas of Rockingham County.
	Approximately 1,800 feet upstream of Sharp Road	None	•628	

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Brushy Creek Tributary	At the confluence with Brushy Creek	None	•621	Unincorporated Areas of Rockingham County.
	Approximately 0.8 mile upstream of the confluence with brushy Creek.	None	•660	
Brushy Creek Tributary	At the confluence with Brushy Creek	None	•621	Unincorporated Areas of Rockingham County.
	Approximately 0.8 mile upstream of the confluence with brushy Creek.	None	•660	
Buffalo Creek (into Dan River).	At the confluence with Dan River	None	•527	Unincorporated Areas of Rockingham County, City of Eden.
	Approximately 2.4 miles upstream of Wray Road	None	•920	
Buffalo Creek (into Dan River) Tributary 2.	At the confluence with Buffalo Creek (into Dan River) ..	None	•527	Unincorporated Areas of Rockingham County, City of Eden.
	Approximately 1,500 feet upstream of the confluence of Buffalo Creek (into Dan River).	None	•528	
Buffalo Creek (into Dan River) Tributary 3.	At the confluence with Buffalo Creek (into Dan River) ..	None	•527	Unincorporated Areas of Rockingham County, City of Eden.
	Approximately 100 feet upstream of SR 770	None	•572	
Buffalo Creek (into Dan River) Tributary 4.	At the confluence with Buffalo Creek (into Dan River) ..	None	•528	Unincorporated Areas of Rockingham County.
	Approximately 500 feet upstream of Roberts Road	None	•627	
Buffalo Creek (into Dan River) Tributary 5.	At the confluence with Buffalo Creek (into Dan River) ..	None	•538	Unincorporated Areas of Rockingham County.
	Approximately 1,700 feet upstream of the confluence with Buffalo Creek (into Dan River).	None	•545	
Buffalo Creek (into Mayo River).	At the confluence with Mayo River	None	•697	Unincorporated Areas of Rockingham County.
	At the Rockingham/Stokes County boundary	None	•753	
Buffalo Creek (into Mayo River) Tributary.	At the confluence with Buffalo Creek (into Mayo River)	None	•697	Unincorporated Areas of Rockingham County.
	Approximately 1,200 feet upstream of the confluence with Buffalo Creek (into Mayo River).	None	•710	
Cascade Creek	At the confluence with Dan River	None	•499	Unincorporated Areas of Rockingham County.
	Approximately 100 feet downstream of the North Carolina/Virginia State Line.	None	•505	
County Line Creek	At the Rockingham/Caswell County boundary	None	•602	Unincorporated Areas of Rockingham County.
	Approximately 150 feet upstream of the Rockingham/Caswell County boundary.	None	•604	
Covenant Branch	At the confluence with Dan River	•507	•508	Unincorporated Areas of Rockingham County, City of Eden.
	Approximately 1.2 miles upstream of the confluence with Dan River.	None	•527	
Dan River	At the Rockingham/Caswell County boundary	None	•470	Unincorporated Areas of Rockingham County, City of Eden.
	Approximately 900 feet upstream of the Rockingham/Stokes County boundary.	None	•588	
Dan River Tributary 1 of Tributary 26.	At the confluence with Dan River Tributary 26	None	•548	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of Belton Road	None	•597	
Dan River Tributary 10	At the confluence with Dan River	None	•533	Unincorporated Areas of Rockingham County.
	Approximately 1,000 feet upstream of the confluence of Dan River Tributary of Tributary 10.	None	•535	
Dan River Tributary 11	At the confluence with Dan River	None	•535	Unincorporated Areas of Rockingham County.
	Approximately 1,800 feet upstream of the confluence with Dan River.	None	•540	
Dan River Tributary 15	At the confluence with Dan River	None	•540	Unincorporated Areas of Rockingham County.
	Approximately 400 feet upstream of Eagle Falls Road	None	•550	
Dan River Tributary 16	At the confluence with Dan River	None	•541	Unincorporated Areas of Rockingham County.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 1,200 feet upstream of the confluence with Dan River.	None	•555	
Dan River Tributary 17	At the confluence with Dan River	None	•541	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of the confluence with Dan River.	None	•562	
Dan River Tributary 19	At the confluence with Dan River	None	•540	Unincorporated Areas of Rockingham County.
	Approximately 1,300 feet upstream of the confluence with Dan River.	None	•554	
Dan River Tributary 2 of Tributary 26.	At the confluence with Dan River Tributary 26	None	•548	Unincorporated Areas of Rockingham County.
	Approximately 1,300 feet upstream of the confluence with Dan River Tributary 26.	None	•562	
Dan River Tributary 2 of Tributary 32.	At the confluence with Dan River Tributary 32	None	•576	Unincorporated Areas of Rockingham County.
	Approximately 1,000 feet upstream of the confluence with Dan River Tributary 32.	None	•582	
Dan River Tributary 20	At the confluence with Dan River	None	•543	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of the confluence with Dan River.	None	•563	
Dan River Tributary 21	At the confluence with Dan River	None	•547	Unincorporated Areas of Rockingham County.
	Approximately 1,750 feet upstream of the confluence with Dan River.	None	•591	
Dan River Tributary 23	At the confluence with Dan River	None	•547	Unincorporated Areas of Rockingham County.
	Approximately 0.6 mile upstream of the confluence with Dan River.	None	•571	
Dan River Tributary 26	At the confluence with Dan River	None	•548	Unincorporated Areas of Rockingham County.
	Approximately 600 feet upstream of Grogan Road	None	•572	
Dan River Tributary 29	At the confluence with Dan River	None	•549	Unincorporated Areas of Rockingham County.
	Approximately 0.8 mile upstream of the confluence with Dan River.	None	•560	
Dan River Tributary 32	At the confluence with Dan River	None	•551	Unincorporated Areas of Rockingham County.
	Approximately 0.7 mile upstream of the confluence with Dan River Tributary 2 of Tributary 32.	None	•590	
Dan River Tributary 33	At the confluence with Dan River	None	•554	Unincorporated Areas of Rockingham County.
	Approximately 0.7 mile upstream of the confluence with Dan River.	None	•589	
Dan River Tributary 34	At the confluence with Dan River	None	•555	Unincorporated Areas of Rockingham County.
	Approximately 1.1 miles upstream of the confluence with Dan River.	None	•627	
Dan River Tributary 35	At the confluence with Dan River	None	•558	Unincorporated Areas of Rockingham County.
	Approximately 0.7 mile upstream of the confluence with Dan River.	None	•639	
Dan River Tributary 36	At the confluence with Dan River	None	•558	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of the confluence with Dan River.	None	•562	
Dan River Tributary 37	At the confluence with Dan River	None	•559	Unincorporated Areas of Rockingham County.
	Approximately 0.7 mile upstream of the confluence with Dan River.	None	•598	
Dan River Tributary 38	At the confluence with Dan River	None	•562	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of the confluence with Dan River.	None	•566	
Dan River Tributary 39	At the confluence with Dan River	None	•567	Unincorporated Areas of Rockingham County.
	Approximately 1,300 feet upstream of the confluence with Dan River.	None	•598	

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Dan River Tributary 44	At the confluence with Dan River	None	•584	Unincorporated Areas of Rockingham County, Town of Madison.
	Approximately 1,900 feet upstream of the confluence with Dan River.	None	•587	
Dan River Tributary 45	At the confluence with Dan River	None	•584	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of the confluence with Dan River.	None	•584	
Dan River Tributary 47	At the confluence with Dan River	None	•585	Unincorporated Areas of Rockingham County.
	Approximately 800 feet upstream of Dodge Loop Road	None	•591	
Dan River Tributary 48	At the confluence with Dan River	None	•585	Unincorporated Areas of Rockingham County.
	At the Rockingham/Stokes County boundary	None	•592	
Dan River Tributary 49	At the confluence with Dan River	None	•585	Unincorporated Areas of Rockingham County.
	Approximately 1,900 feet upstream of the confluence with Dan River.	None	•608	
Dan River Tributary 51	At the confluence with Dan River	None	•586	Unincorporated Areas of Rockingham County.
	At the Rockingham/Stokes County boundary	None	•586	
Dan River Tributary 6	At the confluence with Dan River	None	•529	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of the confluence with Dan River.	None	•544	
Dan River Tributary 7	At the confluence with Dan River	None	•530	Unincorporated Areas of Rockingham County.
	Approximately 0.6 mile upstream of the confluence with Dan River.	None	•562	
Dan River Tributary near Powells Store.	At the confluence with Dan River	None	•503	Unincorporated Areas of Rockingham County.
	Approximately 300 feet upstream of Chumney Loop	None	•536	
Dan River Tributary of Tributary 10.	At the confluence with Dan River Tributary 10	None	•533	Unincorporated Areas of Rockingham County.
	Approximately 50 feet downstream of Riverside Circle	None	•545	
Dry Creek	At the confluence with Cascade Creek	None	•499	Unincorporated Areas of Rockingham County, City of Eden.
	Approximately 0.5 mile upstream of Main Street	None	•568	
Eurins Creek	At the confluence with Belews Creek	None	•588	Unincorporated Areas of Rockingham County.
	At the Rockingham/Stokes County boundary	None	•588	
Fall Creek	At the confluence with Mayo River	None	•715	Unincorporated Areas of Rockingham County.
	At North Carolina/Virginia State boundary	None	•748	
Fall Creek Tributary	At the confluence with Fall Creek	None	•745	Unincorporated Areas of Rockingham County.
	Approximately 1,000 feet upstream of the confluence with Fall Creek.	None	•748	
Hickory Creek	At the confluence with Mayo River	None	•690	Unincorporated Areas of Rockingham County.
	Approximately 1,600 feet upstream of the confluence with Mayo River.	None	•690	
Hogans Creek (into Dan River east).	At the confluence of Lick Fork Creek	None	•470	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of Bob White Drive ...	None	•741	
Hogans Creek (into Dan River east) Tributary 10.	At the confluence with Hogans Creek (into Dan River east).	None	•577	Unincorporated Areas of Rockingham County.
	Approximately 1.0 mile upstream of the confluence with Hogans Creek (into Dan River east).	None	•688	
Hogans Creek (into Dan River east) Tributary 11.	At the confluence with Hogans Creek (into Dan River east).	None	•579	Unincorporated Areas of Rockingham County.
	Approximately 0.7 mile upstream of the confluence with Hogans Creek (into Dan River east).	None	•647	
Hogans Creek (into Dan River east) Tributary 12.	At the confluence with Hogans Creek (into Dan River east).	None	•589	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of the confluence with Hogans Creek (into Dan River east).	None	•607	

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Hogans Creek (into Dan River east) Tributary 13.	At the confluence with Hogans Creek (into Dan River east).	None	•595	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of the confluence with Hogans Creek (into Dan River east).	None	•610	
Hogans Creek (into Dan River east) Tributary 4.	At the confluence with Hogans Creek (into Dan River east).	None	•476	Unincorporated Areas of Rockingham County.
	At the Rockingham/Caswell County boundary	None	•476	
Hogans Creek (into Dan River east) Tributary 4A.	At the confluence with Hogans Creek (into Dan River east).	None	•504	Unincorporated Areas of Rockingham County.
	Approximately 0.9 mile upstream of the confluence with Hogans Creek (into Dan River east).	None	•521	
Hogans Creek (into Dan River east) Tributary 5.	At the confluence with Hogans Creek (into Dan River east).	None	•550	Unincorporated Areas of Rockingham County.
	Approximately 0.6 mile upstream of the confluence with Hogans Creek (into Dan River east).	None	•572	
Hogans Creek (into Dan River east) Tributary 7.	At the confluence with Hogans Creek (into Dan River east).	None	•558	Unincorporated Areas of Rockingham County.
	Approximately 0.9 mile upstream of the confluence with Hogans Creek (into Dan River east).	None	•585	
Hogans Creek (into Dan River east) Tributary 8.	At the confluence with Hogans Creek (into Dan River east).	None	•569	Unincorporated Areas of Rockingham County.
	Approximately 0.7 mile upstream of the confluence with Hogans Creek (into Dan River east).	None	•647	
Hogans Creek (into Dan River east) Tributary 9.	At the confluence with Hogans Creek (into Dan River east).	None	•574	Unincorporated Areas of Rockingham County.
	Approximately 0.8 mile upstream of the confluence with Hogans Creek (into Dan River east).	None	•659	
Hogans Creek (into Dan River west).	At the confluence with Dan River	None	•554	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of Lemons Road	None	•799	
Hogans Creek (into Dan River west) Tributary 1.	At the confluence with Hogans Creek (into Dan River west).	None	•630	Unincorporated Areas of Rockingham County.
	Approximately 200 feet upstream of Bald Hill Loop Road.	None	•647	
Hogans Creek (into Dan River west) Tributary 2.	At the confluence with Hogans Creek (into Dan River west).	None	•639	Unincorporated Areas of Rockingham County.
	Approximately 1,500 feet upstream of the confluence with Hogans Creek (into Dan River west).	None	•655	
Huffines Mill Creek	At the confluence with Little Jacobs Creek	None	•573	Unincorporated Areas of Rockingham County.
	Approximately 0.6 mile upstream of the confluence with Little Jacobs Creek.	None	•615	
Island Creek	Approximately 100 feet upstream of the confluence with Big Beaver Island Creek.	None	•656	Unincorporated Areas of Rockingham County.
	Approximately 0.9 mile upstream of Case School Road	None	•716	
Jacobs Creek	At the confluence with Dan River	None	•551	Unincorporated Areas of Rockingham County.
	Approximately 1.3 miles upstream of Carlton Road	None	•765	
Jacobs Creek Tributary 1 ...	At the confluence with Jacobs Creek	None	•557	Unincorporated Areas of Rockingham County.
	Approximately 0.6 mile upstream of the confluence with Jacobs Creek.	None	•572	
Jacobs Creek Tributary 2 ...	At the confluence with Jacobs Creek	None	•599	Unincorporated Areas of Rockingham County.
	Approximately 1,300 feet upstream of the confluence with Jacobs Creek.	None	•606	
Jacobs Creek Tributary 3 ...	At the confluence with Jacobs Creek	None	•660	Unincorporated Areas of Rockingham County.
	Approximately 1,100 feet upstream of the confluence with Jacobs Creek.	None	•675	
Jacobs Creek Tributary 4 ...	At the confluence with Jacobs Creek	None	•678	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of Angoll Road	None	•700	
Jacobs Creek Tributary near Gold Hill.	At the confluence with Jacobs Creek	None	•681	Unincorporated Areas of Rockingham County.
	Approximately 1,200 feet upstream of the confluence with Jacobs Creek.	None	•699	
Jacobs Creek Tributary near SR 2190.	At the confluence with Jacobs Creek	None	•551	Unincorporated Areas of Rockingham County.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 0.5 mile upstream of the confluence with Jacobs Creek.	None	•564	
Jones Branch (Jones Creek).	At the confluence with Matrimony Creek	None	•632	Unincorporated Areas of Rockingham County.
	Approximately 900 feet upstream of the confluence with Matrimony Creek.	None	•643	
Jones Creek	At the confluence with Hogans Creek (into Dan River east).	None	•500	Unincorporated Areas of Rockingham County, City of Reidsville.
	Approximately 1.0 mile upstream of the confluence with North Fork Jones Creek.	None	•640	
Jones Creek Tributary 8	At the confluence with Jones Creek	None	•586	Unincorporated Areas of Rockingham County.
	Approximately 700 feet upstream of the confluence with Jones Creek.	None	•592	
Jones Creek Tributary 1	At the confluence with Jones Creek	None	•506	Unincorporated Areas of Rockingham County.
	Approximately 1,300 feet upstream of the confluence with Jones Creek.	None	•575	
Jones Creek Tributary 2	At the confluence with Jones Creek	None	•511	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of the confluence with Jones Creek.	None	•580	
Jones Creek Tributary 3	At the confluence with Jones Creek	None	•515	Unincorporated Areas of Rockingham County.
	Approximately 0.6 mile upstream of the confluence with Jones Creek.	None	•615	
Jones Creek Tributary 4	At the confluence with Jones Creek	None	•522	Unincorporated Areas of Rockingham County.
	Approximately 0.6 mile upstream of the confluence with Jones Creek.	None	•640	
Jones Creek Tributary 5	At the confluence with Jones Creek	None	•526	Unincorporated Areas of Rockingham County.
	Approximately 0.6 mile upstream of the confluence with Jones Creek.	None	•581	
Jones Creek Tributary 6	At the confluence with Jones Creek	None	•528	Unincorporated Areas of Rockingham County.
	Approximately 0.7 mile upstream of the confluence with Jones Creek.	None	•644	
Jones Creek Tributary 9	At the confluence with Jones Creek	None	•592	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of the confluence with Jones Creek.	None	•605	
Lick Fork Creek	At the Caswell/Rockingham County boundary	None	•470	Unincorporated Areas of Rockingham County, City of Reidsville.
	Approximately 0.5 mile upstream of NC 14	None	•677	
Lick Fork Creek Tributary 1	At the confluence with Lick Fork Creek	None	•470	Unincorporated Areas of Rockingham County.
	Approximately 800 feet upstream of the confluence with Lick Fork Creek.	None	•476	
Lick Fork Creek Tributary 10.	At the confluence with Lick Fork Creek	None	•538	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of the confluence with Lick Fork Creek.	None	•546	
Lick Fork Creek Tributary 12.	At the confluence with Lick Fork Creek	None	•567	Unincorporated Areas of Rockingham County.
	Approximately 620 feet upstream of the confluence with Lick Fork Creek.	None	•570	
Lick Fork Creek Tributary 16.	At the confluence with Lick Fork Creek	None	•586	Unincorporated Areas of Rockingham County.
	Approximately 1,000 feet upstream of the confluence with Lick Fork Creek.	None	•596	
Lick Fork Creek Tributary 17.	At the confluence with Lick Fork Creek	None	•594	Unincorporated Areas of Rockingham County.
	Approximately 700 feet upstream of the confluence with Lick Fork Creek.	None	•603	
Lick Fork Creek Tributary 5	At the confluence with Lick Fork Creek	None	•484	Unincorporated Areas of Rockingham County.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 1,300 feet upstream of the confluence with Lick Fork Creek.	None	•496	
Lick Fork Creek Tributary 6	At the confluence with Lick Fork Creek	None	•490	Unincorporated Areas of Rockingham County.
	Approximately 1.2 miles upstream of the confluence with Lick Fork Creek.	None	•531	
Lick Fork Creek Tributary 9	At the confluence with Lick Fork Creek	None	•534	Unincorporated Areas of Rockingham County.
	Approximately 1.0 mile upstream of Hidden Valley Drive.	None	•617	
Little Beaver Island Creek	Approximately 0.9 mile downstream of Cardinal Road	None	•609	Unincorporated Areas of Rockingham County.
	At Rockingham/Stokes County boundary	None	•657	
Little Hogans Creek	At the confluence with Hogans Creek (into Dan River west).	None	•714	Unincorporated Areas of Rockingham County.
	Approximately 1.1 miles upstream of Stanley Road	None	•789	
Little Hogans Creek Tributary 1.	At the confluence with Little Hogans Creek	None	•737	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of the confluence with Little Hogans Creek.	None	•753	
Little Hogans Creek Tributary 2.	At the confluence with Little Hogans Creek	None	•742	Unincorporated Areas of Rockingham County.
	Approximately 1,950 feet upstream of the confluence with Little Hogans Creek.	None	•758	
Little Hogans Creek Tributary 3.	At the confluence with Little Hogans Creek	None	•750	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of the confluence with Little Hogans Creek.	None	•773	
Little Jacobs Creek	At the confluence with Jacobs Creek	None	•559	Unincorporated Areas of Rockingham County.
	Approximately 1.5 miles upstream of Webb Loop	None	•617	
Massy Creek	At the confluence with Dan River	None	•546	Unincorporated Areas of Rockingham County.
	Approximately 1.4 miles upstream of Smothers Road	None	•570	
Massy Creek Tributary	At the confluence with Massy Creek	None	•546	Unincorporated Areas of Rockingham County.
	Approximately 0.6 mile upstream of the confluence with Massy Creek.	None	•605	
Matrimony Creek	At the confluence with Dan River	•526	•525	Unincorporated Areas of Rockingham County, City of Eden.
	Approximately 400 feet upstream of the North Carolina/Virginia State boundary.	None	•812	
Matrimony Creek Tributary	At the confluence with Matrimony Creek	None	•664	Unincorporated Areas of Rockingham County.
	Approximately 700 feet upstream of the confluence with Matrimony Creek.	None	•668	
Mayo River	Approximately 0.8 mile upstream of NC 135	•592	•593	Unincorporated Areas of Rockingham County, Town of Mayodan.
	At the North Carolina/Virginia State boundary	None	•730	
Mayo River Tributary 11	At the confluence with Mayo River	None	•665	Unincorporated Areas of Rockingham County.
	Approximately 1,700 feet upstream of the confluence with Mayo River.	None	•668	
Mayo River Tributary 12	At the confluence with Mayo River	None	•667	Unincorporated Areas of Rockingham County.
	Approximately 1,600 feet upstream of the confluence with Mayo River.	None	•667	
Mayo River Tributary 14	At the confluence with Mayo River	None	•673	Unincorporated Areas of Rockingham County.
	Approximately 800 feet upstream of the confluence with Mayo River.	None	•673	
Mayo River Tributary 16	At the confluence with Mayo River	None	•678	Unincorporated Areas of Rockingham County.
	Approximately 1,400 feet upstream of the confluence with Mayo River.	None	•684	
Mayo River Tributary 17	At the confluence with Mayo River	None	•681	Unincorporated Areas of Rockingham County.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 2,000 feet upstream of the confluence with Mayo River.	None	•705	
Mayo River Tributary 18	At the confluence with Mayo River	None	•684	Unincorporated Areas of Rockingham County.
	Approximately 1,300 feet upstream of the confluence with Mayo River.	None	•691	
Mayo River Tributary 19	At the confluence with Mayo River	None	•687	Unincorporated Areas of Rockingham County.
	Approximately 1,100 feet upstream of the confluence with Mayo River.	None	•687	
Mayo River Tributary 20	At the confluence with Mayo River	None	•687	Unincorporated Areas of Rockingham County.
	Approximately 1,200 feet upstream of the confluence with Mayo River.	None	•706	
Mayo River Tributary 21	At the confluence with Mayo River	None	•690	Unincorporated Areas of Rockingham County.
	Approximately 600 feet upstream of the confluence with Mayo River.	None	•702	
Mayo River Tributary 22	At the confluence with Mayo River	None	•694	Unincorporated Areas of Rockingham County.
	Approximately 1,300 feet upstream of the confluence with Mayo River.	None	•696	
Mayo River Tributary 23	At the confluence with Mayo River	None	•697	Unincorporated Areas of Rockingham County.
	Approximately 1,000 feet upstream of the confluence with Mayo River.	None	•721	
Mayo River Tributary 24	At the confluence with Mayo River	None	•697	Unincorporated Areas of Rockingham County.
	Approximately 1,000 feet upstream of the confluence with Mayo River.	None	•706	
Mayo River Tributary 25	At the confluence with Mayo River	None	•698	Unincorporated Areas of Rockingham County.
	Approximately 1,800 feet upstream of the confluence with Mayo River.	None	•718	
Mayo River Tributary 26	At the confluence with Mayo River	None	•700	Unincorporated Areas of Rockingham County.
	At the confluence of Mayo River Tributary to Tributary 26.	None	•700	
Mayo River Tributary 27	At the confluence with Mayo River	None	•701	Unincorporated Areas of Rockingham County.
	Approximately 50 feet downstream of Anglin Mill Road	None	•731	
Mayo River Tributary 3	At the confluence with Mayo River	None	•646	Unincorporated Areas of Rockingham County.
	Approximately 1.2 miles upstream of U.S. 220	None	•684	
Mayo River Tributary 5	At the confluence with Mayo River	None	•651	Unincorporated Areas of Rockingham County.
	Approximately 1.4 miles upstream of Janet Road	None	•679	
Mayo River Tributary 6	At the confluence with Mayo River	None	•652	Unincorporated Areas of Rockingham County.
	Approximately 150 feet upstream of Chaney Loop	None	•663	
Mayo River Tributary 7	At the confluence with Mayo River	None	•656	Unincorporated Areas of Rockingham County.
	Approximately 1,600 feet upstream of the confluence with Mayo River.	None	•676	
Mayo River Tributary of Tributary 26.	At the confluence with Mayo River Tributary 26	None	•700	Unincorporated Areas of Rockingham County.
	Approximately 450 feet upstream of old Anglin Loop	None	•722	
Mayo River Tributary of Tributary 5.	At the confluence with Mayo River Tributary 5	None	•651	Unincorporated Areas of Rockingham County.
	Approximately 1,000 feet upstream of the confluence with Mayo River Tributary 5.	None	•672	
Means Creek	At the confluence with Mayo River	None	•676	Unincorporated Areas of Rockingham County.
	Approximately 1,200 feet upstream of the confluence with Mayo River.	None	•676	
North Fork Jones Creek	At the confluence with Jones Creek	None	•612	Unincorporated Areas of Rockingham County.
	Approximately 1,500 feet upstream of the confluence with Jones Creek.	None	•624	

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
North Fork Jones Creek Tributary of Tributary.	At the confluence with North Fork Jones Creek	•672	•673	Unincorporated Areas of Rockingham County, City of Reidsville.
	Approximately 1,600 feet upstream of the confluence with North Fork Jones Creek.	None	•695	
Pawpaw Creek	At the confluence with Mayo River	None	•680	Unincorporated Areas of Rockingham County.
	Approximately 250 feet upstream of Smith Road	None	•680	
Pawpaw Creek Tributary	At the confluence with Pawpaw Creek	None	•680	Unincorporated Areas of Rockingham County.
	Approximately 1,200 feet upstream of the confluence with Pawpaw Creek.	None	•691	
Reed Creek	Approximately 0.5 mile upstream of the confluence of Reed Creek Tributary.	None	•586	Unincorporated Areas of Rockingham County.
	At the Rockingham/Stokes County boundary	None	•606	
Reed Creek Tributary	Approximately 600 feet upstream of the confluence with Reed Creek.	None	•586	Unincorporated Areas of Rockingham County, Town of Madison.
	Approximately 1.1 miles upstream of the confluence with Reed Creek.	None	•609	
Roach Creek	At the confluence with Dan River	None	•538	Unincorporated Areas of Rockingham County.
	Approximately 0.9 mile upstream of the confluence of Roach Creek Tributary.	None	•554	
Roach Creek Tributary	At the confluence with Roach Creek	None	•538	Unincorporated Areas of Rockingham County.
	Approximately 600 feet upstream of the confluence with Roach Creek.	None	•566	
Rock House Creek	At the confluence with Dan River	None	•538	Unincorporated Areas of Rockingham County, Town of Wentworth.
	Approximately 0.6 mile upstream of SR 65	None	•560	
Rock House Creek Tributary.	At the confluence with Rock House Creek	None	•538	Town of Wentworth.
	Approximately 0.6 mile upstream of the confluence with Rock House Creek.	None	•544	
Rockingham Lake Creek	At the confluence with Hogans Creek (into Dan River east).	None	•519	Unincorporated Areas of Rockingham County.
	Approximately 150 feet downstream of Anglers Drive	None	•533	
Smith River	At the confluence with Dan River	None	•522	Unincorporated Areas of Rockingham County, City of Eden.
	At North Carolina/Virginia State boundary	None	•571	
Smith River Tributary 1	Approximately 280 feet upstream of the confluence with Smith River.	•534	•535	City of Eden.
	Approximately 1,980 feet upstream of the confluence of Smith River Tributary 2 of Tributary 1.	None	•647	
Smith River Tributary 1	At the confluence with Smith River Tributary 1	None	•556	City of Eden.
	Approximately 1,630 feet upstream of the confluence with Smith River Tributary 1.	None	•595	
Smith River Tributary 2 of Tributary 1.	At the confluence with Smith River Tributary 1	None	•601	City of Eden.
	Approximately 1,600 feet upstream of John Street	None	•656	
South Mayo River	At the confluence with Mayo River	None	•726	Unincorporated Areas of Rockingham County.
	At North Carolina/Virginia State boundary	None	•726	
Town Creek	At the confluence with Dan River	None	•509	Unincorporated Areas of Rockingham County.
	Approximately 1,300 feet upstream of NC 14	None	•584	
Town Creek Tributary 1	At the confluence with Town Creek	None	•509	Unincorporated Areas of Rockingham County.
	Approximately 1.1 miles upstream of the confluence with Town Creek.	None	•532	
Town Creek Tributary 3	At the confluence with Town Creek	None	•509	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of the confluence with Town Creek.	None	•522	
Town Creek Tributary 4	At the confluence with Town Creek	None	•524	Unincorporated Areas of Rockingham County.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 1.3 miles upstream of the confluence with Town Creek.	None	•564	
Whetstone Creek	At the confluence with Dan River	None	•531	Unincorporated Areas of Rockingham County.
	Approximately 1,600 feet upstream of the confluence with Whetstone Creek Tributary.	None	•534	
Whetstone Creek Tributary	At the confluence with Whetstone Creek	None	•531	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of the confluence with Whetstone Creek.	None	•561	
White Oak Creek	At the North Carolina/Virginia State boundary	None	•490	Unincorporated Areas of Rockingham County.
	Approximately 1.0 mile upstream of Berry Hill Bridge Road.	None	•536	
Williamson Creek	At the confluence with Dan River	None	•470	Unincorporated Areas of Rockingham County.
	Approximately 600 feet upstream of the confluence with Williamson Creek Tributary 11.	None	•560	
Williamson Creek Tributary 1.	At the confluence with Williamson Creek	None	•470	Unincorporated Areas of Rockingham County.
	Approximately 0.4 mile upstream of the confluence with Williamson Creek.	None	•483	
Williamson Creek Tributary 1 of Tributary 1.	At the confluence with Williamson Creek Tributary 1	None	•470	Unincorporated Areas of Rockingham County.
	Approximately 1,100 feet upstream of the confluence with Williamson Creek Tributary 1.	None	•496	
Williamson Creek Tributary 10.	At the confluence with Williamson Creek	None	•543	Unincorporated Areas of Rockingham County.
	Approximately 900 feet upstream of the confluence with Williamson Creek.	None	•549	
Williamson Creek Tributary 11.	At the confluence with Williamson Creek	None	•558	Unincorporated Areas of Rockingham County.
	Approximately 500 feet upstream of the confluence with Williamson Creek.	None	•569	
Williamson Creek Tributary 2.	At the confluence with Williamson Creek	None	•470	Unincorporated Areas of Rockingham County.
	Approximately 1,600 feet upstream of the confluence with Williamson Creek.	None	•495	
Williamson Creek Tributary 2 of Tributary 1.	At the confluence with Williamson Creek Tributary 1	None	•475	Unincorporated Areas of Rockingham County.
	Approximately 700 feet upstream of the confluence with Williamson Creek Tributary 1.	None	•489	
Williamson Creek Tributary 3.	At the confluence with Williamson Creek	None	•481	Unincorporated Areas of Rockingham County.
	Approximately 800 feet upstream of the confluence with Williamson Creek.	None	•520	
Williamson Creek Tributary 4.	At the confluence with Williamson Creek	None	•491	Unincorporated Areas of Rockingham County.
	Approximately 750 feet upstream of the confluence with Williamson Creek.	None	•506	
Williamson Creek Tributary 5.	At the confluence with Williamson Creek	None	•505	Unincorporated Areas of Rockingham County.
	Approximately 500 feet upstream of the confluence with Williamson Creek.	None	•511	
Williamson Creek Tributary 6.	At the confluence with Williamson Creek	None	•511	Unincorporated Areas of Rockingham County.
	Approximately 700 feet upstream of the confluence with Williamson Creek.	None	•522	
Williamson Creek Tributary 7.	At the confluence with Williamson Creek	None	•521	Unincorporated Areas of Rockingham County.
	Approximately 550 feet upstream of the confluence with Williamson Creek.	None	•529	
Williamson Creek Tributary 8.	At the confluence with Williamson Creek	None	•537	Unincorporated Areas of Rockingham County.
	Approximately 500 feet upstream of the confluence with Williamson Creek.	None	•547	
Williamson Creek Tributary 9.	At the confluence with Williamson Creek	None	•540	Unincorporated Areas of Rockingham County.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 1,000 feet upstream of the confluence with Williamson Creek.	None	•548	
Wolf Island Creek	Approximately 150 feet downstream of the Rockingham/Caswell County boundary.	None	•472	Unincorporated Areas of Rockingham County, City of Reidsville.
	Approximately 1,900 feet downstream of NC 14	None	•627	
Wolf Island Creek	Approximately 1,600 feet downstream of State Route 14.	None	•628	Unincorporated Areas of Rockingham County.
	At the upstream side of State Route 14	None	•635	
Wolf Island Creek Tributary 1.	At the upstream side of Wilson Road	None	•648	Unincorporated Areas of Rockingham County, City of Reidsville.
	Approximately 0.5 mile upstream of Wilson Road	None	•653	
Wolf Island Creek Tributary 2.	Approximately 800 feet upstream of Freeway Drive	None	•701	City of Reidsville.
	Approximately 350 feet upstream of Franklin Street	None	•751	
Wolf Island Creek Tributary near SR 1767.	At the confluence with Wolf Island Creek	None	•509	Unincorporated Areas of Rockingham County.
	Approximately 0.5 mile upstream of the confluence with Wolf Island Creek.	None	•518	
Wolf Island Creek Tributary near SR 1902.	At the confluence with Wolf Island Creek	None	•503	Unincorporated Areas of Rockingham County.
	Approximately 1.2 miles upstream of the confluence with Wolf Island Creek.	None	•542	
Wolf Island Creek Tributary of Tributary 2.	Approximately 500 feet upstream of the confluence with Wolf Island Creek Tributary 2.	None	•674	Unincorporated Areas of Rockingham County, City of Reidsville.
	Approximately 900 feet upstream of Harrison Street	None	•776	

City of Eden

Maps are available for inspection at Eden City Hall, Planning and Inspections Department, 308 East Stadium Drive, Eden, NC.

Send comments to The Honorable John E. Grogan, Mayor, City of Eden, 308 East Stadium Drive, Eden, NC 27288.

City of Reidsville

Maps are available for inspection at Reidsville City Hall, Department of Community Development, 2nd Floor, 230 West Morehead Street, Reidsville, NC.

Send comments to Mr. D. Kelly Almond, Reidsville City Manager, 230 West Morehead Street, Reidsville, NC 27320.

Town of Madison

Maps are available for inspection at Madison Town Hall, 120 North Market Street, Madison, NC 27025.

Send comments to Mr. Bob Scott, Madison Town Manager, 120 North Market Street, Madison, NC 27025.

Town of Mayodan

Maps are available for inspection at Mayodan Town Hall, 210 West Main Street, Mayodan, NC.

Send comments to Ms. Debra Cardwell, Mayodan Town Manager, 210 West Main Street, Mayodan, NC 27027.

Town of Stoneville

Maps are available for inspection at Stoneville Town Hall, 101 Smith Street, Stoneville, NC.

Send comments to The Honorable Rex Tuggle, Mayor, Town of Stoneville, P.O. Box 71, Stoneville, NC 27048.

Town of Wentworth

Maps are available for inspection at Wentworth Town Hall, 292 NC Highway 65, Wentworth, NC.

Send comments to The Honorable Dennis Paschal, Mayor, Town of Wentworth, P.O. Box 159, Wentworth, NC 27375.

Unincorporated Areas of Rockingham County

Maps are available for inspection at Rockingham County Planning and Inspections Department, Governmental Complex, 361 Highway 65, Wentworth, NC.

Send comments to Mr. Thomas Robinson, Rockingham County Manager, P.O. Box 206, Wentworth, NC 27375.

Sampson County

Bills Swamp	At the confluence with Little Coharie Creek	None	•58	Unincorporated Areas of Sampson County.
	Approximately 1.4 miles upstream of Norris Road	None	•89	
Gilmore Swamp Tributary ..	At the confluence with Gilmore Swamp	None	•115	Unincorporated Areas of Sampson County.
	Approximately 1.6 miles upstream of King Road	None	•136	
Clifton (formerly Kings) Branch.	At the confluence with Six Runs Creek	None	•121	Unincorporated Areas of Sampson County.
	Approximately 2.1 miles upstream of the confluence with Six Runs Creek.	None	•137	

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Hoe Swamp	At the confluence with Six Runs Creek	None	•118	Sampson County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Hunter Road	None	•157	
Kill Swamp	At the confluence with Great Coharie Creek	None	•132	Sampson County (Unincorporated Areas).
	Approximately 1.2 miles upstream of Emmet Thornoton Road.	None	•176	
Mill Creek	At the Sampson/Duplin County boundary	None	•51	Unincorporated Areas of Sampson County.
	Approximately 800 feet upstream of Matthews Road	None	•66	
Peters Creek	At the confluence with Buckhorn Branch	None	•70	Unincorporated Areas of Sampson County.
	Approximately 0.8 mile upstream of the confluence with Buckhorn Branch.	None	•100	
Sevenmile Swamp	At the confluence with Great Coharie Creek	None	•128	Unincorporated Areas of Sampson County.
	Approximately 0.9 mile upstream of Easy Street	None	•193	
Williams Old Mill Branch	Approximately 600 feet upstream of U.S. 701	None	•121	City of Clinton, Sampson County (Unincorporated Areas).
	Approximately 400 feet upstream of Northeast Boulevard.	None	•124	

City of Clinton

Maps available for inspection at the Clinton City Hall, 227 Lisbon Street, Clinton, North Carolina.

Send comments to The Honorable Lew Starling, Mayor of the City of Clinton, P.O. Box 199, Clinton, North Carolina 28329–0199.

Sampson County (Unincorporated Areas)

Maps available for inspection at the Sampson County Inspections Department, 383 County Complex Road, Clinton, North Carolina.

Send comments to Mr. Scott Sauer, Sampson County Manager, 435 Rowan Road, Clinton, North Carolina 28328.

Vance County

Anderson Creek	At the confluence with John H. Kerr Reservoir	None	•320	Vance County (Unincorporated Areas).
	Approximately 1.7 miles upstream of Anderson Creek Road.	None	•329	
Crooked Run	At the confluence with John H. Kerr Reservoir	None	•320	Vance County (Unincorporated Areas).
	Approximately 1.7 miles upstream of NC 39	None	•326	
Crooked Run Tributary 1	At the confluence with Crooked Run	None	•320	Vance County (Unincorporated Areas).
	Approximately 1.6 miles upstream of the confluence with Crooked Run.	None	•327	
Flat Creek	At the confluence with John H. Kerr Reservoir	None	•320	Vance County (Unincorporated Areas).
	Approximately 1.5 miles upstream of John H. Kelly Road.	None	•331	
Gillians Branch	At the Virginia/North Carolina State boundary	None	•289	Vance County (Unincorporated Areas)
	Approximately 2.7 miles upstream of the Virginia/North Carolina State boundary.	None	•295	
Indian Creek	At the confluence with John H. Kerr Reservoir	None	•320	Vance County (Unincorporated Areas), City of Henderson
	Approximately 0.5 mile upstream of I–85	None	•502	
Island Creek	At the confluence with Island Reservoir	None	•289	Vance County (Unincorporated Areas).
	Approximately 700 feet upstream of the confluence of Michael Creek.	None	•303	
Island Reservoir	Entire shoreline within the County	None	•289	Vance County (Unincorporated Areas).
John H. Kerr Reservoir	Entire shoreline within the County	None	•320	Vance County (Unincorporated Areas).
John H. Kerr Reservoir Tributary 3D.	At the confluence with John H. Kerr Reservoir	None	•320	Vance County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence of John H. Kerr Reservoir Tributary 3D–2.	None	•324	
John H. Kerr Reservoir Tributary 3D–2.	At the confluence with John H. Kerr Reservoir 3D	None	•320	Vance County (Unincorporated Areas).

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 0.5 mile upstream of the confluence with John H. Kerr Reservoir 3D.	None	•323	
John H. Kerr Reservoir Tributary 4.	At the confluence with John H. Kerr Reservoir	None	•320	Vance County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with John H. Kerr Reservoir.	None	•322	
John H. Kerr Reservoir Tributary 3D–1.	At the confluence with John H. Kerr Reservoir	None	•320	Vance County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with John H. Kerr Reservoir Tributary 3D.	None	•326	
Little Island Creek	At the confluence with Island Creek	None	•289	Vance County (Unincorporated Areas).
	Approximately 2.0 miles upstream of Rice Road	None	•339	
Little Island Creek Tributary 1.	At the confluence with Little Island Creek	None	•289	Vance County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Little Island Creek.	None	•300	
Long Grass Branch	At the Virginia/North Carolina State boundary	None	•326	Vance County (Unincorporated Areas).
	Approximately 1,400 feet upstream of Virginia/North Carolina State boundary.	None	•346	
Michael Creek	At the confluence with Island Creek	None	•301	Vance County (Unincorporated Areas).
	Approximately 2.9 miles upstream of the confluence with Island Creek.	None	•337	
Nutbrush Creek	At the confluence with John H. Kerr Reservoir	None	•320	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 0.8 mile upstream of I–85	None	•406	
Nutbrush Creek Tributary 1	At the confluence with Nutbrush Creek	None	•331	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 1.2 miles upstream of the confluence with Nutbrush Creek.	None	•416	
Nutbrush Creek Tributary 2	At the confluence with Nutbrush Creek	None	•346	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 1,700 feet upstream of I–85	None	•429	
Nutbrush Creek Tributary 2A.	At the confluence with Nutbrush Creek Tributary 2	None	•360	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 0.6 mile upstream of the confluence with Nutbrush Creek Tributary 2.	None	•400	
Nutbrush Creek Tributary 2B.	At the confluence with Nutbrush Creek Tributary 2	None	•368	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 0.4 mile upstream of I–85	None	•466	
Nutbrush Creek Tributary 3	At the confluence with Nutbrush Creek	None	•369	City of Henderson.
	Approximately 200 feet upstream of Granite Street	None	•444	
Nutbrush Creek Tributary 3A.	At the confluence with Nutbrush Creek Tributary 3	None	•375	City of Henderson.
	Approximately 0.4 mile upstream of Beckford Drive	None	•443	
Nutbrush Creek Tributary 3B.	At the confluence with Nutbrush Creek Tributary 3	None	•394	City of Henderson.
	Approximately 700 feet upstream of Parkway Drive	None	•440	

City of Henderson

Maps are available for inspection at the City of Henderson Planning Department, 180 South Beckford Drive, Henderson, NC 27536

Send comments to the Honorable Donald C. Seifert, Jr., Mayor of the City of Henderson, P.O. Box 1434, Henderson, NC 27536.

Vance County

Maps are available for inspection at the Vance County Planning and Development Office, 156 Church Street, Suite 003, Henderson, NC 27536.

Send comments to Mr. J. Timothy Pegram, Chairman of the Vance County Board of Commissioners, 156 Church Street, Suite 003, Henderson, NC 27536.

Warren County				
Big Stone House Creek	At the confluence with Lake Gaston	None	•203	Unincorporated Areas of Warren County.
	Approximately 3.2 miles upstream of Epworth Road	None	•240	

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Blue Mud Creek	At the confluence with Terrapin Creek	None	•227	Unincorporated Areas of Warren County.
	At the confluence of West Branch	None	•274	
Blue Mud Creek Tributary 1	At the confluence with Blue Mud Creek	None	•227	Unincorporated Areas of Warren County.
	Approximately 570 feet upstream of the confluence of Blue Mud Creek Tributary 1A.	None	•250	
Blue Mud Creek Tributary 1A.	At the confluence with Blue Mud Creek Tributary 1	None	•239	Unincorporated Areas of Warren County.
	Approximately 750 feet upstream of the confluence with Blue Mud Creek Tributary 1.	None	•244	
Cabin Branch (into Smith Creek).	At the confluence with Smith Creek	None	•240	Unincorporated Areas of Warren County.
	Approximately 1.3 miles upstream of the confluence with Smith Creek.	None	•257	
Coleman Branch	At the confluence with Hawtree Creek	None	•203	Unincorporated Areas of Warren County.
	Approximately 1.0 mile upstream of the confluence with Hawtree Creek.	None	•217	
Ellington Branch	At the confluence with Little Deep Creek	None	•253	Unincorporated Areas of Warren County.
	Approximately 1,200 feet upstream of the confluence with Little Deep Creek.	None	•256	
Hawtree Creek	Approximately 700 feet downstream of Peete Farm Road.	None	•203	Unincorporated Areas of Warren County.
	Approximately 1,400 feet upstream of the confluence of Hawtree Creek Tributary 5.	None	•270	
Hawtree Creek Tributary 1	At the confluence with Hawtree Creek	None	•203	Unincorporated Areas of Warren County.
	Approximately 1.0 mile upstream with the confluence with Hawtree Creek.	None	•224	
Hawtree Creek Tributary 2	At the confluence with Hawtree Creek	None	•211	Unincorporated Areas of Warren County.
	Approximately 1,700 feet upstream of the confluence with Hawtree Creek.	None	•220	
Hawtree Creek Tributary 3	At the confluence with Hawtree Creek	None	•229	Unincorporated Areas of Warren County.
	Approximately 0.5 mile upstream of the confluence with Hawtree Creek.	None	•243	
Hawtree Creek Tributary 4	At the confluence with Hawtree Creek	None	•243	Unincorporated Areas of Warren County.
	Approximately 1,400 feet upstream of Boyd Stegall Road.	None	•250	
Hawtree Creek Tributary 5	At the confluence with Hawtree Creek	None	•264	Unincorporated Areas of Warren County.
	Approximately 430 feet upstream of Waviely Thompson Road.	None	•272	
Hubquarter Creek	At the confluence with Lake Gaston	None	•203	Unincorporated Areas of Warren County.
	Approximately 2.0 miles upstream of Flemming Mill Road.	None	•254	
Hubquarter Creek Tributary 1.	At the confluence with Hubquarter Creek	None	•211	Unincorporated Areas of Warren County.
	Approximately 1.5 miles upstream of Flemming Mill Road.	None	•269	
John H. Kerr Reservoir	Entire shoreline within County	None	•320	Unincorporated Areas of Warren County.
Jordan Creek	At the confluence with Lake Gaston	None	•203	Unincorporated Areas of Warren County.
	Approximately 1.7 miles upstream of Wise Five-Forks Road.	None	•251	
Keats Branch	At the confluence with John H. Kerr Reservoir	None	•320	Unincorporated Areas of Warren County.
	Approximately 0.4 mile upstream of the confluence with John H. Kerr Reservoir.	None	•328	
Lake Gaston	Entire shoreline west of Eaton Ferry Road	None	•203	Unincorporated Areas of Warren County.
Little Deep Creek	At the confluence with Smith Creek	None	•230	Unincorporated Areas of Warren County.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 0.4 mile upstream of the confluence of Ellington Branch.	None	•259	
Little Stone House Creek ...	At the upstream side of Shawspring Road	None	•208	Unincorporated Areas of Warren County.
	Approximately 0.6 mile upstream of Shawspring Road	None	•214	
Mill Creek	At the confluence with Lake Gaston	None	•203	Unincorporated Areas of Warren County.
	At the North Carolina/Virginia border	None	•214	
Reedy Creek (into John H. Kerr Reservoir).	At the North Carolina/Virginia border	None	•219	Unincorporated Areas of Warren County.
	Approximately 1.3 miles upstream of the North Carolina/Virginia border.	None	•251	
Roanoke River Tributary 18	At the confluence with Lake Gaston	None	•203	Unincorporated Areas of Warren County.
	Approximately 0.6 mile upstream of the confluence with Lake Gaston.	None	•250	
Rocky Branch	At the confluence with Hawtree Creek	None	•213	Unincorporated Areas of Warren County.
	Approximately 1.1 miles upstream of the confluence with Hawtree Creek.	None	•233	
Sauls Creek	At the confluence with Hawtree Creek	None	•224	Unincorporated Areas of Warren County.
	Approximately 0.5 mile upstream of the confluence with Hawtree Creek.	None	•231	
Sixpound Creek	At the confluence with Lake Gaston	None	•203	Unincorporated Areas of Warren County.
	Approximately 3.1 miles upstream of Wise Five-Forks Road.	None	•253	
Smith Creek	Approximately 1,400 feet downstream of U.S. Route 1	None	•222	Unincorporated Areas of Warren County.
	Approximately 0.5 mile upstream of Ridgeway Drewry Road.	None	•308	
Smith Creek Tributary 1	At the confluence with Smith Creek	None	•224	Unincorporated Areas of Warren County.
	Approximately 2.2 miles upstream of the confluence with Smith Creek.	None	•253	
Smith Creek Tributary 1A ...	At the confluence with Smith Creek Tributary 1	None	•239	Unincorporated Areas of Warren County.
	Approximately 0.3 mile upstream of the confluence with Smith Creek Tributary 1.	None	•254	
Smith Creek Tributary 2	At the confluence with Smith Creek	None	•224	Unincorporated Areas of Warren County.
	Approximately 0.8 mile upstream of the confluence with Smith Creek.	None	•241	
Smith Creek Tributary 3	At the confluence with Smith Creek	None	•275	Unincorporated Areas of Warren County.
	Approximately 0.3 mile upstream of the confluence with Smith Creek.	None	•279	
Smith Creek Tributary 4	At the confluence with Smith Creek	None	•278	Unincorporated Areas of Warren County.
	Approximately 0.9 mile upstream of the confluence with Smith Creek.	None	•304	
Smith Creek Tributary 5	At the confluence with Smith Creek	None	•298	Unincorporated Areas of Warren County.
	Approximately 0.5 mile upstream of the confluence with Smith Creek.	None	•306	
Terrapin Creek	At the confluence with Smith Creek	None	•223	Unincorporated Areas of Warren County.
	Approximately 1,700 feet upstream of Beaver Dam Road.	None	•260	
Terrapin Creek Tributary 1	At the confluence with Terrapin Creek	None	•223	Unincorporated Areas of Warren County.
	Approximately 1,200 feet upstream of the confluence with Terrapin Creek.	None	•229	
West Branch	At the confluence with Blue Mud Creek	None	•274	Unincorporated Areas of Warren County, Town of Norlina.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 2.0 miles upstream of the confluence with Blue Mud Creek.	None	•349	

Town of Norlina

Maps are available for inspection at the Norlina Town Hall, 101 Main Street, Norlina, NC 27563.

Send comments to The Honorable Walter Newman, Mayor of the Town of Norlina, P.O. Box 149, Norlina, NC 27563.

Unincorporated Areas of Warren County

Maps are available for inspection at the Warren County Planning and Zoning Office, 542 West Ridgeway Street, Warrenton, NC 27589.

Send comments to Ms. Linda T. Jones, Warren County Manager, P.O. Box 619, Warrenton, NC 27589.

U.S. VIRGIN ISLANDS

Atlantic Ocean—St. John	Approximately 1,800 feet west of the intersection of Caheel Trail and North Shore Road.	*5	*6	Island of St. John.
	At Privateer Point	*5	*25	
Caribbean Sea—St. John	Approximately 500 feet east of intersection of Pond Bay and Iguera Road.	None	*4	Island of St. John.
	At Dittlit Point	*6	*25	
Pillsbury Sound—St. John	Approximately 250 feet west of the intersection of North Shore Road and Pocket Money Lane.	*5	*6	Island of St. John.
	Approximately 600 feet south of the intersection of Idesephus Road and Azure Bay Road.	*5	*25	
Atlantic Ocean—St. Thomas.	Thach Cay at Eva Point	*6	*7	Island of St. Thomas.
	Approximately 0.5 mile north of North Meander Place and Fortuna Road.	*5	*25	
Caribbean Sea—St. Thomas.	Approximately 750 feet southwest of the intersection of Rue de Gregoire and Veteran Drive.	*6	*5	Island of St. Thomas.
	Approximately 0.5 mile south of North Meander Road and Fortuna Road.	*6	*25	
Pillsbury Sound—St. Thomas.	Approximately 1,000 feet east of the intersection of Smith Bay Road and Pavillion Road.	*5	*6	Island of St. Thomas.
	Approximately 0.6 mile south of the intersection of Julian Jackson Road and Airport Road.	*6	*25	
Leeward Passage—St. Thomas.	Approximately 1,200 feet east of the intersection of Suzzana Road and Smith Bay Road.	*5	*8	Island of St Thomas.
	At Coki Point	*5	*23	
Caribbean Sea—St. Thomas.	Approximately 0.6 mile southwest of the intersection of North Meander Road and Fortuna Road.	None	#3	Island of St. Thomas.
Caribbean Sea—St. Croix	At the intersection of Crab Lane and Dyers Climb	*5	*8	Island of St. Croix.
	At Protestant Cay	*5	*19	
Gut No. 1	At confluence with Christiansted Harbor	*5	*17	Island of St. Croix.
	Approximately 430 feet upstream of the confluence with Christiansted Harbor.	*11	*12	
Gut No. 2	At confluence with Christiansted Harbor	*5	*19	Island of St. Croix.
	Approximately 880 feet upstream of the confluence with Christiansted Harbor.	*12	*13	
Gut No. 3	At confluence with Christiansted Harbor	*5	*18	Island of St. Croix.
	Approximately 800 feet upstream of the confluence with Christiansted Harbor.	*10	*11	
Gut No. 4	At confluence with Altona Lagoon	*6	*10	Island of St. Croix.
	Approximately 860 feet upstream of the confluence with Altona Lagoon.	*7	*11	
Gut No. 5	At confluence with Caribbean Sea	*6	*15	Island of St. Croix.
	Approximately 900 feet upstream of the confluence with Caribbean Sea.	*11	*12	
Gut No. 6	At confluence with Caribbean Sea	*5	*13	Island of St. Croix
	Approximately 1,100 feet upstream of the confluence with Caribbean Sea.	*9	*10	
Salt River	At confluence with Sugar Bay	5	10	Island of St. Croix.
	Approximately 650 feet upstream of the confluence with Sugar Bay.	*9	*10	
Turpentine Run	At confluence with Mangrove Lagoon	*6	*11	Island of St. Thomas.
	Approximately 960 feet upstream of the confluence with Mangrove Lagoon.	*10	*11	

U.S. Virgin Islands (Islands of St. Croix, St. Thomas, and St. John)

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Maps available for inspection at the Office of the Tax Assessor and the Cadastral Section, 113 King Street, Christiansted, Virgin Islands.				
Send comments to The Honorable Charles W. Turnbull, Governor of the U.S. Virgin Islands, 22–22 Kongens Gade, St. Thomas, Virgin Islands 00802.				
VERMONT				
Windham County				
Connecticut River	Approximately 0.45 mile upstream of Vernon Dam	•227	•226	Town of Rockinham, Town of Vernon.
	Approximately 7.42 mile upstream of Bellows Falls Dam.	•306	•305	
Saxtons River	At the confluence with the Connecticut River	None	•257	Town of Grafton, Town of Athens, Town of Bellows Falls.
	Approximately 1,950 feet upstream of the confluence of Weaver Brook.	None	•590	
Wardsboro Brook	Approximately 1,060 feet upstream of the upstream crossing of Vermont Route 100.	•920	•923	Town of Jamaica, Town of Wardsboro.
	Approximately 1,470 feet upstream of the upstream crossing of Vermont Route 100.	•928	•927	
West River	At the confluence with the Connecticut River	•235	•232	Town of Brattleboro, Town of Jamaica.
	Upstream side of Ball Mountain Dam	None	•1,020	
Whetstone Brook	At the confluence with the Connecticut River	•233	•231	Town of Brattleboro.
	Approximately 240 feet above Boston and Maine Railroad.	•233	•234	
Williams River	Downstream side of U.S. Highway 5/Missing Link Road.	•302	•301	Town of Rockingham
	At the confluence with the Connecticut River	•302	•301	

Town of Athens

Maps available for inspection at the Athens Town Office, 25 Brookline Road, Athens, Vermont.

Send comments to Mr. David Bemis, Chairman of the Town of Athens Board of Selectmen, Athens Town Office, 25 Brookline Road, Athens, Vermont 05143.

Village of Bellows Falls and Town of Rockingham

Maps available for inspection at the Bellows Falls and Rockingham Village and Town Hall, 7 Square, 3rd Floor, Bellows Falls, Vermont.

Send comments to Mr. Shane O'Keefe, Village of Bellows Falls and Town of Rockingham Municipal Manager, P.O. Box 370, Bellows Falls, Vermont 05101.

Town of Brattleboro

Maps available for inspection at the Town of Brattleboro Planning Services Department, 230 Main Street, Suite 202, Brattleboro, Vermont.

Send comments to Mr. Stephen A. Steidle, Chairman of the Town of Brattleboro Board of Selectmen, 230 Main Street, Suite 208, Brattleboro, Vermont 05301.

Town of Grafton

Maps available for inspection at the Grafton Town Office, Main Street, Grafton, Vermont.

Send comments to Mr. Robert Crawford, Chairman of the Town of Grafton Board of Selectmen, Grafton Town Hall, P.O. Box 180, Grafton, Vermont 05146.

Town of Jamaica

Maps available for inspection at the Jamaica Town Hall, 17 Pike Falls Road, Jamaica, Vermont.

Send comments to Mr. Joel Beckwith, Chairman of the Town of Jamaica Board of Selectmen, Jamaica Town Hall, P.O. Box 173, Jamaica, Vermont 05343.

Town of Vernon

Maps available for inspection at the Wardsboro Town Hall, 71 Main Street, Wardsboro, Vermont.

Send comments to Mr. Peter Sebastian, Chairman of the Town of Wardsboro Board of Selectmen, Wardsboro Town Hall, P.O. Box 48, Wardsboro, Vermont 05355.

Windsor County				
Black River	Approximately 0.65 mile upstream of Ricks Road	•1,319	•1,318	Town of Plymouth.
	Approximately 0.88 mile upstream of Ricks Road	None	•1,337	
Connecticut River	Approximately 1.91 miles downstream of confluence of the Black River.	•306	•305	Town of Hartland, Town of Springfield.
	Approximately 2.27 miles upstream of confluence of Lulls Brook.	•334	•335	
Gulf Stream Brook	Approximately 0.98 mile upstream of confluence of North Bridgewater Brook.	None	•873	Town of Pomfret.

Source of flooding	Location of referenced elevation	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
	Approximately 1.04 miles upstream of confluence of North Bridgewater Brook.	None	•875	
Mill Brook	At the confluence with the Connecticut River	•326	•328	Town of Reading, Town of Windsor.
	Approximately 1,500 feet upstream of Windsor Mineral Company Private Bridge.	None	•845	
North Branch Black River	Approximately 0.55 mile upstream of Markwell Road	•650	•653	Town of Cavendish, Town of Reading.
	Approximately 675 feet downstream of confluence of Knapp Brook.	•681	•682	
Ottauquechee River	Approximately 0.94 mile upstream of Taftsville Dam	None	•657	Town of Bridgewater, Town of Pomfret.
	Approximately 1,840 feet upstream of confluence of Curtis Hollow Brook.	•816	•815	
Second Branch White River	Approximately 1.24 miles upstream of State Route 14	•526	•525	Town of Bethel, Town of Royalton.
	Approximately 0.86 mile downstream of Stove Hill Road.	•528	•527	
White River	Approximately 0.79 mile downstream of State Routes 12 and 107/River Street.	•535	•531	Town of Bethel, Town of Stockbridge.
	Approximately 3.56 miles downstream of Liberty Hill Road.	•753	•754	

Town of Bethel

Maps available for inspection at the Bethel Town Office, 134 South Main Street, Bethel, Vermont.

Send comments to Mr. Delbert Cloud, Bethel Town Manager, 134 South Main Street, Bethel, Vermont 05032.

Town of Bridgewater

Maps available for inspection at the Bridgewater Town Office, 7335 U.S. Route 4, Bridgewater, Vermont.

Send comments to Mr. Nelson B. Lee, Jr., Chairman of the Town of Bridgewater Board of Selectmen, P.O. Box 14, Bridgewater, Vermont 05034.

Town of Cavendish

Maps available for inspection at the Cavendish Town Office, 37 High Street, Cavendish, Vermont.

Send comments to Mr. James Ballantine, Chairman of the Town of Cavendish Board of Selectmen, Cavendish Town Office, P.O. Box 126, Cavendish, Vermont 05142.

Town of Hartland

Maps available for inspection at the Town of Hartland Clerk's Office, Damon Hall, 1 Quechee Road, Hartland, Vermont.

Send comments to Mr. Robert Stacey, Hartland Town Manager, P.O. Box 349, Hartland, Vermont 05048.

Town of Plymouth

Maps available for inspection at the Plymouth Town Office, 68 Town Office Road, Plymouth, Vermont.

Send comments to Mr. Lawrence Lynds, Chairman of the Town of Plymouth Board of Selectmen, 68 Town Office Road, Plymouth, Vermont 05056.

Town of Pomfret

Maps available for inspection at the Pomfret Town Office, 5188 Pomfret Road, North Pomfret, Vermont.

Send comments to Mr. James Havill, Chairman of the Town of Pomfret Board of Selectmen, P.O. Box 599, Woodstock, Vermont 05091.

Town of Reading

Maps available for inspection at the Reading Town Office, Robinson Hall, 799 Vermont Route 106, Reading, Vermont.

Send comments to Mr. Robert K. Allen, Chairman of the Town of Reading Board of Selectmen, P.O. Box 72, Reading, Vermont 05062.

Town of Royalton

Maps available for inspection at the Royalton Town Office, 23 Alexander Place, Suite 1, South Royalton, Vermont.

Send comments to Mr. Larry Trottier, Chairman of the Town of Royalton Board of Selectmen, P.O. Box 680, South Royalton, Vermont 05068.

Town of Springfield

Maps available for inspection at the Springfield Town Office, 96 Main Street, Springfield, Vermont.

Send comments to Ms. Helen Hawthorne, Chairperson for the Town of Springfield Board of Selectmen, 96 Main Street, Springfield, Vermont 05156.

Town of Stockbridge

Maps available for inspection at the Town of Stockbridge Clerk's Office, 1722 Vermont Route 100, Stockbridge, Vermont.

Send comments to Mr. Mark Pelletier, Chairman of the Town of Stockbridge Board of Selectmen, P.O. Box 39, Stockbridge, Vermont 05772.

Town of Windsor

Maps available for inspection at the Windsor Town Office, 29 Union Street, Windsor, Vermont.

Send comments to Mr. Donald Howard, Windsor Town Administrator, Municipal Building, 29 Union Street, Windsor, Vermont 05089.

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

Dated: June 5, 2006.

David I. Maurstad,

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

[FR Doc. 06–5309 Filed 6–9–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–D–7662]

Proposed Flood Elevation Determinations

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

ACTION: Proposed rule.

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

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

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

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr. CFM, Acting Section Chief, Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

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

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

Regulatory Flexibility Act. The Mitigation Division Director certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

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

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

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

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)	
				Existing	Modified
Massachusetts	Plymouth (Town), ..	Plymouth	At Clarks Island	•12	•10
	Plymouth County ...	Harbor/Plymouth Bay	Approximately 500 feet north of the intersection of State Route 3A and Clifford Road.	•18	•29
Maps available for inspection at the Plymouth Town Hall, 11 Lincoln Street, Plymouth, Massachusetts.					
Send comments to Mr. Mark Sylvia, Plymouth Town Manager, 11 Lincoln Street, Plymouth, Massachusetts 02360.					
North Carolina	Atkinson (Town), Pender County.	Mill Branch (of Moores Creek).	Approximately 0.7 mile downstream of NC Highway 53.	None	•43
			At Church Street (NC Highway 53)	None	•64

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)	
				Existing	Modified
Maps available for inspection at the Atkinson Town Hall, 200 North Town Hall Avenue, Atkinson, North Carolina.					
Send comments to The Honorable George Stalker, Mayor of the Town of Atkinson, 200 North Town Hall Avenue, Atkinson, North Carolina 28421.					
North Carolina	Orange County (Unincorporated Areas).	Haw River	At the Orange/Chatham County boundary	None	•415
			Approximately 1.2 miles upstream of East Greensboro-Chapel Hill Road.	None	•429
Maps available for inspection at the Orange County Planning and Inspections Department, 306F Revere Road, Hillsborough, North Carolina.					
Send comments to Mr. John M. Link, Jr., Orange County Manager, 200 South Cameron Street, Hillsborough, North Carolina 27278.					

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

Dated: June 5, 2006.

David I. Maurstad,

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

[FR Doc. E6–9130 Filed 6–9–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU48

Endangered and Threatened Wildlife and Plants; Amended Designation of Critical Habitat for the Wintering Population of the Piping Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to amend critical habitat for the wintering population of the piping plover (*Charadrius melodus*) in North Carolina under the Endangered Species Act of 1973, as amended (Act). In total, approximately 1,827 acres (ac) (739 hectares (ha)) fall within the boundaries of the proposed amended critical habitat designation, located in Dare and Hyde counties, North Carolina.

DATES: We will accept comments from all interested parties until August 11, 2006. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by July 27, 2006.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of the following methods:

1. You may submit written comments and information to Pete Benjamin, Field Supervisor, U.S. Fish and Wildlife Service, Raleigh Fish and Wildlife Office, P. O. Box 33726, Raleigh, North Carolina 27636–3726.

2. You may hand-deliver written comments to our office, at Raleigh Field Office, 551–F Pylon Drive, Raleigh, North Carolina 27606.

3. You may send comments by electronic mail (e-mail) to *ncplovercomments@fws.gov*. Please see the ''Public Comments Solicited'' section under **SUPPLEMENTARY INFORMATION** for file format and other information about electronic filing.

4. You may fax your comments to 919–856–4556.

5. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Raleigh Fish and Wildlife Office, 551–F Pylon Drive, Raleigh, North Carolina 27606 (telephone 919–856–4520).

FOR FURTHER INFORMATION CONTACT: Pete Benjamin, Field Supervisor, Raleigh Fish and Wildlife Office, telephone 919–856–4520, facsimile 919–856–4556.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. We particularly seek comments concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefit of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of wintering piping plover habitat in North Carolina, and what areas should be included in the designation that were occupied at the time of listing that contain the features that are essential for the conservation of the species and why, and what areas were not occupied at the listing is essential to the conservation of the species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities;

(5) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments;

(6) Whether our determination that areas identified as not being in need of special management is accurate; and

(7) Information to assist the Secretary of the Interior in evaluating habitat with physical and biological features essential to the conservation of the piping plover on Cape Hatteras National Seashore, administered by the National Park Service, based on any benefit provided by the Interim Protected Species Management Strategy/ Environmental Assessment (Interim Strategy) to the conservation of the wintering piping plover.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of

several methods (see **ADDRESSES** section). Please submit e-mail comments to *ncplovercomments@fws.gov* in ASCII file format and avoid the use of special characters or any form of encryption. Please also include ''Attn: Wintering Piping Plover Critical Habitat'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Raleigh Fish and Wildlife Office at phone number 919–856–4520. Please note that the e-mail address *ncplovercomments@fws.gov* will be closed out at the termination of the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment, but you should be aware that the Service may be required to disclose your name and address under the Freedom of Information Act. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Raleigh Fish and Wildlife Office (see **ADDRESSES**).

Role of Critical Habitat in Actual Practice of Administering and Implementing the Act

Attention to and protection of habitat is paramount to successful conservation actions. The role that designation of critical habitat plays in protecting habitat of listed species, however, is often misunderstood. As discussed in more detail below in the discussion of exclusions under section 4(b)(2) of the Act, there are significant limitations on the regulatory effect of designation under section 7(a)(2) of the Act. In brief, (1) designation provides additional protection to habitat only where there is a Federal nexus; (2) the protection is relevant only when, in the absence of designation, destruction or adverse modification of the critical habitat would in fact take place (in other words, other statutory or regulatory protections, policies, or other factors relevant to agency decision-making would not prevent the destruction or adverse modification); and (3) designation of critical habitat triggers the prohibition of destruction or adverse modification of that habitat, but it does not require specific actions to restore or improve habitat.

Currently, only 475 species, or 36 percent of the 1,312 listed species in the U.S. under the jurisdiction of the Service, have designated critical habitat. We address the habitat needs of all 1,312 listed species through conservation mechanisms such as listing, section 7 consultations, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, the section 10 incidental take permit process, and cooperative, nonregulatory efforts with private landowners. The Service believes that it is these measures that may make the difference between extinction and survival for many species.

In considering exclusions of areas proposed for designation, we evaluated the benefits of designation in light of *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir 2004). In that case, the Ninth Circuit invalidated the Service's regulation defining ''destruction or adverse modification of critical habitat.'' In response, on December 9, 2004, the Director issued guidance to be considered in making section 7 adverse modification determinations. This proposed critical habitat designation does not use the invalidated regulation in our consideration of the benefits of including areas in this final designation. The Service will carefully manage future consultations that analyze impacts to designated critical habitat, particularly those that appear to be resulting in an adverse modification determination. Such consultations will be reviewed by the Regional Office prior to finalizing to ensure that an adequate analysis has been conducted that is informed by the Director's guidance.

On the other hand, to the extent that designation of critical habitat provides protection, that protection can come at significant social and economic cost. In addition, the mere administrative process of designation of critical habitat is expensive, time-consuming, and controversial. The current statutory framework of critical habitat, combined with past judicial interpretations of the statute, make critical habitat the subject of excessive litigation. As a result, critical habitat designations are driven by litigation and courts rather than biology, and made at a time and under a time frame that limits our ability to obtain and evaluate the scientific and other information required to make the designation most meaningful.

In light of these circumstances, the Service believes that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

Procedural and Resource Difficulties in Designating Critical Habitat

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected the Service to an ever-increasing series of court orders and court-approved settlement agreements, compliance with which now consumes nearly the entire listing program budget. This leaves the Service with little ability to prioritize its activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

The consequence of the critical habitat litigation activity is that limited listing funds are used to defend active lawsuits, to respond to Notices of Intent (NOIs) to sue relative to critical habitat, and to comply with the growing number of adverse court orders. As a result, listing petition responses, the Service's own proposals to list critically imperiled species, and final listing determinations on existing proposals are all significantly delayed.

The accelerated schedules of court-ordered designations have left the Service with limited ability to provide for public participation or to ensure a defect-free rulemaking process before making decisions on listing and critical habitat proposals, due to the risks associated with noncompliance with judicially imposed deadlines. This in turn fosters a second round of litigation in which those who fear adverse impacts from critical habitat designations challenge those designations. The cycle of litigation appears endless, and is very expensive, thus diverting resources from conservation actions that may provide relatively more benefit to imperiled species.

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the

economic effects and the cost of requesting and responding to public comment, and in some cases the costs of compliance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4371 *et seq.*). These costs, which are not required for many other conservation actions, directly reduce the funds available for direct and tangible conservation actions.

Background

In this proposed rule, it is our intent to discuss only those topics directly relevant to the amended designation of critical habitat for the wintering population of piping plover in North Carolina. For more information on piping plover wintering critical habitat, refer to the final rule designating critical habitat for the wintering population of the piping plover published in the **Federal Register** on July 10, 2001 (66 FR 36038).

The piping plover is a small, pale-colored shorebird that breeds in three separate areas of North America—the Northern Great Plains, the Great Lakes, and the Atlantic Coast. The piping plover winters in coastal areas of the United States from North Carolina to Texas, along the coast of eastern Mexico, and on Caribbean islands from Barbados to Cuba and the Bahamas (Haig and Elliott-Smith 2004). Information from observation of color-banded piping plovers indicates that the winter ranges of the breeding populations overlap to a significant degree. Therefore, the source breeding population of a given wintering individual cannot be determined in the field unless it has been banded or otherwise marked.

Piping plovers begin arriving on the wintering grounds in July, with some late-nesting birds arriving in September. A few individuals can be found on the wintering grounds throughout the year, but sightings are rare in late May, June, and early July. Migration is poorly understood, but a recent study suggests that plovers use inland and coastal stopover sites when migrating from interior breeding areas to wintering grounds (V.D. Pompei and F. J. Cuthbert, unpublished data). Concentrations of spring and fall migrants also have been observed along the Atlantic Coast (USFWS 1996). In late February, piping plovers begin leaving the wintering grounds to migrate back to breeding sites. Northward migration peaks in late March, and by late May most birds have left the wintering grounds (Haig and Elliott-Smith 2004). North Carolina is uniquely positioned in the species' range, being the only State where the piping plover's breeding and wintering ranges overlap and the birds are present year-round. A complete description of the biology and ecology of the piping plover can be found in Haig and Elliott-Smith (2004).

Previous Federal Actions

The piping plover was listed as endangered in the Great Lakes watershed and threatened elsewhere within its range on December 11, 1985 (50 FR 50726). All piping plovers on migratory routes outside of the Great Lakes watershed or on their wintering grounds (which include the State of North Carolina) are listed as threatened under the Act.

On July 10, 2001, we designated 137 areas along the coasts of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas as critical habitat for the wintering population of the piping plover (66 FR 36038). This designation included approximately 1,798.3 miles (mi) (2,891.7 kilometers (km)) of mapped shoreline and approximately 165,211 ac (66,881 ha) of mapped areas along the Gulf and Atlantic coasts and along margins of interior bays, inlets, and lagoons.

In February 2003, two North Carolina counties (Dare and Hyde) and a beach access group (Cape Hatteras Access Preservation Alliance) filed a lawsuit challenging our designation of four units of critical habitat on the Cape Hatteras National Seashore, North Carolina (Units NC–1, NC–2, NC–4, and NC–5). In its November 1, 2004 opinion, the court vacated and remanded the designation for these units to us for reconsideration (*Cape Hatteras Access Preservation Alliance* v. *U.S. Department of Interior* (344 F. Supp. 2d 108 (D.D.C. 2004)). The court indicated that the descriptions of critical habitat for the four units did not sufficiently exclude certain hard structures and other areas that did not contain primary constituent elements (PCEs) and ordered us to demonstrate that PCEs are found on areas that are designated. Also, although the court did not invalidate the PCEs themselves, it ordered us to clarify that the PCEs may require special management or protection pursuant to the Act. It also found that the designation of critical habitat must include compliance with NEPA. Furthermore, the court found that our economic analysis of the critical habitat designation was arbitrary and capricious in that it considered the impact of off-road vehicles and other human use of beaches but did not address information in the record about the possibility of closures of the beaches to such use or how off-road vehicle use might be affected by the designation. Finally, the court also found that we may have omitted from the economic analysis the costs of consulting on National Park Service actions, and ordered us to reconsider them. This proposed rule will address only those four court-vacated and -remanded units (Units NC–1, NC–2, NC–4, and NC–5), with the exception of corrections to the List of Endangered and Threatened Wildlife found at 50 CFR 17.11(h) and minor edits to the regulatory language found in 50 CFR 17.95(b). All other areas remain as designated in the July 10, 2001, final critical habitat rule (66 FR 36038).

For more information on previous Federal actions concerning the piping plover, refer to the final listing rule published in the **Federal Register** on December 11, 1985 (50 FR 50726), or the final rule designating critical habitat for the wintering population of the piping plover published in the **Federal Register** on July 10, 2001 (66 FR 36038).

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management, such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 requires consultation on Federal actions that are likely to result in the destruction or adverse

modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands. Section 7 is a purely protective measure and does not require implementation of restoration, recovery, or enhancement measures.

To be included in a critical habitat designation, the habitat within the area occupied by the species must first have features that are essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (*i.e.*, areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Habitat occupied at the time of listing may be included in critical habitat only if the essential features thereon may require special management or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. (As discussed below, such areas may also be excluded from critical habitat pursuant to section 4(b)(2).) Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species require additional areas, we will not designate critical habitat in areas outside the geographical area occupied by the species at the time of listing. An area currently occupied by the species but not known to be occupied at the time of listing will likely, but not always, be essential to the conservation of the species and, therefore, typically included in the critical habitat designation.

The Service's Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service, provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific data available. They require Service biologists to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information is generally the listing rule for the species. Additional information sources include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge. All information is used in accordance with the provisions of section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available information at the time of the action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by section 4(b) of the Act, we use the best scientific data available in determining areas that contain the physical and biological features that are essential to the conservation of the wintering population of the piping plover. We reviewed available information that pertains to the habitat requirements of this species. The material reviewed included data in reports submitted during section 7 consultations and by biologists holding section 10(a)(1)(A) recovery permits, research published in peer-reviewed articles and presented in academic theses and agency reports, and recovery plans. To determine the most current distribution of piping plover in North Carolina, these areas were further evaluated using wintering piping plover occurrence data from the North Carolina Wildlife Resources Commission, the North Carolina Natural Heritage Program, and three international piping plover winter population censuses. We considered these data along with other occurrence data (including presence/absence survey data), research published in peer-reviewed articles and presented in academic theses and agency reports, and information received during the development of the July 10, 2001, designation of critical habitat for wintering piping plovers (see final rule at 66 FR 36038). To map areas containing the physical and biological features determined to be essential to the conservation of the species (see *Primary Constituent Elements for the Wintering Population of the Piping Plover* section below), we used data on known piping plover wintering locations, regional Geographic Information Systems (GIS) coverages, digital aerial photographs, and regional shoreline-defining electronic files.

We have included those areas containing essential features along the coast for which occurrence data indicate a consistent use (observations over two or more wintering seasons) by piping plovers within this designation. We do not propose any areas outside the geographical area presently occupied by the species.

Delineating specific locations for designation as critical habitat for the piping plovers is difficult because the coastal areas they use are constantly changing due to storm surges, flood events, and other natural geophysical alterations of beaches and shoreline. Thus, to best ensure that areas containing features considered essential to the piping plover are included in this proposed designation, the textual unit descriptions of the units in the regulation constitute the definitive determination as to whether an area is within the critical habitat boundary. Our textual legal descriptions describe the area using reference points, including the areas from the landward boundaries to the mean of the lower low water (MLLW) (which encompasses intertidal areas with the features that are essential foraging areas for piping plovers), and describe areas within the unit that are utilized by the piping plover and contain the PCEs (e.g., upland areas used for roosting and wind tidal flats used for foraging). Our textual

legal descriptions also exclude features and structures (e.g., buildings, roads) that are not or do not contain PCEs.

In order to capture the dynamic nature of the coastal habitat, and the intertidal areas used by the piping plover, we have textually described each unit as including the area from the MLLW height of each tidal day, as observed over the National Tidal Datum Epoch, landward to a point where PCEs no longer occur. The landward edge of the PCEs is generally demarcated by stable, densely-vegetated dune habitat which nonetheless may shift gradually over time.

Global Positioning System (GPS) data were gathered using a mobile handheld mapping unit with settings to allow for post processing or Wide Area Augmentation System (WAAS) enabled correction. A minimum of five positions were captured for each point location. Data were processed using mapping software and the points were output to a shapefile format. The point shapefile was checked for attribute accuracy and additional data fields were added to assign feature type. GIS point data were used to create lines. The lines were overlaid on National Oceanic and Atmospheric Administration digital ortho-photographs and U.S. Geological Survey digital ortho-photographs. These lines were refined to create the landward edge of the critical habitat polygons. To complete the polygons, a boundary was drawn in the ocean or sound to demarcate the MLLW. The line was drawn using 20-foot Light Detection and Ranging (LIDAR) and contours to estimate the location of MLLW.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we consider those physical and biological features (PCEs) that are essential to the conservation of the species, and within areas occupied by the species at the time of listing, that may require special management considerations and protection. These include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing (or development) of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The specific primary constituent elements required for the wintering population of the piping plover are derived from the biological needs of the species, as described in the Background section of the final rule designating critical habitat for the wintering population of the piping plover published in the **Federal Register** on July 10, 2001 (66 FR 36038).

Primary Constituent Elements for the Wintering Population of the Piping Plover

Pursuant to our regulations, we are required to identify the known physical and biological features (i.e., primary constituent elements (PCEs)) essential to the conservation of the wintering population of the piping plover. All areas proposed as critical habitat for the wintering population of the piping plover are occupied, within the species' historic geographical range, and contain sufficient PCEs to support at least one life history function.

In *Cape Hatteras Access Preservation Alliance* v. *U.S. Dept of the Interior,* 344 F. Supp. 2d 108 (D.D.C. 2004), the Court upheld the PCEs identified in our July 10, 2001, final rule designating critical habitat for the wintering population of the piping plover (66 FR 36038). Thus, based on the best available scientific information, we are not changing PCEs previously identified. They constitute the features that are essential for the conservation of wintering piping plovers. The PCEs are found in geologically dynamic coastal areas that support intertidal beaches and flats (between annual low tide and annual high tide) and associated dune systems and flats above annual high tide.

Essential components (primary constituent elements) of wintering piping plover habitat include sand and/or mud flats with no or very sparse emergent vegetation. In some cases, these flats may be covered or partially covered by a mat of blue-green algae. Adjacent unvegetated or sparsely vegetated sand, mud, or algal flats above high tide are also essential, especially for roosting piping plovers. Such sites may have debris, detritus (decaying organic matter), or micro-topographic relief (less than 50 cm above substrate surface) offering refuge from high winds and cold weather. Essential components of the beach/dune ecosystem include surf-cast algae for feeding of prey, sparsely vegetated backbeach (beach area above mean high tide seaward of the dune line, or in cases where no dunes exist, seaward of a delineating feature such as a vegetation line, structure, or road) for roosting and refuge during storms, spits (a small point of land, especially sand, running into water) for feeding and roosting, salterns (bare sand flats in the center of mangrove ecosystems that are found above mean high water and are only irregularly flushed with sea water) and washover areas for feeding and roosting. Washover areas are broad, unvegetated zones with little or no topographic relief that are formed and maintained by the action of hurricanes, storm surge, or other extreme wave action. Several of these components (sparse vegetation, little or no topographic relief) are mimicked in artificial habitat types used less commonly by piping plovers, but that are considered critical habitat (e.g., dredge spoil sites).

This proposed designation is designed for the conservation of PCEs necessary to support the life history functions of piping plover. Because not all life history functions require all the PCEs, not all proposed critical habitat will contain all the PCEs.

Each of the areas proposed in this rule have been determined to contain sufficient PCEs to provide for one or more of the life history functions of the wintering population of the piping plover. In some cases, the PCEs exist as a result of ongoing Federal actions. As a result, ongoing Federal actions at the time of designation will be included in the baseline in any consultation conducted subsequent to this designation.

Criteria Used To Identify Critical Habitat

We are proposing to designate critical habitat on certain lands in North Carolina that we have determined contain habitat with features essential to the conservation of the wintering population of the piping plover. As required by section 4(b)(1)(A) of the Act, we use the best scientific data available in determining areas that contain the features that are essential to the conservation of the wintering population of the piping plover, as discussed in the ''Methods'' section above.

The units were delineated by compiling existing relevant spatial data of the unit descriptions described in our 2001 final rule designating critical habitat for the wintering population of the piping plover (66 FR 36038), generating new on-the-ground GPS base-mapping to refine the existing descriptions, and mapping the descriptions in such a manner that the units contain the PCEs (as described) and do not contain any structures or other features that are not identified as PCEs. To the maximum extent possible, unit boundaries were drawn to exclude manmade structures or their ancillary facilities. To ensure that no manmade features are included in critical habitat,

these features are expressly excluded by text in the Regulations Promulgation section of the rule. Critical habitat starts immediately at the edge of such features. Using the information compiled above, GIS was used to analyze and integrate the relevant data layers for the areas of interest in order to determine those areas that include PCEs. See ''Methods'' section above for additional discussion of mapping techniques.

We excluded areas from consideration that did not contain one or more of the proposed PCEs or where: (1) The area was highly degraded and may not be restorable; (2) the area was small, highly fragmented, or isolated and may provide little or no long-term conservation value; and (3) other areas within the geographic region were determined to be sufficient to meet the species needs for conservation. We included areas containing one or more PCEs where occurrence data exists and where the area: (1) Provided a patchwork of the features essential for the conservation of the species; (2) offered dispersal capabilities or were in proximity to other wintering piping plover occurrences that would allow for survival and recolonization following major natural disturbance events (e.g., nor'easters, hurricanes); (3) were of sufficient size to maintain the physical and biological features that support occurrences; and (4) were representative of the historic geographic distribution of occupied areas that will help prevent further range collapse of the species. Areas are proposed based on them containing sufficient PCEs to support wintering piping plover life processes.

Within the area (NC–1, NC–2, NC–4, NC–5) vacated and remanded to the Service for reconsideration in *Cape Hatteras Access Preservation Alliance* v. *U.S. Dept of the Interior,* 344 F. Supp. 2d 108 (D.D.C. 2004), we found no unoccupied areas essential to the conservation of the species and therefore propose no areas in North Carolina outside the geographical area presently occupied by the species. We are proposing to designate critical habitat on lands that we have determined were occupied at the time of listing and contain sufficient PCEs to support life history functions essential for the conservation of the species.

Special Management Considerations or Protections

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing and containing the primary constituent elements may require special management considerations or protections. As we undertake the process of designating critical habitat for a species, we first evaluate lands defined by those physical and biological features essential to the conservation of the species for inclusion in the designation under section 3(5)(A) of the Act. Secondly, we evaluate lands defined by those features to assess whether they may require special management considerations or protection. Primary threats to the wintering population of piping plover that may require special management or protection are disturbance of foraging and roosting plovers (e.g., by flushing birds or disrupting normal feeding or roosting times and causing excessive alertness or abandonment of the area) by humans (e.g., walking on the beach, flying kites, shooting fireworks), vehicles (e.g., driving on the beach), and domestic animals (e.g., pets being turned loose on the beach); predation (e.g., increased numbers of predators that are attracted to the human presence); and disturbance to and loss of habitat due to uncontrolled recreational access (e.g., off-road vehicles, pedestrians, domestic animals) and beach stabilization efforts (e.g., beach nourishment, sediment dredging and disposal, inlet channelization, construction of jetties and groins and other hard structures) that prevent natural coastal processes (i.e., the natural transfer and erosion and accretion of sediments along the ocean shoreline). To address the threats affecting the wintering population of the piping plover within each of the proposed critical habitat units, certain special management actions may be needed. For example, the high level of off-road vehicle (ORV) and pedestrian use of the areas, as discussed in the critical habitat unit descriptions below, may require managing access to piping plover foraging habitat and adjacent upland roosting habitat during migration and overwintering periods. Managing access to these foraging and roosting areas may assist in the protection of PCEs and piping plovers by reducing disturbance to PCEs potentially caused by ORV use, pedestrians, and pets. Managing access might also improve the available habitats for conservation of piping plovers.

In addition, in evaluating areas proposed for the designation of critical habitat, we have determined that the following areas which contain the PCEs do not require special management or consideration and therefore are not proposed for designation. Please see ''Application of Section 3(5)(A) and Exclusions Under Section 4(b)(2) of the Act'' for additional discussion concerning our determination on these lands.

(1) The following islands owned by the State of North Carolina located within or in proximity to Oregon, Hatteras, and Ocracoke inlets, in Dare and Hyde counties: DR–005–05 and DR–005–06 (Oregon Inlet, Dare County) and DR–009–03/04 (Hatteras Inlet, Dare and Hyde counties). These islands are specifically managed for waterbirds by the North Carolina Wildlife Resources Commission. The Commission has developed a conservation strategy that identifies the piping plover as a priority species needing research, survey, and monitoring efforts to assist in restoration and conservation efforts.

(2) 237 ac (96 ha) of Pea Island National Wildlife Refuge (Dare County). The refuge has a statutory mandate to manage the refuge for the conservation of listed species, and a draft Comprehensive Conservation Plan (USFWS 2006) provides a detailed implementation plan which includes preserving, protecting, creating, restoring and managing foraging and roosting habitats for the piping plover.

Proposed Amended Critical Habitat Designation

We are proposing four units of critical habitat in North Carolina for the wintering population of the piping plover. The critical habitat units described below constitute our best assessment, at this time, of the areas determined to be occupied at the time of listing, that contain one or more of the primary constituent elements and that may require special management or protection. The four areas proposed as critical habitat in this amendment are: Unit NC–1 Oregon Inlet, Unit NC–2 Cape Hatteras Point, Unit NC–4 Hatteras Inlet, and Unit NC–5 Ocracoke Island, as described below. These units cover the same general areas as those vacated by *Cape Hatteras Access Preservation Alliance* v. *U.S. Dept of the Interior,* 344 F. Supp. 2d 108 (D.D.C. 2004), although they have been refined to exclude areas that do not contain the PCEs or require special management or protection and to reflect mapping techniques conducted in compliance with the court order. For ease of future management, these units are retaining the same naming as used in the July 10, 2001, critical habitat designation (66 FR 36038). In addition, this rule does not propose to alter or in any way amend the remaining 133 units of designated critical habitat that were not vacated by *Cape Hatteras Access Preservation*

Alliance v. *U.S. Dept of the Interior,* 344 F. Supp. 2d 108 (D.D.C. 2004).

The approximate area encompassed within each proposed critical habitat unit is shown in Table 1.

TABLE 1.—CRITICAL HABITAT UNITS PROPOSED FOR THE WINTERING POPULATION OF THE PIPING PLOVER IN NORTH CAROLINA.

[Area estimates reflect all land within critical habitat unit boundaries.]

Critical habitat unit	Land ownership	Acres/Hectares
Unit NC–1 Oregon Inlet	Federal	284.0 (114.9)
Unit NC–2 Cape Hatteras Point	Federal	645.8 (261.4)
Unit NC–4 Hatteras Inlet	Federal	395.6 (160.1)
Unit NC–5 Ocracoke Island	Federal	501.8 (203.0)
Total		1827.2 (739.4)

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the wintering population of the piping plover, below. These units contain the features essential to the conservation of the species. Areas within the units contain a contiguous mix of intertidal beaches and sand and/or mud flats (between annual low tide and annual high tide) with no or very sparse emergent vegetation, and adjacent areas of unvegetated or sparsely vegetated dune systems and sand and/or mud flats above annual high tide. While no one portion of the proposed units contains every PCE, each unit contains sufficient PCEs to support life history functions essential for the conservation of the species.

Unit NC–1: Oregon Inlet

Unit NC–1 is approximately 1.7 mi (2.8 km) long, and consists of 284 ac (114.9 ha) of sandy beach and inlet spit habitat on Bodie Island in Dare County, North Carolina. This is the northernmost critical habitat unit proposed within the wintering range of the piping plover and is entirely within the Cape Hatteras National Seashore. Oregon Inlet is the northernmost inlet in coastal North Carolina, approximately 12 mi (19.3 km) southeast of the Town of Manteo, the county seat of Dare County. The proposed unit at Oregon Inlet is bounded by the Atlantic Ocean on the east and Pamlico Sound on the west and includes lands from the MLLW on the Atlantic Ocean shoreline to the line of stable, densely vegetated dune habitat (which is not used by piping plovers and where primary constituent elements do not occur) and from the MLLW on the Pamlico Sound side to the line of stable, densely vegetated habitat, or (where a line of stable, densely vegetated dune habitat does not exist) lands from MLLW on the Atlantic Ocean shoreline to the MLLW on the Pamlico Sound side. It begins at the edge of Ramp 4 near the Oregon Inlet Fishing Center on Bodie Island and extends approximately 1.7 mi (2.8 km) south to Oregon Inlet, and includes Green Island and any emergent sandbars south and west of Oregon Inlet. This unit contains the features essential to the conservation of the species (i.e., PCEs), as discussed above.

As we discuss in ''Application of Section 3(5)(A) and Exclusions Under Section 4(b)(2) of the Act'' below, this unit does not include Pea Island National Wildlife Refuge or lands owned by the State of North Carolina such as islands DR–005–05 and DR–005–06. In addition, this unit does not include the Oregon Inlet Fishing Center, NC Highway 12, and the Bonner Bridge or its associated structures, or any of their ancillary facilities (e.g., parking lots, outbuildings). All of these features occur outside the boundary of the unit except for a small number of supports for Bonner Bridge, which are within the boundary but are excluded from critical habitat by text. Critical habitat begins immediately at the base of these supports.

Consistent use by wintering piping plovers has been reported at Oregon Inlet dating from the mid-1960s. As many as 100 piping plovers were reported from a single day survey during the fall migration (NCWRC unpublished data). Christmas bird counts regularly recorded 20 to 30 plovers using the area. Recent surveys have also recorded consistent and repeated use of the area by banded piping plovers from the endangered Great Lakes breeding population (J. Stucker, University of Minnesota unpublished data). However, the overall number of piping plovers reported using the area has declined since the species was listed in 1986 (NCWRC unpublished data), which corresponds to increases in the number of human users (NPS 2005) and off-road vehicles (Davis and Truett 2000).

Oregon Inlet is one of the first beach access points for ORVs within Cape Hatteras National Seashore when traveling from the developed coastal communities of Nags Head, Kill Devil Hills, Kitty Hawk, and Manteo. As such, the inlet spit is a popular area for ORV users to congregate. A recent visitor use study of the park reported that Oregon Inlet is the second most popular ORV use area in the park (Vogelsong 2003). The majority of the Cape Hatteras National Seashore users in this area are ORV owners and recreational fishermen. As a result, sandy beach and mud and sand flat habitat being proposed as critical habitat in this unit may require special management considerations or protection, as discussed in ''Special Management Considerations or Protections'' above.

Unit NC–2: Cape Hatteras Point

Unit NC–2 consists of 645.8 ac (261.4 ha) of sandy beach and sand and mud flat habitat in Dare County, North Carolina. Cape Hatteras Point (also known as Cape Point or Hatteras Cove) is located south of the Cape Hatteras Lighthouse. The unit extends south approximately 2.8 mi (4.5 km) from the ocean groin near the old location of the Cape Hatteras Lighthouse to the point of Cape Hatteras, and then extends west 4.7 mi (7.6 km) along Hatteras Cove shoreline (South Beach) to the edge of Ramp 49 near the Frisco Campground. This unit includes lands from the MLLW on the Atlantic Ocean shoreline to the line of stable, densely vegetated dune habitat (which is not used by piping plovers and where PCEs do not occur). This unit contains the features essential to the conservation of the species (i.e., PCEs), as discussed above. This unit does not include the ocean groin.

Consistent use by wintering piping plover has been reported at Cape Hatteras Point since the early 1980s, but the specific area of use was not consistently recorded in earlier reports. Often piping plovers found at Cape Hatteras Point, Cape Hatteras Cove, and Hatteras Inlet were reported as a collective group. However, more recent surveys report plover use at Cape Hatteras Point independently from Hatteras Inlet. These single day surveys have recorded as many as 13 piping plovers a day during migration (NCWRC unpublished data). Christmas bird counts regularly recorded 2 to 11 plovers using the area.

Cape Hatteras Point is located near the Town of Buxton, the largest community on Hatteras Island. For that reason, Cape Hatteras Point is a popular area for ORV and recreational fishing. A recent visitor use study of the park found that Cape Hatteras Point had the most ORV use within the park (Vogelsong 2003). As a result, sandy beach and mud and sand flat habitat being proposed as critical habitat in this unit may require special management considerations or protection, as discussed in ''Special Management Considerations or Protections'' above.

Unit NC–4: Hatteras Inlet

Unit NC–4 is approximately 4.7 mi (7.6 km) long, and consists of 395.6 ac (160.1 ha) of sandy beach and inlet spit habitat on the western end of Hatteras Island and the eastern end of Ocracoke Island in Dare and Hyde counties, North Carolina. The unit begins at the first beach access point at the edge of Ramp 55 near the Graveyard of the Atlantic Museum on the western end of Hatteras Island and continues southwest to the beach access at the edge of the ocean-side parking lot near Ramp 59 on the northeastern end of Ocracoke Island. This unit includes lands from the MLLW on the Atlantic Ocean shoreline to the line of stable, densely vegetated dune habitat (which is not used by the piping plover and where PCEs do not occur) and from the MLLW on the Pamlico Sound side to the line of stable, densely vegetated habitat, or (where a line of stable, densely vegetated dune habitat does not exist) lands from MLLW on the Atlantic Ocean shoreline to the MLLW on the Pamlico Sound side. The proposed unit at Hatteras Inlet includes all emergent sandbars within Hatteras Inlet. This unit contains the features essential to the conservation of the species (i.e., PCEs), as discussed above.

As we discuss in ''Application of Section 3(5)(A) and Exclusions Under Section 4(b)(2) of the Act'' below, this unit does not include lands owned by the State of North Carolina such as Island DR–009–03/04. In addition, the unit does not include the Graveyard of the Atlantic Museum, the ferry terminal, the groin on Ocracoke Island, NC Highway 12, or their ancillary facilities (e.g., parking lots, out buildings). All of these features occur outside the boundary of the proposed unit.

Consistent use by wintering piping plover has been reported at Hatteras Inlet since the early 1980s, but the specific area of use was not consistently recorded in earlier reports. Often piping plovers found at Cape Hatteras Point, Cape Hatteras Cove, and Hatteras Inlet were reported as a collective group. However, more recent surveys report plover use at Hatteras Inlet independently from Cape Hatteras Point. These single day surveys have recorded as many as 40 piping plovers a day during migration (NCWRC unpublished data). Christmas bird counts regularly recorded 2 to 11 plovers using the area. Recent surveys have also recorded consistent and repeated use of the area by banded piping plovers from the endangered Great Lakes breeding population (J. Stucker, University of Minnesota unpublished data). However, the overall numbers of piping plovers reported using the area has declined in the last 10 years (NCWRC unpublished data), corresponding with increases in the number of human users (NPS 2005) and ORVs (Davis and Truett 2000).

Hatteras Inlet is located near the Village of Hatteras, Dare County, and is the southernmost point of Cape Hatteras National Seashore that can be reached without having to take a ferry. As such, the inlet is a popular off-road vehicle and recreational fishing area. In fact, a recent visitor use study of the park found Hatteras Inlet the fourth most used area by off-road vehicles in the park (Vogelsong 2003). As a result, sandy beach and mud and sand flat habitat being proposed as critical habitat in this unit may require special management considerations or protection, as discussed in ''Special Management Considerations or Protections'' above.

Unit NC–5: Ocracoke Island

Unit NC–5 consists of 501.8 ac (203.0 ha) of sandy beach and mud and sand flat habitat in Hyde County, North Carolina. The unit includes the western portion of Ocracoke Island beginning at the beach access point at the edge of Ramp 72 (South Point Road), extending west approximately 2.1 mi (3.4 km) to Ocracoke Inlet, and then back east on the Pamlico Sound side to a point where stable, densely vegetated dune habitat meets the water. This unit includes lands from the MLLW on the Atlantic Ocean shoreline to the line of stable, densely vegetated dune habitat (which is not used by the piping plover and where primary constituent elements do not occur) and from the MLLW on the Pamlico Sound side to the line of stable, densely vegetated habitat, or (where a line of stable, densely vegetated dune habitat does not exist) lands from MLLW on the Atlantic Ocean shoreline to the MLLW on the Pamlico Sound side. The unit includes all emergent sandbars within Ocracoke Inlet. This unit contains the features essential to the conservation of the species (i.e., PCEs), as discussed above. The unit is adjacent to but does not include NC Highway 12, any portion of the maintained South Point Road at Ramp 72, or any of their ancillary facilities.

Ocracoke Island had inconsistent recorded use by wintering piping plovers in the early 1980s, and Christmas bird counts recorded only 1 to 6 plovers using the area throughout the early 1990s. However, since the late 1990s when regular and consistent surveys of the area were conducted, as many as 72 piping plovers have been recorded during migration, and 4 to 18 plovers have been regularly recorded during the overwinter period (NCWRC unpublished data). Recent surveys have also recorded consistent and repeated use of the area by banded piping plovers from the endangered Great Lakes breeding population (J. Stucker, University of Minnesota unpublished data).

Ocracoke Inlet is located near the Village of Ocracoke, and is the southernmost point of the Cape Hatteras National Seashore. Ocracoke Island is only accessible by ferry. As such, the island is a popular destination for vacationers and locals interested in seclusion. The inlet is also a popular recreational fishing and ORV area. A recent visitor use study of the park reported Ocracoke Inlet was the third most popular ORV use area in the park (Vogelsong 2003). As a result, the primary threat to the wintering piping plover and its habitat within this unit is disturbance to and degradation of foraging and roosting areas by ORVs and by people and their pets. Therefore, sandy beach and mud and sand flat habitat being proposed as critical habitat in this unit may require special management considerations or protection, as discussed in ''Special Management Considerations or Protections'' above.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as ''a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.'' However, recent decisions by the 5th and 9th Circuit Court of Appeals have invalidated this definition (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F.3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.,* 245 F.3d 434, 442F (5th Cir 2001)). Pursuant to current national policy and the statutory provisions of the Act, destruction or adverse modification is determined on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the PCEs to be functionally established) to serve the intended conservation role for the species.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. This is a procedural requirement only. However, once a proposed species becomes listed, or proposed critical habitat is designated as final, the full prohibitions of section 7(a)(2) apply to any Federal action. The primary utility of the conference procedures is to maximize the opportunity for a Federal agency to adequately consider proposed species and critical habitat and avoid potential delays in implementing their proposed action as a result of the section 7(a)(2) compliance process, should those species be listed or the critical habitat designated.

Under conference procedures, the Service may provide advisory conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The Service may conduct either informal or formal conferences. Informal conferences are typically used if the proposed action is not likely to have any adverse effects to the proposed species or proposed critical habitat. Formal conferences are typically used when the Federal agency or the Service believes the proposed action is likely to cause adverse effects to proposed species or critical habitat, inclusive of those that may cause jeopardy or adverse modification.

The results of an informal conference are typically transmitted in a conference report; while the results of a formal conference are typically transmitted in a conference opinion. Conference opinions on proposed critical habitat are typically prepared according to 50 CFR 402.14, as if the proposed critical habitat were designated. We may adopt the conference opinion as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). As noted above, any conservation recommendations in a conference report or opinion are strictly advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, compliance with the requirements of section 7(a)(2) will be documented through the Service's issuance of: (1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or (2) a biological opinion for Federal actions that may affect, but are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. ''Reasonable and prudent alternatives'' are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid jeopardy to the listed species or destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated that may be affected and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect subsequently listed species or designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect the wintering population of the piping plover or its designated critical habitat will require section 7 consultation under the Act. Activities on State, tribal, local or private lands requiring a Federal permit (such as a permit from the Corps under section 404 of the Clean Water Act or a permit under section 10(a)(1)(B) of the Act from the Service) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) will also continue to be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local or private lands that are not federally funded, authorized, or permitted, do not require section 7 consultations.

Application of the Jeopardy and Adverse Modification Standards for Actions Involving Effects to the Wintering Population of the Piping Plover and Its Critical Habitat

Jeopardy Standard

Prior to and following designation of critical habitat, the Service has applied an analytical framework for wintering population of the piping plover

jeopardy analyses that relies heavily on the importance of core area populations to the survival and recovery of the wintering population of the piping plover. The section 7(a)(2) analysis is focused not only on these populations but also on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of the wintering population of the piping plover in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of a core area population(s), inclusive of associated habitat conditions, a jeopardy finding is considered to be warranted, because of the relationship of each core area population to the survival and recovery of the species as a whole.

Adverse Modification Standard

The analytical framework described in the Director's December 9, 2004, memorandum is used to complete section 7(a)(2) analyses for Federal actions affecting wintering population of the piping plover critical habitat. The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species. Generally, the conservation role of wintering population of the piping plover critical habitat units is to support viable core area populations.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of the species. Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that the conservation value of critical habitat for the wintering population of the piping plover is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore result in consultation for the wintering population of the piping plover include, but are not limited to:

(1) Actions that would significantly and detrimentally alter the hydrology of tidal mud and sand flats or ephemeral ponds or pools.

(2) Actions that would significantly and detrimentally alter the input of sediments and nutrients necessary for the maintenance of geomorphic and biologic processes that ensure appropriately configured and productive beach systems.

(3) Actions that would introduce significant amounts of emergent vegetation.

(4) Actions that would significantly and detrimentally alter the topography of a site (such alteration may affect the hydrology of an area or may render an area unsuitable for roosting).

(5) Actions that would reduce the value of a site by significantly disturbing plovers from activities such as foraging and roosting.

(6) Actions that would significantly and detrimentally alter water quality, that may lead to decreased diversity or productivity of prey organisms or may have direct detrimental effects on piping plovers.

(7) Actions that would impede natural processes that create and maintain washover passes and sparsely vegetated intertidal feeding habitats.

These activities could eliminate or reduce the habitat necessary for foraging by eliminating or reducing the piping plovers' prey base; destroying or removing available upland habitats necessary for protection of the birds during storms or other harsh environmental conditions; increasing the amount of vegetation to levels that make foraging or roosting habitats unsuitable; and increasing recreational activities to such an extent that the amount of available undisturbed foraging or rooting habitat is reduced, with direct or cumulative adverse effects to individuals and completion of their life cycles.

We consider all of the units proposed as critical habitat to contain features essential to the conservation of the wintering population of the piping plover. All units are within the geographic range of the species, all were occupied by the species at the time of listing, and are likely to be used by the wintering population of the piping plover. Federal agencies already consult with us on activities in areas currently occupied by the wintering population of the piping plover, or if the species may be affected by the action, to ensure that their actions do not jeopardize the continued existence of the wintering population of the piping plover.

Application of Section 3(5)(A) and Exclusions Under Section 4(b)(2) of the Act

Section 3(5)(A) of the Act defines critical habitat as the specific areas within the geographical area occupied by the species on which are found those physical and biological features (i) essential to the conservation of the species, and (ii) which may require special management considerations or protection. Therefore, areas within the geographical area occupied by the species that do not contain the features essential to the conservation of the species are not, by definition, critical habitat. Similarly, areas within the geographical area occupied by the species that require no special management or protection also are not, by definition, critical habitat.

There are multiple ways to provide management for species habitat. Statutory and regulatory frameworks that exist at a local level can provide such protection and management, as can lack of pressure for change, such as areas too remote for anthropogenic disturbance. Finally, State, local, or private management plans as well as management under Federal agencies jurisdictions can provide protection and management to avoid the need for designation of critical habitat. When we consider a plan to determine its adequacy in protecting habitat, we consider whether the plan, as a whole will provide the same level of protection that designation of critical habitat would provide. The plan need not lead to exactly the same result as a designation in every individual application, as long as the protection it provides is equivalent, overall. In making this determination, we examine whether the plan provides management, protection, or enhancement of the PCEs that is at least equivalent to that provided by a critical habitat designation, and whether there is a reasonable expectation that the management, protection, or enhancement actions will continue into the foreseeable future. Each review is particular to the species and the plan, and some plans may be adequate for some species and inadequate for others.

We consider a current plan to provide adequate management or protection if it meets three criteria: (1) The plan is complete and provides a conservation benefit to the species (i.e., the plan must maintain or provide for an increase in the species' population, or the enhancement or restoration of its habitat within the area covered by the plan); (2) the plan provides assurances that the conservation management strategies and

actions will be implemented (i.e., those responsible for implementing the plan are capable of accomplishing the objectives, and have an implementation schedule or adequate funding for implementing the management plan); and (3) the plan provides assurances that the conservation strategies and measures will be effective (i.e., it identifies biological goals, has provisions for reporting progress, and is of a duration sufficient to implement the plan and achieve the plan's goals and objectives).

In evaluating areas proposed for the designation of critical habitat, we considered islands owned by the State of North Carolina located within or in proximity to Oregon, Hatteras, and Ocracoke inlets, in Dare and Hyde counties. We have determined that the features essential to the conservation of the piping plover in following areas —DR–005–05 and DR–005–06 in Oregon Inlet, Dare County and DR–009–03/04 in Hatteras Inlet, Dare and Hyde counties '' do not require special management or protection and, therefore, do not meet the definition of critical habitat. Thus, the areas containing these features (i.e., the islands) are not included in this proposal. These islands are specifically managed for waterbirds by the North Carolina Wildlife Resources Commission as defined in a February 5, 1992, letter signed by James S. Lofton, Secretary, North Carolina Department of Administration. The North Carolina Wildlife Resources Commission also has developed a comprehensive wildlife conservation strategy entitled ''A Wildlife Action Plan for North Carolina'' (NCWRC 2005). In this document, species and habitat assessments and conservation strategies are discussed for the protection of estuarine and beach and dune communities and priority species associated with those habitats, including federally listed species such as the piping plover. The Wildlife Action Plan identifies the piping plover as a priority species needing research, survey, and monitoring efforts to assist in restoration and conservation efforts. Conservation actions identified in the plan to be implemented by the North Carolina Wildlife Resources Commission include estuarine and beach and dune community habitat protection and restoration; coordination with agencies in the enforcement of the Endangered Species Act and the Migratory Bird Treaty Act; education and outreach efforts directed toward the public and regulatory agencies to emphasize the ephemeral nature of sand and mud flats so these habitats will not be destroyed; increasing public awareness concerning potential impacts of recreational activities; building and encouraging setback distances and buffer zones; and continued coordination with waterbird working groups such as the Piping Plover Recovery Team. Based on the islands' limited access for recreational use, implementation of the Wildlife Action Plan, and the specific management of the islands for waterbirds, we have determined that (1) the physical and biological features essential to the conservation of the piping plover are covered under these provisions and conservation programs, (2) that sufficient assurances are in place such that the conservation and protection measures are and will be implemented, and (3) that sufficient assurances are in place that conservation and protection measures are and will be effective and provide a conservation benefit to the PCEs and the species. Consequently, we believe that the features essential to the conservation of the piping plover in the following areas—DR–005–05 and DR–005–06 in Oregon Inlet, Dare County and DR–009–03/04 in Hatteras Inlet, Dare and Hyde counties—do not require special management or protection and, therefore, do not meet the definition of critical habitat. Thus, the areas containing these features (i.e., the islands) are not included in this proposal. These islands represent the only areas under consideration in this proposal that are owned by the State of North Carolina and are therefore the only areas subject to the Wildlife Action Plan.

In addition, we considered Pea Island National Wildlife Refuge (Dare County) as an area proposed for the designation of critical habitat. While portions of the refuge, totaling approximately 237 ac (96 ha), contain the habitat features that are essential to the conservation of the species, we have determined that the refuge does not require special management or protection and, therefore, is not included in this proposal. The refuge has a statutory mandate to manage the refuge for the conservation of listed species, and a draft Comprehensive Conservation Plan (CCP;USFWS 2006) provides a detailed implementation plan which includes preserving, protecting, creating, restoring, and managing foraging and roosting habitats for the piping plover. The draft CCP was made available to the public on February 2, 2006 for a 30 day comment period, which ended on March 6, 2006. The final CCP will likely be completed by the end of 2006.

The draft CCP more specifically describes the refuge's objectives to meet its goals. Specific to the piping plover, the objective is to ''protect and monitor use of nesting, foraging, and wintering habitat by piping plovers continuously.'' Strategies to achieve this goal include monitoring piping plovers, signing and closing active nesting areas, and protecting piping plovers from predators (e.g., raccoons, feral cats), as needed. We have determined that (1) the physical and biological features essential to the conservation of the piping plover are covered under the draft CCP for the refuge, (2) that sufficient assurances are in place such that the CCP will be finalized and that the conservation and protection measures are and will be implemented, and (3) that sufficient assurances are in CCP that conservation and protection measures are and will be effective and provide a conservation benefit to the primary constituent elements and the species. As a result of Pea Island's refuge-wide effort and long-term commitment to provide piping plover habitat, we believe the physical and biological features for the piping plover in this area do not require special management or protection and, therefore, do not meet the definition of critical habitat. Thus, the areas containing these features (i.e., Pea Island National Wildlife Refuge) are not included in this proposal.

Further, section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if [s]he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless [s]he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the Secretary is afforded broad discretion and the Congressional record is clear that in making a determination under the section the Secretary has discretion as to which factors and how much weight will be given to any factor.

Under section 4(b)(2), in considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, determine whether the benefits of exclusion outweigh the benefits of inclusion. If an exclusion is contemplated, then we must determine whether excluding the area would result

in the extinction of the species. In the following sections, we address a number of general issues that are relevant to the exclusions we considered. In addition, the Service is conducting an economic analysis of the impacts of the proposed critical habitat designation and related factors, which will be available for public review and comment. Pursuant to the November 1, 2004 opinion in *Cape Hatteras Access Preservation Alliance* v. *U.S. Department of Interior* (344 F. Supp. 2d 108 (D.D.C. 2004)), this analysis will focus on the impacts to ORV use and costs of consulting on National Park Service activities. Based on public comment on that document, the proposed designation itself, and the information in the final economic analysis, additional areas beyond those identified in this assessment may be excluded from critical habitat by the Secretary under the provisions of section 4(b)(2) of the Act. This is provided for in the Act, and in our implementing regulations at 50 CFR 242.19.

In evaluating areas proposed for the designation of critical habitat, we considered that Cape Hatteras National Seashore has developed and submitted for public comment a proposed Interim Protected Species Management Strategy/ Environmental Assessment (Interim Strategy). In addition, the Seashore has determined in a Biological Assessment that implementation of the proposed Interim Strategy is likely to adversely affect the piping plover. Therefore, the Seashore has entered into formal consultation with the Service under section 7 of the Act. The consultation is currently ongoing. The Interim Strategy is proposed to address recreational access and the associated management of federally-listed species on the Seashore until an Off-road Vehicle Management Plan (ORV Plan) is completed to address vehicular access. The ORV Plan is proposed for development through a negotiated rulemaking process that is tentatively scheduled to take three years to complete. The negotiated rulemaking process was recently initiated, but information on its ultimate effects on the piping plover or the species' habitat is unknown at this time. The Service will coordinate with the Seashore in the development of the ORV Plan and the potential impacts it may have on the piping plover and other federally-listed species. Lands containing the physical and biological features essential to the conservation of the piping plover on the Seashore and affected by the Interim Strategy are proposed as critical habitat. However, we specifically solicit comments on the inclusion or exclusion of such areas.

Economic Analysis

An analysis of the economic impacts of proposing critical habitat for the wintering population of the piping plover is being prepared. Pursuant to the November 1, 2004 opinion in *Cape Hatteras Access Preservation Alliance* v. *U.S. Department of Interior* (344 F. Supp. 2d 108 (D.D.C. 2004)), this analysis will focus on the impacts to ORV use and costs of consulting on National Park Service activities. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at http://nc-es.fws.gov, or by contacting the Raleigh Fish and Wildlife Office directly (see **ADDRESSES** section).

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made in writing at least 15 days prior to the close of the public comment period. We intend to schedule public hearings once the draft economic analysis is available such that we can take public comment on the proposed designation and economic analysis simultaneously. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Editorial Changes

We are also proposing to consolidate the entry for piping plover in the list of Endangered and Threatened Wildlife at 50 CFR 17.11(h). Currently, the entry separates the threatened populations of this species in two rows. In this proposal, we are combining them into one row. This change would not affect the listing status of any populations of piping plover.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, and so forth) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make this proposed rule easier to understand?

Send a copy of any comments on how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: *Exsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal and policy issues, but it is not anticipated to have an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific area as critical habitat. This economic analysis also will be used to determine compliance with Executive Order 12866, Regulatory Flexibility Act, Small Business Regulatory Enforcement

Fairness Act, and Executive Order 12630.

Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are listed above in the section on Section 7 Consultation. The availability of the draft economic analysis will be announced in the **Federal Register** and in local newspapers so that it is available for public review and comments. The draft economic analysis can be obtained from the Internet Web site at *http://nc-es.fws.gov* or by contacting the Raleigh Fish and Wildlife Office directly (see **ADDRESSES** section).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, the Service lacks the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, the RFA finding is deferred until completion of the draft economic analysis prepared under section 4(b)(2) of the Act and Executive Order 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, the Service will publish a notice of availability of the draft economic analysis of the proposed designation and reopen the public comment period for the proposed designation for an additional 60 days. The Service will include with the notice of availability, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. The Service has concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that the Service makes a sufficiently informed determination based on adequate economic information and provides the necessary opportunity for public comment.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule to designate critical habitat for the wintering population of the piping plover in areas of North Carolina is a significant rule under Executive Order 12866 in that it may raise novel legal and policy issues, however, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments,'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) We do not believe that this rule will significantly or uniquely affect small governments because only Federal lands are proposed for designation. As such, Small Government Agency Plan is not required. We will, however, further evaluate this issue as we conduct our economic analysis, and we will revise this assessment if appropriate.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with DOI and Department of Commerce policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in North Carolina. The designation of critical habitat on Federal lands currently occupied by the wintering population of the piping plover imposes no additional restrictions to those currently in place and, therefore, has

little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the conservation of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are proposing to designate critical habitat in accordance with the provisions of the Act. This proposed rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the wintering population of the piping plover.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

It has been our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the National Environmental Policy Act (NEPA) in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). However, the court in *Cape Hatteras Access Preservation Alliance* v. *U.S. Department of Interior* (344 F. Supp. 2d 108 (D.D.C. 2004), in ordering us to revise the critical habitat designation, ordered us to prepare an environmental analysis. To comply with the court's order, we are preparing an environmental assessment pursuant to NEPA and will notify the public of its availability when it is finished.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands with features essential for the conservation of the wintering population of the piping plover in the areas of North Carolina that we are proposing to designate as critical habitat. Therefore, this rule does not propose critical habitat for the wintering population of the piping plover on tribal lands.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Raleigh Fish and Wildlife Office (see **ADDRESSES** section).

Author(s)

The primary author of this package is the Raleigh Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by revising the entry for the ''Plover, piping'' under BIRDS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
BIRDS							
*	*	*	*	*	*		*
Plover, piping	*Charadrius melodus*	U.S.A. (Great Lakes, northern Great Plains, Atlantic and Gulf Coasts, PR, VI), Canada, Mexico, Bahamas, West Indies.	Great Lakes, watershed in States of IL, IN, MI, MN, NY, OH, PA, and WI and Canada (Ont.).	E	211	17.95(b)	NA
Plover, piping	*Charadrius melodus*	U.S.A. (Great Lakes, northern Great Plains, Atlantic and Gulf Coasts, PR, VI), Canada, Mexico, Bahamas, West Indies.	Entire, except where listed as endangered.	T	211	17.95(b)	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	

3. In § 17.95(b), amend the entry for ''Piping Plover (*Charadrius melodus*) Wintering Habitat'' as follows:

a. In paragraph 1., revise the text as set forth below;

b. In paragraph 2., revise the text as set forth below;

c. Under 3., remove the words ''*North Carolina* (Maps were digitized using 1993 DOQQs, except NC–3 (1993 DRG)'' and add in their place a new header and parenthetical text as set forth below;

d. Remove the critical habitat description for Unit NC–1 and add in its place a new critical habitat description for Unit NC–1 as set forth below;

e. Remove the critical habitat description for Unit NC–2 and add in its place a new critical habitat description for Unit NC–2 as set forth below;

f. Remove the critical habitat description for Unit NC–4 and add in its place a new critical habitat description for Unit NC–4 as set forth below;

g. Remove the critical habitat description for Unit NC–5 and add in its place a new critical habitat description for Unit NC–5 as set forth below;

h. Remove the first map for ''North Carolina Unit: 1'' and add in its place a new map ''North Carolina Unit: 1'' as set forth below; and

i. Remove the second map for ''North Carolina Units: 2, 3, 4, 5, & 6'' and add in its place a new map ''North Carolina Units: 2, 3, 4, 5, & 6'' as set forth below.

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(b) *Birds.*

* * * * *

Piping Plover (*Charadrius melodus*) Wintering Habitat

* * * * *

1. The primary constituent elements essential for the conservation of wintering piping plovers are those habitat components that support foraging, roosting, and sheltering and the physical features necessary for maintaining the natural processes that support these habitat components. The primary constituent elements are: (1) Intertidal beaches and flats (between annual low tide and annual high tide) and associated dune systems and flats above annual high tide. (2) Sand and/or mud flats with no or very sparse emergent vegetation. These flats may be covered or partially covered by a mat of blue-green algae. (3) Adjacent unvegetated or sparsely vegetated sand, mud, or algal flats above high tide for roosting piping plovers. Such sites may have debris, detritus (decaying organic matter), or microtopographic relief (less than 50 cm above substrate surface) offering refuge from high winds and cold weather. (4) Surf-cast algae for feeding of prey. (5) Sparsely vegetated backbeach (beach area above mean high tide seaward of the dune line, or in cases where no dunes exist, seaward of a delineating feature such as a vegetation line, structure, or road) for roosting and refuge during storms, spits (a small point of land, especially sand, running into water) for feeding and roosting. (6) Salterns (bare sand flats in the center of mangrove ecosystems that are found above mean high water and are only irregularly flushed with sea water). (7) Washover areas for feeding and roosting. Washover areas are broad, unvegetated zones with little or no topographic relief that are formed and maintained by the action of hurricanes, storm surge, or other extreme wave action. (8) Natural conditions of sparse vegetation and little or no topographic relief mimicked in artificial habitat types (e.g., dredge spoil sites).

2. Critical habitat does not include manmade structures (such as bridges, ocean groins, buildings, aqueducts, airports, roads, and other paved areas) or their ancillary facilities (such as lawns, flower beds, or other maintained landscaped areas) and the land on which they are located existing on the effective date of this rule.

3. * * *

North Carolina (Data layers defining map units 1, 2, 4, and 5 were created from GPS data collected in the field in May and June of 2005, and modified to fit the 1:100,000 scale North Carolina county boundary with shoreline (cb100sl) data layer from the BasinPro 8 data set published by the North Carolina Center for Geographic Information and Analysis, which was compiled in 1990. Other map units were digitized using 1993 DOQQs, except NC–3 which utilized 1993 DRG.)

Unit NC–1: Oregon Inlet, 114.9 ha (284.0 ac) in Dare County, North Carolina

This unit is within Cape Hatteras National Seashore and extends from the southern portion of Bodie Island to Oregon Inlet. It begins at the edge of Ramp 4 near the Oregon Inlet Fishing Center on Bodie Island and extends south approximately 2.8 km (1.7 mi) to Oregon Inlet. This unit includes lands from the mean lower low water (MLLW) on the Atlantic Ocean shoreline to the line of stable, densely vegetated dune habitat (which is not used by the piping plover and where primary constituent elements do not occur) and from the MLLW on the Pamlico Sound side to the line of stable, densely vegetated habitat, or (where a line of stable, densely vegetated dune habitat does not exist) lands from MLLW on the Atlantic Ocean shoreline to the MLLW on the Pamlico Sound side. Any emergent sandbars south and west of Oregon Inlet are included, except lands owned by the State of North Carolina such as islands DR–005–05 and DR–005–06 (not shown on map).

Unit NC–2: Cape Hatteras Point, 261.4 ha (645.8 ac) in Dare County, North Carolina

This unit is within Cape Hatteras National Seashore and encompasses the point of Cape Hatteras (Cape Point). The unit extends south approximately 4.5 km (2.8 mi) from the ocean groin near the old location of the Cape Hatteras Lighthouse to the point of Cape Hatteras, and then extends west 7.6 km (4.7 mi) (straight-line distances) along Hatteras Cove shoreline (South Beach) to the edge of Ramp 49 near the Frisco Campground. The unit includes lands from the MLLW on the Atlantic Ocean to the line of stable, densely vegetated dune habitat (which is not used by the piping plover and where primary constituent elements do not occur). This unit does not include the ocean groin.

* * * * *

Unit NC–4: Hatteras Inlet, 106.1 ha (395.6 ac) in Dare and Hyde Counties, North Carolina

This unit is within Cape Hatteras National Seashore and extends from the western end of Hatteras Island to the eastern end of Ocracoke Island. The unit extends approximately 4.5 km (2.8 mi) southwest from the first beach access point at the edge of Ramp 55 at the end of NC Highway 12 near the Graveyard of the Atlantic Museum on the western end of Hatteras Island to the edge of the beach access point at the ocean-side parking lot (approximately 0.1 mile south of Ramp 59) on NC Highway 12, approximately 1.25 km (0.78 miles) southwest (straight-line distance) of the ferry terminal on the northeastern end of Ocracoke Island. This unit includes lands from the MLLW on the Atlantic Ocean shoreline to the line of stable, densely vegetated dune habitat (which is not used by the piping plover and where primary constituent elements do not occur) and from the MLLW on the Pamlico Sound side to the line of stable, densely vegetated habitat, or (where a line of stable, densely vegetated dune habitat does not exist) lands from MLLW on the Atlantic Ocean shoreline to the MLLW on the Pamlico Sound side. All emergent sandbars within Hatteras Inlet between Hatteras Island and Ocracoke Island are also included, except lands owned by the State of North Carolina such as Island DR–009–03/04 (not shown on map).

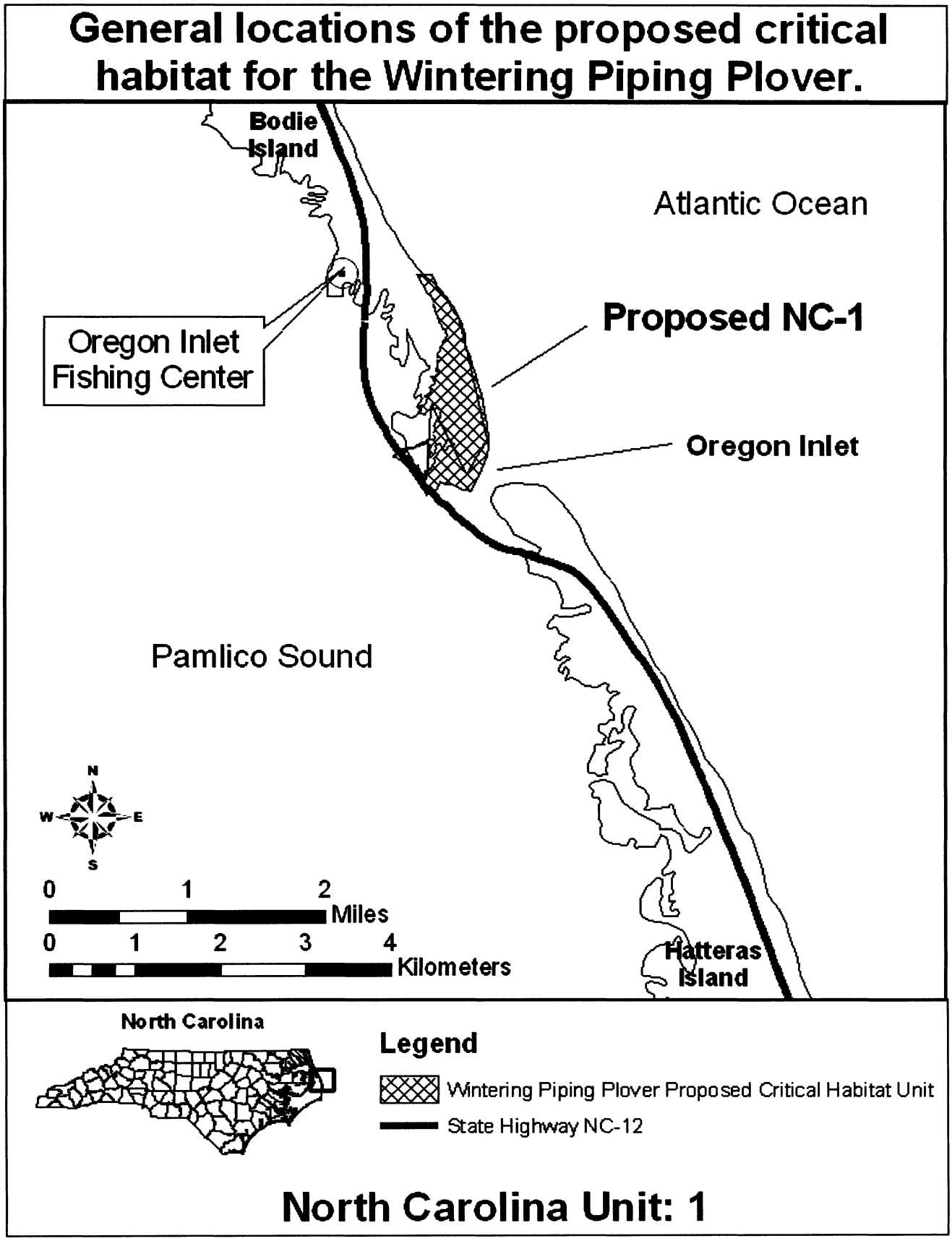
Unit NC–5: Ocracoke Island, 203.0 ha (501.8 ac) in Hyde County, North Carolina

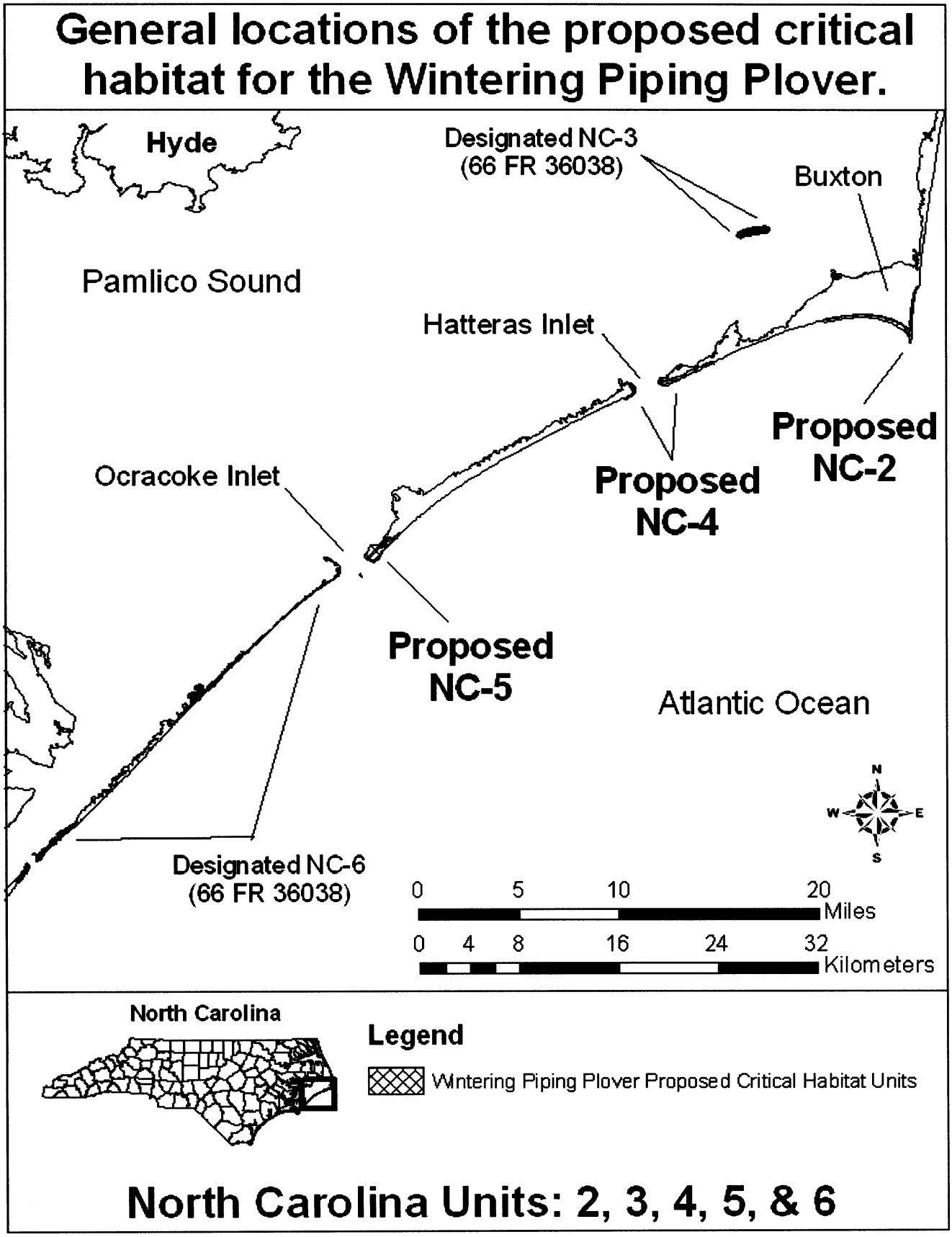
This unit is within Cape Hatteras National Seashore and includes the western portion of Ocracoke Island beginning at the beach access point at the edge of Ramp 72 (South

Point Road), extending west approximately 3.4 km (2.1 mi) to Ocracoke Inlet, and then back east on the Pamlico Sound side to a point where stable, densely vegetated dune habitat meets the water. This unit includes lands from the MLLW on the Atlantic Ocean shoreline to the line of stable, densely vegetated dune habitat (which is not used by the piping plover and where primary constituent elements do not occur) and from the MLLW on the Pamlico Sound side to the line of stable, densely vegetated habitat, or (where a line of stable, densely vegetated dune habitat does not exist) lands from MLLW on the Atlantic Ocean shoreline to the MLLW on the Pamlico Sound side. All emergent sandbars within Ocracoke Inlet are also included. This unit does not include any portion of the maintained South Point Road, NC Highway 12, or any of their ancillary facilities.

* * * * *

BILLING CODE 4310–55–P


General locations of the proposed critical habitat for the Wintering Piping Plover.
Bodie Island
Atlantic Ocean
Proposed NC-1
Oregon Inlet Fishing Center
Oregon Inlet
Pamlico Sound
N
W
E
S
0 1 2 Miles
0 1 2 3 4 Kilometers
Hatteras Island
North Carolina
Legend
Wintering Piping Plover Proposed Critical Habitat Unit
State Highway NC-12
North Carolina Unit: 1


General locations of the proposed critical habitat for the Wintering Piping Plover.
Hyde
Designated NC-3
(66 FR 36038)
Buxton
Pamlico Sound
Hatteras Inlet
Proposed
NC-2
Proposed
NC-4
Ocracoke Inlet
Proposed
NC-5
Atlantic Ocean
N
W
E
S
Designated NC-6
(66 FR 36038)
0 5 10 20
Miles
0 4 8 16 24 32
Kilometers
North Carolina
Legend
Wintering Piping Plover Proposed Critical Habitat Units
North Carolina Units: 2, 3, 4, 5, & 6

* * * * *

Dated: May 31, 2006.

Matt Hogan,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06–5192 Filed 6–9–06; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060515131-6131-01; I.D. 050806B]

RIN 0648–AU49

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Amendment 14; Small-mesh Multispecies Limited Access Program and Control Date

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

ACTION: Advance notice of proposed rulemaking (ANPR); reaffirmation of a control date for the small-mesh multispecies fishery; request for comments.

SUMMARY: NMFS announces consideration of proposed rulemaking to control future access to the New England small-mesh multispecies (whiting) fishery. The New England Fishery Management Council (Council) has indicated that limited access may be necessary to control participation in the fishery at a level that reduces the risk of overcapitalization and constrains fishing to a level that minimizes the risks of overfishing or creating an overfished stock, as defined by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Northeast (NE) Multispecies Fishery Management Plan (FMP).

This announcement alerts interested parties of potential limitation on future access, commonly referred to as limited access, to discourage speculative entry into the fishery while the Council considers how access to the fishery should be controlled during the upcoming development of Amendment 14 to the FMP. By this notification, NMFS reaffirms, on behalf of the Council, that March 25, 2003, may be used as a ''control date'' to establish eligibility criteria for determining levels of future access to the fishery.

DATES: Written comments must be received by 5 p.m., local time, July 12, 2006.

ADDRESSES: Written comments should be sent to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA, 01950. Mark the outside of the envelope, ''Comments on Small-mesh Multispecies Reaffirmation of Control Date.'' Comments also may be sent via facsimile (fax) to: (978) 465-3116. Comments may be submitted by e-mail as well. The mailbox address for providing e-mail comments is *SmallMeshControlDate@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: ''Comments-SmallMeshControlDate.'' Comments may also be submitted electronically through the Federal e-Rulemaking portal: http://www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Michael Ruccio, Fishery Policy Analyst, 978–281–9104; fax 978–281–9135.

SUPPLEMENTARY INFORMATION: The New England small-mesh multispecies complex is composed of three species: Silver hake (whiting), *Merluccius bilinearis*; red hake (ling), *Urophycis chuss*; and offshore hake, *Merluccius albidus*. The fishery is currently an open access fishery, meaning anyone may apply for and receive a permit to commercially fish for small-mesh multispecies.

In the most recent Stock Assessment and Fishery Evaluation (SAFE) report published in 2003, the members of the Council's Whiting Monitoring Committee (WMC) indicated concerns about declining survey mean weights for both red and offshore hake in portions of their stock areas. The 2005 stock assessment summary for silver hake indicated continued declines in the overall northern stock biomass index from historic levels and the showed the southern stock biomass index to be above the management threshold but below the target level. The WMC has also expressed concern for the potential of a rapid expansion of the small-mesh fishery by new entrants displaced by declining stocks and tightening regulations in other fisheries. For these reasons, the Council may develop a limited access management program as part of Amendment 14 to the FMP to limit participation and afford additional input control protections to the small-mesh stocks.

The Council initially considered limiting entry into the small-mesh multispecies fishery by establishing September 9, 1996 (61 FR 47473), as the control date for determining eligibility criteria. The Council used this control date to propose a limited access program as part of Amendment 12 to the FMP. However, the limited access program was not approved in the final Amendment 12 rule (65 FR 16766, March 29, 2000) because it was determined to be inconsistent with certain provisions of the Magnuson-Stevens Act.

By 2003, the Council recognized that fishing practices had substantially changed in the small-mesh fishery. Many changes to the fishery resulted from actions contained in Amendment 5 and Framework 35 to the FMP. These actions restricted the use of small-mesh in some areas and created new small-mesh exemption areas in others that changed fishing dynamics. The Council acknowledged that these changes in the characteristics of the small-mesh fishery had made the 1996 control date an unreliable indicator of historic participation. As a result, NMFS published a second control date for determining limited entry criteria at the request of the Council on March 25, 2003 (68 FR 14388). The Council implemented this second control date citing the previously mentioned changes to fishing practices and locations and to address the potential overcapitalization concerns expressed by the WMC. The intent of both control dates was to discourage speculative entry into the fishery while potential management regimes to control access into the fishery were discussed and possibly developed by the Council.

The Council is now beginning to develop Amendment 14 to the FMP, which will pertain to the small-mesh multispecies fishery. This amendment is in the very early stages of development. At their April 4, 2006, meeting in Mystic, CT, the Council voted to request that NMFS publish an ANPR to reaffirm the most recent control date for this fishery (March, 25, 2003) and to notify the public of the potential development of a limited access program in Amendment 14. Other measures may be considered in the amendment development process; this announcement is for informational purposes only and does not commit the Council to this or any other specific actions. The Council has indicated that distribution of the final scoping document with public hearing dates will occur within the next few weeks. NMFS anticipates publishing the meeting notice for scoping public hearings in the Federal Register before the end of May 2006.

In order to be approved and implemented, any measures proposed

by the Council in Amendment 14 must be found consistent with the requirements of the Magnuson-Stevens Act and other applicable law. The public will have the opportunity to comment on the measures and alternatives being considered by the Council through public meetings and public comment periods required by the National Environmental Policy Act and the Magnuson-Stevens Act, and as provided by the Administrative Procedure Act.

This reaffirmation of the March 25, 2003, control date is intended to strongly discourage speculative entry into the fishery while limited access measures are developed and considered by the Council. Fishermen who have not participated in the small-mesh multispecies fishery or who change their level of participation in this fishery are notified that entering this fishery or changing their level of participation after March 25, 2003, may not qualify them as previous participants, should such a criterion be the basis for future access to the small-mesh multispecies resources. Fishermen are not guaranteed future participation in the fishery, regardless of their entry dates or intensity of participation in this fishery before or after the control date. The Council and NMFS may choose to give variably weighted consideration to fishermen active in the fishery before and after the control date. Any action by the Council or NMFS will be taken pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the small-mesh multispecies fishery in Federal waters.

Classification

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

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

Dated: June 6, 2006.

James W. Balsiger,

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

[FR Doc. E6–9125 Filed 6–9–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 71, No. 112
Monday, June 12, 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

Forest Service

California Coast Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: the California Coast Provincial Advisory Committee (CCPAC) will meet on June 28, 2006, in Eureka, California. The purpose of the meeting is to discuss issues relating to implementing the Northwest Forest Plan (NWFP).

DATES: The meeting will be held from 10 a.m. to 3:45 p.m. on June 28, 2006.

ADDRESSES: The meeting will be held at the Six Rivers National Forest, Supervisor's Office, 1330 Bayshore Way, Eureka, California.

FOR FURTHER INFORMATION CONTACT: Kathy Allen, Committee Coordinator, USDA, Six Rivers National Forest, 1330 Bayshore Way, Eureka, CA 95501 (707) 441–3557 *kmallen@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting agenda items to be covered include: (1) NWFP 10 Year Status Review—Northern Province Forests; (2) NWFP Update—Increased Funding and Timber Targets; (3) ''The Shrinking Land Base'' PowerPoint Presentation; (4) Survey and Manage Update; (5) Mendocino and Six Rivers National Forests Business Plans; and (6) Developing Forest Restoration Planning and Implementation Guideline and Associated Agreements.

The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: June 6, 2006.

William Metz,

Acting Forest Supervisor.

[FR Doc. 06–5289 Filed 6–9–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

South Gifford Pinchot National Forest Resource Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The South Gifford Pinchot National Forest Resource Advisory Committee will meet on Tuesday, June 27 and Wednesday, June 28, 2006 at the Skamania County Courthouse Annex, 170 NW Vancouver Ave., Stevenson, Wash. The meeting will begin at 9:30 a.m. and continue until 4:30 p.m. The purpose of the meeting is to review a summary of ongoing Title II and III projects, elect a chair, set an indirect project percentage, and make recommendations on 29 proposals for Title II funding of projects under the Secure Rural Schools and County Self-Determination Act of 2000.

All South Gifford Pinchot National Forest Resource Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum;'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled to occur at 9:45 a.m. on June 27 and 28. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Roger Peterson, Public Affairs Specialist, at (360) 891–5007, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: June 2, 2006.

Mike Matarrese,

Acting Forest Supervisor.

[FR Doc. 06–5212 Filed 6–9–06; 8:45 am]

BILLING CODE 3410–11–M

ANTITRUST MODERNIZATION COMMISSION

Public Meeting

AGENCY: Antitrust Modernization Commission.

ACTION: Notice of public meeting.

SUMMARY: The Antitrust Modernization Commission will hold a public meeting on June 23 & 24, 2006. The purpose of the meeting is for the Antitrust Modernization Commission to deliberate on possible recommendations regarding the antitrust laws to Congress and the President.

DATES: June 23, 2006, 9:30 a.m. to approximately 5:30 p.m. June 24, 2006, 9:30 a.m. to approximately 3 p.m. Interested members of the public may attend. Advanced registration is required.

ADDRESSES: Morgan Lewis, Main Conference Room, 1111 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew J. Heimert, Executive Director & General Counsel, Antitrust Modernization Commission: telephone: (202) 233–0701; e-mail: *info@amc.gov.* Mr. Heimert is also the Designated Federal Officer (DFO) for the Antitrust Modernization Commission.

For Registration: For building security purposes, advanced registration is required. If you wish to attend the Commission meeting, please provide your name by e-mail to *meetings@amc.gov* or by calling the Commission offices at (202) 233–0701. Please register by 12 noon on June 22, 2006.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Antitrust Modernization Commission to deliberate on its report and/or recommendations to Congress and the President regarding the antitrust laws. The meeting will cover exclusionary conduct, regulated industries, and statutory immunities and exemptions. The Commission will conduct other additional business as necessary. Materials relating to the meeting will be made available on the Commission's Web site (*http://www.amc.gov*) in advance of the meeting.

The AMC has called this meeting pursuant to its authorizing statute and the Federal Advisory Committee Act. Antitrust Modernization Commission Act of 2002, Public Law No. 107–273, § 11054(f), 116 Stat. 1758, 1857; Federal Advisory Committee Act, 5 U.S.C. App., § 10(a)(2); 41 CFR 102–3.150 (2005).

Dated: June 7, 2006.

By direction of Deborah A. Garza, Chair of the Antitrust Modernization Commission.

Approved by Designated Federal Officer:
Andrew J. Heimert,
Executive Director & General Counsel, Antitrust Modernization Commission.
[FR Doc. E6–9076 Filed 6–9–06; 8:45 am]
BILLING CODE 6820–YH–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Data Sharing Activity

AGENCY: Bureau of Economic Analysis, Commerce.
ACTION: Notice of determination.

SUMMARY: The Bureau of Economic Analysis (BEA) will provide to the Bureau of Labor Statistics (BLS) data collected from several surveys that it conducts on U.S. direct investment abroad, foreign direct investment in the United States, and U.S. international trade in services for statistical purposes exclusively. In accordance with the requirement of Section 524(d) of the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA), we provided the opportunity for public comment on this data-sharing action (see the March 27, 2006 edition of the **Federal Register** (71 FR 15160)). BEA will provide data collected in its surveys to link with data from BLS surveys, including the Quarterly Census of Employment and Wages, the Occupational Employment Statistics survey, and the Mass Layoff Statistics survey. The linked data will be used for several purposes by both agencies, such as to develop detailed industry-level estimates of the employment, payroll, and occupational structure of foreign-owned U.S. companies or of U.S. companies that own foreign affiliates, and to assess the adequacy of current government data for understanding the international outsourcing activities of U.S. companies. Non-confidential aggregate data (public use) and reports that have cleared BEA and BLS disclosure review will be provided to the National Academy of Public Administration (NAPA) as potential inputs into a study of off-shoring authorized by a grant to NAPA under Public Law 108–447. Disclosure review is a process conducted to verify that the data to be released do not reveal any confidential information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on this program should be directed to Obie G. Whichard, Department of Commerce, Bureau of Economic Analysis, BE–50(OC), Washington, DC 20230, via the Internet at *obie.whichard@bea.gov*, by phone on (202) 606–9890, or by fax on (202) 606–5318.

SUPPLEMENTARY INFORMATION:

Background

CIPSEA (Pub. L. 107–347, Title V) and the International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 United States Code (U.S.C.) 3101–3108) allow BEA and BLS to share certain business data for exclusively statistical purposes. Section 524(d) of the CIPSEA required a **Federal Register** notice announcing the intent to share data (allowing 60 days for public comment), since BEA respondents were required by law to report the data.

On March 27, 2006 (71 FR 15160), BEA published in the **Federal Register** a notice of this proposed data-sharing activity and request for comment on the subject. BEA did not receive any public comments.

Shared Data

BEA will provide the BLS with data collected from benchmark, annual, and quarterly surveys of U.S. direct investment abroad, of foreign direct investment in the United States, and of U.S. international trade in services, as well as a survey of new foreign direct investments in the United States. BLS will use these data for statistical purposes exclusively.

Statistical Purposes for the Shared Data

Data collected in the benchmark and annual surveys of direct investment are used to develop estimates of the financing and operations of U.S. parent companies, their foreign affiliates, and U.S. affiliates of foreign companies; data collected in the quarterly direct investment surveys are used to develop estimates of transactions and positions between parents and affiliates; data collected in the new investments survey are used to develop estimates of new foreign direct investments in the United States; and data collected in the benchmark, annual and quarterly surveys of U.S. international trade in services are used to develop estimates of services transactions between U.S. companies and unaffiliated foreign parties. These estimates are published in the *Survey of Current Business*, BEA's monthly journal; in other BEA publications; and on BEA's Web site at *http://www.bea.gov/*. All data are collected under Sections 3101–3108 of Title 22, U.S.C.

The data set created by linking these data with the data from the above-designated BLS surveys will be used for several purposes by both agencies, such as to develop detailed industry-level estimates of the employment, payroll, and occupational structure of foreign-owned U.S. companies or of U.S. companies that own foreign affiliates, and to assess the adequacy of current government data for understanding the international outsourcing activities of U.S. companies.

Data Access and Confidentiality

Title 22, U.S.C. 3104 protects the confidentiality of these data. The data may be seen only by persons sworn to uphold the confidentiality of the information. Access to the shared data will be restricted to specifically authorized personnel and will be provided for statistical purposes only. Any results of this research are subject to BEA disclosure protection. All BLS employees with access to these data will become BEA Special Sworn Employees—meaning that they, under penalty of law, must uphold the data's confidentiality. Selected NAPA employees will provide BEA with expertise on the aspects of the data collected in BEA surveys and in the linked data set that may relate to off-shoring; these NAPA consultants assisting with the work at BEA also will become BEA Special Sworn Employees. No confidential data will be provided to the NAPA.

Dated: June 6, 2006.
Rosemary D. Marcuss,
Acting Director, Director, Bureau of Economic Analysis.
[FR Doc. E6–9074 Filed 6–9–06; 8:45 am]
BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 06–RIS–05]

Action Affecting Export Privileges; Edsons Worldwide Services, Inc.; In the Matter of: Edsons Worldwide Services, Inc., 7133 Valley View Road, Edina, MN 55439, Respondent; Order Relating to Edsons Worldwide Services, Inc.

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS'') has initiated an administrative proceeding against Edsons Worldwide Services, Inc. (''Edsons'') pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2006)) (''Regulations''),[1] and section

[1] The violations charged occurred during 2001. The Regulations governing the violations at issue are found in the 2001 version of the Code of Federal Regulations (15 CFR parts 730–774 (2001)). The 2006 Regulations establish the procedures that apply to this matter.

13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (''ACT''),[2] through issuance of a charging letter to Edsons that alleged that Edsons committed two violations of the Regulations. Specifically, the charges are:

1. *One Violation of 15 CFR 764.2(a)—Exporting on item subject to the Regulations without a license:* On or about January 6, 2001, Edsons engaged in conduct prohibited by the Regulations when it exported fingerprint powders classified under Export Control Classification Number (''ECCN'') 1A985 on the Commerce Control List (''CCL'') to Belarus without the license required by the U.S. Department of Commerce. Under Section 742.7 of the Regulations, a BIS export license was required for this export, but no such license was obtained.

2. *One Violation of 15 CFR 764.2(e)—Transfer of an item with knowledge that a violation would subsequently occur:* On or about January 6, 2001, Edsons transferred fingerprint powders classified under ECCN 1A985 on the CCL to Belarus with knowledge that a violation of the Regulations would occur in connection with the items. Specifically, Edsons transferred the fingerprint powders to Belarus without the license required by the U.S. Department of Commerce despite knowing that such license was required under the Regulations, and that such license would not be obtained. Edsons transferred the items after being notified by the U.S. Department of Commerce that Edsons' application for a license to export the items had been denied.

Whereas, BIS and Edsons have entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

Whereas, I have approved of the terms of such Settlement Agreement;

It is therefore ordered:

First, for a period of ten years from the date on which this Order is published in the **Federal Register**, Edsons Worldwide Services, Inc., 7133 Valley View Road, Edina, MN 55439, its successors or assigns, and when acting for or on behalf of Edsons, its officers, representatives, agents, or employees (''Denied Person'') may not, directly or indirectly, participate 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.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person 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 Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person 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 Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person 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, to prevent evasion of this Order, BIS, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, may make any person, firm, corporation, or business organization related to Edsons by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services subject to the provisions of this Order.

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 the charging letter, the Settlement Agreement, this Order, and the record of this case as defined by Section 766.20 of the Regulations shall be make available to the public.

Sixth, that the administrative law judge shall be notified that this case is withdrawn from adjudication.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Entered this 5th day of June, 2006.

Darryl W. Jackson,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 06–5283 Filed 6–9–06; 8:45 am]

BILLING CODE 3510–DT–M

[2] Since August 21, 2001, the Act has been in lapse and the President, through Executive order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 FR 45273, August 5, 2005), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 06–BIS–06]

Action Affecting Export Privileges; Eduard Mendelevich Yamnik; In the Matter of Eduard Mendelevich Yamnik, 7133 Valley View Road, Edina, MN 55439, Respondent; Order Relating to Eduard Mendelevich Yamnik

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS'') has initiated an administrative proceeding against Eduard Mendelevich Yamnik (''Yamnik'') pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2006)) (''Regulations''),[1] and Section 13(c) of

[1] The violations charged occurred during 2001. The Regulations governing the violations at tissue are found in the 2001 version of the Code of Federal Regulations (15 CFR parts 730–774 (2001)). The 2006 Regulations establish the procedures that apply to this matter.

the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401–2420 (2000)) (''Act''),[2] through issuance of a charging letter to Yamnik that alleged that Yamnik committed two violations of the Regulations. Specifically, the charges are:

1. *One violation of 15 CFR 764.2(a)—Exporting an item subject to the Regulations without a license:* On or about January 6, 2001, Yamnik engaged in conduct prohibited by the Regulations when he exported fingerprint powders classified under Export Control Classification Number (''ECCN'') 1A985 on the Commerce Control List (''CCL'') to Belarus without the license required by the U.S. Department of Commerce. Under Section 742.7 of the Regulations, a BIS export license was required for this export, but no such license was obtained.

2. *One violation of 15 CFR 764.2(e)—Transfer of an item with knowledge that a violation would subsequently occur:* One or about January 6, 2001, Yamnik transferred fingerprint powders classified under ECCN 1A985 on the CCL to Belarus with knowledge that a violation of the Regulations would occur in connection with the items. Specifically, Yamnik transferred the fingerprint powders to Belarus without the license required by the U.S. Department of Commerce despite knowing that such license was required under the Regulations, and that such license would not be obtained. Yamnik transferred the items with knowledge that the U.S. Department of Commerce has notified Edsons that Edson's application for a license to export the items had been denied.

Whereas, BIS and Yamnik have entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

Whereas I have approved of the terms of such Settlement Agreement;

It is therefore ordered:

First, for a period of ten years from the date on which this Order is published in the **Federal Register**, Eduard Mendelevich Yamnik, 7133 Valley View Road, Edina, MN 55439 and when acting for or on behalf of Yamnik, his representatives, agents, or employees (''Denied Person'') may not, directly or indirectly, participate 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.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person 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 Person of any item subject to the Regulations that has been exported from the United States;

D. Obtained from the Denied Person 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 Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person 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, to prevent evasion of this Order, BIS, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, may make any person, firm, corporation, or business organization related to Yamnik by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services subject to the provisions of this Order.

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 the charging letter, the Settlement Agreement, this Order, and the record of this case as defined by Section 766.20 of the Regulations shall be made available to the public.

Sixth, that the administrative law judge shall be notified that this case is withdrawn from adjudication.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Entered this 5th day of June, 2006.

Darryl W. Jackson,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 06–5282 Filed 6–9–06; 8:45 am]

BILLING CODE 3510–DT–M

[2] Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 FR 45273, August 5, 2005), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–502]

Circular Welded Carbon Steel Pipes and Tubes from Thailand: Notice of Court Decision Not In Harmony with Final Results of Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On May 16, 2006, the Court of International Trade (CIT) sustained the Department of Commerce's (Department's) redetermination regarding the 2002–2003 antidumping duty administrative review of certain welded carbon steel pipes and tubes (pipes and tubes) from Thailand. Pursuant to the Court's remand order, in its redetermination the Department deducted section 201 duties from export price in accordance with 19 U.S.C. § 1677a(c)(2)(A). Consistent with the decision of the United States Court of

Appeals for the Federal Circuit (Federal Circuit) in *The Timken Company v. United States and China National Machinery and Equipment Import and Export Corporation*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Department is publishing this notice of the CIT's decision which is not in harmony with the Department's determination in the 2002–2003 antidumping duty administrative review of pipes and tubes from Thailand.

EFFECTIVE DATE: May 26, 2006.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5255 or (202) 482–1391, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 5, 2002, the President of the United States imposed safeguard duties on imports of certain steel products under Section 201 of the Trade Act of 1974. *See Proclamation No. 7529*, 67 FR 10553 (March 7, 2002) (section 201 duties). This proclamation mandated payment of a 15 percent duty on certain imported steel products from March 20, 2002, through March 19, 2003. *Id.* at 10590. These duties were applicable to the merchandise that is also subject to the antidumping duty order on pipes and tubes from Thailand.

On April 8, 2004, the Department issued the preliminary results of the administrative review covering the period March 1, 2002, through February 28, 2003. *See Certain Welded Carbon Steel Pipes and Tubes from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 18539 (*Preliminary Results*). This administrative review involved one company, Saha Thai Steel Pipe Company, Ltd. (Saha Thai). For purposes of the preliminary results of review, the Department decided not to adjust U.S. price, pending the Department's final consideration of comments solicited in *Antidumping Proceedings: Treatment of Section 201 Duties and CVD Duties*, 68 FR 53104 (September 9, 2003), on the treatment of section 201 duties. The resulting antidumping duty margin was 2.00 percent. *See Preliminary Results*. In the final results of review, after considering the arguments of the parties, the Department followed the practice established in *Stainless Steel Wire Rod from Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 69 FR 19153 (April 12, 2004) (*Final Results*) and did not deduct the section 201 duties from EP. The margin calculated for the final results was de minimis (0.17 percent). *See Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 69 FR 61649 (October 20, 2004).

Before the court, the plaintiffs, domestic parties (Wheatland Tube Company and Allied Tube & Conduit Corporation), raised three issues – two related to section 201 duties – and one related to duty drawback. The Court affirmed the Department on two issues – the duty drawback and the adjustment to U.S. price for billing adjustments tied to the section 201 duties. Wheatland Tube Co. v. United States, 414 F. Supp. 2d. 1271 (CIT 2006). However, the Court overturned the Department's decision to treat section 201 duties in the same way it treats antidumping duties and directed the Department ''to recalculate Saha Thai's dumping margin after deducting section 201 duties from EP (export price) in accordance with 19 U.S.C. § 1677a(c)(2)(A).'' *Id.* At 1288.

On March 1, 2006, the Department filed the results of its redetermination pursuant the Court's remand. In the redetermination, the Department followed the Court's order and deducted the section 201 duties from export price. The resulting antidumping duty margin was 4.13 percent. On May 16, 2006, the Court sustained the Department's remand redetermination. *Wheatland Tube Co. v. United States*, Slip Op 06–71.

Notification

In its decision in *Timken*, the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish notice of a CIT decision which is not ''in harmony'' with the Department's determination. The CIT's decision in *Wheatland Tube Company* regarding the 201 duties is not in harmony with the Department's determination in the final results of 2002–2003 antidumping duty administrative review of pipes and tubes from Thailand. Therefore, publication of this notice fulfils the Department's obligation under 19 U.S.C. 1516a(e). The Department will enforce the injunction still in place by continuing to suspend liquidation of any unliquidated entries, pending the expiration of the period to appeal the CIT's May 16, 2006, decision, or, if that decision is appealed, pending a final decision by the Federal Circuit. If the CIT decision becomes final and conclusive, the Department will issue amended final results and amended customs instructions.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: June 5, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–9124 Filed 6–9–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 053006A]

U.S. Climate Change Science Program Synthesis and Assessment Product Prospectuses

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability and request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration publish this notice to announce the availability of draft Prospectuses for three of the U.S. Climate Change Science Program (CCSP) Synthesis and Assessment Products (Products) for public comment. These draft Prospectuses address the following CCSP Topics:
Product 4.4 Preliminary Review of Adaptation Options for Climate-Sensitive Ecosystems and Resources;
Product 4.6 Analyses of the Effects of Global Change on Human Health and Welfare and Human Systems; and
Product 5.2 Best Practice Approaches for Characterizing, Communicating and Incorporating Scientific Uncertainty in Climate Decision Making.
After consideration of comments received on the draft Prospectuses, the final Prospectuses along with the comments received will be published on the CCSP web site.

DATES: Comments must be received by July 12, 2006.

ADDRESSES: The draft Prospectuses is posted on the CCSP Program Office web site. The web addresses to access the draft Prospectuses are:
Product 4.4 (Ecosystems):
http://www.climatescience.gov/Library/sap/sap4–4/default.htm
Product 4.6 (Health):
http://www.climatescience.gov/Library/sap/sap4–6/default.htm
Product 5.2 (Uncertainty)
http://www.climatescience.gov/Library/sap/sap5–2/default.htm

Detailed instructions for making comments on the draft Prospectuses are

provided with each Prospectus. Comments should be prepared in accordance with these instructions.

FOR FURTHER INFORMATION CONTACT: Vanessa Richardson, Climate Change Science Program Office, 1717 Pennsylvania Avenue NW, Suite 250, Washington, DC 20006, Telephone: (202) 419–3465.

SUPPLEMENTARY INFORMATION: The CCSP was established by the President in 2002 to coordinate and integrate scientific research on global change and climate change sponsored by 13 participating departments and agencies of the U.S. Government. The CCSP is charged with preparing information resources that support climate-related discussions and decisions, including scientific synthesis and assessment analyses that support evaluation of important policy issues. The Prospectuses addressed by this notice provide a topical overview and describe plans for scoping, drafting, reviewing, producing, and disseminating three of 21 final synthesis and assessment Products that will be produced by the CCSP.

Dated: June 5, 2006.

Conrad C. Lautenbacher, Jr.,

Vice Admiral, U.S. Navy (Ret.),Under Secretary of Commerce for Oceans and Atmosphere.

[FR Doc. E6–9126 Filed 6–9–06; 8:45 am]

BILLING CODE 3510–12–S

DEPARTMENT OF DEFENSE

Defense Logistics Agency

[DOD–2006–OS–0138]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Defense Logistics Agency is amending a system of records notice to its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on July 12, 2006 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974, (5 D.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 5, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S300.10 CAH

SYSTEM NAME:

Voluntary Leave Transfer Program Records (August 3, 1999, 64 FR 42100) .

CHANGES:

SYSTEM IDENTIFIER:

Delete ''CAH'' from entry.

* * * * *

SYSTEM LOCATION:

Delete entry and replace with: ''Human Resources Policy and Information, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 6231, Fort Belvoir, VA 22060–6221, and the Human Resources Offices of the Defense Logistics Agency (DLA) Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.''

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete ''number of hours requested'' from entry.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with: ''5 U.S.C. 301, Departmental Regulations; 5 U.S.C. Chapter 63, sections 6331–6339, Leave; Pub. L. 103–103, Federal Employees Leave Sharing Act of 1993; 5 CFR Part 630, Absence and Leave, Subpart I, Voluntary Leave Transfer Program; and E.O. 9397 (SSN).''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with: ''Staff Director, Human Resources Policy and Information, Defense Logistics Agency, ATTN: J–1, 8725 John J. Kingman Road, Stop 6231, Fort Belvoir, VA 22060–6221, and the Human Resources Officers of the DLA Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.''

NOTIFICATION PROCEDURE:

Delete first paragraph and replace with: ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221 or to the Human Resources Office of the DLA Field Activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.''

RECORD ACCESS PROCEDURES:

Delete first paragraph and replace with: ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221 or to the Human Resources Office of the DLA Field Activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with: ''The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.''

* * * * *

S300.10

SYSTEM NAME:

Voluntary Leave Transfer Program Records.

SYSTEM LOCATION:

Human Resources Policy and Information, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 6231, Fort Belvoir, VA 22060–6221, and the Human Resources Offices of the Defense Logistics Agency (DLA) Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have volunteered to participate in the leave transfer program as either a donor or a recipient.

CATEGORIES OF RECORDS IN THE SYSTEM:

Leave recipient records contain the individual's name, organization, office telephone number, Social Security Number, position title, grade, pay level, leave balances, brief description of the medical or personal hardship which qualifies the individual for inclusion in the program, the status of that hardship, and a statement that selected data elements may be used in soliciting donations.

The file may also contain medical or physician certifications and agency approvals or denials.

Donor records include the individual's name, organization, office telephone number, Social Security Number, position title, grade, and pay level, leave balances, number of hours donated and the name of the designated recipient.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. Chapter 63, sections 6331–6339, Leave; Pub.L. 103–103, Federal Employees Leave Sharing Act of 1993; 5 CFR Part 630, Absence and Leave, Subpart I, Voluntary Leave Transfer Program; and E.O. 9397 (SSN).

PURPOSE(S):

Records are used to manage the DLA Voluntary Leave Transfer Program. The recipient's name, position data, organization, and a brief hardship description are published internally for passive solicitation purposes. The Social Security Number is sought to effectuate the transfer of leave from the donor's account to the recipient's account.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness; where leave donor and leave recipient are employed by different Federal agencies, to the personnel and pay offices of the Federal agency involved to effectuate the leave transfer.

The DoD 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on paper and electronic storage media.

RETRIEVABILITY:

Records are retrieved by name or Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel who must use the records to perform their duties. The computer files are password protected with access restricted to authorized users. Records are secured in locked or guarded buildings, locked offices, or locked cabinets during non-duty hours.

RETENTION AND DISPOSAL:

Records are destroyed one year after the end of the year in which the file is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, Human Resources Policy and Information, Defense Logistics Agency, ATTN: J–1, 8725 John J. Kingman Road, Stop 6231, Fort Belvoir, VA 22060–6221, and the Human Resources Officers of the DLA Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221 or to the Human Resources Office of the DLA Field Activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Individual should provide full name and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221 or to the Human Resources Office of the DLA Field Activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Individual should provide full name and Social Security Number.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Record subject; personnel and leave records; and medical certification and similar data.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 06–5290 Filed 6–9–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Hold a North Dakota River Task Force Meeting as Established by the Missouri River Protection and Improvement Act of 2000 (Title VII)

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of meeting.

Authority: 41 CFR parts 101–6 and 102–3.

SUMMARY: The duties of the Task Force are to prepare and approve a plan for the use of the funds made available under Title VII to promote conservation practices in the Missouri River watershed, control and remove the sediment from the Missouri River, protect recreation on the Missouri River from sedimentation and protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion.

DATES: North Dakota Missouri River Task Force established by the Missouri River Protection and Improvement Act of 2000 will hold a meeting on June 13, 2006 from 10:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Best Western Doublewood Inn located at 1400 East Interchange Avenue in Bismarck, North Dakota.

FOR FURTHER INFORMATION CONTACT: Laura Bentley at 402–221–4627.

SUPPLEMENTARY INFORMATION: The objectives of the Task Force are to

prepare and approve a plan for the use of the funds made available under Title VII, develop and recommend to the Secretary of the Army ways to implement critical restoration projects meeting the goals of the plan and determine if these projects primarily benefit the Federal Government. Written questions may be sent to Laura Bentley, U.S. Army Corps of Engineers, 106 South 15th Street, Omaha, NE 68102.

Dated: May 26, 2006.

Laura A. Bentley,

Program Manager.

[FR Doc. 06–5275 Filed 6–9–06; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–445–011]

Alliance Pipeline L.P.; Notice of Negotiated Rates

June 6, 2006.

Take notice that on June 1, 2006, Alliance Pipeline L.P. (Alliance) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, Sixth Revised Sheet No. 11, to become effective June 1, 2006.

Alliance states that the filing is being made to reflect the essential terms of a negotiated rate agreement with Powerex Corp. and deleting the terminated negotiated rate contract with Calpine Energy Services Canada Partnership.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9101 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG06–41–000]

Aragonne Wind LLC; Notice of Effectiveness of Exempt Wholsale Generator or Foreign Utility Company Status

June 6, 2006.

Take notice that during the month of May 2006, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Magalie R. Salas,

Secretary.

[FR Doc. E6–9095 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–350–014]

Colorado Interstate Gas Company; Notice of Petition To Amend Stipulation and Agreement

June 2, 2006.

Take notice that on May 26, 2006, Colorado Interstate Gas Company (CIG) filed a Petition to Amend Stipulation and Agreement approved in Docket No. RP01–350–000,et al., on August 5, 2002 [1] and previously amended on February 17, 2006 and April 12, 2006.[2]

CIG requests the Commission to grant the petition to allow the parties to conclude settlement discussions that would obviate the requirement for CIG to file a system-wide rate change under section 4 of the Natural Gas Act.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 5, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9090 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

[1] Colorado Interstate Gas Co., 100 FERC ¶ 61,154 (2002).

[2] Colorado Interstate Gas Co., 114 FERC ¶ 61,173 (2006); Colorado Interstate Gas Co., 115 FERC 61,039 (2006).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–382–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 6, 2006.

Take notice that on May 31, 2006, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No 1, Forty-Second Revised Sheet No. 11A, to become effective July 1, 2006.

CIG states that copies of its filing have been sent to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9114 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–378–000]

Discovery Gas Transmission LLC; Notice of Tariff Filing

June 6, 2005.

Take notice that on June 1, 2006, Discovery Gas Transmission LLC (Discovery) tendered for filing as part of its FERC Gas Tariff Original Volume No. 1, the following tariffs sheets, with an effective date of July 1, 2006:

Seventh Revised Sheet No. 33.
Seventh Revised Sheet No. 44.
Seventh Revised Sheet No. 53.

Discovery states it also tendered for filing its statement of its fuel, lost and unaccounted-for gas for the calendar year 2005.

Discovery further states that copies of the filing have been mailed to each of its customers, interested state commissions and other interested persons.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9110 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–078]

Dominion Transmission, Inc.; Notice of Negotiated Rates

June 6, 2006.

Take notice that on May 31, 2006, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective June 1, 2006:

First Revised Sheet No. 40
Third Revised Sheet No. 251
Third Revised Sheet No. 252
Sixth Revised Sheet No. 1405
Fourth Revised Sheet No. 1407
Third Revised Sheet No. 1408
Fourth Revised Sheet No. 1414
Third Revised Sheet No. 1415

DTI states that the purpose of this filing is to report new negotiated transactions, amend various negotiated rate transactions and to correct typographical errors on two tariff sheets.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention

or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9118 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–1040–000]

Duke Power Company LLC; Notice of Filing

June 6, 2006.

Take notice that on May 18, 2006, Duke Power Company LLC dba Duke Energy Carolinas, LLC (Duke) submitted Partial Requirements Service Agreements with Blue Ridge Electric Membership Corporation, Piedmont Electric Membership Corporation, and Rutherford Electric Membership Corporation. On also take notice that on May 19, 2006, Duke submitted a supplement its filing.

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 online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 13, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9096 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–374–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 2, 2006.

Take notice that on May 31, 2006, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1-A, Third Revised Sheet No. 2A, and seven firm transportation service agreements (TSAs) with Salt River Project Agricultural Improvement and Power District to become effective July 1, 2006. The TSAs are being submitted for the Commission's information and review and have been listed on the tendered tariff sheet as non-conforming agreements.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9085 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–372–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 2, 2006.

Take notice that on May 31, 2006, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets and four firm transportation service agreements

(TSAs) with Arizona Public Service Company and UNS Gas, Inc. to become effective July 1, 2006.

Twenty-Eighth Revised Sheet No. 1.
Ninth Revised Sheet No. 2.
Fourth Revised Sheet No. 2A.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9091 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–376–000]

Enbridge Pipelines (KPC); Notice of Proposed Changes in FERC Gas Tariff

June 6, 2006.

Take notice that on June 1, 2006, Enbridge Pipelines (KPC) (KPC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective July 1, 2006:

Third Revised Sheet No. 123
Second Revised Sheet No. 124
Original Sheet No. 124A
First Revised Sheet No. 125A
First Revised Sheet No. 126

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9121 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–090]

Gas Transmission Northwest Corporation; Notice of Negotiated Rates

June 6, 2006.

Take notice that on May 31, 2006, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, Thirty-Fourth Revised Sheet No. 15, to become effective June 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9108 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–375–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

June 6, 2006.

Take notice that on May 31, 2006, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective July 1, 2006:

Nineteenth Revised Sheet No. 1.
Sixth Revised Sheet No. 16A.
Sixth Revised Sheet No. 23.
Fourth Revised Sheet No. 24.
Second Revised Sheet No. 37.
Third Revised Sheet No. 50P.
Original Sheet No. 50U.
Sixth Revised Sheet No. 51.
Fifth Revised Sheet No. 54.
Second Revised Sheet No. 57C.
First Revised Sheet No. 57G.
Fourth Revised Sheet No. 58.
Fourth Revised Sheet No. 59A.
Tenth Revised Sheet No. 84.
Fifth Revised Sheet No. 86A.
Original Volume No. 2.
Sixth Revised Sheet No. 224.
Eighth Revised Sheet No. 246.
Eighth Revised Sheet No. 270.
Eighth Revised Sheet No. 295.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9094 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–361–060]

Gulfstream Natural Gas System, L.L.C.; Notice of Negotiated Rates

June 6, 2006.

Take notice that on May 31, 2006, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Original Sheet No. 8.02a, reflecting an effective date of June 1, 2006.

Gulfstream states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9102 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–81–025]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Negotiated Rate

June 6, 2006.

Take notice that on May 31, 2006 Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1–A, to be effective June 1, 2006:

Fifth Revised Sheet No. 4G.01
Fourth Revised Sheet No. 4L

KMIGT states that the above-referenced tariff sheets reflect a negotiated rate contract effective June 1, 2006. The tariff sheets are being filed pursuant to Section 36 of KMIGT's FERC Gas Tariff Fourth Revised Volume No. 1–B, and the procedures prescribed by the Commission in its December 31,

1996 ''Order Accepting Tariff Filing Subject to Conditions'' in Docket No. RP97–81 (77 FERC ¶ 61,350) and the Commission's Letter Orders dated March 28, 1997 and November 30, 2000 in Docket Nos. RP97–81–001 and RP01–70–000, respectively.

KMIGT states that a copy of this filing has been served upon all parties to this proceeding, KMIGT's customers and affected state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9119 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–360–005]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Compliance Filing

June 6, 2006.

Take notice that on June 1, 2006, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 10, proposed to be effective on January 1, 2005.

Maritimes states that it is supplementing its May 24 compliance filing in the captioned docket with the revised tariff sheet because it was inadvertently left out of the filing. Maritimes states that the supplemental sheet reflects the reduced settlement rates under Rate Schedule MNPAL.

Maritimes states that copies of its filing have been mailed to all affected customers of Maritimes and interested State commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9104 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–381–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 6, 2006.

Take notice that on May 31, 2006, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Ninetieth Revised Sheet No. 9, to become effective June 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9113 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–059]

Northern Natural Gas Company; Notice of Negotiated Rates

June 6, 2006.

Take notice that on May 31, 2006, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective on June 1, 2006:

First Revised 38 Revised Sheet No. 66.
First Revised 31 Revised Sheet No. 66A.

Northern states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9116 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–379–001]

Pine Prairie Energy Center, LLC; Notice of Application

June 2, 2006.

Take notice that on May 23, 2006, Pine Prairie Energy Center, LLC (Pine Prairie), 333 Clay Street, Suite 1600, Houston, Texas, 77002, filed in Docket No. CP04–379–001 an application under section 7 of the Natural Gas Act (NGA), as amended, to amend its Certificate of Public Convenience and Necessity to authorize Pine Prairie to construct, operate, and maintain 14.10 miles of 24-inch diameter bi-directional natural gas pipelines and associated facilities that interconnect the high-deliverability salt-dome natural gas storage facility currently under construction by Pine Prairie in Evangeline Parrish, Louisiana with Columbia Gulf Transmission Company and Texas Gas Transmission, LLC, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Pine Prairie's application also seeks reaffirmation of its previously-granted authorization to charge market-based rates for its storage and hub services. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to James F. Bowe Jr., Dewey Ballantine LLP, 1775 Pennsylvania Avenue, NW., Washington, DC 20006–4605, or call (202) 439–1444.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments protests and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: June 23, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9093 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–377–000]

Questar Southern Trails Pipeline Company; Notice of Annual Fuel Gas Reimbursement Report

June 6, 2006.

Take notice that on June 1, 2006, Questar Southern Trails Pipeline Company (Southern Trails) submitted its annual Fuel Gas Reimbursement Percentage (FGRP) report pursuant to the Fuel Gas Reimbursement Provision (section 30) of the General Terms and Conditions of Original Volume No. 1 of its FERC Gas Tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time June 13, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9109 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–200–007]

Rockies Express Pipeline LLC; Notice of Compliance Filing

June 6, 2006.

Take notice that on May 31, 2006, Rockies Express Pipeline LLC (REX) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 22, to be effective June 1, 2006.

REX states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. CP04–413–000. TEX states that the tendered tariff sheet proposes to revise REX's Tariff to reflect an amendment to a negotiated-rate contract.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9105 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–373–000]

Saltville Gas Storage Company L.L.C.; Notice of Tariff Filing

June 2, 2006.

Take notice that on May 31, 2006, Saltville Gas Storage Company L.L.C. (Saltville) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A of the filing to be effective July 1, 2006.

Saltville states that copies of its filing have been served on all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9092 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–303–003]

Stingray Pipeline Company, L.L.C.; Notice of Compliance Filing

June 6, 2006.

Take notice that, on May 30, 2006, Stingray Pipeline Company, L.L.C. submitted a compliance filing pursuant to a letter order issued on May 10, 2006 in Docket No. RP06–303–000.

Stingray Pipeline Company, L.L.C. states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9106 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP91–203–074; RP92–132–062]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

June 6, 2006.

Take notice that on May 31, 2006, Tennessee Gas Pipeline Company (Tennessee), tendered for filing and approval certain revised tariff sheets for inclusion in Tennessee's FERC Gas Tariff, Fifth Revised Volume No. 1 and Original Volume No. 2. Tennessee requests that the attached sheets be made effective July 1, 2006.

Tennessee states that it is submitting revised tariff sheets to update its rate sheet footnote pertaining to the PCB Adjustment Period and to reflect the extension of the PCB Adjustment Period proposed in the filing.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9115 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–379–000]

Texas Eastern Transmission, LP; Notice of Proposed Changes in FERC Gas Tariff

June 6, 2006.

Take notice that on June 2, 2006, Texas Eastern Transmission, LP (Texas Eastern) submitted for Commission review a proposed Rate Schedule FT–1 service agreement between Texas Eastern and Columbia Gas Transmission Corporation with certain non-conforming terms.

Texas Eastern states that copies of its filing have been served on all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR

154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9111 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–106–012]

TransColorado Gas Transmission Company; Notice of Revenue Sharing Report

June 6, 2006.

Take notice that on June 1, 2006, TransColorado Gas Transmission Company (TransColorado) tendered for filing its revenue sharing report in accordance with the provisions of the Settlement in Docket No. RP99–106 and the Commission's Order dated April 24, 2002.

TransColorado states that a copy of this filing has been served upon all parties listed on the official service list in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 13, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9120 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–359–030]

Transcontinental Gas Pipe Line Corporation; Notice of Service Agreement

June 6, 2006.

Take notice that on May 31, 2006, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a copy of the executed fourth amendment to the service agreement with Washington Gas Light Company (WGL) that contains a recalculated negotiated delivery point facilities surcharge (Facilities Surcharge) under Transco's Rate Schedule FT for the costs of the Rock Creek Meter Station, a delivery point to Washington Gas Light Company (WGL). The effective date of this revised Facilities Surcharge is July 1, 2006.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 13, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9117 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–380–000]

Tuscarora Gas Transmission Company; Notice of Petition for Approval of Settlement Agreement

June 6, 2006.

Take notice that on May 31, 2006, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing a ''Petition for Approval of Settlement Agreement,'' including a proposed settlement agreement (Settlement Agreement) and associated pro forma tariff sheets.

Tuscarora states that copies of its filing have been served upon all affected customers of Tuscarora and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and

Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time June 9, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9112 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF06–5182–000]

Western Area Power Administration; Notice of Filing

June 2, 2006.

Take notice that on May 11, 2006, the Deputy Secretary, U.S. Department of Energy, in accordance with the authority vested in the Federal Energy Regulatory Commission by Delegation Order No. 00–037.00, filed Rate Schedule L–AS3, Part of Rate Order No. WAPA–106, for confirmation and approval on a final basis effective June 1, 2006, and ending February 28, 2009. This Rate Schedule is for the Regulation and Frequency Response Service for the Loveland Area Projects—Western Area Colorado Missouri Balancing Authority of the Western Area Power Administration.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 16, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9087 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–323–010]

Williston Basin Interstate Pipeline Company; Notice of Negotiated Rate

June 6, 2006.

Take notice that on May 31, 2006, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing with the Commission a revised negotiated Rate Schedule IT–1 Service Agreement. The proposed effective date of the Service Agreement is July 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9103 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

June 2, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER95–362–023.
Applicants: Stand Energy Corporation.
Description: Stand Energy Corp submits First Revised Sheet No. 1 to correct the language in section 5.(a) tariff sheets.
Filed Date: May 26, 2006.
Accession Number: 20060601–0110.
Comment Date: 5 p.m. Eastern Time on Friday, June 16, 2006.

Docket Numbers: ER02–2134–004.
Applicants: Just Energy, LLC.
Description: Just Energy, LLC submits its Supplemental Triennial Market Analysis Filing.
Filed Date: May 23, 2006.
Accession Number: 20060601–0069.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 13, 2006.

Docket Numbers: ER03–99–002.
Applicants: Just Energy New York, LLC.
Description: Just Energy New York, LLC submits its Supplement Filing for Triennial Filing.
Filed Date: May 23, 2006.
Accession Number: 20060601–0067.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 13, 2006.

Docket Numbers: ER03–100–002.
Applicants: Just Energy Texas, LLC.
Description: Just Energy Texas, LLC submits its Supplemental Triennial Market Analysis Filing.
Filed Date: May 23, 2006.
Accession Number: 20060601–0065.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 13, 2006.

Docket Numbers: ER03–563–058; EL04–102–014.
Applicants: Devon Power LLC.
Description: Devon Power LLC submits its 8th compliance report.
Filed Date: May 26, 2006.
Accession Number: 20060601–0109.
Comment Date: 5 p.m. Eastern Time on Friday, June 16, 2006.

Docket Numbers: ER06–187–003.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest ISO submits a supplement to its May 8, 2006 Compliance Filing of a Large Generator Interconnection Agreement.
Filed Date: May 26, 2006.
Accession Number: 20060601–0100.
Comment Date: 5 p.m. Eastern Time on Friday, June 16, 2006.

Docket Numbers: ER06–232–002.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection LLC submits amendments to the PJM OATT and the Amended and Restated Operating Agreement of PJM.
Filed Date: May 25, 2006.
Accession Number: 20060601–0103.
Comment Date: 5 p.m. Eastern Time on Thursday, June 15, 2006.

Docket Numbers: ER06–823–002.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc resubmits First Revised Sheet No. 4 to Rate Schedule FERC No. 233 with the City of Robinson, Kansas.
Filed Date: May 25, 2006.
Accession Number: 20060601–0203.
Comment Date: 5 p.m. Eastern Time on Thursday, June 15, 2006.

Docket Numbers: ER06–909–001.
Applicants: PNM Resources Operating Companies.
Description: Public Service Company of New Mexico and Texas-New Mexico Power Co submit corrected version of Substitute First Revised Sheet No. 98 incorporating changes described in the April 27, 2006 filing, effective May 1, 2006.
Filed Date: May 25, 2006.
Accession Number: 20060601–0204.
Comment Date: 5 p.m. Eastern Time on Thursday, June 15, 2006.

Docket Numbers: ER06–994–001.
Applicants: Western Kentucky Energy Corp.
Description: Western Kentucky Energy Corp submits an Errata to Notice of Succession.
Filed Date: May 25, 2006.
Accession Number: 20060601–0102.
Comment Date: 5 p.m. Eastern Time on Thursday, June 15, 2006.

Docket Numbers: ER06–1048–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest ISO submits proposed revisions to Attachment P of the Open Access Transmission and Energy Markets Tariff.
Filed Date: May 26, 2006.
Accession Number: 20060601–0085.
Comment Date: 5 p.m. Eastern Time on Friday, June 16, 2006.

Docket Numbers: ER06–1049–000.
Applicants: Appalachian Power Company.
Description: Appalachian Power Co submits a Cost-Based Formula Rate Agreement for Full Requirements Electric Service with the City of Salem, VA.
Filed Date: May 26, 2006.
Accession Number: 20060601–0083.
Comment Date: 5 p.m. Eastern Time on Friday, June 16, 2006.

Docket Numbers: ER06–1051–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest ISO submits an unexecuted Large Generator Interconnection Agreement among MinnDakota Wind LLC, Northern States Power Comany.
Filed Date: May 26, 2006.
Accession Number: 20060601–0086.
Comment Date: 5 p.m. Eastern Time on Friday, June 16, 2006.

Docket Numbers: ER06–1052–000.
Applicants: American Transmission Company LLC.
Description: American Transmission Co, LLC submits an executed Distribution Transmission Interconnection Agreement with Eagle River Light & Water dated April 27, 2006.
Filed Date: May 26, 2006.
Accession Number: 20060601–0117.
Comment Date: 5 p.m. Eastern Time on Friday, June 16, 2006.

Docket Numbers: ER06–1053–000.
Applicants: American Transmission Company LLC.
Description: American Transmission Co, LLC submits an executed Distribution-Transmission Interconnection Agreement with Muscoda Utilities.
Filed Date: May 26, 2006.
Accession Number: 20060601–0111.
Comment Date: 5 p.m. Eastern Time on Friday, June 16, 2006.

Docket Numbers: ER06–1054–000.
Applicants: Midwest Independent Transmission System.
Description: Midwest ISO submits proposed revisions to its OATT, FERC Electric Tariff, Third Revised Volume No.1.
Filed Date: May 30, 2006.
Accession Number: 20060601–0107.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 20, 2006.

Docket Numbers: ER06–1055–000.
Applicants: Newmont Nevada Energy Investment LLC.
Description: Newmont Nevada Energy Investment LLC submits FERC Electric Tariff Original Volume No.1 under.
Filed Date: May 30, 2006.
Accession Number: 20060601–0105.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 20, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9084 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

June 2, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to Change Transmission Line Route.

b. *Project No.:* 12451–004.

c. *Date Filed:* April 24, 2006.

d. *Applicant:* SAF Hydroelectric, LLC.

e. *Name of Project:* Lower St. Anthony Falls Project.

f. *Location:* The project is located on the Mississippi River, in Hennepin County, Minnesota.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Douglas A. Spaulding, Spaulding Consultants, 1433 Utica Avenue South, Suite 162, Minneapolis, MN 55416, Phone: (952) 544–8133.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Robert Bell at (202) 502–6062.

j. *Deadline for filing comments and or motions:* July 3, 2006.

k. *Description of Request:* SAF Hydroelectric, LLC (SAF) filed an amendment request for its license to change the project's transmission line route. SAF says it no longer plans to construct the 1,030-foot-long underground primary transmission line that is authorized by the license. Instead, it proposes to install a 13.8–kV transmission line consisting of a 75-foot buried line originating at the project's control building and connecting to an existing power pole located in the Corp's service yard. From there, the line would extend to the Elliott Park Substation on existing Northern States' transmission poles with pole ''extenders'' attaching three new lines on top of the poles. SAF is not proposing any changes to the project operation.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. Information about this filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web

site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9088 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

June 2, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to Increase the Authorized Generating Capacity.

b. *Project No:* 5–080.

c. *Date Filed:* May 2, 2006.

d. *Applicant:* PPL Montana, LLC/Confederated Salish and Kootenai Tribes of the Flathead Nation.

e. *Name of Project:* Kerr Hydroelectric Project.

f. *Location:* The project is located on the Flathead River in Flathead and Lake Counties, Montana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

h. *Applicant Contact:* David R. Poe/Robert M. Lamkin, LeBoeuf, Lamb, Greene and MacRae, L.L.P., 1875 Connecticut Avenue, NW., Suite 1200, Washington, DC 20009–5728, Tel.: 202–986–8000, Fax: 202–986–8102, e-mail: *dpoe@llgm.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Hong Tung at (202) 502–8757, or e-mail address: *hong.tung@ferc.gov.*

j. *Deadline for filing comments and or motions:* June 30, 2006.

k. *Description of Request:* The licensees propose to replace the Unit No. 3 turbine with a new more efficient stainless steel turbine. The replacement of the turbine would increase the project's total generating capacity by approximately 13.875 MW to 188.25 MW, or 8%; and the project's total turbine hydraulic capacity by 610 cfs to 12,880 cfs, or 5%.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9089 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

June 6, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12673–000.

c. *Date filed:* May 16, 2006.

d. *Applicant:* NT Hydro.

e. *Name of Project:* Sworinger Reservoir Pumped Storage Project.

f. *Location:* The project would be located on the Sworinger Reservoir and Lower Reservoir, in Modoc and Lassen Counties, California and Washoe County, Nevada. The penstock and transmission line will occupy federal lands managed by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Nicholas E. Josten, NT Hydro, 2742 Saint Charles Ave, Idaho Falls, ID 83404, Phone (208) 528–6152.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) The existing 900-foot-long, 30-foot-high rock filled Sworinger Dam, (2) the existing Sworinger reservoir to be used as the project's upper reservoir having a surface area of 2,000 acres with a storage capacity of 27,000 acre-feet and a

normal water surface elevation of 5,870 feet mean sea level (msl), (3) the existing Lower Lake which is a natural lake having a surface area 9,000 acres with a storage capacity of 185,000 acre-feet, (4) a proposed 3,700-foot-long steel pipe lined tunnel, (5) two proposed 16,800-foot-long, 9-foot-diameter steel penstocks, (6) a proposed powerhouse containing two generating units having a total installed capacity of 182-megawatts, (7) a proposed 25-mile-long, 345 kilovolt transmission line; and (6) appurtenant facilities. The project would have an annual generation of 664.3-gigawatt hours, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''COMPETING APPLICATION'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9098 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

June 6, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2210–136.

c. *Date filed:* May 23, 2006.

d. *Applicant:* Appalachian Power Company.

e. *Name of Project:* Smith Mountain Pumped Storage Project.

f. *Location:* The project is located on the Roanoke River, in Bedford, Pittsylvania, Franklin, and Roanoke Counties, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) and 799 and 801.

h. *Applicant Contact:* Teresa P. Rogers, Hydro Generation Department, Appalachian Power, P.O. Box 2021, Roanoke, VA 24022–2121, (540) 985–2441.

i. *FERC Contact:* Rebecca Martin at 202–502–6012, or e-mail Rebecca.martin@ferc.gov.

j. *Deadline for filing comments and or motions:* July 7, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426.

Please include the project number (P–2210–136) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Application:* The licensee requests a variance for the construction of two single family docks in the Waterfront subdivision located in Franklin County, Virginia. The proposed structures would be located adjacent to shoreline classified as Conservation/Environmental according to the Shoreline Management Plan for the Project. In addition, the two docks would exceed the one-third cove limitation rule and setbacks. The docks would include a maximum 6-foot walkway to a 20 foot by 4 foot stationary deck that adjoins a 24 foot by 12 foot open sided boat slip and an 8 foot by 24 foot floater. A 32 foot by 14 foot roof, 15 foot high roof would cover a portion of the stationary structure, the boat slip in its entirety, and a portion of the floating structure.

l. *Location of Application:* The filing is available for review at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online support at FERCOnlineSupport@ferc.gov or toll free (866) 208–3676 or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9099 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Temporary Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

June 6, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request for an amendment of license to delete an island from the project boundary.

b. *Project No.:* 405–069.

c. *Date Filed:* May 15, 2006.

d. *Applicant:* PECO Energy Power Company and Susquehanna Power Company.

e. *Name of Project:* Conowingo.

f. *Location:* The project is located on the Susquehanna River in Harford and Cecil Counties in Maryland, and Lancaster and York Counties in Pennsylvania.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r

h. *Applicant Contact:* Mr. Brian J. McManus, Jones Day, 51 Louisiana Avenue, NW., Washington, DC 20001, Tel: (202) 879–3939 with copies of all correspondence and communications to:

Mr. H. Alfred Ryan, Assistant General Counsel, Excelon Business Services Co., 231 Market Street, PA 19103, (215) 841–6855; and

Ms. A. Karen Hill, Vice President Federal Regulatory Affairs, Excelon Business Services Co., 101 Constitution Avenue, Washington, DC 20001, (202) 347–8092.

i. *FERC Contact:* Any questions on this notice should be addressed to Vedula Sarma (202) 502–6190, or *vedula.sarma@ferc.gov*.

j. *Deadline for filing motions to intervene, protests, comments:* July 7, 2006.

k. *Description of Proposed Action:* PECO Energy Power Company and Susquehanna Power Company, licensees for the Conowingo Project, seek authorization to convey approximately 79 acres of project lands, known as Roberts Island, by donation to The Conservancy Fund, a non-profit corporation dedicated to environment and natural resource protection.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments,

protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9100 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD06–8–000]

Discussions With Utility and Railroad Representatives on Market and Reliability Matters; Second Notice and Program for the Discussions

June 6, 2006.

As announced on May 30, 2006, the Federal Energy Regulatory Commission (FERC) will meet with utility and railroad representatives to discuss railroad coal-delivery matters and their impact on markets and electric reliability. The meeting is scheduled for June 15, 2006, in the Commission Meeting Room (Room 2C) at 888 First Street NE., Washington, DC 20426 at or around 1 p.m. (EDT) and will conclude in mid-afternoon. (The starting time may be delayed by the Open Commission Meeting taking place that morning.)

The purpose of the meeting is to examine concerns raised by certain electric utility associations with respect to coal inventories at power stations and rail coal deliveries to their member companies. These claims raise serious questions about the adequacy of electricity supply in certain regions of the country as we enter the summer months. These discussions are intended to assist the Commission in understanding better the jurisdictional implications, if any, of this issue. This meeting was requested in two letters recently sent to the Commission by American Public Power Association, National Rural Electric Cooperative Association, Edison Electric Institute, and Electric Power Supply Association. The letters and a response by the Association of American Railroads can be found in eLibrary at *http://www.ferc.gov* under Docket No. AD06–8–000.

Following is the program for the discussions:

1—Welcome by Chairman Joseph Kelliher.

1:10—Presentations by the Electric Utilities.

- Glenn English, Chief Executive Officer, National Rural Electric Cooperative Association.
- Alan H. Richardson, President and Chief Executive Officer, American Public Power Association.
- William Mohl, Vice President, Commercial Operations, Entergy (on behalf of Edison Electric Institute).
- John E. Shelk, President and Chief Executive Officer, Electric Power Supply Association.

1:40—Presentations by the Railroad Companies.

- Edward R. Hamberger, President and Chief Executive Officer, Association of American Railroads.
- Carl R. Ice, Executive Vice President and Chief Operating Officer, Burlington Northern Santa Fe Corporation.
- Chris Jenkins, Senior Vice President, Coal Service Group, CSX Transportation.

2:10—Questions and discussion.

3—Closing remarks.

All interested persons are invited to attend. There is no pre-registration and there is no fee to attend this meeting.

A free webcast of this event is available through *http://www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *http://www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the webcasts and offers access to the meeting via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at 703–993–3100.

As mentioned in the May 30 Notice, a transcript of the meeting will be available immediately for a fee from Ace Reporting Company (202–347–3700 or 1–800–336–6646). It will be available for free on the Commission's eLibrary system and on the events calendar approximately one week after the meeting.

FERC conferences and meetings are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

Questions about the meeting should be directed to Saida Shaalan at *Saida.Shaalan@ferc.gov* or 202–502–8278.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9107 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at Meetings of Southwest Power Pool Board of Directors/Members Committee and Southwest Power Pool Regional State Committee

June 6, 2006.

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool (SPP) Board of Directors/Members Committee and Regional State Committee noted below. Their attendance is part of the Commission's ongoing outreach efforts.

SPP Board of Directors/Members Committee—June 12–13, 2006 (June 12: 5:30 p.m.–8 p.m. CDT; June 13: 8 a.m.–5 p.m. CDT). SPP Offices, Plaza West Bldg., 415 N. McKinley, Suite 140, Little Rock, AR 72205. 501–614–3200.

July 25, 2006 (8:30 a.m.–3 p.m. CDT). Embassy Suites Hotel/Kansas City Plaza, 220 West 43rd Street, Kansas City, MO 64111. 816–756–1720.

SPP Regional State Committee—July 24, 2006 (1 p.m.–5 p.m. CDT). Embassy Suites Hotel/Kansas City Plaza, 220 West 43rd Street, Kansas City, MO 64111. 816–756–1720.

The discussions may address matters at issue in the following proceedings:

Docket Nos. RT04–1 and ER04–48, *Southwest Power Pool, Inc.*

Docket No. ER05–109, *Southwest Power Pool, Inc.*

Docket No. ER05–652, *Southwest Power Pool, Inc.*

Docket No. ER05–799, *Southwest Power Pool, Inc.*

Docket No. ER05–1065, *Entergy Services, Inc.*

Docket No. ER05–1285, *Southwest Power Pool, Inc.*

Docket No. ER05–1352, *Southwest Power Pool, Inc.*

Docket No. ER05–1416, *Southwest Power Pool, Inc.*

Docket No. ER06–15, *Southwest Power Pool, Inc.*

Docket No. ER06–432, *Southwest Power Pool, Inc.*

Docket No. ER06–448, *Southwest Power Pool, Inc.*

Docket No. ER06–451, *Southwest Power Pool, Inc.*

Docket No. ER06–641, *Southwest Power Pool, Inc.*

Docket No. ER06–727, *Southwest Power Pool, Inc.*

Docket No. ER06–729, *Southwest Power Pool, Inc.*

Docket No. ER06–767, *Southwest Power Pool, Inc.*

The meeting is open to the public. For more information, contact Tony Ingram, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission at (501) 614–4789 or *tony.ingram@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9097 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC06–125–000]

KeySpan Corporation; Errata

June 2, 2006.

On June 1, 2006, the Commission issued a notice of filing in the above-referenced proceeding. *Combined Notice of Filings #1,* June 1, 2006. This Errata corrects the comment date of June 15, 2006 to read: ''July 21, 2006''.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9086 Filed 6–9–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2006–0384; FRL–8183–4]

Human Studies Review Board; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On June 6, 2006 (71 FR 32536), the U.S. Environmental Protection Agency's (EPA or Agency) Office of the Science Advisor (OSA) announced a public meeting of the Human Studies Review Board (HSRB) to be held June 28–30, 2006 from 8:30 a.m. to approximately 5 p.m., Eastern Time. Please be advised that the Board will also be meeting on June 27, 2006, beginning at 1 p.m. to approximately 5 p.m., Eastern Time. For further information contact Paul I. Lewis, Designated Federal Officer (DFO), EPA, Office of the Science Advisor, (8105), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8381; fax: (202) 564 2070; e-mail addresses: *lewis.paul@epa.gov*.

Dated: June 6, 2006.

George Gray,

EPA Science Advisor.

[FR Doc. E6–9082 Filed 6–9–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8182–7]

Public Workshop To Consider a Report Entitled ''Review of the Process for Setting National Ambient Air Quality Standards'' and Related Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of public workshop.

SUMMARY: The EPA is announcing a public workshop to be held to elicit public input and discussion on the process the Agency uses to conduct periodic reviews of national ambient air quality standards (NAAQS), as discussed in a recent report prepared by an Agency workgroup entitled ''Review of the Process for Setting National Ambient Air Quality Standards.'' This workshop is not intended to cover issues related to the ongoing review of any specific NAAQS.

DATED: The public workshop will be held the afternoon of June 27, 2006. Please refer to **SUPPLEMENTARY INFORMATION** below for additional information on the workshop.

ADDRESSES: The workshop will be held at the following location: U.S. Environmental Protection Agency, 109 T. W. Alexander Drive, Auditorium C111A, Research Triangle Park, North Carolina 27709.

Written comments on the NAAQS review process may also be submitted to EPA electronically, by mail, by facsimile, or through hand delivery/courier. Written comments should be sent to Ms. Lydia Wegman, (C504–02), U.S. EPA, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division, Research Triangle Park, NC 27711, e-mail at *wegman.lydia@epa.gov*; or Dr. Kevin Teichman, U.S. EPA, Office of Research and Development, Office of Science Policy (8104R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, e-mail at *teichman.kevin@epa.gov*.

Relevant documents (including the workgroup report, ''Review of the Process for Setting National Ambient Air Quality Standards,'' prepared by EPA's NAAQS Process Review Workgroup, March 2006, and the associated Executive Summary, Attachments and Transmittal Memorandum) can be obtained from EPA's Web site at *http://www.epa.gov/ttn/naaqs/*.

FOR FURTHER INFORMATION CONTACT: If you would like to speak at the public workshop or have questions concerning the public workshop, please contact Ms. Tricia Crabtree at the address given below under **SUPPLEMENTARY INFORMATION** no later than June 20, 2006. Questions concerning the ''Review of the Process for Setting National Ambient Air Quality Standards'' report should be addressed to Mr. Robert Fegley, U.S. EPA, Office of Research and Development, Office of Science Policy (8104R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone number (202) 564–6786, e-mail at *fegley.robert@epa.gov*.

SUPPLEMENTARY INFORMATION: In the workgroup report cited above, EPA staff responded to a request from Deputy Administrator Marcus Peacock to examine the process the Agency uses to

periodically review national ambient air quality standards (NAAQS), as required by the Clean Air Act. This review of the NAAQS process was aimed at examining whether and, if so, how the process can be further strengthened and at identifying ways of streamlining the process so that EPA can achieve more timely NAAQS reviews. The recommendations in the workgroup report were endorsed by Mr. William Wehrum (Acting Assistant Administrator for Air and Radiation) and Dr. George Gray (Assistant Administrator for Research and Development) in a memorandum transmitting the workgroup report and their additional recommendations to Deputy Administrator Peacock on April 3, 2006.

With the support of the Deputy Administrator, EPA is seeking additional input from the public and from the Clean Air Scientific Advisory Committee (CASAC), that provides advice to the Administrator on NAAQS-related matters, on various components of these recommendations, even as the Agency is now taking actions to begin implementing a number of basic structural workgroup recommendations in upcoming NAAQS review activities. The public workshop will provide interested parties the opportunity to present their views concerning issues related to the Agency's NAAQS review process, as well as to engage in a dialogue with the Agency on such issues. To help inform and focus public comment and discussion at the workshop, the Agency has prepared background information and discussion questions that are presented in an appendix to this notice.

Please note that this workshop is not intended to cover issues related to any specific criteria air pollutant or NAAQS. Written comments and supporting information submitted to the Agency by June 23, 2006 will be made available by the Agency to attendees at the workshop.

The public workshop will be held in Research Triangle Park, North Carolina. It will begin at 1 p.m. Eastern Daylight Time and continue until 5 p.m. If you would like to give a presentation at the workshop, please notify Ms. Tricia Crabtree, (C504–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, *crabtree.tricia@epa.gov*, (919) 541–5688, by June 20, 2006. She will arrange a time slot for you to speak.

The time allotted for each oral presentation may be limited depending on the number of individuals who wish to speak. By June 23, 2006, EPA will contact individuals who have requested an opportunity to make a presentation at the workshop to inform them how much time they will be allotted. All presenters will be allotted an equivalent amount of time on the agenda. We will not be providing equipment for presenters to show overhead slides or make computerized slide presentations unless we receive special requests in advance. Presenters should notify Ms. Tricia Crabtree if they will need specific equipment no later than June 23, 2006. The EPA encourages presenters to provide written versions of their comments either electronically on computer disk or CD–ROM or in paper copy. The workshop agenda, including the list of speakers, will be posted on EPA's Web page at *http://www.epa.gov/ttn/naaqs/* prior to the workshop.

Finally, EPA will shortly announce a meeting of the Clean Air Scientific Advisory Committee (CASAC) on the afternoon of June 29, 2006, also in Research Triangle Park, North Carolina. That public meeting will also focus on the NAAQS review process.

Dated: June 6, 2006.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

Appendix 1: Background Information and Discussion Questions

The following background information and discussion questions are organized around the recommended structure for the NAAQS review process. That structure encompasses four activities: planning, science assessment, risk/exposure assessment, and policy assessment/rulemaking. Each of these sections is followed by a short set of questions designed to facilitate the discussion at the public workshop. As discussed below, the basic structural changes that the Agency is starting to incorporate into NAAQS reviews include combining separate planning activities into one integrated plan that focuses on policy-relevant issues; restructuring the Air Quality Criteria Document into a more concise science assessment document; preparing more concise risk/exposure assessment documents with an enhanced focus on characterizing uncertainties; and, to the extent that these changes are implemented, replacing the Staff Paper as currently structured with a more narrowly-focused policy assessment document.

NAAQS Review Plan: As recommended in the workgroup report, the Agency plans to combine the current separate planning activities into the preparation of one integrated planning document that focuses the science, risk/exposure, and policy assessments on a set of policy-relevant issues, reflecting significant uncertainties and gaps in knowledge identified at the end of the last review. This plan would include criteria for identifying key policy-relevant studies and for assessing the weight of the evidence for important scientific issues. This plan would also include a schedule for the review that maximizes the amount of time allotted to the science and risk/exposure assessments; that more closely links these assessments through a more coordinated, consultative process; that minimizes the time between the completion of these assessments and reaching proposed decisions on the NAAQS; and that allows for provisional assessment of ''new'' science, if necessary, during the rulemaking process. The preparation of such an integrated, policy-relevant plan would provide an opportunity for early involvement of EPA senior management, CASAC and/or outside parties in framing policy-relevant issues.

- What key issues can and should be addressed in a NAAQS review plan, recognizing that this plan will be developed at the beginning of the review process?
- What are your views on the role of the public and CASAC in providing input and/or review of such plans?

Science Assessment: As recommended in the workgroup report, the Agency plans to restructure the Air Quality Criteria Document into a science assessment document that is a more concise evaluation, integration, and synthesis of the most policy-relevant science (with comprehensive annexes that include more detailed descriptive information), and to include key science judgments that are integral to the risk/exposure assessments. This document should include a presentation of the synthesis of policy-relevant science not only for a scientific audience, but also in language that will be understood and meaningful to policy makers, perhaps in the form of a ''plain-English'' executive summary.

- What types of scientific judgments are integral to conducting risk/exposure assessments and to what extent do you think those judgments are best made in the science assessment?
- What are your views on the projected timeline for developing the risk/exposure assessment methodologies concurrent with the preparation of the first draft science assessment, and for conducting the first phase risk/exposure assessment (projecting risk/exposure associated with recent air quality and with ''just attaining'' the current standards) concurrent with the preparation of the second draft science assessment?

The workgroup report recommended the development and implementation of a continuous process to identify, compile, characterize, and prioritize new scientific studies with the assistance of state-of-the-art electronic databases. The Agency recognizes that the development of such a system is complex and potentially resource-intensive, and believes that additional time is needed to explore various approaches, options, and resource requirements for its development. Further, the Agency has concluded that consideration of the extent to which such a system would facilitate a survey of ''new'' science during the NAAQS rulemaking and/or preparation of more frequent periodic updates should be done in conjunction with efforts to develop such a system.

- What are your views on how best to provide for a more continuous process of identifying, compiling, characterizing, and prioritizing new scientific studies that does

not begin and end with the preparation of each science assessment done as part of periodic NAAQS reviews?

• To what extent would it be practical and/or useful for such a continuous process to have a multi-pollutant focus rather than focusing on each pollutant separately?

• Can you suggest any examples that the Agency might consider in designing and implementing such a process?

• When and how could assessment of ''new'' science appropriately be performed and used during the NAAQS rulemaking process?

Risk/Exposure Assessment: As recommended in the workgroup report, the Agency plans to develop a more concise risk/exposure assessment document focused on key results, observations, and uncertainties (similar to the risk/exposure chapter(s) that are now included in Staff Papers). This document would be supported with comprehensive annexes that include all relevant background information, assumptions, results, and assessments of variability and uncertainty to ensure the transparency of the assessment (similar to the information now included in contractor technical support documents currently reviewed by the CASAC and public). The Agency plans to work with the Science Advisory Board Staff Office to consider the formation of a CASAC subcommittee on risk/exposure assessments, when appropriate, to provide more focused feedback and advice on planning these assessments, including input on the methodology used and the characterization of uncertainties.

• What are your views on CASAC's role in providing more focused feedback and advice on the risk/exposure assessments?

Policy Assessment/Rulemaking: As recommended in the workgroup report, the Agency plans to replace the Staff Paper as currently structured with a more narrowly focused policy assessment document to the extent that the changes discussed above are adopted and effectively implemented. This document would be based on the information contained in the science and risk/exposure assessments, and would also include the results of policy-relevant air quality analyses. This document would focus on identification of a set of evidence- and risk-based approaches for reaching policy judgments; consideration of the adequacy of the current standards and whether alternative standards should be assessed for consideration; and identification of a range of options for alternative standards (in terms of indicators, averaging times, forms, and ranges of levels) that might be considered by the Administrator in making policy choices.

• What steps can be taken to ensure that the roles previously played by the Staff Paper are effectively addressed in the science assessment, risk/exposure assessment, and the policy assessment?

• What are your views on whether and how your ability to comment on the policy assessment would be affected by having an opportunity to review just one draft of the policy assessment, as envisioned in the recommended timeline?

In their transmittal memorandum, Mr. Wehrum and Dr. Gray have additionally concluded that it is appropriate for the final policy assessment to reflect the Agency's views, consistent with EPA practice in other rulemakings. They also recommended that further consideration be given to publishing the policy assessment through an advance notice of proposed rulemaking (ANPR) that solicits review and comment from CASAC and the public. Comments received on an ANPR would be taken into consideration in developing the proposal notice, although unlike the process of preparing both a draft and final assessment document that addresses such comments prior to the preparation of a proposal notice, the use of an ANPR may eliminate the preparation of a ''final'' policy assessment.

• To what extent, if at all, do you think that it would affect your comments if the draft and/or final policy assessment reflects Agency rather than staff views?

• To what extent, if at all, do you think it would affect your opportunity to provide comments if the policy assessment were to be published in conjunction with an advance notice of proposed rulemaking rather than in the form of both a draft and final assessment document?

Finally, the following questions concern more general issues regarding the NAAQS review process:

• The generic NAAQS review timeline presented in the workgroup report is intended to maximize the time allotted to conducting the science and risk/exposure assessments within a 5-year review cycle, and to reach proposed decisions as close in time to the completion of the science and risk/exposure assessments as possible. As a general matter, what are your views on these goals?

• To what extent do you feel that the relative amount of time allotted to each activity in the generic timeline, and the degree to which certain activities are projected to be done concurrently, is appropriate?

• To what extent do you believe that the recommended generic timeline provides adequate and appropriate opportunities for CASAC and the public to participate in the NAAQS review process?

[FR Doc. E6–9043 Filed 6–9–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8182–8]

Public Water System Supervision Program Revisions for the State of Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Ohio is revising its approved Public Water System Supervision Program. Ohio has revised its definition of a Public Water System, Consumer Confidence Report Rule, Public Notification Rule, Interim Enhanced Surface Water Treatment Rule; and Stage 1 Disinfectants and Disinfection Byproducts Rule.

EPA has determined that these revisions by the State are no less stringent than the corresponding Federal regulations. Therefore, EPA intends to approve these revisions to the State of Ohio's Public Water System Supervision Program.

Any interested party may request a public hearing. A request for a public hearing must be submitted by July 12, 2006, to the Regional Administrator at the EPA Region 5 address shown below. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. However, if a substantial request for a public hearing is made by July 12, 2006, EPA Region 5 will hold a public hearing. If EPA Region 5 does not receive a timely and appropriate request for a hearing and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on July 12, 2006. Any request for a public hearing shall include the following information: The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection at the following offices: Ohio Environmental Protection Agency, Division of Drinking and Ground Waters, 122 South Front Street, Columbus, Ohio 43215, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday, and the United States Environmental Protection Agency, Region 5, Ground Water and Drinking Water Branch (WG–15J), 77 West Jackson Boulevard, Chicago, Illinois 60604, between the hours of 9 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Alicia Brown, EPA Region 5, Ground Water and Drinking Water Branch, at the address given above, by telephone at (312) 886–4443, or at *brown.alicia@epa.gov*.

Authority: Section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 3006–2 (1996), and 40 CFR part 142 of the

National Primary Drinking Water Regulations.

Dated: May 25, 2006.

Norman Niedergang,

Acting Regional Administrator, Region 5.

[FR Doc. E6–9080 Filed 6–9–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE BOARD

Correction; Sunshine Act Meeting Notice; Announcing a Partially Open Meeting of the Board of Directors

TIME AND DATE: The open meeting of the Board of Directors is scheduled to begin at 10 am on Wednesday, June 14, 2006. The closed portion of the meeting will follow immediately the open portion of the meeting.

PLACE: Board Room, First Floor, Federal Housing Finance Board, 1625 Eye Street, NW., Washington DC 20006.

STATUS: The first portion of the meeting will be open to the public. The final portion of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN PORTION: *Financing Corporation 2006 Supplemental Budget Request.* Consideration of the Financing Corporation (FICO) request to increase its 2006 budget to cover unanticipated legal expenses.

Data Reporting Reorganization. Consideration of a final rule that would move certain data reporting requirements from regulation to the Data Reporting Manual.

MATTER TO BE CONSIDERED AT THE CLOSED PORTION: *Periodic Update of Examination Program Development and Supervisory Findings.*

CONTACT PERSON FOR MORE INFORMATION: Shelia Willis, Paralegal Specialist, Office of General Counsel, at 202–408–2876 or *williss@fhfb.gov.*

Dated: June 7, 2006.

By the Federal Housing Finance Board.

John P. Kennedy,

General Counsel.

[FR Doc. 06–5318 Filed 6–8–06; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Agency information collection activities: Announcement of Board approval under delegated authority and submission to OMB

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: Background.

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer Michelle Long—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

OMB Desk Officer Mark Menchik—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, or e-mail to mmenchik@omb.eop.gov.

Final approval under OMB delegated authority of the extension for three years, without revision of the following reports:

1. Report title: Senior Loan Officer Opinion Survey on Bank Lending Practices.

Agency form number: FR 2018.

OMB control number: 7100–0058.

Frequency: Up to six times a year.

Reporters: Large U.S. commercial banks and large U.S. branches and agencies of foreign banks.

Annual reporting hours: 1,008 hours.

Estimated average hours per response: 2 hours.

Number of respondents: 84.

General description of report: This information collection is voluntary (12 U.S.C. §§ 248(a), 324, 335, 3101, 3102, and 3105) and is given confidential treatment (5 U.S.C. § 552 (b)(4)).

Abstract: The FR 2018 is conducted with a senior loan officer at each respondent bank, generally through a telephone interview. The purpose of the survey is to provide qualitative information with respect to current price and flow developments and evolving techniques and practices in the U.S. loan markets. Consequently, a significant portion of the questions in each survey consists of unique questions on topics of timely interest. The respondents' answers provide crucial information for monitoring and understanding the evolution of lending practices at banks and developments in credit markets.

2. Report title: Senior Financial Officer Survey.

Agency form number: FR 2023.

OMB control number: 7100–0223.

Frequency: Up to four times a year.

Reporters: Commercial banks, other depository institutions, corporations or large money–stock holders.

Annual reporting hours: 232 hours.

Estimated average hours per response: 1 hour.

Number of respondents: 58.

General description of report: This information collection is voluntary (U.S.C. §§ 225a, 248(a), and 263); confidentiality will be determined on a case–by–case basis.

Abstract: The 2023 requests qualitative and limited quantitative information about liability management, the provision of financial services, and the functioning of key financial markets from a selection of up to sixty large commercial banks (or, if appropriate, from other depository institutions or major financial market participants). Responses are obtained from a senior officer at each participating institution through a telephone interview conducted by Reserve Bank or Board staff. The survey does not have a fixed set of questions; each survey consists of a limited number of questions directed at topics of timely interest.

Final approval under OMB delegated authority of the extension for three years, with revision of the following reports:

1. Report titles: Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans and Quarterly Report of Credit Card Plans.

Agency form numbers: FR 2835 and FR 2835a.

OMB control number: 7100–0085.

Frequency: Quarterly.

Reporters: Commercial banks.

Annual reporting hours: FR 2835: 132 hours; and FR 2835a: 100 hours.

Estimated average hours per response: FR 2835: 13 minutes; and FR 2835a: 30 minutes

Number of respondents: FR 2835: 150; and FR 2835a: 50.

General description of report: These information collections are voluntary (12 U.S.C. 248(a)(2)). The FR 2835a individual respondent data are given confidential treatment.

Abstract: The FR 2835 collects information from a sample of commercial banks on interest rates charged on loans for new vehicles and loans for other consumer goods and personal expenses. The FR 2835a

collects information on two measures of credit card interest rates from a sample of commercial banks with $1 billion or more in credit card receivables and a representative of smaller issuers.

Current Actions: The Federal Reserve will add a new data item, New automobiles (60–month), to the FR 2835. This item will collect the most common interest rate on 60–month loans for new automobiles. The Federal Reserve will also decrease the authorized sample size for the FR 2835a from 80 to 50 commercial banks.

The Federal Reserve received one general comment letter from a federal agency. The commenter described its use of the data to prepare monthly, quarterly, and annual estimates of personal interest payments, a component of personal outlays in the national income and product accounts. The revisions will be implemented as originally proposed.

Board of Governors of the Federal Reserve System, June 7, 2006.

Jennifer J. Johnson

Secretary of the Board.

[FR Doc. E6–9075 Filed 6–9–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 7, 2006.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. First Community Financial Partners, Inc., Joliet, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First Community Bank of Joliet, Joliet, Illinois.

In connection with this application, Applicant also has applied to engage *de novo* in lending activities, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, June 7, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–9069 Filed 6–9–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of May 10, 2006

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on May 10, 2006.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with increasing the federal funds rate to an average of around 5 percent.

The vote encompassed approval of the paragraph below for inclusion in the statement to be released shortly after the meeting:

''The Committee judges that some further policy firming may be needed to keep the risks to the attainment of both sustainable economic growth and price stability roughly in balance. In any event, the Committee will respond to changes in economic prospects as needed to foster these objectives.''

By order of the Federal Open Market Committee, June 2, 2006.

Vincent R. Reinhart,

Secretary, Federal Open Market Committee.

[FR Doc. E6–9047 Filed 6–9–06; 8:45 am]

BILLING CODE 6210–01–P

[1] Copies of the Minutes of the Federal Open Market Committee Meeting on May 10, 2006, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Cooperative Agreement With Morehouse School of Medicine

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

ACTION: Notice.

Funding Title: Cooperative Agreement with Morehouse School of Medicine.

Announcement Type: Initial Announcement.

Catalog of Federal Domestic Assistance Number: 93.004.

DATES: July 1, 2006.

SUMMARY: This announcement is made by the United States Department of Health and Human Services (HHS or Department), Office of Minority Health (OMH) located within the Office of Public Health and Science (OPHS), and working in a ''One-Department'' approach collaboratively with participating HHS agencies and programs (entities). The mission of the OMH is to improve the health of racial and ethnic minority populations through the development of policies and programs that address disparities and gaps. OMH serves as the focal point in the HHS for leadership, policy development and coordination, service demonstrations, information exchange, coalition and partnership building, and relation efforts to address the health need of racial and ethnic minorities. This announcement supports the Healthy People 2010 overarching goal to eliminate health disparities.

As part of a continuing HHS effort to improve the health and well being of racial and ethnic minorities, the Department announces a sole source umbrella cooperative agreement award to the Morehouse School of Medicine.

SUPPLEMENTARY INFORMATION:

Authority: This program is authorized under 42 U.S.C. 300 u–6, section 1707 of the Public Health Service Act, as amended.

1. *Recipient:* Morehouse School of Medicine.

2. *Purpose of the Award:* To strengthen the nation's capacity to prepare health professionals to serve minority populations and to address the elimination of racial/ethnic health disparities. The ultimate goal is to improve the health status of minorities and disadvantaged people and increase the diversity of the health-related workforce.

3. *Amount of Award:* $400,000 for the initial project.

4. *Project Period:* Umbrella Cooperative Agreement: 4 years (July 1, 2006–June 30, 2010); Project: 1 year (July 1, 2006–June 30, 2007).

5. *Justification:* Morehouse School of Medicine (MSM) is a historically black institution established to recruit and train minority and other students as physicians, biomedical scientists, and public health professionals committed to the primary healthcare needs of the underserved.

—MSM has the only legislatively mandated National Center for Primary Care in the United States. MSM, through its National Center for Primary Care, conducts training programs, quality improvement programs, and real-world practice-based research in partnership with approximately 150 community and migrant health centers in eight Southeastern states.

—MSM maintains the leading faculty development program in the nation for preparing African American faculty for U.S. medical schools and primary care residency training programs.

—MSM established an infrastructure throughout the South to address the impact of natural disasters in minority communities. In FY 2005, MSM received $5 million in HHS support to develop a strategic response infrastructure between Centers of Excellence in Partnerships for Community Outreach, Research on Health Disparities and Training (EXPORT Centers), community health centers, and primary care practices. In addition, MSM has also exemplified leadership in addressing mental health needs via telemedicine and has created electronic health records for patients affected by recent hurricanes.

—The nation currently faces a shortage of primary care physicians, with more physicians approaching retirement and fewer graduating medical students entering into primary care. A collaboration with MSM, which is the leading school in the nation for graduates remaining in primary care practices, will help increase the number of students entering into primary care.

—Eighty-four percent of MSM M.D. graduates practice in medically underserved areas.

6. *MSM Responsibilities and Activities:* MSM will focus on enhancing faculty and leadership development through cultivating diverse research investigators. MSM will also develop a non-traditional pipeline approach involving a network of academic/community partnerships to guide students from underserved communities into careers in the health professions, focusing on the mission of eliminating health disparities. As the recipient of an umbrella cooperative agreement, it is expected that MSM will also implement and manage additional projects that will assist in fostering partnerships with the nation's minority-serving health professions schools to: support faculty in residency programs, meet the challenges of providing academic opportunity for disadvantaged students, and improve health care services in underserved communities.

Sample activities can include:

Conducting workshops for faculty from other minority-serving health professions schools;

Increasing the number of faculty researchers from minority-serving health professions schools participating in collaborative research on health disparities or data re-use agreements;

Engaging junior or mid-career faculty in career development/scholarly support, including mentoring and technical assistance;

Working with academic institutions, community-based practitioners, and health centers to create feeder programs by which students participate in health professional career paths at the local level and are then placed in summer programs at the medical school; and Building partnerships between community-based organizations, local school districts, and health professions schools so that the programs of each entity create a continuum of experiences for students interested in pursuing health careers.

In addition, anticipated project results are to be consistent with the overall Program purpose. Project results should fall within the following general categories:

Recruiting and training health professionals to serve underserved and minority communities.

Increasing knowledge and awareness of minority health care issues.

Increasing access.

Changing behavior and utilization.

Mobilizing communities, coalitions, and networks.

Policy Research.

7. *OMH Expectations:* It is intended that the Umbrella Cooperative Agreement with Morehouse School of Medicine will ultimately result in:

Increased interest of youth from underserved communities in pursuing careers in the health arena.

Increased number of individuals from underserved communities recruited and trained for careers in health fields.

Increased number of faculty researchers who can influence the national conversation on health disparities and become leaders in academic scholarship.

It is intended that the initial, one-year project will result in:

Identification of partners and development of specific elements that will contribute towards the development and cultivation of diverse research investigator scholars who can influence the national conversation on health disparities and become leaders in academic scholarship.

Identification of partners and development of specific elements for developing and cultivating networks to feed the pipeline of students entering the health professions to serve minority populations and address health disparities.

8. *OMH Responsibilities and Activities:* At a minimum, substantial federal programmatic involvement will include the following:

Participation in the design and direction of the activities.

Review and approval of each stage of a project prior to beginning a subsequent stage.

Approval of evaluation plans/tools.

Evaluation of progress through ongoing communication, reports, site visits, etc.

9. *Name and address of awarding office official to be contacted for further information:* For questions related to the Cooperative Agreement with Morehouse School of Medicine, contact Ms. Cynthia Amis, Director, Division of Program Operations, Office of Minority Health, Tower Building, Suite 600, 1101 Wootton Parkway, Rockville, MD 20852. Ms. Amis can be reached by telephone at (240) 453–8444.

Dated: May 31, 2006.

Garth N. Graham,

Deputy Assistant Secretary for Minority Health.

[FR Doc. E6–9036 Filed 6–9–06; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Support and Capacity Building for an Expansion of the Medical Reserve Corps and a Demonstration of the Public Health Service Auxiliary

AGENCY: Medical Reserve Corps (MRC) Program, Office of Force Readiness and Deployment, Office of the Surgeon General, Office of Public Health and Science, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

Announcement Type: Urgent Single-eligibility Cooperative Agreement.

Catalog of Federal Domestic Assistance Number: 93.008.

DATES: Application Availability Date: June 12, 2006. Application Deadline: July 12, 2006.

SUMMARY: This announcement is made by the United States Department of Health and Human Services (HHS or Department), Medical Reserve Corps (MRC) program, located within the Office of the Secretary, Office of Public Health and Science (OPHS), Office of the Surgeon General (OSG), Office of Force Readiness and Deployment (OFRD).

Background Information: During his January 2002 State of the Union address, President George W. Bush called on all Americans to dedicate at least two years—the equivalent of 4,000 hours of their time—to provide volunteer service to others. To help every American answer the call to service, the President created the USA Freedom Corps, and charged it with strengthening and expanding service opportunities for volunteers to protect our homeland, to support our communities, and to extend American compassion around the World. Simultaneously, the President also created the Citizen Corps, within the Department of Homeland Security (DHS), as a way to offer Americans new opportunities to get involved in their communities through emergency preparation and response activities. Along side Citizen Corps are several partner programs that share the common goal of helping communities prevent, prepare for, and respond to crime, natural disasters, and other emergencies. These partner programs include: Community Emergency Response Teams (CERT), also under DHS; Neighborhood Watch and Volunteers in Police Service, under the direction of the Department of Justice; Fire Corps; and the Medical Reserve Corps.

The MRC is a nationwide network of community-based, citizen volunteer units, which have been initiated and established by local organizations for their communities. MRC units are local assets to meet locally determined needs. Medical and public health volunteers in the MRC can utilize their professional expertise to contribute to local public health initiatives, such as those meeting the Surgeon General's priorities for public health, on an ongoing basis and to supplement the existing response capabilities of the community in emergencies. Communities across the country are beginning to recognize that strengthening the everyday public health infrastructure will improve preparedness.

The MRC was developed following the events of September 11, 2001, when many medical and public health professionals showed up at the disaster sites to support the response efforts and were mostly turned away due to identification, credentialing, and liability issues. One of the primary functions of the MRC is to resolve issues of pre-identifying and preparing volunteer health professionals for emergencies. The MRC brings volunteers—health professionals and others—together to supplement existing local resources in cities, towns, and counties throughout the United States.

MRC volunteers include medical and public health professionals such as physicians, nurses, pharmacists, dentists, veterinarians, physician assistants, nurse practitioners, paramedics, EMTs, mental health workers, and epidemiologists. Many other community members—interpreters, chaplains, office workers, legal advisors, etc.—can fill key support positions. Many of these professionals have active practices in a variety of settings; others are in training; some are retired; and yet others are licensed but do not maintain an active practice.

As this is a community-based program, each MRC is responsible for determining its own structure and developing its own policies and procedures. MRC units may be established and implemented by local government agencies, non-governmental organizations, or other non-profit entities. Partnerships with local medical, public health and emergency management entities are essential.

The MRC Demonstration Project (started in FY 2002 and continued in FY 2003) provided start-up grants to 166 communities across the US. Other communities have been encouraged to establish MRC units without HHS funding support. As of May 19, 2006, there were 431 MRC units in 49 States, the District of Columbia, Guam, and the U.S. Virgin Islands, with more than 75,000 volunteers.

The OSG has lead responsibility within HHS for the development of the MRC. OSG undertook this responsibility in March 2002 and subsequently created the MRC Program Office, with a mission to provide national and regional leadership, in partnership with key stakeholders, to facilitate local efforts to establish, implement, and sustain MRC units.

The MRC program office facilitates the formation and implementation of MRC units in communities across the nation by coordinating mechanisms for information sharing and providing forums for discussions of promising practices and lessons learned. The major MRC program office activities include policy development, interagency coordination, program management, grants management, contract oversight, technical assistance, and outreach.

Since its inception, the MRC program office has:

Implemented the MRC Demonstration Project, which awarded small grants (of up to $50,000 per year for 3 years) to help jump start the establishment of local MRC units. Forty-two grants were awarded in September 2002 and an additional 124 grants were awarded in October 2003.

Encouraged the development of MRC units in communities outside of the MRC Demonstration Project. As of May 19, 2006, over 260 additional communities have registered MRC units without receiving grant funding through the MRC program office. Developed a technical assistance contract to provide valuable expert advice to developing and established MRC units. A series of technical assistance documents were written to serve as a guide for local leaders to assist with establishment and implementation of MRC units.

Established an MRC Web site (*http://www.medicalreservecorps.gov*) with resources for developing and established MRC units. The Web site includes an electronic message board and document clearinghouse to allow MRC communities to share information.

Held consultation meetings with numerous governmental and non-governmental organizations at the local, State, regional, and national levels.

Displayed the MRC exhibit booth at professional conferences to boost awareness of the program.

Conducted leadership conferences at the national and regional levels to facilitate coordination, cooperation, and information sharing.

Coordinated the MRC response following the 2005 Hurricanes. An

estimated 6,000 MRC volunteers supported the response and recovery efforts in their local communities. In the hardest hit areas, and as the storm forced hundreds of thousands of Americans to flee the affected areas, MRC volunteers were ready and able to help when needed and were there to assist as evacuees were welcomed into their communities. These volunteers spent countless hours helping the many people whose lives were upended by these disastrous events. During the 2005 Hurricane Response, MRC volunteers throughout the nation served their local communities by:

Establishing medical needs shelters to serve medically fragile and other displaced people;

Staffing and providing medical support in evacuee shelters and clinics;

Filling in locally at hospitals, clinics and health departments for others who were deployed to the disaster-affected regions;

Immunizing responders prior to their deployment to the disaster affected regions;

Staffing a variety of response hotlines created after the hurricanes hit;

Raising funds for those affected by the hurricanes;

Teaching emergency preparedness to community members; and

Recruiting more public health and medical professionals who can be credentialed, trained and prepared for future disasters that may affect their hometowns or elsewhere.

In addition to this local MRC activity, over 1,500 MRC members expressed a willingness to deploy outside their local jurisdiction on optional missions to the disaster-affected areas with their state agencies, the American Red Cross (ARC) and the U.S. Department of Health and Human Services (HHS). Of these, approximately 200 volunteers from 25 MRC units were hired by HHS as unpaid temporary Federal employees and more than 400 volunteers from over 80 local MRC units have been deployed to support ARC disaster operations in areas along the Gulf coast.

Future Direction: Though the MRC was developed as a network of local, community-based assets established to meet locally determined needs, much national attention has been focused on the program in light of its astounding growth and its response following the 2005 Hurricanes. This attention has led to a call for an expansion of the MRC program. For example, in 2005 the White House Homeland Security Council charged HHS to establish systems to pre-enroll, credential, train, and deploy MRC members who are willing to provide emergency health and medical services after a catastrophic event. More recently, in the February 2006 *Federal Response to Hurricane Katrina: Lessons Learned* document, the White House recommended that ''HHS should organize, train, equip, and roster medical and public health professionals in preconfigured and deployable teams'' to include the PHS Commissioned Corps, members of the MRC, and other Federal partners.

In support of the President's national strategies, in keeping with the National Response Plan and consistent with the charge from the Homeland Security Council, this single-eligibility cooperative agreement with the National Association of County and City Health Officials (NACCHO) will support HHS efforts to expand the capacity of MRC units throughout the nation. All work will be closely coordinated with OSG, the MRC program office, State coordinators, MRC regional coordinators, Regional Health Administrators and other Federal officials. NACCHO will begin by providing capacity-building support to all interested MRC units.

NACCHO will also assist with the development of a comprehensive operational manual and support OSG efforts in credentialing, verifying backgrounds, badging, assessing levels of training, and utilizing MRC members who are willing and able to deploy with HHS as unpaid temporary Federal employees on national-level responses (keeping in mind that any employment of individuals is under the authority of HHS and will follow Federal employment standards). This subset of MRC members will be referred to as the ''Public Health Service Auxiliary.'' In addition, a Demonstration Project of the Public Health Service Auxiliary will be initiated, primarily targeting MRC units in geographic locations in the vicinity of the proposed PHS Rapid Deployment Force (RDF) teams: Washington DC/Baltimore; Georgia/North Carolina/South Carolina; Texas/Oklahoma; and Arizona/New Mexico.

Ultimately, this cooperative agreement with NACCHO will enhance the collaboration and coordination between OSG and community/state public health and emergency agencies to support and increase the MRC capacity to meet local, state and national needs.

I. Funding Opportunity Description

Authority: This program is authorized by sections 311(c)(1) and 319A of the Public Health Service Act, as amended, 42 U.S.C. sections 243(c)(1) and 247d–1.; and, funded under Public Law 109–149.

The primary purpose of the MRC program office, in OSG, is to provide national and regional leadership, in partnership with key stakeholders, to facilitate local efforts to establish, implement, and sustain MRC units. The MRC has developed as a means to organize medical, public health and other volunteers in support of existing programs and resources to improve the health and safety of communities and the nation.

A major goal of the MRC program is to encourage integration and coordination with local, State, and Federal Partners, including public health, medical, emergency management and other agencies and organizations. A further objective is for the coordinated involvement of MRC members in a national-level response.

The purposes of this single-eligibility cooperative agreement with NACCHO are to:

Enhance the capacity of MRC units throughout the nation to meet identified local needs for public health and safety;

Increase awareness and understanding of the MRC;

Enhance cooperation between OSG and local/state/national authorities to support and increase MRC capacity; and

Demonstrate the feasibility of the Public Health Service (PHS) Auxiliary concept in meeting surge personnel needs during national-level responses.

Recipient Activities

NACCHO will:

Use its networking channels, newsletters, conferences, summits and other mechanisms to increase awareness and understanding of the MRC;

Enable the facilitation of information sharing between MRC units by providing logistical support (travel, lodging, per diem, etc.) for a representative from each MRC unit to attend the annual MRC National Leadership and Training Conference and Regional MRC meetings;

Further MRC units' ability to meet local public health needs by providing capacity-building assistance and necessary support for purchases of select equipment and supplies (i.e. individual and team go-kits, emergency vests, etc.);

Develop a comprehensive operational manual and assist HHS/OSG with the institution of requirements, standards and processes for utilizing MRC volunteers on national-level responses as members of the Public Health Service Auxiliary. The following items will be incorporated:

Credentialing standards and requirements should be aligned with the proposed State registries (under the

HRSA/Emergency System for the Advanced Registration of Volunteer Health Professionals (ESAR–HP) program) and in keeping with goals of the MRC/ESAR–VHP integration project.

Background checks on the MRC/PHS Auxiliary members should be facilitated in order to meet Federal requirements (Homeland Security Presidential Directive-12) Unique/standardized badges for MRC/PHS Auxiliary members may be necessary. Training and the assessment of MRC member competency should be closely aligned with work currently being conducted.

Processes and procedures for utilizing MRC members in responses outside their local jurisdiction should be closely aligned with the goals of the MRC/ESAR–VHP integration project.

Conduct a Demonstration Project of the PHS Auxiliary, initially by providing additional capacity-building support to targeted MRC units (primarily those in geographic locations in a 200-mile vicinity of the proposed PHS Rapid Deployment Force teams: Washington DC/Baltimore; Georgia/North Carolina/South Carolina; Texas/Oklahoma; and Arizona/New Mexico) that have members who are willing and able to deploy on national-level responses;

Facilitate the interaction between the MRC/PHS Auxiliary members and the PHS RDF teams by assisting in the design and implementation of joint training exercises; and Participate in the annual MRC National Leadership and Training Conference and Regional MRC meetings.

OSG/MRC Activities

OSG and MRC program staff will be substantially involved with the design and implementation of all activities conducted under this cooperative agreement with NACCHO. In general, MRC program staff will provide background information, expert assistance and ongoing oversight. MRC program staff and Regional Coordinators will also provide liaison to local and State MRC leaders, as well as to Federal officials. In addition, OSG and the MRC program will:

Use its networking channels, presentations, newsletters and other mechanisms to increase awareness and understanding of the MRC;

Facilitate information sharing between MRC units by conducting the annual MRC National Leadership and Training Conference and Regional MRC meetings;

Work closely with NACCHO, OFRD, and other HHS partners on the development and implementation of the Public Health Service Auxiliary Demonstration;

Identify and target MRC units that have members who are willing and able to deploy on national-level responses as the Public Health Service Auxiliary; and

Coordinate activities between NACCHO, MRC units and the PHS RDF teams.

II. Award Information

The MRC expansion will be supported through a single-eligibility cooperative agreement mechanism. Using this mechanism, the OSG anticipates making only one award in FY 2006. The anticipated start date for the new award is August 1, 2006, and the anticipated period of performance is August 1, 2006 through September 30, 2009. Approximately $8,225,000 is available for the first 12-month period.

Throughout the project period, the commitment of OSG to the continuation of funding will depend on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), demonstrated commitment of the recipient to the goals of the MRC program, and the determination that continued funding is in the best interest of the Federal Government.

III. Eligibility Information

1. Eligible Applicants

The only eligible applicant for this funding opportunity is the National Association of County and City Health Officials (NACCHO). In making this award, OSG/MRC will be able to capitalize on NACCHO's status as a national-level nonprofit organization with significant local, state and national networking connections. NACCHO has relevant experience in working with local organizations, particularly in the areas of capacity-building, strengthening public health infrastructure and improving public health preparedness. NACCHO also has relevant experience in working with Federal agencies.

2. Cost Sharing or Matching

Neither cost sharing nor matching funds are required for this program.

3. Other

If an applicant requests a funding amount greater than the ceiling of the award range, the application will be considered non-responsive, and will not enter into the review process. The applicant will be notified that the application did not meet the submission requirements.

IV. Application and Submission Information

1. Address To Request Application Package

Application kits may be requested by calling (240) 453–8822 or writing to the Office of Grants Management, Office of Public Health and Science, Department of Health and Human Services, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852. Applicants may also fax a written request to the OPHS Office of Grants Management at (240) 453–8823 to obtain a hard copy of the application kit. Applications must be prepared using Form OPHS–1.

2. Content and Form of Application Submission

Application: Applicants must use Grant Application Form OPHS–1 and complete the Face Page/Cover Page (SF424), Checklist, and Budget Information Forms for Non-Construction Programs (SF424A). In addition, the application must contain a project narrative, submitted in the following format:

Maximum number of pages: 50. If the narrative exceeds the page limit, OSG will only review the first 50 pages within the page limit;

Font size: 12-point, unreduced;

Double-spaced;

Paper size: 8.5 by 11 inches;

Page-margin size: One inch;

Number all pages of the application sequentially from page one (Application Face Page) to the end of the application, including charts, figures, tables, and appendices;

Print only on one side of page; and

Hold application together only by rubber bands or metal clips, and do not bind it in any other way.

The narrative should address activities to be conducted over the entire project period and must include the following items in the order listed:

Table of Contents

Executive Summary: Describe key aspects of the Background, Objectives, Program Plan, Evaluation Plan, and Budget. The summary is limited to three (3) pages.

Background:

Understanding of the Requirements. The narrative should include a discussion of the organization's understanding of the need, purpose and requirements of this cooperative agreement. The discussion should be sufficiently specific, detailed and complete to clearly and fully demonstrate that the applicant has a thorough understanding of all the

technical requirements of this announcement.

Organizational Experience. The narrative should provide a summary of organizational experience and include a description of any similar projects implemented to work with local community-based organizations, particularly in the areas of capacity-building, strengthening public health infrastructure and improving public health preparedness.

Objectives. The narrative should include objectives stated in measurable terms, including baseline data, improvement targets and time frames for achievement for the project period.

Program Plan. The program plan must demonstrate that the organization has the technical expertise to carry out the requirements of this announcement.

Methods and Techniques. The plan should contain sufficient detail to clearly indicate the proposed means for conducting the work, and include a complete explanation of the techniques and procedures the applicant will use. Specific activities and strategies planned to achieve each objective should be described. The role of any partner organizations in the project should be described. The applicant should also discuss any anticipated problem areas and recommend potential solutions.

Staffing and Management. The applicant must provide a description of project staffing and management, with time lines and sufficient detail to ensure that it can meet the requirements in a timely and efficient manner. The narrative should provide a description of the proposed project staff, including resumes and job descriptions for key staff, qualifications and responsibilities of each staff member, and percent of time each will commit to the project. It should also provide a description of duties for any proposed consultants. Résumés must be limited to three pages per person.

Evaluation Plan. The applicant must clearly delineate how program activities will be evaluated and provide measures of effectiveness that will demonstrate the accomplishment of the objectives of this cooperative agreement and progress toward the goals of the MRC program. The evaluation plan must be able to produce documented results that demonstrate whether and how the strategies and activities funded under this cooperative agreement made a difference in building the capacity of the MRC program to meet the needs of local communities and the nation. The description should include data collection and analysis methods, demographic data to be collected, process measures which describe indicators to be used to monitor and measure progress toward achieving projected results, outcome measures to show the project has accomplished planned activities, and impact measures that demonstrate achievement of the objectives.

Budget Justification. The budget justification will not count against the stated page limit, but will be limited to 10 pages and must comply with the criteria for applications. The applicant must submit, at a minimum, a cost proposal fully supported by information adequate to establish the reasonableness of the proposed amount. The budget request must include funds for key project staff to attend an annual MRC Leadership and Training Conference.

The applicant may include additional information in the application appendices, which will not count toward the narrative page limit. This additional information includes the following: Curricula Vitae, Résumés, Organizational Charts, Letters of Support, etc.

An agency or organization is required to have a Dun and Bradstreet Data Universal Numbering System (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 no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com,* or call 1–866–705–5711.

3. Submission Dates and Times

To be considered for review, applications must be received by the Office of Grants Management, Office of Public Health and Science, by 5 p.m. Eastern Time on July 12, 2006. Applications will be considered as meeting the deadline if they are received on or before the deadline date. The application due date in this announcement supercedes the instructions in the OPHS–1.

Submission Mechanisms

The Office of Public Health and Science (OPHS) provides multiple mechanisms for the submission of applications, as described in the following sections. Applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of applications submitted using any of these mechanisms. Applications submitted to the OPHS Office of Grants Management after the deadlines described below will not be accepted for review. Applications which do not conform to the requirements of the grant announcement will not be accepted for review and will be returned to the applicant.

Applications may only be submitted electronically via the electronic submission mechanisms specified below. Any applications submitted via any other means of electronic communication, including facsimile or electronic mail, will not be accepted for review. While applications are accepted in hard copy, the use of the electronic application submission capabilities provided by the OPHS eGrants system or the Grants.gov Website Portal is encouraged.

Electronic grant application submissions must be submitted no later than 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement using one of the electronic submission mechanisms specified below. All required hardcopy original signatures and mail-in items must be received by the OPHS Office of Grants Management no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in the DATES section of the announcement.

Applications will not be considered valid until all electronic application components, hardcopy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Application submissions that do not adhere to the due date requirements will be considered late and will be deemed ineligible.

Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Electronic Submissions Via the Grants.gov Website Portal

The Grants.gov Website Portal provides organizations with the ability to submit applications for OPHS grant opportunities. Organizations must successfully complete the necessary registration processes in order to submit an application. Information about this system is available on the Grants.gov Web site, *http://www.grants.gov.*

In addition to electronically submitted materials, applicants may be required to submit hard copy signatures for certain program related forms, or original materials as required by the announcement. It is imperative that the applicant review both the grant announcement, as well as the

application guidance provided within the Grants.gov application package, to determine such requirements. Any required hard copy materials, or documents that require a signature, must be submitted separately via mail to the OPHS Office of Grants Management, and, if required, must contain the original signature of an individual authorized to act for the applicant agency and the obligations imposed by the terms and conditions of the grant award.

Electronic applications submitted via the Grants.gov Website Portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. All required mail-in items must received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation.

Upon completion of a successful electronic application submission via the Grants.gov Website Portal, the applicant will be provided with a confirmation page from Grants.gov indicating the date and time (Eastern Time) of the electronic application submission, as well as the Grants.gov Receipt Number. It is critical that the applicant print and retain this confirmation for their records, as well as a copy of the entire application package.

All applications submitted via the Grants.gov Website Portal will be validated by Grants.gov. Any applications deemed ''Invalid'' by the Grants.gov Website Portal will not be transferred to the OPHS eGrants system, and OPHS has no responsibility for any application that is not validated and transferred to OPHS from the Grants.gov Website Portal. Grants.gov will notify the applicant regarding the application validation status. Once the application is successfully validated by the Grants.gov Website Portal, applicants should immediately mail all required hard copy materials to the OPHS Office of Grants Management to be received by the deadlines specified above. It is critical that the applicant clearly identify the Organization name and Grants.gov Application Receipt Number on all hard copy materials.

Once the application is validated by Grants.gov, it will be electronically transferred to the OPHS eGrants system for processing. Upon receipt of both the electronic application from the Grants.gov Website Portal, and the required hardcopy mail-in items, applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of the application submitted using the Grants.gov Website Portal.

Applicants should contact Grants.gov regarding any questions or concerns regarding the electronic application process conducted through the Grants.gov Website Portal.

Electronic Submissions Via the OPHS eGrants System

The OPHS electronic grants management system, eGrants, provides for applications to be submitted electronically. Information about this system is available on the OPHS eGrants Web site, *https://egrants.osophs.dhhs.gov,* or may be requested from the OPHS Office of Grants Management at (240) 453–8822.

When submitting applications via the OPHS eGrants system, applicants are required to submit a hard copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency and assume the obligations imposed by the terms and conditions of the grant award. If required, applicants will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms (e.g., Program Certifications) with the original signature of an individual authorized to act for the applicant agency.

Electronic applications submitted via the OPHS eGrants system must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. The applicant may identify specific mail-in items to be sent to the Office of Grants Management separate from the electronic submission; however these mail-in items must be entered on the eGrants Application Checklist at the time of electronic submission, and must be received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation.

Upon completion of a successful electronic application submission, the OPHS eGrants system will provide the applicant with a confirmation page indicating the date and time (Eastern Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission including all electronic application components, required hardcopy original signatures, and mail-in items, as well as the mailing address of the OPHS Office of Grants Management where all required hard copy materials must be submitted.

As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application in the OPHS eGrants system to ensure that all signatures and mail-in items are received.

Mailed or Hand-Delivered Hard Copy Applications

Applicants who submit applications in hard copy (via mail or hand-delivered) are required to submit an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed or hand-delivered applications will be considered as meeting the deadline if they are received by the OPHS Office of Grant Management on or before 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement. The application deadline date requirement specified in this announcement supersedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

4. Intergovernmental Review

Executive Order 12372 does not apply.

5. Funding Restrictions

Grant funds may be used to cover costs of:

Personnel.
Consultants.
Contract Services.
Equipment and supplies.
Training.
Travel, including attendance at national and regional MRC meetings.
Other grant-related costs

Grants funds may not be used for:

Building alterations or renovations.
Construction.
Fund raising activities.
Political education and lobbying.
Research studies involving human subjects.
Reimbursement of pre-award costs.

6. Other Submission Requirements

None.

V. Application Review Information

1. Criteria

The technical review of the applications will consider the following

four factors, listed in descending order of weight:

Factor 1: Program Plan (35%)

Sufficient details provided to clearly indicate the proposed means for conducting the work.

Specific activities and strategies planned to achieve each objective are described.

Methods, procedures and sequencing of planned approaches are logical and appropriate.

Anticipated problem areas are discussed and potential solutions are recommended.

Description of the proposed project staff, including resumes and job descriptions for key staff, qualifications and responsibilities of each staff member, and percent of time each will commit to the project is provided.

Proposed staff members are qualified and level of effort is appropriate.

Proposed project organizational structure and reporting channels/lines of authority are rational and appropriate.

Factor 2: Background (25%)

The organization's understanding of the need, purpose and requirements of the project are clearly and fully demonstrated.

Relevant organizational experience is described.

Outcomes of past projects and activities with local community-based organizations (particularly in the areas of capacity-building, strengthening public health infrastructure and improving public health preparedness) indicate a clear potential for successful completion of project objectives.

The applicant demonstrates a clear understanding of the mission of OSG and the responsibilities of Emergency Support Function #8 under the National Response Plan.

Factor 3: Evaluation Plan (20%)

Proposed data collection plan, analysis methods and reporting procedures are appropriate.

Plans to assess and document progress towards achieving objectives and intended outcomes are clear. Process, outcome, and impact measures are suitable.

Process measures will show progress toward achieving projected results.

Outcome measures will show accomplishment of planned activities.

Impact measures will demonstrate achievement of the objectives.

Factor 4: Objectives (20%)

Objectives are realistic and have merit.

Objectives are stated in measurable terms.

Objectives are relevant to the project, and in line with MRC program goals.

Objectives are attainable in the stated time frames.

2. Review and Selection Process

OSG will review applications for completeness. An incomplete application or an application that is non-responsive to the eligibility criteria will not advance through the review process. HHS will notify applicants if their applications did not meet submission requirements.

An objective review panel, which could include both Federal employees and non-Federal members, will evaluate complete and responsive applications according to the criteria listed in the ''V.1 Criteria'' section above. The objective review process will follow the policy requirements as stated in the Grants Policy Directives (GPDs) 2.04. Information pertaining to the GPDs can be found at *http://www.hhs.gov/grantsnet/roadmap/index.html.*

VI. Award Administration Information

1. Award Notices

The successful applicant will receive a Notice of Award (NoA). The NoA shall be the only binding, authorizing document between the recipient and HHS. An authorized Grants Management Officer will sign the NoA, and mail it to the recipient fiscal officer identified in the application.

2. Administrative and National Policy Requirements

The successful applicant must comply with the administrative requirements outlined in 45 CFR part 74 and part 92 as appropriate.

3. Reporting

The applicant will submit an original, plus one hard copy, as well as an electronic copy of: (1) Quarterly progress reports (using the Federal fiscal quarters); (2) an annual Financial Status Report (FSR) SF–269; and (3) a final Progress and Financial Status Report in the format established by the OSG, in accordance with provisions of the general regulations which apply under ''Monitoring and Reporting Program Performance,'' 45 CFR parts 74 and 92.

The quarterly progress reports shall provide a detailed summary of major achievements, problems encountered, and actions taken to overcome them. The purpose of the progress reports is to provide accurate and timely project information to MRC program managers and to respond to Congressional, Departmental, and public requests for information about the program. The report for the fourth fiscal quarter (for the period July 1—September 30)) will serve as the annual progress report and must describe all project activities for the entire fiscal year.

The second fiscal quarter progress report (for the period January 1—March 31) will serve as the non-competing continuation application. This report must include the budget request for the next grant year, with appropriate justification, and be submitted using Form OPHS–1.

The applicant will be informed of the progress report due dates. Instructions, report formats and due dates will be provided prior to required submission. The Annual Financial Status Report is due no later than 90 days after the close of each budget period. The final Progress and Financial Status Report are due 90 days after the end of the project period.

The applicant must mail the reports to the Grants Management Office listed in the ''Agency Contacts'' section of this announcement. An electronic copy of the report should be sent to the MRC program office contact.

VII. Agency Contact(s)

For program assistance, contact: CDR Robert J. Tosatto, Medical Reserve Corps Program, Office of the Surgeon General, Department of Health and Human Services, 5600 Fishers Lane, Room 18C–14, Rockville, MD 20857. Telephone: 301–443–4951. E-mail: *MRCcontact@hhs.gov.*

For financial, grants management, or budget assistance, contact: DeWayne Wynn, Grants Management Specialist, Office of Grants Management, Office of Public Health and Science, Department of Health and Human Services, 1101 Wootton Parkway, Suite 550, Rockville, MD 20857. Telephone: (240) 453–8822. E-mail: *Dewayne.Wynn@hhs.gov.*

VIII. Other Information

1. The Surgeon General's Priorities for Public Health

Surgeon General Richard H. Carmona has outlined his priorities for the health of individuals, and the nation as a whole. His goals are to increase disease prevention, eliminate health disparities, and strengthen public health preparedness. Woven through each of these priorities is the effort to improve health literacy.

Increase Disease Prevention. The Surgeon General encourages health care professionals to educate the public on how to prevent diseases and injuries. With seven out of ten Americans dying each year of a preventable chronic

disease, it is imperative that we address such problems as obesity, HIV/AIDS, tobacco use, birth defects, injury and low physical activity.

Eliminate Health Disparities. Having grown up facing the difficulties of health disparities, eliminating them is of great personal importance to the Surgeon General. His goal is to rid minority communities of the greater burden of death and disease from illnesses such as breast cancer, prostate cancer, and others.

Strengthen Public Health Preparedness. Americans count on a strong public health system capable of meeting any emergency. OSG is investing resources to prevent, mitigate and respond to all-hazards emergencies.

Improve Health Literacy. Improving health literacy is important so that all Americans may access, understand and use health-related information and services to make good health decisions.

(To learn more about the public health priorities of the Surgeon General, please visit *http://www.surgeongeneral.gov*.)

2. MRC/ESAR–VHP Integration

MRC and the Emergency System for Advance Registration of Volunteer Health Professionals (ESAR–VHP) each represent key national initiatives of HHS to improve the nation's ability to enhance public health preparedness.

The ESAR–VHP Program is housed within the HHS Health Resources and Services Administration (HRSA). It is designed to standardize State efforts to develop programs and systems necessary to register, credential, and activate volunteer health professionals in an emergency. Volunteer health professionals in this program will primarily be expected to augment hospital and/or other medical facility staff to support a surge in anticipated health care needs for patients and victims during, and immediately following, an emergency.

There are significant advantages to integrating the MRC and ESAR–VHP Programs. Generally, integration will minimize duplication of effort, address response gaps, and promote long-term savings. For example, joint recruiting and training efforts will assure a common understanding of each other's program goals, state-level credentialing can be expanded to cover MRC volunteers, and common notification and deployment technologies will enable significant cost savings.

The MRC/ESAR–VHP Integration Project's primary goal will be to publish guidance for local MRC leaders and state ESAR–VHP coordinators. It should include a description of what is expected to occur and how the groups are expected to respond, as well as the individual, MRC, and ESAR–VHP Program roles and responsibilities.

Dated: June 6, 2006.

Richard H. Carmona,

Surgeon General.

[FR Doc. E6–9035 Filed 6–9–06; 8:45 am]

BILLING CODE 4150–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Funds for Cooperative Agreement to the Fundación México-Estados Unidos para la Ciencia, A.C. (FUMEC) (United States-Mexico Foundation for Science) to Support Mexican Outreach Offices

AGENCY: Office of Global Health Affairs, Office of the Secretary, HHS.

Announcement Type: Cooperative Agreement—Fiscal Year (FY) 2006 Initial Announcement. Single Source.

Catalog of Federal Domestic Assistance: 93.018.

DATES: Application Availability: June 12, 2006. Applications are due by 5 p.m. Eastern Time on July 12, 2006.

SUMMARY: The Office of Global Health Affairs (OGHA) announces up to $600,000 in FY 2006 funds is available for a cooperative agreement to the *Fundación México-Estados Unidos para la Ciencia, A. C.* (FUMEC) (United States-Mexico Foundation for Science) to support the implementation, management, and administration of U.S.-Mexico Border Health Commission (USMBHC) programs and activities at the Mexican Outreach Offices. This initiative will support the development, administration, and evaluation of programs in specified health areas, including training for health personnel, development, and dissemination of educational materials and workshops, research, community outreach, health promotion, and improvement of information technology to enhance program support. HHS/OGHA will approve the budget period to be one year and the project period for up to a five-year period for a total of $600,000 (including indirect costs). Funding for the cooperative agreement is contingent upon the availability of funds.

I. Funding Opportunity Description

Under the authority of Section 4 of the U.S.-Mexico Border Health Commission Act (the Act), Public law 103–400, the Office of Global Health Affairs (OGHA) announces the intent to allocate Fiscal Year (FY) 2006 funds for a cooperative agreement to the *Fundación México-Estados Unidos para la Ciencia, A. C.* (FUMEC) (United States—Mexico Foundation for Science), who will work through the Mexican Outreach Offices of the U.S.-Mexico Border Health Commission, to strengthen the binational public health projects and programs along the U.S.-Mexico border. The cooperative agreement will address activities related to the following topic areas: (1) Substance Abuse, (2) HIV/AIDS, (3) Chronic Diseases, (4) *Vete Sano Regresa Sano* (Go Healthy, Come Back Healthy), (5) Injury Prevention, (6) Diabetes, (7) Family Planning, (8) Domestic Violence, (9) Cancer, (10) Teen Pregnancy Prevention, (11) Oral Health, (12) Rabies, (13) Communicable Diseases, (14) Tuberculosis, and (15) Epidemiological Monitoring.

This assistance is geared to support current, on-going, and proposed public health initiatives in this border region that support the goals and objectives of the U.S.-Mexico Border Health Commission to strengthen access to health care, disease prevention, and public health along the Mexican side of the U.S-Mexico border.

Background: More than 800,000 people crisscross legally everyday, not counting the thousands who find illegal ways to enter the United States. The economic burden on the United States and Mexico is staggering. Much of the border is poor and health resources are scarce. This rapid population growth is putting further pressure on an already inadequate medical care infrastructure, which further decreases access to health care. The border is impoverished and has a double burden of disease to bear. Like many emerging nations, it struggles with serious chronic diseases such as respiratory and gastrointestinal ailments. The large and diverse migrant population increases the incidence of communicable diseases such as HIV/AIDS and tuberculosis, as well as chronic illnesses such as diabetes, certain cancers, and hypertension. In addition, the problems and concerns affecting the border region have broad repercussions for both nations. Travelers, migrants and immigrants, who are crossing the border every day, are taking their health problems with them to other parts of the United States and Mexico.

Although both nations cooperate in specific health areas, until the establishment of a high-level binational commission, the border region lacked a sustainable process for addressing and improving the health of its population.

The U.S.-Mexico Border Health Commission (USMBHC), in collaboration with the U.S. Department of Health and Human Services, works toward creating awareness about the

U.S.-Mexico border, its people, and its environment. It educates others about the unique challenges at the border through outreach efforts, data collection and analysis, and joint collaborative efforts with public and private partners in the border-health community. The USMBHC serves as a rallying point for shared concerns about the U.S.-Mexico border, and as a catalyst for action to develop plans directed toward solving specific health-related problems. Outreach offices of the USMBHC work with the Mexican border states of Baja California, Norte, Sonora, Chihuahua, Coahuila, Nuevo León, and Tamauilipas to address public-health concerns and needs affecting the border region. These offices will work with the Servicios de Salud in each State to promote and strengthen border-health initiatives and activities.

An agreement between Mexico and the United States created FUMEC in 1992 as a bi-national, non-governmental body to promote and support scientific and technological collaboration between both countries.

Purpose: The overall objective of this cooperative agreement is to support and coordinate the USMBHC's objectives and the development of the outreach health activities along the Mexican side of the U.S.-Mexico border. Awardee activities for this program will focus in the following topic areas:

- Substance Abuse;
- HIV/AIDS;
- Chronic Diseases;
- *Vete Sano Regresa Sano* (Go Healthy, Come Back Healthy);
- Injury Prevention;
- Diabetes;
- Family Planning;
- Domestic Violence;
- Cancer;
- Teen Pregnancy Prevention;
- Oral Health;
- Rabies;
- Communicable Diseases;
- Tuberculosis; and
- Epidemiological Monitoring.

Funding will support the development, administration, and evaluation of programs in the above-stated topics and health areas, including training for health personnel, development and dissemination of educational materials and workshops, research/studies, community outreach, and health promotion, and information technology to enhance program support. Additionally, funding will support the operating expenses related to these programs, including personnel, travel, office supplies, and equipment expenses.

The overall objectives of the program are to:

- Strengthen the binational public health projects and programs along the U.S.-Mexico border.
- Train and update health professionals in the U.S.-México border.

Progress in the attainment of this objective will be identified through one of the following performance goals:

- Increased access to care and improve quality of care;
- Improved disease prevention and health education;
- Improved workforce development and retention; and
- Improved public health infrastructure.

Measurable outcomes include:

- Number of health care workers, medical and emergency personnel, and other pertinent parties trained on various border-oriented health topics and risk areas;
- Amount of educational materials designed, produced, and distributed to increase community awareness of border health concerns;
- Number of health promotion and education activities/seminars/workshops developed and implemented;
- Amount of appropriate equipment, medicine, and materials purchased and distributed to meet the border health care needs identified by the States;
- Degree to which epidemiology monitoring systems are established and/or strengthened; and,
- Degree to which clinic and laboratory capabilities for border health needs are established and/or strengthened.

Activities: Awardee activities for this program will focus on the flowing areas:

(1) Outreach and health-promotion activities to establish or strengthen links between public health and border activities;

(2) Evaluation and assessments of health services, health research, health care technologies, and delivery systems;

(3) Health data analysis and surveillance;

(4) Programmatic support to the members and staff for the USMBHC; and

(5) Support and development of Healthy Border/Healthy Gente projects and activities.

II. Award Information

This program, during which HHS/OGHA anticipates substantial scientific and/or programmatic involvement, will use the cooperative agreement as the administrative and funding instrument. Under the cooperative agreement, HHS/OGHA will support and/or stimulate awardee activities by working with them in a non-directive partnership role. HHS/OGHA expects the awardee to work directly with, and in support of, the U.S.-Mexico Border Health Commission and its stated goals and initiatives, as well as the Mexican Outreach Offices.

Approximately $600,000 in FY 2006 funds is available to support the agreement. The anticipated start date is June 12, 2006. There will only be one single award made from this announcement. The project period for this agreement is five (5) years with the budget period at twelve (12) months.

Although OGHA provides for this program in its financial plans, the award pursuant to this RFA is contingent upon the availability of funds for this purpose.

III. Eligibility Information

1. Eligible Applicant

This is a single-eligibility cooperative agreement offered to FUMEC, which will work with the Mexican Outreach Offices (OROs) of Baja California, Norte, Sonora, Chihuahua, Coahuila, Nuevo León, and Tamauilipas to accomplish the goals and objectives of the USMBHC.

FUMEC has extensive past experience working with public-health issues for both the United States and Mexico, and supporting their binational goals, objectives, and initiatives. The Mexican OROs, through whom FUMEC will coordinate activities and programs, have extensive past experience working with the USMHBC and supporting its binational goals, objectives, and initiatives. The Mexican OROs also have existing working relationships and on-going initiatives with the United States through the U.S. Outreach Offices along the border. Continuity and consistency in this binational effort within this region is essential to the productivity and success of public-health efforts in this region.

2. Cost Sharing or Matching

Cost sharing, matching funds, and cost participation are not requirements of this agreement.

IV. Application and Submission Information

1. Address To Request Application Package

Application kits may be requested by calling (240) 453–8822 or writing to: Office of Grants Management, Office of Public Health Science (OPHS), 1101 Wootton Parkway, Suite 550, Rockville, MD, 20852. Applicant must use form OPHS–1. Applicant may fax a written request to the OPHS Office of Grants Management to obtain a hard copy of the application kit at (240) 453–8823.

2. Content and Form of Application Submission

Applicant must submit a Project Abstract on 3.5-inch floppy disk with the application. The abstract must be typed, single-spaced, and cannot exceed two pages. Reviewers and staff will refer frequently to the information contained in the abstract; therefore it should contain substantive information about the proposed projects in summary form. A list of suggested keywords and a format sheet for your use in preparing the abstract will be included in the application packet.

The grant application must include a Project Narrative. In addition to the instructions provided in OPHS–1 (Rev 8/2004) for project narrative, the specific guidelines for the project narrative are in the program guidelines. Format requirements are the same as for the Project Abstract Section; margins should be 1 inch at the top and 1 inch at the bottom and both sides; and typeset must be no smaller than 12 characters per inch and not reduced. Biographical sketches should be either typed on the appropriate form or plain paper, and should not exceed two pages, with publications listed limited to those directly relevant to this project.

Application Format Requirements

If applying on paper, the entire application may not exceed 80 pages in length, including the abstract, project and budget narratives, face page, attachments, any appendices, and letters of commitment and support. Applicant must number pages consecutively.

Applications submitted electronically that exceed 80 pages when printed will be deemed non-compliant. HHS/OGHA will return all non-compliant applications to the applicant without further consideration.

a. Number of Copies: Please submit one (1) original and two (2) unbound copies of the application. Please do not bind or staple the application. Application must be single sided.

b. Font: Please use an easily readable serif typeface, such as Times Roman, Courier, or CG Times. Submit the text and table portions of the application in not less than 12 point and 1.0 line spacing. Applications not adhering to 12-point font requirements may be returned.

c. Paper Size and Margins: For scanning purposes, please submit the application on 8 ½″ x 11″ white paper. Margins must be at least one (1) inch at the top, bottom, left, and right of the paper. Please left-align text.

d. Numbering: Please number the pages of the application sequentially from page 1 (face page) to the end of the application, including charts, figures, tables, and appendices.

e. Names Please include the name of the applicant on each page.

f. Section Headings: Please put all section headings flush left in bold type.

Application Format

Applications for funding must consist of the following documents in the following order:

i. Application Face Page

Public Health Service (PHS) Application Form OPHS–1, provided with the application package. Prepare this page according to instructions provided in the form itself.

DUNS Number

All applicant organizations are required to have a Data Universal Numbering System (DUNS) number in order to apply for a grant from the Federal Government. The DUNS number is a unique nine-character identification number provided by the commercial company, Dun and Bradstreet. There is no charge to obtain a DUNS number. Information about obtaining a DUNS number can be found at *https://www.dnb.com/product/eupdate/requestOptions.html* or call 1–866–705–5711. Please include the DUNS number next to the OMB Approval Number on the application face page.

Additionally, the applicant organization will be required to register with the Federal Government's Central Contractor Registry (CCR) in order to do electronic business with the Federal Government. Find information about registering with the CCR at *http://www.hrsa.gov/grants/ccr.htm.*

Finally, applicant applying electronically through Grants.gov are required to register with the Credential Provider for Grants.gov. Information about this requirement is available at *http://www.grants.gov/CredentialProvider.*

Applicant applying electronically through the OPHS E–Grants System must register with the provider. Information about this requirement is available at *https://egrants.osophs.dhhs.gov.*

ii. Program Narrative

This section provides a comprehensive framework and description of all aspects of the proposed program. It should be succinct, self-explanatory, and well organized so reviewers can understand the proposed project.

Use the following section headers for the Narrative:

- Executive Summary

This section should briefly describe the proposed project and supporting initiatives, as well as summarize goals the program intends to achieve through the project initiatives.

- Work Plan

Describe the current and proposed activities or steps you will use to achieve the stated goals and objectives. Describe expected outcomes resulting from activities as well as any evaluation mechanisms you will use to measure the success of the initiatives.

- Mechanism for Administration

Describe how you will administer resources and funds regarding the proposed projects.

- In-Kind Support/Resources

Describe any in-kind support from other sources, if any, you will use to support the proposed initiatives and activities.

iii. Appendices

Please provide the additional relevant information (including tables, charts, and other relevant documents) to complete the content of the application. Please note that these are supplementary in nature, and will not be a continuation of the project narrative. Be sure to clearly label each appendix.

3. Submission Dates and Times

The Office of Public Health and Science (OPHS) provides multiple mechanisms for the submission of the application, as described in the following sections. Applicant will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of applications submitted using any of these mechanisms. The OPHS Office of Grants Management will not accept applications after the deadlines described below. The OPHS Office of Grants Management will return the application if it does not conform to the requirements of the grant announcement to the applicant without review.

Applicant may only submit the application electronically, via the electronic submission mechanisms specified below. The OPHS Office of Grants Management will not accept for review applications submitted via any other means of electronic communication, including facsimile or electronic mail. While the OPHS Office of Grants Management will accept applications in hard copy, we encourage the use of the electronic application submission capabilities provided by the

OPHS eGrants system or the Grants.gov Website Portal.

Applicant must submit the electronic grant application no later than 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement using one of the electronic submission mechanisms specified below. The OPHS Office of Grants Management must receive all required hardcopy original signatures and mail-in items no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in the **DATES** section of the announcement.

The OPHS Office of Grants Management will not consider the application valid until it receives all electronic application components, hardcopy original signatures, and mail-in items according to the deadlines specified above. The OPHS Office of Grants Management will not consider application submissions that do not adhere to the due date requirements late, and they will be deemed ineligible.

The OPHS Office of Grants Management encourages applicant to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Electronic Submissions via the Grants.gov Website Portal

The Grants.gov Website Portal provides organizations with the ability to submit applications for OPHS grant opportunities. Organizations must successfully complete the necessary registration processes in order to submit an application. Information about this system is available on the Grants.gov Website, *http://www.grants.gov*.

In addition to electronically submitted materials, applicant may be required to submit hardcopy signatures for certain program related forms, or original materials as required by the announcement. It is imperative that the applicant reviews the grant announcement as well as the application guidance provided within the Grants.gov application package, to determine such requirements. The applicant must submit any required hardcopy materials, or documents that require a signature, separately via mail to the OPHS Office of Grants Management, and, if required, must contain the original signature of an individual authorized to act for the applicant agency and the obligations imposed by the terms and conditions of the grant award.

Electronic applications submitted via the Grants.gov Website Portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. The OPHS Office of Grants Management must receive all required mail-in items by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation.

When the applicant completes a successful electronic application submission via the Grants.gov Website Portal, Grants.gov will provide the applicant with a confirmation page indicating the date and time (Eastern Time) of the electronic application submission, as well as the Grants.gov Receipt Number. It is critical that the applicant prints and retains this confirmation for their records, as well as a copy of the entire application package.

Grants.gov will validate all applications submitted via the Grants.gov Website Portal. The Grants.gov Website Portal will transfer any applications deemed ''Invalid'' to the OPHS eGrants system, and OPHS has no responsibility for any application that the Grants.gov Website Portal does not validate and transfer to OPHS. Grants.gov will notify the applicant regarding the application validation status. Once the Grants.gov Website Portal successfully validates the application, applicant should immediately mail all required hard copy materials to the OPHS Office of Grants Management due by the deadlines specified above. The applicant must clearly identify the Organization name and Grants.gov Application Receipt Number on all hard copy materials.

Once Grants.gov validates the application, Grants.gov will electronically transfer it to the OPHS eGrants system for processing. Upon receipt of both the electronic application from the Grants.gov Website Portal, and the required mail-in items, applicant will receive notification via mail from the OPHS Office of Grants Management, confirming their receipt of the application submitted using the Grants.gov Website Portal.

Applicant should contact Grants.gov with any questions or concerns regarding the electronic application process conducted through the Grants.gov Website Portal.

Electronic Submissions via the OPHS eGrants System

The OPHS electronic grants management system, eGrants, provides for electronic submission of applications. Information about this system is available on the OPHS eGrants Website, *https://egrants.osophs.dhhs.gov*, or from the OPHS Office of Grants Management, which the applicant may contact by phone at (240) 453–8822.

When submitting applications via the OPHS eGrants system, applicant must submit a hard copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency and assume the obligations imposed by the terms and conditions of the grant award. If required, applicant will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms (e.g., Program Certifications) with the original signature of an individual authorized to act for the applicant agency.

Electronic applications submitted via the OPHS eGrants system must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative, and any appendices or exhibits. The applicant may identify specific mail-in items to send to the Office of Grants Management separate from the electronic submission; however, the applicant must enter these mail-in items on the eGrants Application Checklist at the time of electronic submission, and the Office of Grants Management must receive them by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation.

Upon completion of a successful electronic application submission, the OPHS eGrants system will provide the applicant with a confirmation page, indicating the date and time (Eastern Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission, including all electronic application components, required hardcopy original signatures, and mail-in items, as well as the mailing address of the OPHS Office of Grants Management, where applicant must submit all required hardcopy materials.

As the OPHS Office of Grants Management receives items, they will update electronic application status to reflect the receipt of mail-in items. The applicant should monitor the status of their application in the OPHS eGrants system to ensure OPHS receives all signatures and mail-in items.

Mailed or Hand-Delivered Hardcopy Applications

Applicant who submit applications in hardcopy (via mail or hand-delivered) must submit an original and two copies of the application. An individual

authorized to act for the applicant agency or organization, and to assume for the organization the obligations imposed by the terms and conditions of the grant award must sign the original application.

The OPHS Office of Grants Management will consider as meeting the deadline mailed or hand-delivered applications if the Office receives them on or before 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement. The application deadline specified in this announcement supersedes the instructions in the OPHS–1. The OPHS Office of Grants Management will return applications that do not meet the deadline to the applicant unread.

4. Intergovernmental Review

This program is subject to the Public Health Systems Reporting Requirements. Under these requirements, a community-based, non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). Applicant shall submit a copy of the application face page (SF–424) and a one-page summary of the project, called the Public Health System Impact Statement. The PHSIS provides information to State and local health officials to keep them informed about proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions.

Community-based, non-governmental applicant must submit, no later than the Federal due date for receipt of the application, the following information to the head of the appropriate State and local health agencies in the area(s) to be affected: (a) A copy of the face page of the application (SF 424), (b) a summary of the project (PHSIS), not to exceed one page, which provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with the appropriate State or local health agencies. Applicant must include copies of the letters forwarding the PHSIS to these authorities in the application materials submitted to the OGHA/HHS.

This program is also subject to the requirements of Executive Order 12372, which allows States the option of setting up a system for reviewing applications from within the State for assistance under certain Federal programs. The application kit available under this notice will contain a listing of States that have set up a review system, and will include a State Single Point of Contact (SPOC) in the State for review. Applicant (other than federally recognized Indian tribes) should contact their SPOCs as early as possible to alert them to the prospective applications, and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant should contact the SPOC in each affected State. A complete list of SPOCs may be found at the following Website: *http://www.whitehouse.gov/omb/grants/spoc.html*. The due date for State process recommendations is 60 days after the application deadline. The OGHA/HHS does not guarantee it will accommodate or explain its responses to State process recommendations received after that date. (See ''Intergovernmental Review of Federal Programs,'' Executive Order 12372, and 45 CFR part 100 for a description of the review process and requirements.)

5. Funding Restrictions

Awardees may not use funds for construction, building alterations, equipment purchase, medical treatment, renovations, or to purchase food. Allowability, allocability, reasonableness, and necessity of direct and indirect costs that may be charged are in the following documents: OMB–21 (Institutes of Higher Education); OMB Circular A–122 (Nonprofit Organizations) and 45 CFR part 74, Appendix E (Hospitals). Copies of these circulars are on the Internet at: *http://www.whitehouse.gov/omb*.

V. Application Review Information

1. Criteria

OGHA staff will screen applications for completeness and for responsiveness to the program guidance. Applicant should pay strict attention addressing these criteria, as they are the basis upon which OGHA staff will judge applications. OGHA will return those applications judged to be non-responsive or incomplete to the applicant without review.

VI. Award Administration Information

1. Award Notice

HHS/OGHA does not release information about individual applications during the review process. The official document notifying the applicant that an application has been approved and funded is the Notice of Award, which specifies to the awardee the amount of money awarded, the purpose of the agreement, the terms and conditions of the agreement, and the amount of funding, if any, to be contributed by the awardee to the project costs.

2. Administrative and National Policy Requirements

The regulations set out at 45 CFR parts 74 and 92 are the Department of Health and Human Services (HHS) rules and requirements that govern the administration of grants. Part 74 is applicable to all recipients except those covered by part 92, which governs awards to State and local governments. Applicant funded under this announcement must be aware of and comply with these regulations. Applicant may download the CFR volume that includes parts 74 and 92 from: *http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfrv1_03.html*.

The HHS Appropriations Act requires that when issuing statements, press releases, requests for proposals, bid solicitation, and other documents describing projects or programs funded in whole or in part with Federal money, grantees shall clearly state the percentage and dollar amount of the total cost of the program or project which will be financed with Federal money, and the percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

2. Reporting

All projects are required to have an evaluation plan, consistent with the scope of the proposed project and funding level that conforms to the project's stated goals and objectives. The evaluation plan should include both a process evaluation to track the implementation of project activities and an outcome evaluation to measure changes in knowledge and skills the successful applicant can attribute to the project. The successful applicant may use project funds to support evaluation activities.

In addition to conducting their own evaluation of projects, successful applicant must be prepared to participate in an external evaluation, to be supported by HHS/OGHA and conducted by an independent entity, to assess efficiency and effectiveness for the project funded under this announcement.

Within 30 days following the end of each of quarter, the successful applicant must submit a performance report no more than ten pages in length to HHS/OGHA. HHS/OGHA will provide a sample monthly performance report at the time of notification of award. At a minimum, monthly performance reports should include:

- Concise summary of the most significant achievements and problems encountered during the reporting

period, *e.g.* number of training courses held and number of trainees.

• A comparison of work progress with objectives established for the quarter using the grantee's implementation schedule, and where such objectives were not met, a statement of why they were not met.

• Specific action(s) that the grantee would like the OGHA/HHS to undertake to alleviate a problem.

• Other pertinent information that will permit monitoring and overview of project operations.

• A quarterly financial report describing the current financial status of the funds used under this award. The awardee and OGHA will agree at the time of award on the format of this portion of the report.

Within 90 days of the end of the project period, the successful applicant must submit a final report containing information and data of interest to the Department of Health and Human Services, Congress, and other countries to HHS/OGHA. OGHA will send the specifics guidance regarding the format and content of the final report and the summary to successful applicant. At minimum, the report should contain:

• A summary of the major activities supported under the agreement and the major accomplishments resulting from activities to improve mortality in partner country.

• An analysis of the project based on the problem(s) described in the application and needs assessments, performed prior to or during the project period, including a description of the specific objectives stated in the grant application and the accomplishments and failures resulting from activities during the grant period.

Successful applicant will submit quarterly performance reports and the final report to: U.S. Department of Health and Human Services, Office of the Secretary, Office of Global Health Affairs, 5600 Fishers Lane, Suite 18–105, Rockville, MD 20857.

A Financial Status Report (FSR) SF–269 is due 90 days after the close of each 12-month budget period and submitted to OPHS-Office of Grants Management.

VII. Agency Contacts

For programmatic requirements, please contact: Jeff Waggoner, Office of Global Health Affairs, HHS, 5600 Fishers Lane, Suite 18–105, Rockville, MD 20857. Telephone: (301) 443–6279.

For administrative requirements, please contact: Eric West, Office of Grants Management, Office of Public Health and Science, HHS, 1101 Wootton Parkway, Suite 550, Rockville, Maryland 20857. Telephone: (240) 453–8822.

VIII. Tips for Writing a Strong Application

Include DUNS Number. You must include a Data Universal Numbering System (DUNS) Number to have your application reviewed. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please include the DUNS number next to the Office of Management and Budget (OMB) Approval Number on the application face page.

Keep your audience in mind. Reviewers will use only the information contained in the application to assess the application. Be sure the application and responses to the program requirements and expectations are complete and clearly written. Do not assume reviewers are familiar with the applicant organization. Keep the review criteria in mind when writing the application.

Start preparing the application early. Allow plenty of time to gather required information from various sources.

Follow the instructions in this guidance carefully. Place all information in the order requested in the guidance. If you do not put the information in the requested order, you may receive a lower score.

Be brief, concise, and clear. Make your points understandable. Provide accurate and honest information, including candid accounts of problems and realistic plans to address them. If you omit any required information or data, explain why. Make sure the information provided in each table, chart, attachment, etc., is consistent with the proposal narrative and information in other tables.

Be organized and logical. Many applications receive a low score because the reviewers cannot follow the thought process of the applicant, or because parts of the application do not fit together.

Be careful in the use of appendices. Do not use the appendices for information required in the body of the application. Be sure to cross-reference all tables and attachments located in the appendices to the appropriate text in the application.

Carefully proofread the application. Misspellings and grammatical errors will impede reviewers' understanding of the application. Be sure pages are numbered (including appendices) and page limits are followed. Limit the use of abbreviations and acronyms, and define each one at its first use, and periodically throughout application.

Dated: June 6, 2006.

Mary Lou Valdez,

Deputy Director for Policy, Office of Global Health Affairs.

[FR Doc. E6–9070 Filed 6–9–06; 8:45 am]

BILLING CODE 4150–38–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator; American Health Information Community Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the sixth meeting of the American Health Information Community in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C. App.) The American Health Information Community will advise the Secretary and recommend specific actions to achieve a common interoperability framework for health information technology (IT).

DATES: June 13, 2006 from 8:30 a.m. to 12:30 p.m.

ADDRESSES: Hubert H. Humphrey Building (200 Independence Avenue, SW., Washington, DC 20201), Conference Room 800

FOR FURTHER INFORMATION CONTACT: Visit *http://www.hhs.gov/healthit/ahic.html.*

SUPPLEMENTARY INFORMATION: A Web cast of the Community meeting will be available on the NIH Web site at: *http://www.videocast.nih.gov.*

If you have special needs for the meeting, please contact (202) 690–7151.

Dated: June 1, 2006.

Kathryn Barr,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator.

[FR Doc. 06–5279 Filed 6–9–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Time and Date: June 21, 2006, 9 a.m.–4:30 p.m., June 22, 2006, 8:30 a.m.–12:30 p.m.

Place: Hubert H. Humphrey Building, 200 Independence Avenue, SW., Room 705A, Washington, DC 20201.

Status: Open.

Purpose: At this meeting the Committee will hear presentations and hold discussions on several health data policy topics. On the morning of the first day the Committee will hear updates and status reports from the Department on various topics including activities of the HHS Data Council and Health Insurance Portability and Accountability Act (HIPAA) implementation. There will also be discussions of Committee letters and documents in preparation. In the afternoon the Committee will continue its discussion of letters and documents in preparation, will hear an update from the Office of the National Coordinator for Health Information Technology, and be briefed by a representative from the Certification Commission for Health Information Technology.

On the morning of the second day the Committee will again discuss letters and documents, hear reports from Subcommittees and Workgroups, and discuss agendas for future meetings.

The times shown above are for the full Committee meeting. Subcommittee breakout sessions are scheduled for late in the afternoon of the first day and in the morning prior to the full Committee meeting on the second day. Agendas for these breakout sessions will be posted on the NCVHS Web site (URL below) when available.

For Further Information Contact: Substantive program information as well as summaries of meetings and a roster for committee members may be obtained from Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Center for Disease Control and Prevention, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/*, where further information including an agenda will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: June 5, 2006.

James Scanlon,

Deputy Assistant Secretary for Planning and Evaluation (OSDP), Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 06–5280 Filed 6–9–06; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Court Improvement Program New Grants.

OMB No.: New Collection.

Description: The President signed the Deficit Reduction Act of 2005, Public Law 109–171, into law on February 8, 2006. The law authorizes and appropriates funds for two new grants under the Court Improvement Program under title IV–B, section 438 of the Social Security Act. The highest State court in a State with an approved title IV–E plan is eligible to apply for either or both of the new grants. The new grants are for the purposes of: (1) Ensuring that the needs of children are met in a timely and complete manner through improved case tracking and analysis of child welfare cases, and (2) training judges, attorneys and other legal personnel in child welfare cases and conducting cross-training with child welfare agency staff and contractors.

The statute requires separate applications for these two new grants. The annual burden estimates below describe the estimated burden for each of the new grants. ACF proposes to collect information from the State about their work under these grants (applications, program reports) by way of a Program Instruction, which will be issued by June 14, 2006. This Program Instruction will describe the programmatic and fiscal provisions and reporting requirements for each of the grants, specify the application submittal and approval procedures for the grants for fiscal years 2006 through 2010 and identify technical resources for use by State courts during the course of the grants. The agency will use the information received to ensure compliance with the statute and provide training and technical assistance to the grantees.

Respondents: State Courts.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	52	1	40	2,080
Annual Program Report	52	1	36	1,872

Estimated Total Annual Burden Hours: 3,952 hours.

Additional Information: ACF is requesting that OMB grant a 90-day approval for this information collection under procedures for emergency processing by June 14, 2006. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Robert Sargis, at (202) 690–7275. E-mail address: *infocollection@acf.hhs.gov.*

Comments and questions about the information collection described above should be directed to the following address by June 14, 2006: Office of Information and Regulatory Affairs, Office of Management and Budget, Paper Reduction Project, Attn: OMB Desk Officer for ACF, E-mail address: *Katherine_T._Astrich@omb.eop.gov.*

Dated: June 6, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–5291 Filed 6–9–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1644–DR]

Maine; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maine (FEMA–1644–DR), dated May 25, 2006, and related determinations.

DATES: *Effective Date:* May 25, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 25, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Maine resulting from severe storms and flooding beginning on May 13, 2006, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Maine.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Acting Director, under Executive Order 12148, as amended, Kenneth Clark, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Maine to have been affected adversely by this declared major disaster:

York County for Individual Assistance and Public Assistance.

York County in the State of Maine is eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

R. David Paulison,

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

[FR Doc. E6–9055 Filed 6–9–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1642–DR]

Massachusetts; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Massachusetts (FEMA–1642–DR), dated May 25, 2006, and related determinations.

DATES: *Effective Date:* May 25, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 25, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the Commonwealth of Massachusetts resulting from severe storms and flooding beginning on May 12, 2006, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the Commonwealth of Massachusetts.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, as well as Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Acting Director, under Executive Order 12148, as amended, Elizabeth Turner, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Massachusetts to have been affected adversely by this declared major disaster:

Essex, Middlesex, and Suffolk Counties for Individual Assistance.

All counties within the Commonwealth of Massachusetts are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

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

[FR Doc. E6–9054 Filed 6–9–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1643–DR]

New Hampshire; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New Hampshire (FEMA–1643–DR), dated May 25, 2006, and related determinations.

DATES: *Effective Date:* May 25, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 25, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of New Hampshire resulting from severe storms and flooding beginning on May 12, 2006, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of New Hampshire.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, as well as Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Acting Director, under Executive Order 12148, as amended, Kenneth Clark, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New Hampshire to have been affected adversely by this declared major disaster:

Belknap, Carroll, Hillsborough, Merrimack, Rockingham, and Strafford Counties for Individual Assistance.

All counties within the State of New Hampshire are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

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

[FR Doc. E6–9053 Filed 6–9–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1643–DR]

New Hampshire; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New Hampshire (FEMA–1643–DR), dated May 25, 2006, and related determinations.

DATES: *Effective Date:* May 31, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of New Hampshire is hereby amended to include the Public Assistance Program for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 25, 2006:

Belknap, Carroll, Hillsborough, Merrimack, Rockingham, and Strafford Counties for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

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

[FR Doc. E6–9056 Filed 6–9–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1641–DR]

Washington; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA–1641–DR), dated May 17, 2006, and related determinations.

DATES: *Effective Date:* May 17, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 17, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Washington

resulting from severe storms, flooding, tidal surge, landslides, and mudslides during the period of January 27 to February 4, 2006, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Acting Director, under Executive Order 12148, as amended, Lee Champagne, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Washington to have been affected adversely by this declared major disaster:

Clallam, Grays Harbor, Island, Jefferson, Kitsap, Mason, Pacific, Pend Oreille, San Juan, Snohomish, and Wahkiakum Counties for Public Assistance.

All counties within the State of Washington are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

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

[FR Doc. E6–9052 Filed 6–9–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–33]

HOME Investment Partnerships Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information describes the eligibility of HOME Investment Partnerships Program (HOME) beneficiaries, the eligibility of proposed HOME activities, HOME program agreements, and HOME performance reports. The data identifies who benefits from the HOME program and how statutory and regulatory requirements are satisfied. The respondents are State and local government HOME participating jurisdiction.

DATES: *Comments Due Date:* July 12, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0171) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: HOME Investment Partnerships Program.

OMB Approval Number: 2506–0171.

Form Numbers: HUD–40093, SF–1199A, HUD–20755, HUD–40107, HUD–40107A.

Description of the Need for the Information and Its Proposed Use: This information describes the eligibility of HOME Investment Partnerships Program (HOME) beneficiaries, the eligibility of proposed HOME activities, HOME program agreements, and HOME performance reports. The data identifies who benefits from the HOME program and how statutory and regulatory requirements, are satisfied. The respondents are state and local government HOME participating jurisdictions.

Frequency of Submission: On occasion, Annually.

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
6,671	36.8		2.12		522,103

Total Estimated Burden Hours: 522,103.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 6, 2006.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–9122 Filed 6–9–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–34]

Public Housing Financial Management Template

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Public Housing Assessment System requires public housing agencies to submit financial information annually to HUD. The Uniform Financial Reporting Standards for HUD housing programs requires that this information be submitted electronically, using GAAP, in a prescribed format. Electronic submission of the annual unaudited financial information and the audited financial information requires the use of a template.

DATES: *Comments Due Date:* July 12, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2535–0107) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at Lillian_L_Deitzer@HUD.gov or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Public Housing Financial Management Template.

OMB Approval Number: 2535–0107.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: The Public Housing Assessment System requires public housing agencies to submit financial information annually to HUD. The Uniform Financial Reporting Standards for HUD housing programs requires that this information be submitted electronically, using GAAP, in a prescribed format. Electronic submission of the annual unaudited financial information requires the use of a template.

Frequency of Submission: Annually.

Reporting Burden:

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
4,238	1.83		5.0		38,864

Total Estimated Burden Hours: 38,864.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 6, 2006.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–9123 Filed 6–9–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for endangered species.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Fish and Wildlife Service issued the requested permit(s) subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) The application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be

consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

Endangered Species

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
111974	Danny M. Vines	70 FR 13416; March 15, 2006	April 17, 2006
761887	American Museum of Natural History	71 FR 10701; March 2, 2006	April 14, 2006

Dated: May 5, 2006.

Michael L. Carpenter,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–9048 Filed 6–9–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species.

DATES: Written data, comments or requests must be received by July 12, 2006.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: George T. Markou, Mt. Arlington, NJ, PRT–124778

The applicant requests a permit to import the sport-hunted trophy of one male scimitar-horned oryx (*Oryx dammah*) culled from a captive herd in the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Dated: May 5, 2006.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–9049 Filed 6–9–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Post Ranch Inn Habitat Conservation Plan, Monterey County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The Post Ranch Limited Partnership (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed permit would authorize take of the federally endangered Smith's blue butterfly (*Euphilotes enoptes smithi*) and federally threatened California red-legged frog (*Rana aurora draytonii*) incidental to otherwise lawful activities associated with the expansion and operation of an existing inn, which would remove 0.003 acre of Smith's blue butterfly habitat and 0.826 acre of California red-legged frog upland habitat within a 91.98 acre parcel in Big Sur, Monterey County, California.

We invite comments from the public on the permit application, which is available for review. The application includes a Habitat Conservation Plan (HCP), that fully describes the proposed project and the measures that the applicant would undertake to minimize and mitigate anticipated take of the Smith's blue butterfly and California red-legged frog, as required in section 10(a)(2)(B) of the Act.

We also invite comments on our preliminary determination that the HCP qualifies as a ''low-effect'' plan, eligible for a categorical exclusion under the National Environmental Policy Act. We explain the basis for this possible determination in a draft Environmental Action Statement, which is also available for public review.

DATES: Written comments must be received no later than July 12, 2006.

ADDRESSES: Written comments should be addressed to Diane Noda, Field Supervisor, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003. Comments may also be sent by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Jacob Martin, Fish and Wildlife Biologist, at the above address or by calling (805) 644–1766.

SUPPLEMENTARY INFORMATION:

Document Availability

Please contact the Ventura Fish and Wildlife Office (see **ADDRESSES**) if you would like copies of the application, HCP, and Environmental Action Statement. Documents will also be available for review by appointment, during normal business hours, at the Ventura Fish and Wildlife Office (see **ADDRESSES**) or via the Internet at *http://www.fws.gov/ventura.*

Background

Section 9 of the Act and Federal regulations prohibit the ''take'' of fish or wildlife species listed as endangered or threatened, respectively. Take of listed fish or wildlife is defined under the Act to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. However, the Service, under limited circumstances, may issue permits to cover incidental take, *i.e.,* take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found at 50 CFR 17.32 and 17.22, respectively. Among other criteria, issuance of such permits must not jeopardize the existence of federally listed fish, wildlife, or plants.

The Post Ranch Inn is located on a 91.98 acre parcel between California Highway 1 and the Pacific Ocean, approximately 1 mile south of Pfeiffer Big Sur State Park, in Big Sur, Monterey County, California.

The applicant proposes to construct additional facilities within the existing inn complex, including new inn units, new yoga/spa buildings, a central services facility, employee housing, and a maintenance/shop building. Expansion activities, including disturbance due to construction, construction staging, and fuels management, would occur within 5.136 acres. Approximately 72 percent (3.701 of 5.136 acres) of the disturbance would occur within areas that are already developed, landscaped, or dominated by invasive plants. Thirteen plant communities occur within the 91.98 acre site, including California sagebrush (*Artemesia californica*) scrub, coyote brush (*Baccharis* spp.) scrub, broom (*Genista* spp.) scrub, coastal terrace prairie, California oatgrass (*Danthonia californica*) bunchgrass (*Nassella* spp. and *Festuca* spp.) grassland, California annual grassland, sedge seep, freshwater marsh, pondweed (*Potamogeton nodosus*) with floating leaves wetland, arroyo willow (*Salix lasiolepis*) riparian forest, California sycamore (*Platanus racemosa*) woodland, and coast live oak (*Quercus agrifolia*) forest. Disturbed areas also exist at the site, such as the existing roads, buildings, parking, and landscaped areas.

There are areas of California sagebrush scrub and California annual grassland in the southwestern portion of the Post Ranch Inn property that include seacliff buckwheat (*Eriogonum parvifolium*), a food plant used by all life stages of the Smith's blue butterfly. Surveys in July of 2000 indicated that these areas are occupied by the Smith's blue butterfly. The proposed expansion would remove a small area (0.003 acre) of California sagebrush scrub habitat that either currently contains or could be easily colonized by adjacent seacliff buckwheat. This removal could result in take of Smith's blue butterflies. Additional seacliff buckwheat plants may be removed due to management activities, including clearance of fire breaks, invasive plant removal, and habitat restoration and enhancement. There is also a pond in the central portion of the Post Ranch Inn property. Ongoing surveys, which began in 2000, have demonstrated that this pond is occupied by California red-legged frogs. Up to 52 adult and subadult California red-legged frogs have been observed per survey. Expansion activities would not occur within the pond, but would impact 0.826 acre of upland habitat expected to be used by California red-legged frogs. Due to presence of the Smith's blue butterfly and California red-legged frog and expected impacts on their habitat, the Service concluded that the proposed expansion would likely result in take of these species and recommended that the applicant apply for an incidental take permit.

The applicant proposes to implement measures to minimize and mitigate for take of the Smith's blue butterfly and California red-legged frog within the project site. Specifically, they propose to: (1) Protect in perpetuity 36.1 acres within the Post Ranch Inn parcel via a conservation easement; (2) provide funding for monitoring of the easement area in perpetuity; (3) improve existing habitat by removing invasive plants and establishing at least 200 mature seacliff buckwheat plants within the easement area; (4) remove invasive species, including bullfrogs (*Rana catesbeiana*), mosquitofish (*Gambusia affinis*), and crayfish (*Pacifastacus* spp.) from the on-site pond; and (5) undertake various measures (including fencing of construction areas and providing a biological monitor) during grading and construction activities at the project site to minimize impacts to both listed species and their habitats.

The Service's proposed action is to issue an incidental take permit to the applicant who would then implement the HCP. The HCP includes measures to minimize and mitigate impacts of the project on the Smith's blue butterfly and California red-legged frog. Two alternatives to the taking of listed species under the proposed action are considered in the HCP. Under the No-Action alternative, the proposed expansion would not occur and the HCP would not be implemented. This would avoid the immediate effects of habitat removal on the Smith's blue butterfly and California red-legged frog. However, without the HCP, habitat for the Smith's blue butterfly and California red-legged frog on the project site likely would decline as a result of threats from invasive plants and animals. This alternative would also result in an unnecessary economic burden on the applicant.

Under the Redesigned Project alternative, the development footprint for the project would be reduced or relocated to another portion of the site, thus reducing or altering the area of impacted habitat for the Smith's blue butterfly and California red-legged frog. Alternate locations for new construction are limited within the Post Ranch Inn parcel due to the presence of steep slopes, an existing scenic easement on the east side of the parcel, and a desire to avoid removal of native trees. These constraints leave only areas of annual grassland and an existing orchard as alternate construction sites. Use of these sites could potentially reduce the amount of Smith's blue butterfly and California red-legged frog habitat impacted, but would also require extension of roads, which would partially offset any improvements achieved through the relocation. Given the small amount of Smith's blue butterfly and California red-legged frog habitat that would be removed by the proposed expansion (0.003 acre and 0.826 acre, respectively), a reduction in the development envelope would not substantially improve post-project conditions for the Smith's blue butterfly and California red-legged frog on the site. Construction and on-going use of the site would still affect both species, even if the proposed expansion were reduced in size. Due to the constraints on alternate construction locations and the already small amount of listed species' habitat impacted by the project as proposed, we do not expect that relocation or reduction of the proposed construction would substantially benefit the Smith's blue butterfly or California red-legged frog. This alternative would also result in an unnecessary economic burden on the applicant.

The Service has made a preliminary determination that the HCP qualifies as a ''low-effect'' plan as defined by our Habitat Conservation Planning Handbook (November 1996). Our determination that a habitat conservation plan qualifies as a low-effect plan is based on the following three criteria: (1) Implementation of the plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the plan, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects would not result, over time, in cumulative effects to environmental values or resources which would be considered significant. As more fully explained in our Environmental Action Statement, the applicant's proposal to expand the Post Ranch Inn qualifies as a ''low-effect'' plan for the following reasons:

(1) Approval of the HCP would result in minor or negligible effects on the Smith's blue butterfly and California red-legged frog and their habitats. The Service does not anticipate significant direct or cumulative effects to the Smith's blue butterfly or California red-

legged frog resulting from the proposed development of the project site.

(2) Approval of the HCP would not have adverse effects on unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

(3) Approval of the HCP would not result in any cumulative or growth-inducing impacts and would not result in significant adverse effects on public health or safety.

(4) The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

(5) Approval of the HCP would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.

The Service therefore has made a preliminary determination that approval of the HCP qualifies as a categorical exclusion under the National Environmental Policy Act, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). Based upon this preliminary determination, we do not intend to prepare further National Environmental Policy Act documentation. The Service will consider public comments in making its final determination on whether to prepare such additional documentation.

The Service provides this notice pursuant to section 10(c) of the Endangered Species Act. We will evaluate the permit application, the HCP, and comments submitted thereon to determine whether the application meets the requirements of section 10 (a) of the Act. If the requirements are met, the Service will issue a permit to the applicant. We will make the final permit decision no sooner than 30 after the date of publication of this notice.

Dated: June 6, 2006.

Diane K. Noda,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. E6–9066 Filed 6–9–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Red Rock Lakes National Wildlife Refuge, Lima, MT

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: This notice advises that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare a Comprehensive Conservation Plan (CCP) and associated environmental documents for Red Rock Lakes National Wildlife Refuge (NWR) in Lima, Montana. The Service is furnishing this notice in compliance with Service CCP policy to advise other agencies and the public of its intentions, and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: Written comments must be received by July 12, 2006.

ADDRESSES: Comments and requests for more information regarding Red Rock Lakes NWR should be sent to Laura King, Planning Team Leader, Tewaukon NWR, Division of Refuge Planning, 9754 143½ Avenue, SE., Cayuga, North Dakota 58013–9764.

FOR FURTHER INFORMATION CONTACT: Laura King, 701–724–3598, or Linda Kelly at 303–236–8132.

SUPPLEMENTARY INFORMATION: The Service has initiated a CCP for Red Rock Lakes NWR for the conservation and enhancement of its natural resources. Red Rock Lakes NWR has six establishing purposes: (1) ''as a refuge and breeding ground for wild birds and animals'' (Executive Order 7023, dated April 22, 1935); (2) ''for use as an inviolate sanctuary, or for any other management purpose, for migratory birds'' (16 U.S.C. 715d [Migratory Bird Conservation Act]); (3) ''for (a) incidental fish and wildlife-oriented recreational development, (b) the protection of natural resources, [and] (c) the conservation of endangered species or threatened species'' (16 U.S.C. 460k–1), ''the Secretary * * * may accept and use * * * real* * * property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors.'' (16 U.S.C. 460k–2 (Refuge Recreation Act [16 U.S.C. 460k–460k–4], as amended)); (4) ''the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions'' (16 U.S.C. 3901(b) [Emergency Wetlands Resources Act of 1986]); (5) ''for the development, advancement, management, conservation, and protection of fish and wildlife resources'' (16 U.S.C. 742f(a)(4)), ''for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude.'' (16 U.S.C. 742f(b)(1) [Fish and Wildlife Act of 1956]); (6) ''conservation, management, and restoration of the fish, wildlife, and plant resources and their habitats for the benefit of present and future generations of Americans'' (16 U.S.C. 668dd(a)(2) [National Wildlife Refuge System Administration Act]).

This Refuge encompasses 58,326 acres, of which 32,350 are designated as wilderness. The Refuge lies in the high-elevation Centennial Valley and contains primarily wetland and riparian habitats. This minimally altered natural and diverse habitat provides for species such as trumpeter swans, moose, sandhill cranes, curlews, peregrine falcons, eagles, numerous hawks and owls, badgers, wolverines, bears, pronghorn, and wolves (in the backcountry). Native fish such as Arctic grayling and west-slope cutthroat trout occur in Refuge waters.

During the comprehensive planning process, management goals, objectives, and strategies will be developed to carry out the purposes of the Refuge, and to comply with laws and policies governing refuge management and public use of the Refuge.

The Service requests input as to which issues affecting management or public use should be addressed during the planning process. The Service is especially interested in receiving public input in the following areas:

(a) What do you value most about this Refuge?

(b) What problems or issues do you see affecting management of this Refuge?

(c) What changes, if any, would you like to see in the management of this Refuge?

The Service has provided the above questions for your optional use. The Service has no requirement that you provide information; however, any comments received by the Planning Team will be used as part of the planning process.

Opportunities for public input will also be provided at a public meeting to be scheduled for early summer 2006. Exact dates and times for these public meetings are yet to be determined, but

will be announced via local media and a newsletter. All information provided voluntarily by mail, phone, or at public meetings (*e.g.*, names, addresses, letters of comment, input recorded during meetings) becomes part of the official public record. If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide copies of such information. The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*); NEPA Regulations (40 CFR 1500–1508); other appropriate Federal laws and regulations; Executive Order 12996; the National Wildlife Refuge System Improvement Act of 1997; and Service policies and procedures for compliance with those laws and regulations.

Dated: May 5, 2006.

James J. Slack,

Deputy Regional Director, Region 6, Denver, CO.

[FR Doc. E6–9068 Filed 6–9–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–964–1410–HY–P; F–14915–A, F–14915–A2]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

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 Ohog Incorporated for lands in the vicinity of Ohogamiut, Alaska, and located in:

Lot 6, U.S. Survey No. 11028, Alaska.

Containing 0.78 acres.

Seward Meridian, Alaska

T. 16 N., R. 69 W., Secs. 18 to 21, inclusive; Secs. 28 to 33, inclusive.
Containing 4,753.82 acres.
T. 16 N., R. 70 W., Secs. 23 and 24.
Containing 1,280 acres.
T. 18 N., R. 70 W., Secs. 1, 11, 12, and 14.
Containing 1,920 acres.
Aggregating 7,954.60 acres.

Notice of the decision will also be published four times in the Tundra Drums.

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 July 12, 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: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@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 the Bureau of Land Management.

Eileen Ford,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E6–9037 Filed 6–9–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

[MT–922–06–1310–FI–P;MTM 85972]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease MTM 85972

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per 30 U.S.C. 188(d), Sonalta Resources Inc. and Quicksilver Resources Inc. timely filed a petition for reinstatement of oil and gas lease MTM 85972, Stillwater County, Montana. The lessee paid the required rental accruing from the date of termination, January 1, 2006.

No leases were issued that affect these lands. The lessee agrees to new lease terms for rentals and royalties of $10 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of the lease and $163 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $10 per acre;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- The $163 cost of publishing this Notice

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, 406–896–5098.

Dated: June 5, 2006.

Karen L. Johnson,

Chief, Fluids Adjudication section.

[FR Doc. E6–9041 Filed 6–9–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA 31044–01]

Public Land Order No. 7664; Withdrawal of National Forest System Land for the Diamond Rim Quartz Crystal Interpretive Area; Arizona.

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 990 acres of National Forest System land from location and entry under the United States mining laws for 20 years to protect the Diamond Rim Quartz Crystal Interpretive Area.

EFFECTIVE DATE: June 12, 2006.

FOR FURTHER INFORMATION CONTACT: Angela Mogel, BLM Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427, 602–417–9536.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws, 30 U.S.C. Ch. 2 (2000), to protect the Diamond Rim Quartz Crystal Interpretive Area:

Tonto National Forest

Gila and Salt River Meridian

T. 11 N., R. 11 E.,
Sec. 1, SW1/4;
Sec. 12, W1/2 and W1/2E1/2;

Sec. 13, NW1/4NW1/4NE1/4, NE1/4NW1/4, W1/2NW1/4, N1/2SE1/4NW1/4, and N1/2NW1/4SW1/4;

Sec. 14, S1/2S1/2SW1/4NE1/4, SE1/2NE1/4, NE1/4SE1/4, W1/2SE1/4, and N1/2N1/2SE1/4SE1/4.

The area described contains 990 acres in Gila County.

2. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (2000), the Secretary determines that the withdrawal shall be extended.

Dated: May 18, 2006.

Mark Limbaugh,

Assistant Secretary of the Interior.

[FR Doc. E6–9042 Filed 6–9–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–5853–ES; N–80579]

Notice of Realty Action: Recreation and Public Purposes Act Classification of Public Lands in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification for lease and subsequent conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended, approximately 10 acres of public land in Clark County, Nevada. The Crossroads Community Church proposes to use the land for a church and related facilities.

DATES: Interested parties may submit comments regarding the proposed lease/conveyance or classification of the lands until July 27, 2006.

ADDRESSES: Send written comments to the Field Manager, BLM Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada, 89130.

FOR FURTHER INFORMATION CONTACT: Sharon DiPinto, Assistant Field Manager, Bureau of Land Management, Las Vegas Field Office, at (702) 515–5062.

SUPPLEMENTARY INFORMATION: The following described public land in Clark County, Nevada, has been examined and found suitable for classification for lease and subsequent conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 et seq.), and is hereby classified accordingly:

Mount Diablo Meridian, Nevada

T. 22 S., R. 61 E., Sec. 33: SE¼NE¼SE¼.
Containing 10 acres, more or less.

In accordance with the R&PP Act, the Crossroads Community Church filed an application for the above-described 10 acres of public land to be developed as a church and related facilities. These related facilities include a multipurpose building (a worship center, offices, classrooms, nursery, kitchen, restrooms, utility/storage rooms, and a lobby), sidewalks, landscaped areas, paved parking areas, daycare center, youth athletic fields, and off site improvements. Additional detailed information pertaining to this application, plan of development, and site plans is in case file N–80579 located in the BLM Las Vegas Field Office at the above address.

Churches are a common applicant under the ''public purposes'' provision of the R&PP Act. The Crossroads Community Church is an Internal Revenue Service registered non-profit organization and is, therefore, a qualified applicant under the R&PP Act.

The lease/conveyance is consistent with the Las Vegas Resource Management Plan dated October 5, 1998, and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945); and

2. All minerals together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe. The lease/patent will also be subject to:

1. An easement in favor of Clark County for roads, public utilities, and flood control purposes; and

2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

On June 12, 2006, the land described above will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the R&PP Act, leasing under the mineral leasing laws, and disposals under the mineral material disposal laws.

Comments

Classification Comments: Interested parties may submit comments involving the suitability of the land for a church and related facilities. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching its classification decision, or any other factor not directly related to the suitability of the land for R&PP use.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this notice will become effective on August 11, 2006. The lands will not be available for lease/conveyance until after the classification becomes effective.

Authority: 43 CFR part 2740.

Sharon DiPinto,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. E6–9038 Filed 6–9–06; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

Revised Access to the Law Library

AGENCY: U.S. International Trade Commission.

ACTION: Notice concerning revised access to the Law Library.

SUMMARY: The United States International Trade Commission (Commission) is issuing this notice to advise the public that the agency's Law Library will no longer be open to walk-in customers, but will be accessible by providing advance notice by telephone after a period of renovation.

DATES: The Law Library will be closed to the public during its renovation from June 12 through August 11, 2006. Members of the public will be able to gain access to the Law Library by providing advance notice to Law Library staff starting approximately August 14, 2006.

ADDRESSES: The Commission's Law Library is located in suite 614, U.S.

International Trade Commission Building, 500 E Street, SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Kover, Law Librarian, or Ms. Maureen Bryant, Law Librarian, U.S. International Trade Commission, telephone 202–205–3287. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION: Currently, the Commission's Law Library is open to walk-in customers. The Commission will shortly begin renovating the Law Library and adjacent areas to optimize the use of space. During the renovation period, which is expected to last from June 12, 2006 through August 11, 2006, the Law Library will be closed to the public. The Law Library staff will be available for telephonic consultation at 202–205–3287 during this time, but customers are advised that the staff will only be able to provide limited assistance.

In conjunction with the renovation, the Commission has determined that security concerns dictate restricting access to the Law Library. As of approximately August 14, 2006, members of the public will be able to gain entry only by providing advance telephone notice to the Law Library staff.

The change in Law Library access policy does not affect the Commission's Main Library/Knowledge Resources in suite 300 of the U.S. International Trade Commission Building.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–9206 Filed 6–9–06; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Records of Congress; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Records of Congress. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Records Services.

DATES: June 12, 2006 from 10 a.m. to 11 a.m.

ADDRESSES: The U.S. Capitol Building, Room H–137, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard H. Hunt, Director; Center for Legislative Archives; (202) 357–5350.

SUPPLEMENTARY INFORMATION:

Agenda

Advisory Committee on the Records of Congress Fourth Report
May Meeting of the Association of Centers for the Study of Congress
Update on the Center for Legislative Archives
Other current issues and new business

The meeting is open to the public.

This notice is published less than 15 calendar days before the meeting because of scheduling difficulties.

Dated: June 6, 2006.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. E6–9149 Filed 6–9–06; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that six meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 as follows (ending times are approximate):

Musical Theater (application review): June 26–27, 2006 in Room 714. This meeting, from 9 a.m. to 5:30 p.m. on June 26th and from 9 a.m. to 12 p.m. on June 27th, will be closed.

Theater (application review): June 27–30, 2006 in Room 714. This meeting, from 1 p.m. to 5:30 p.m. on May 31st, from 9 a.m. to 6 p.m. on June 1st, and from 9 a.m. to 1 p.m. on June 27th, from 9 a.m. to 5:30 p.m. on June 28th and June 29th, and from 9 a.m. to 3 p.m. on June 30th, will be closed.

Dance (application review): July 17–21, 2006 in Room 716. This meeting, from 9 a.m. to 6 p.m. on July 17th, 18th, 19th, and 20th, and from 9 a.m. to 3:30 p.m. on July 21st, will be closed.

Presenting (application review): July 24, 2006 in Room 716. This meeting, from 9 a.m. to 4 p.m., will be closed.

Design (application review): July 25, 2006 in Room 716. This meeting, from 9 a.m. to 5:30 p.m., will be closed.

Presenting (application review): July 25–28, 2006 in Room 716. A portion of this meeting, from 10:45 a.m. to 11:45 a.m. on July 28th, will be open to the public for policy discussion. The remainder of the meeting, from 9 a.m. to 5:30 p.m. on July 25th and 26th, from 9 a.m. to 5 p.m. on July 27th, and from 9 a.m. to 10:45 a.m. and from 11:45 a.m. to 1:45 p.m. on July 28th, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202–682–5532, TDY–TDD 202–682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202–682–5691.

Dated: June 6, 2006.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E6–9045 Filed 6–9–06; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8838–MLA; ASLBP No. 00–776–04–MLA]

Atomic Safety and Licensing Board; In the Matter of U.S. Army (Jefferson Proving Ground Site); Notice (Notice of Opportunity To Make Oral or Written Limited Appearance Statements)

June 6, 2006.

Before Administrative Judges: Alan S. Rosenthal, Chairman, Dr. Paul B. Abramson, and Dr. Richard F. Cole.

This proceeding involves the application submitted by the Department of the Army for an amendment to its NRC materials license (License No. SUB–1435). The amendment would authorize an alternate schedule for the submittal to the NRC Staff of a decommissioning plan for Licensee's Jefferson Proving Ground (JPG) site located in Madison, Indiana. Such a plan is required because there is currently amassed on that site a considerable quantity of depleted uranium (DU) munitions, the result of the Licensee's conduct, between 1984 and 1994 and under the auspices of the NRC materials license, of accuracy testing of DU tank penetration rounds. On February 2, 2006, this Atomic Safety and Licensing Board granted a petition to intervene and request for hearing filed by Save the Valley, Inc., and deferred any hearing pending the completion of the NRC Staff's technical review. LBP–06–06, 63 NRC 167, 185–86. On April 27, 2006, after completion of its technical review, the NRC Staff issued the requested license amendment. As a consequence, on May 1, the proceeding was restored to fully active status. Licensing Board Memorandum and Order (Scheduling Further Proceedings) (May 1, 2006) (unpublished). This Atomic Safety and Licensing Board hereby gives notice that, in accordance with 10 CFR 2.315(a), the Board will entertain oral limited appearance statements from members of the public in connection with this proceeding.

A. Date, Time, and Location of Oral Limited Appearance Statement Session

The session will be held on the following date at the specified location and time:

Date: Tuesday July 18, 2006.
Time: 6:30 p.m. to 8:30 p.m.
Location: Madison-Jefferson County Public Library, 420 W. Main Street, Madison, Indiana 47250. (812) 265–2744.

B. Participation Guidelines for Oral Limited Appearance Statements

Any person not a party, or the representative of a party, to the proceeding will be permitted to make an oral statement setting forth his or her position on matters of concern relating to this proceeding. Although these statements do not constitute testimony or evidence, they nonetheless might help the Board and/or the parties in their consideration of the issues in this proceeding.

Oral limited appearance statements will be entertained during the hours specified above, or such lesser time as might be necessary to accommodate the speakers who are present.[1] In this regard, if all scheduled and unscheduled speakers present at the session have made a presentation, the Licensing Board reserves the right to terminate the session before the ending time listed above. Any members of the public who wish to make an oral statement are advised to be present at the limited appearance session at precisely 6:30 p.m. The time allotted for each statement normally will be no more than five (5) minutes, but may be further limited depending on the number of written requests to make an oral statement that are submitted in accordance with Section C below and/or the number of persons present at the designated time.

C. Submitting a Request To Make an Oral Limited Appearance Statement

Persons wishing to make an oral statement who have submitted a timely written request to do so will be given priority over those who have not filed such a request. To be considered timely, a written request to make an oral statement must either be mailed, faxed, or sent by e-mail so as to be received by 5 p.m. EDT on Friday, July 7, 2006. Written requests to make an oral statement should be submitted to:

Mail: Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
Fax: (301) 415–1101 (verification (301) 415–1966).
E-mail: hearingdocket@nrc.gov.

In addition, using the same method of service, a copy of the written request to make an oral statement should be sent to the Chairman of this Licensing Board as follows:

Mail: Administrative Judge Alan S. Rosenthal, c/o: Debra Wolf, Esq., Law Clerk, Atomic Safety and Licensing Board Panel, Mail Stop T–3 F23, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
Fax: (301) 415–5599 (verification (301) 415–6094).
E-mail: daw1@nrc.gov.

D. Submitted Written Limited Appearance Statements

A written limited appearance statement may be submitted to the Board regarding this proceeding at any time, either in lieu of or in addition to any oral statement. Such statements should be sent to the Office of the Secretary using the methods prescribed above, with a copy to the Licensing Board Chairman.

E. Availability of Documentary Information Regarding the Proceeding

Documents relating to this proceeding are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* (Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at (800) 397–4209 or (301) 415–4737, or by e-mail to *pdr@nrc.gov.*

F. Scheduling Information Updates

Any updated/revised scheduling information regarding the limited appearance session can be found on the NRC Web site at *http://www.nrc.gov/public-involve/public-meetings/index.cfm* or by calling (800) 368–5642, extension 5036, or (301) 415–5036.

Dated June 6, 2006, in Rockville, Maryland.

For the Atomic Safety and Licensing Board.[2]

Alan S. Rosenthal,

Chairman, Administrative Judge.

[FR Doc. E6–9060 Filed 6–9–06; 8:45 am]

BILLING CODE 7590–01–P

[1] During the limited appearance session signs no larger than 18″ by 18″ will be permitted, but may not be attached to sticks, held up, or moved about in the room.

[2] Copies of this Notice were sent this date by Internet electronic mail transmission to counsel for the parties.

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–259]

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.54(o) and 10 CFR Part 50, Appendix J, for Facility Operating License No. DPR–33, issued to the Tennessee Valley Authority (TVA, the licensee) for operation of the Browns Ferry Nuclear Plant (BFN) Unit 1, located in Limestone County, Alabama. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from requirements to include main steam isolation valve (MSIV) leakage in (a) the overall integrated leakage rate test measurement required by Section III.A of Appendix J, Option B, and (b) the sum of local leak rate test measurements required by Section III.B of Appendix J, Option B.

The proposed action is in accordance with the licensee's application dated July 9, 2004.

The Need for the Proposed Action

The proposed action would reduce the frequency of MSIV rebuilds during outages that are required to achieve the leakage rates specified in the current Technical Specifications (TSs). Section 50.54(o) of 10 CFR part 50 requires that primary reactor containments for water-cooled power reactors be subject to the requirements of Appendix J to 10 CFR part 50. Appendix J specifies the leakage test requirements, schedules, and acceptance criteria for tests of the leak tight integrity of the primary reactor containment and systems and components that penetrate the containment. Option B, Section III.A requires that the overall integrated leak rate must not exceed the allowable leakage (La) with margin, as specified in the TSs. The overall integrated leak rate, as specified in the 10 CFR part 50, Appendix J definitions, includes the contribution from MSIV leakage. By letter dated July 9, 2004, the licensee requested an exemption from Option B, Section III.A, requirements to permit exclusion of MSIV leakage from the overall integrated leak rate test measurement. Option B, Section III.B of 10 CFR part 50, Appendix J requires that the sum of the leakage rates of Type B and Type C local leak rate tests be less than the performance criterion (La) with margin, as specified in the TSs. The licensee's July 9, 2004, letter also requested an exemption from this requirement, to permit exclusion of the MSIV contribution to the sum of the Type B and Type C tests.

The above-cited requirements of Appendix J require that MSIV leakage measurements be grouped with the leakage measurements of other containment penetrations when containment leakage tests are performed. These requirements are inconsistent with the design of the Browns Ferry facility and the analytical models used to calculate the radiological consequences of design-basis accidents. At BFN, and similar facilities, the leakage from primary containment penetrations, under accident conditions, is collected and treated by the secondary containment system, or would bypass the secondary containment. However, the leakage from MSIVs is collected and treated via an Alternative Leakage Treatment (ALT) path having different mitigation characteristics. In performing accident analyses, it is appropriate to group various leakage effluents according to the treatment they receive before being released to the environment (*i.e.*, bypass leakage is grouped, leakage into secondary containment is grouped, and ALT leakage is grouped, with specific limits for each group defined in the TSs).

The proposed exemption would permit ALT path leakage to be independently grouped with its unique leakage limits.

Environmental Impacts of the Proposed Action

The NRC staff has completed its safety evaluation of the proposed action and finds that the proposed exemption involves a slight increase in the total amount of radioactive effluent that may be released off site in the event of a design-basis accident. However, the calculated doses remain within the acceptance criteria of 10 CFR part 100 and Standard Review Plan Section 15, and there is no significant increase in occupational or public radiation exposure. The proposed action will not significantly increase the probability or consequences of accidents. The NRC staff, thus, concludes that granting the proposed exemption would result in no significant radiological environmental impact.

The proposed action does not affect nonradiological plant effluents or historical sites, and has no other environmental impact. Therefore, there are no significant nonradiological impacts associated with the proposed exemption.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

The details of the staff's safety evaluation will be provided in the license amendment that will be issued as part of the letter to the licensee approving the license amendment.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in the amount of any effluent released off site. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the Browns Ferry Nuclear Plant dated September 1, 1972 for BFN Unit 1.

Agencies and Persons Consulted

In accordance with its stated policy, on May 4, 2006, the NRC staff consulted with the Alabama State official, Kirk Whatley of the Office of Radiological Control, regarding the environmental

impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 9, 2004. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference NRC staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 30th day of May 2006.

For the Nuclear Regulatory Commission.

Margaret H. Chernoff,

Project Manager, Plant Licensing Branch II–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–9058 Filed 6–9–06; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Qualified Domestic Relations Orders Submitted to the PBGC

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') is requesting that the Office of Management and Budget (''OMB'') approve a revision of a collection of information under the Paperwork Reduction Act. The information collection relates to qualified domestic relations orders submitted to the PBGC. This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by July 12, 2006.

ADDRESSES: Comments may be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attn: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503. Copies of the request for extension (including the collection of information) may be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at 1200 K Street, NW., 11th Floor, Washington, DC 20005–4026, or by visiting or calling (202–326–4040) the Disclosure Division during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Jo Amato Burns, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC is requesting that OMB extend its approval (with modifications) of the guidance and model language and forms contained in the PBGC booklet, *Divorce Orders & PBGC.*

A defined benefit pension plan that does not have enough money to pay benefits may be terminated if the employer responsible for the plan faces severe financial difficulty, such as bankruptcy, and is unable to maintain the plan. In such an event, the PBGC becomes trustee of the plan and pays benefits, subject to legal limits, to plan participants and beneficiaries.

The benefits of a pension plan participant generally may not be assigned or alienated. However, Title I of ERISA provides an exception for domestic relations orders that relate to child support, alimony payments, or the marital property rights of an alternate payee (a spouse, former spouse, child, or other dependent of a plan participant). The exception applies only if the domestic relations order meets specific legal requirements that make it qualified, *i.e.,* a qualified domestic relations order, or ''QDRO.'' ERISA provides that pension plans are required to comply with only those domestic relations orders which are QDROs, and that the decision as to whether a domestic relations order is a QDRO is made by the plan administrator. Thus, as statutory trustee of terminated plans, PBGC must first determine whether any domestic relations order submitted to PBGC is qualified—*i.e.,* is a QDRO—before any obligation to comply is triggered.

When PBGC is trustee of a plan, it reviews submitted domestic relations orders to determine whether the order is qualified before paying benefits to an alternate payee. The requirements for submitting a QDRO are established by statute. The models and guidance provided in the PBGC booklet, *Divorce Orders & PBGC* (the booklet's title will be changed to *Qualified Domestic Relations Orders & PBGC,* to better reflect its scope), assists parties by making it easier to comply with ERISA's QDRO requirements when drafting orders for plans trusteed by PBGC. The booklet does not create any additional requirements.

The PBGC is revising the QDRO booklet by: Defining a participant's ''earliest PBGC retirement date,'' which affects when a participant and alternate payee may start receiving benefit payments; describing new annuity benefit forms that are available to alternate payees; providing information on how to make a Freedom of Information Act (FOIA) request to obtain information necessary for the preparation of a domestic relations order; and providing additional model forms and language to address a greater variety of situations. The revised booklet will be available on the PBGC's Web site at *http://www.pbgc.gov.*

The collection of information has been approved through December 31, 2006, by OMB under control number 1212–0054. The PBGC is requesting that OMB approve the revised collection of information for three years. 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.

PBGC estimates that it will receive an average of 875 domestic relations orders annually, and estimates 855 of these will be prepared by attorneys or other professionals. The average hour burden for the alternate payee or participant is .75 hours if the order is prepared by a professional. In the case where the alternate payee or participant prepares the order, the average hour burden is estimated to be 10 hours. The total annual hour burden for alternate payees and participants is thus 841.25 hours ((855 × .75 hour = 641.25) + (20 × 10 = 200) = 841.25 hours). If the alternate payee or participant hires an attorney, PBGC estimates costs of $450 to $880 in professional fees for each order. PBGC estimates the total annual burden will be 841.25 hours of the alternate payee's

or participant's time, and professional costs of $384,750 to $752,400.

Issued in Washington, DC, this 6th day of June, 2006.

Cris Birch,

Acting Chief Technology Officer, Pension Benefit Guaranty Corporation.

[FR Doc. E6–9065 Filed 6–9–06; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF STATE

[Public Notice 5439]

60-Day Notice of Proposed Information Collection: DS–2029, Application for Consular Report of Birth of a Citizen of the United States of America, OMB Control No.1405–0011

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

Title of Information Collection: Application for Consular Report of Birth Abroad of a Citizen of the United States of America.

OMB Control Number: 1405–0011.

Type of Request: Extension of a currently approved collection.

Originating Office: Consular Affairs, Office of Overseas Citizen Services (CA/OCS).

Form Number: DS–2029.

Respondents: Parents or legal guardians of United States citizen children born overseas.

Estimated Number of Respondents: 52,000 per year.

Estimated Number of Responses: 52,000.

Average Hours per Response: 20 minutes.

Total Estimated Burden: 17,333.

Frequency: On occasion.

Obligation to Respond: Voluntary.

DATES: The Department will accept comments from the public up to 60 days from June 12, 2006.

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

E-mail: *GawMA@state.gov*.

Mail (paper, disk, or CD–ROM submissions): Department of State, Bureau of Consular Affairs, Office of Overseas Citizens Services, SA–29 4th Floor, 2100 Pennsylvania Avenue, NW., Washington, DC 20037. Fax: 202–736–9111.

Hand Delivery or Courier: see above.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Monica Gaw, Department of State, Bureau of Consular Affairs, Office of Overseas Citizens Services, SA–29 4th Floor, 2100 Pennsylvania Avenue, NW., Washington, DC 20037, who may be reached on 202–736–9107, and *GawMA@state.gov*.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

The DS–2029, Application for Consular Report of Birth Abroad of a Citizen of the United States of America, is used by citizens of the United States to report the birth of a child while overseas. The information collected on this form will be used to certify the acquisition of U.S. citizenship at birth of a person born abroad and can be used by that child throughout life.

Methodology

The DS–2029 will be available to download from the Internet. An application for a Consular Report of Birth is normally made in the consular district in which the birth occurred. The parent respondents will fill the form out and take it to a United States Consulate or Embassy, who will examine the documentation and enter the information provided into the Department of State American Citizen Services (ACS) electronic database.

Dated: May 24, 2006.

Wanda L. Nesbitt,

Acting Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E6–9134 Filed 6–9–06; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 5438]

Determination on U.S. Position on Proposed World Bank Group's International Financial Corporation (IFC) Projects in Bosnia and Herzegovina

Pursuant to section 561 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Pub. L. 109–102) (FOAA), and Department of State Delegation of Authority Number 289, I hereby determine that the proposed 4.0 million Euro ICF investment package to transform the Ekonomic Kredit Institution (EKI) from a not-for-profit into a commercial financial organization and the 3.0 million Euro IFC investment package to transform MIBOSPO into a commercial financial organization to increase their micro lending capacities, will contribute to a stronger economy in Bosnia and Herzegovina, directly supporting implementation of the Dayton Accords. I therefore waive the application of section 561 of the FOAA to the extent that provision would otherwise prevent the U.S. Executive Directors of the IFC from voting in favor of these projects.

This Determination shall be reported to the Congress and published in the **Federal Register**.

Dated: May 30, 2006.

Daniel Fried,

Assistant Secretary of State For European and Eurasian Affairs, Department of State.

[FR Doc. E6–9133 Filed 6–9–06; 8:45 am]

BILLING CODE 4710–23–P

DEPARTMENT OF STATE

[Public Notice 5440]

International Joint Commission; Notice of Public Comment Period; International Lake Ontario-St. Lawrence River Study

The International Joint Commission will hold a 60-day public comment period on the report of its International Lake Ontario-St. Lawrence River Study Board, which was released on May 31, 2006.

The Study Board report presents the Commission with options for regulating the outflows from Lake Ontario through the international hydropower project at Cornwall, Ontario and Massena, New York. The five-year study improves the understanding of how regulation affects the environment, recreational boating, flooding, shoreline erosion, navigation, hydropower production and municipal

and industrial water uses from Niagara Falls, New York and Ontario to Trois-Riviéres, Quebec.

The Commission will consider changes to the current regulation plan, Plan 1958–D, and to its Orders of Approval for regulation of Lake Ontario outflows.

The public is invited to provide comments on the Study Board report, and any other relevant matters, to assist the Commission in its deliberations. Copies of the Study Board report are available from the Commission at the addresses below, or online from *http://www.ijc.org/en/activities/losl/index.php*.

Comments, which must be received by July 31, 2006, can be submitted online at *http://www.ijc.org/en/activities/losl/index.php* or sent by letter, fax or email to either address below:

U.S. Section Secretary, International Joint Commission, 1250 23rd Street NW., Suite 100, Washington, DC 20440. Tel: (202) 736–9024. Fax: (202) 467–0746. *Commission@washington.ijc.org*.

Canadian Section Secretary, International Joint Commission, 234 Laurier Avenue West, 22nd Floor, Ottawa, ON K1P 6K6. Tel: (613) 995–0088. Fax: (613) 993–5583. *Commission@ottawa.ijc.org*.

Once the Commission has adequately considered the Study Board report, public comment and any other relevant information, it will release a ''preliminary decision'' on regulation of Lake Ontario outflows for public comment. The Commission will examine increasing the benefits of regulation consistent with its responsibility under the Boundary Waters Treaty to ensure suitable and adequate protection of all interests that could be injured as a result of the activities that it approves.

The Commission will also hold public hearings, and consult with the governments of Canada and the United States to seek their concurrence, before making a decision whether to change its Orders of Approval or the current regulation plan. The times and locations will be announced.

Comments provided in writing or orally will become part of a public record that may be posted on the IJC's Web site or otherwise made available to the public. To protect the privacy of any person submitting comment, the IJC will remove the following identifying information from the incoming communication before making the comment available to the public: e-mail address, street address, post office box, zip code, postal code, telephone number and fax number. The following identifying information will remain part of the record that is made available to the public: Name, organizational affiliation, city, and state/province.

For more information, contact Frank Bevacqua (202) 736–9024; *bevacquaf@washington.ijc.org*.

Dated: June 5, 2006.

Elizabeth C. Bourget,

Secretary, U.S. Section International Joint Commission Department of State.

[FR Doc. E6–9132 Filed 6–9–06; 8:45 am]

BILLING CODE 4710–14–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. OST–2005–20112]

Regulatory Review Report

AGENCY: Office of the Secretary of Transportation (OST), DOT.

ACTION: Final report.

SUMMARY: This is the Department's final report providing a brief response, including a description of further action we intend to take, to the public's participation in the Department of Transportation's review of its existing regulations and its current Regulatory Agenda.

ADDRESSES: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. You can access the docket for this notice by inserting the last five-digits of the docket number into the DMS ''quick search'' function.

FOR FURTHER INFORMATION CONTACT: Neil Eisner, Assistant General Counsel, Office of General Counsel, Department of Transportation, 400 7th St., SW., Room 10424, Washington, DC 20590–0001. Telephone (202) 366–4723. E-mail *neil.eisner@dot.gov*

SUPPLEMENTARY INFORMATION:

Background

The Department of Transportation (Department or DOT) includes the Office of the Secretary (OST), and the following operating administrations (OAs): Federal Aviation Administration (FAA); Federal Highway Administration (FHWA); Federal Motor Carrier Safety Administration (FMCSA); Federal Railroad Administration (FRA); Federal Transit Administration (FTA); Maritime Administration (MARAD); National Highway Traffic Safety Administration (NHTSA); Pipeline and Hazardous Materials Safety Administration (PHMSA); Research and Innovative Technology Administration (RITA); and St. Lawrence Seaway Development Corporation (SLSDC).

Each of these elements of DOT has statutory responsibility for a wide range of regulations. For example, DOT regulates safety in the aviation, motor carrier, railroad, mass transit, motor vehicle, commercial space, and pipeline transportation areas. DOT regulates aviation consumer and economic issues, and provides financial assistance and promulgates and enforces the necessary implementing rules for programs involving highways, airports, mass transit, the maritime industry, railroads, and motor vehicle safety. It writes regulations carrying out such disparate statutes as the Americans with Disabilities Act and the Uniform Time Act. Finally, DOT has responsibility for developing policies that implement a wide range of regulations that govern internal programs such as acquisition and grants, access for the disabled, environmental protection, energy conservation, information technology, occupational safety and health, property asset management, seismic safety, security, and the use of aircraft and vehicles.

Improvement of our regulations is a continuous focus of the Department. There should be no more regulations than necessary, and those that are issued should be simple, comprehensible, and not burdensome. Most rules are issued following notice to the public and opportunity for comment. Once issued, rules are periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help implement this goal, the Department issued a Notice of Regulatory Review on January 26, 2005 (70 FR 3761), seeking public comment on how to (1) improve our rules to be more effective and less costly or burdensome, (2) identify rules no longer needed and/or new rules that may be needed, and (3) prioritize our current rulemaking activities, which were set forth in our semi-annual Regulatory Agenda. (The latest Agenda preceding the Notice can be found at 69 FR 73492, December 13, 2004; the Department's last Agenda can be found at 70 FR 64940, October 31, 2005.) At the outset, the Department accepted written public comments and requests to participate in

a public meeting. The Department held a public meeting in Washington, DC, on April 12, 2005, presided over by the Department's General Counsel. Senior officials of the Department's operating administrations also participated in this meeting. The Department continued to accept written comments from the public as well as participants at the public meeting until April 30, 2005.

We appreciate the public's participation in this regulatory review process. We especially thank our stakeholder groups, including trade associations, interest groups, consumer groups, and individual regulated parties—whether public or private sector organizations—for their participation in this process. Your participation has provided meaningful and significant input to the Secretary, the General Counsel, and other DOT senior officials.

The Final Report

For rulemakings already in progress, we have provided Rulemaking Identification Numbers (RIN). The RIN will allow you to monitor the progress of a rulemaking through the Unified Agenda, in which we publish estimated dates for taking various public actions.

COMMENTS WARRANTING FURTHER ACTION

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
1	49 CFR Part 228.	FRA	Association of American Railroads.	Requests FRA revise its regulations to allow for electronic records rather than use the ''waiver'' process.	FRA allows electronic records under a waiver process that requires railroads to maintain electronic records similar to their paper records. FRA agrees that Part 228 should be reviewed and revised to facilitate electronic recordkeeping and expects to initiate work on a notice of proposed rulemaking in the current fiscal year.
2	49 CFR Part 229.	FRA	Association of American Railroads.	Requests FRA revise its locomotive inspection regulations to incorporate a performance standard.	FRA intends to offer its Railroad Safety Advisory Committee (RSAC) the task of reviewing and revising Part 229 at the RSAC full committee meeting on February 22, 2006.
3	49 CFR 395.3.	FMCSA	Association of American Railroads.	Requests FMCSA address hours of service conflicts for railroad signal employees.	FMCSA will answer the previously submitted pilot program request on this matter.
4	14 CFR Part 241.	OST RITA (BTS).	United Air Lines	Recommends eliminating regulations that no longer serve a useful purpose—like the requirement to file BTS Schedules B–7 and B–43, which requests highly detailed and competitively sensitive information.	The Department agrees that a review of these regulations is appropriate and, in fact, already has plans to include this regulation as part of a future review of certain aviation data requirements similar to the review and modernization program currently being conducted. (See RIN 2105–AC71).
5	14 CFR 21.197.	FAA	ASTAR Air Cargo	Correct obsolete references to sections 121.79 and 135.17.	This error occurred in 1995 when the FAA realigned and consolidated certain services. This error was corrected in the Maintenance Recording Requirements Final Rule published January 4, 2006 (71 FR 534).
6	14 CFR Parts 91, 121, 135.	FAA	Federal Express Corp..	Recommends that no regulation should be adopted unless it has been carefully evaluated to meet demanding cost-benefit standards—specifically, the ETOPS NPRM.	In general, the Department agrees with Federal Express, and this has long been part of the Department's policy. With regard to the ETOPS NPRM, the Current ETOPS rulemaking will include a cost-benefit analysis. (RIN 2120–AI03)
7	25 CFR Part 170.	FHWA	Lummi Nation Planning Department.	Recommends that DOT require the Bureau of Indian Affairs (BIA) Indian Reservation Roads (IRR) program to produce a complete inventory of reservation roads.	Section 1119(f) of the recently enacted long-term surface transportation authorization statute (Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users ''SAFETEA–LU'') requires the Secretary of Transportation, in cooperation with the Secretary of the Interior, to complete a comprehensive national inventory of transportation facilities that are eligible for assistance under the IRR program. The Department is implementing Section 1119(f) of SAFETEA–LU and working with the Department of the Interior to conduct the comprehensive inventory. However, this does not require a rulemaking action.

COMMENTS WARRANTING FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
8	49 CFR 571.213.	NHTSA	Evenflo	Recommends eliminating the mass distinction for belt-positioning booster seats.	NHTSA will not enforce this particular requirement due to concerns about its enforceability. However, NHTSA recognizes the potential for forces generated by the mass of a booster seat to overload a child occupant's chest should be addressed and, therefore, is addressing this issue in a proposed rulemaking to expand the applicability of FMVSS No. 213 to children weighing up to 80 pounds (RIN 2127–AJ44).
9	49 CFR 571.213.	NHTSA	Evenflo	Recommends clarifying the location of the lower anchorage bar on the standard seat assembly depicted in Figure 1B.	NHTSA recognizes the inconsistency in measurements provided and will correct this inconsistency.
10	49 CFR 395.8.	FMCSA	American Trucking Associations.	Objects to FMCSA's current hours of service; supporting documents NPRM and recommends allowing/imposing a performance-based approach of self-monitoring systems designed to avoid burdensome coverage of all business records.	These comments were taken into consideration in the course of the existing, open rulemaking (RIN 2126–AA76).
11	49 CFR Part 396.	FMCSA	American Trucking Associations.	Recommends issuing rules requiring a safety program for intermodal equipment (container chassis) that travels on highways.	FMCSA recognizes the need for rulemaking on this issue and will soon begin rulemaking to implement Section 4118 of SAFETEA–LU (RIN 2126–AA86).
12	49 CFR 383.5 and 384.209.	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends adopting a graduated commercial driver's license (CDL) program and clarifying disqualification standards.	FMCSA will consider these comments during its rulemaking addressing Section 4122 of SAFETEA–LU that amends the law allowing for FMCSA to implement a CDL Learner's Permit program. (RIN 2126–AB02). With regard to clarifying disqualification standards, FMCSA has on-going efforts to work with States toward more uniform definitions of serious traffic violations.
13	49 CFR Part 387.	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends reevaluating whether to continue self insurance and, if so, suggests several safeguards.	This recommendation will be considered as a comment in the Unified Registration System rulemaking (RIN 2126–AA22).
14	14 CFR Part 234.	OST	United Air Lines	Recommends that reports of mishandled baggage distinguish between carriers that interline and those that do not or, at least, clarify that this distinction is not made.	Starting with the January 2006 "Air Travel Consumer Report", DOT will clarify that reports of mishandled baggage do not distinguish between carriers that interline and those that do not.
15		FAA	Regional Airline Association.	Recommends allowing operators to carry company material that is hazardous even though they have identified themselves as a "will not carry" operator.	FAA will be addressing this issue in an upcoming final rule.
16	49 CFR 173.134.	PHMSA FAA.	Regional Airline Association.	Suggests allowing an exception for "will not carry" operators to carry noninfectious diagnostic specimens.	The hazmat requirements do not apply to noninfectious diagnostic specimens. However, there is some confusion on this issue, which PHMSA intends to clarify in an ongoing rulemaking in which PHMSA proposes to harmonize its hazmat rules with recently adopted international standards (2137–AD93).
17	14 CFR 121.574.	PHMSA FAA.	Regional Airlines Association.	Recommends amending rules to allow carriers to carry First Aid and Trauma (FAT) kits that are supplied by government agencies and to state that the maintenance can be under an approved program without mentioning the certificate holder.	PHMSA has issued an exemption from 49 CFR Parts 171–180 allowing FAT kit to be carried in the cabin. FAA is considering an amendment that would allow the use of the FAT kit's oxygen in flight. It intends to include this in a future review of the entire Part 121.

COMMENTS WARRANTING FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
18	49 CFR Part 563.	NHTSA	National Automobile Dealers Association.	Recommends accelerating the electronic data recording (EDR) rulemaking.	NHTSA has devoted significant time and resources in drafting an EDR final rule. Publication is expected in 2006 (RIN 2127–AI72).
19		OST	Regional Aviation Partners.	Recommends immediately implementing section 406 (code share pilot program) of Vision 100.	The Department has sent out a notice soliciting public comment and interest on this program. (See 70 FR 40098.)
20	FTA Circular 4220.1E.	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including third party contracting requirements.	FTA agrees to expand footnote 39 of FTA Circular 4220.1E to further acknowledge the propriety of liquidated damages and to update the Best Practices Procurement Manual.
21		FTA	New York MTA	Suggests several technical changes to FTA program requirements, including Buy America.	FTA intends to take comment on this issue during the rulemaking mandated by section 3023 of SAFETEA–LU (RIN 2132–AA80).
22		FTA	New York MTA	Suggests several technical changes to FTA program requirements, including Grants Management.	FTA will undertake a comprehensive review of all of its current program circulars in an attempt to streamline and consolidate circulars as appropriate. FTA will reach out to the transit industry and invite public comment, in accordance with section 3032 of SAFETEA–LU.
23		FTA FHWA.	New York MTA	Suggests several technical changes to FTA program requirements, including 4(f) criteria.	Pursuant to sections 6007 and 6009 of SAFETEA–LU, FHWA and FTA will conduct a rulemaking to clarify the regulatory procedure and criteria for evaluating ''prudent and feasible'' alternatives (RINs 2125–AF14 and 2132–AA83).
24	23 CFR Part 771.	FTA FHWA.	New York MTA	Suggests several technical changes to FTA program requirements, including environmental impact procedures.	Pursuant to section 6002 of SAFETEA–LU, FTA and FHWA are considering a rulemaking to revise the agencies' joint environmental impact procedures (RINs 2125–AF09 and 2132–AA82).
25	49 CFR Part 611.	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including the New Starts program.	Many of these points will be addressed through rulemaking under section 3011 of SAFETEA–LU (RIN 2132–AA81).
26	23 CFR 771.135.	FHWA	New Hampshire Department of Transportation.	Suggests revising the 4(f) criteria to require evaluation and legal sufficiency review for Environmental Impact Statements and Environmental Assessments only, not categorical exclusions.	Pursuant to sections 6009 of SAFETEA–LU, FHWA and FTA will conduct a rulemaking to clarify the regulatory procedure and criteria for evaluating ''prudent and feasible'' alternatives (RINs 2125–AF14 and 2132–AA83).
27	14 CFR Part 399.	OST	American Airlines	Recommends the Department issue a policy statement to establish that certain authorities under the aviation statute—exemptions, codeshare statements of authorization—will be issued for an indefinite duration in order to avoid renewal applications every 1 or 2 years.	While the Department does not agree that certain aviation authorities should be issued for an indefinite duration, it agrees that the Department should consider examining whether certain aviation authorities could be awarded for a longer duration. The Department is exploring measures to achieve this objective and has announced new streamlining procedures to this end. In a Notice issued August 23, 2005, the Department stated that it would employ show-cause procedures for the award of certain long-term certificate and permit authority, with the goal of reducing the need for frequent renewal of exemption authority. On December 9, 2005, the Department issued an order tentatively granting more than 20 U.S. air carriers blanket route integration authority. Under the terms of the order, the blanket authority will be granted for a 5-year term, renewable upon application, and will be applied prospectively to encompass future awards of authority.

COMMENTS WARRANTING FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
28	14 CFR Part 399.	OST	United Air Lines	Recommends eliminating duration limitations on carrier certificates and exemption route authority.	See above response (#27).
29	14 CFR Part 399.	OST	Delta Airlines	Recommends a default rule that would provide that exemptions and other authorities under the aviation statute—exemptions, codeshare statements of authorization—will be issued for an indefinite duration but that the Department may amend, modify or revoke them at any time without a hearing.	See above response (#27).
30	14 CFR 257.5.	OST	United Air Lines	Recommends allowing a generic statement of code-sharing and long-term wet leases in advertisement.	In response to United Air Lines recent Petition for Rulemaking on this issue, DOT issued a final rule on August 4, 2005 (see 70 FR 44848).
31	49 CFR Part 222	FRA	Chicago Area Transportation Study Council of Mayors Executive Committee.	Recommends reconsidering the analysis of risk for not sounding the train horn in the Chicago area.	This comments pre-dates FRA issuance of its final rule on "Use of Locomotive Horns as Highway-Rail Crossings" (see 80 FR 21844). In the final rule FRA carved out the Chicago area and will study that area separately. If appropriate, it will be addressed in a future rulemaking (RIN 2130–AB73).
32	23 CFR Part 636.	FHWA	Texas Department of Transportation.	Suggests several revisions to the design-build regulations.	Section 1503 of SAFETEA–LU requires a revision to the design-build regulations. FHWA plans to amend the regulations accordingly. In addition, FHWA is currently evaluating the need to modify the design-build regulations in the context of public-private partnerships (RIN 2125–AF12).
33		FTA	New York MTA	Suggests several technical changes to FTA program requirements, including reporting requirements for the national transit database.	This is a long list of technical changes some of which must be done by legislation while others may be done by regulation. Each of these will require detailed evaluation to determine whether it can be done by regulation. Those that can be changed by regulation will be addressed.
34	49 CFR 173.24(b)	PHMSA	Association of Hazmat Shippers.	Objects to the additional packaging requirements for oxygen cylinders.	This will be treated as a comment to the current rulemaking on this issue (RIN 2137–AD33).
35		FTA	New York MTA	Suggests several technical changes to FTA program requirements, including to Fixed Guideway Modernization.	Most of the suggestions offered would require legislative change. The remaining suggestion regarding risk assessments will be addressed through upcoming guidance.
36	14 CFR Part 121	FAA	Regional Airline Association	Requests a rulemaking to allow air carriers to conduct both scheduled and charter service with one set of books.	FAA is developing, with industry, appropriate language for an operation specification and, therefore, believes that a rulemaking is unnecessary.

COMMENTS WARRANTING FURTHER CONSIDERATION

Item number	Regulation	Operating admin./ OST office	Commenter	Comment	Response
1		DOT	Marion C. Pulsifer Consulting.	Suggests that the development, financing, environmental review, etc. of large multimodal infrastructure projects be coordinated through a single point in DOT.	DOT recently completed a report to develop a process to ensure effective and comprehensive oversight of large transportation infrastructure projects and is carefully monitoring the use of one possible process in the administration of the on-going multimodal Transportation Expansion (TREX) megaproject in Denver, Colorado.

COMMENTS WARRANTING FURTHER CONSIDERATION—Continued

Item number	Regulation	Operating admin./ OST office	Commenter	Comment	Response
2		FMCSA FAA	Federal Express Corp.	Recommends clearly defining the scope of the agencies' jurisdiction vis-a-vis OSHA.	The agencies are mindful of the need for clarity in defining regulatory jurisdiction.
3	49 CFR 571.124	NHTSA	Alliance of Automobile Manufacturers.	Suggests revising all Federal Motor Vehicle Safety Standards (FMVSS)—in similar fashion used for FMVSS 124—to accommodate technological changes and voluntary industry action.	NHTSA currently has a regulatory review program that specifically evaluates the need to revise FMVSS to accommodate technological and other changes. NHTSA's review schedule under Section 610 of the Regulatory Flexibility Act and other reviews was published in Appendix D to the Unified Agenda (70 FR 64079, 64949). FMVSS 124 was one of the first standards to be reviewed under this process at which time no changes were warranted and the standard will be reviewed again through this process.
4	49 CFR 571.108	NHTSA	American Trucking Associations.	Recommends providing for commercial vehicle lighting equipment interchangeability.	Current regulations allow the most safe and effective replaceable headlamps. The agency is currently reviewing this regulation to determine if revisions are appropriate.
5		FMCSA PHMSA	American Trucking Associations.	Requests a rule to implement uniform requirements for hazmat permits and to preempt state permit requirements that are not substantively the same..	FMCSA is working with the current Alliance for Uniform Hazardous Materials Registration to encourage States to voluntarily join in a base-state hazmat permitting arrangement. FMCSA and PHMSA will establish a work group to study hazmat permitting and registration practices in response to a requirement in SAFETEA-LU and will reevaluate whether it should open a rulemaking at the completion of that working group's report.
6	14 CFR Part 121	FAA	Airline Dispatchers Federation.	Recommends applying the rules for dispatching scheduled airline operations to supplemental operations, so that a certified dispatcher is on site for departures.	With electronic communication much more sophisticated now than it was when the studies offered in support of this comment were performed, one would intuitively expect less need for on-site dispatchers. However, FAA believes that it is worthwhile to review dispatch-related accidents and incidents to ascertain whether the number is disproportionately high when no dispatcher is physically present.
7	14 CFR 121.465	FAA	Airline Dispatchers Federation.	Recommends revising the rules on aircraft dispatchers duty time to be consistent both in and out of the U.S.	FAA agrees that, on face value, dispatcher fatigue is primarily an issue of time. However, before taking definitive steps to revise the regulation, it is appropriate to review whether there are higher levels of accidents and incidents among flag carriers dispatching aircraft from outside the U.S.

COMMENTS WARRANTING FURTHER CONSIDERATION—Continued

Item number	Regulation	Operating admin./ OST office	Commenter	Comment	Response
8	14 CFR 121.619	FAA	Aircraft Dispatchers Federation.	Recommends liberalizing the requirement for specifying an alternate destination prior to dispatch.	The FAA is currently reviewing air carriers' ability to dispatch while carrying alternate fuel at lower limits than the current rule allows. The FAA will determine if rulemaking is appropriate based on the outcome of this review.
9	14 CFR Part 91	FAA	Aircraft Dispatchers Federation.	Recommends developing a plan to certify and regulate unmanned aerial vehicles (UAV).	The FAA has begun a broad-based program to assess the need for UAV regulations. The FAA Flight Plan has identified the development of policies, procedures, and approval processes to enable the operation of UAVs in the National Airspace System as a long-term initiative. The FAA is well on its way to developing these policies. There is a Federal Advisory Committee working on the development of standards the FAA hopes to use as the basis for a future rulemaking.
10	49 CFR Part 177	PHMSA	American Trucking Associations.	Recommends either extending the deadline for submitting a written update report on a hazmat spill from 30 to 90 days or eliminating the provision.	The 30-day timeframe for submitting the ''update'' actually refers to the timeframe in which a written report must be submitted for all incidents. PHMSA agrees to consider whether 30 days is sufficient to collect all the information required and, therefore, will consider this issue for possible rulemaking.
11		FHWA	American Road and Transportation Builders Association.	Recommends continuing to implement environmental streamlining for transportation projects.	The Department and FHWA continue to work to expedite and improve the environmental review/approval process and have identified 15 priority projects for review by the interdepartmental Transportation Infrastructure Streamlining Task Force and expect that, in the future, additional priority projects will be selected.
12	23 CFR 750.707	FHWA	Florida Department of Transportation.	Recommends revising the regulation to remove requirements that inhibit States' ability to regulate nonconforming outdoor advertising signs; adding a provision requiring each State to develop its own requirements for control.	FHWA recognizes that this regulation needs review, but believes that any such review should be part of an overall evaluation of the Outdoor Advertising Control Program. FHWA currently is developing a program review of the Outdoor Advertising Control Program. This regulation on nonconforming signs will certainly be a part of this review.
13	14 CFR 121.311	FAA	Regional Airline Association.	Requests regulation be amended to allow an ''adult or parent'' to carry a lap child.	FAA recognizes this as an issue and is looking into the best way to ensure young parents (under 18) are allowed to lap-hold children under two. However, it must determine its priorities for its limited resources prior to committing to a rulemaking on this issue.

COMMENTS WARRANTING FURTHER CONSIDERATION—Continued

Item number	Regulation	Operating admin./ OST office	Commenter	Comment	Response
14	49 CFR Part 568 49 CFR 571.110	NHTSA	National Automobile Dealers Association.	Recommends amending the motor vehicle placarding regulations to require re-placarding only when alteration or final stage manufacturing has occurred.	Consumer protection and good faith disclosure is best served by requiring re-labeling. This issue may be addressed through a current rulemaking (see RIN 2127–AJ57).
15	14 CFR Part 241	RITA (BTS)	Federal Express Corp.	Recommends eliminating provisions that require carriers to report separately mail revenues and mail weights.	The Department agrees that this regulation is a good candidate for review. However, because there are offices within the Department that use this data, the Department needs to evaluate its need for the information before determining whether to proceed on a rulemaking to eliminate or revise this regulation.
16		FMCSA	Federal Express Corp.	Recommends federalizing and mandating real time driver and carrier notifications of a driver violation or license restriction that would potentially disqualify a driver to hold a commercial drivers license.	FMCSA is currently exploring the development of a national Employer Notification Service (ENS) system that will allow carriers to register their drivers in a database and then be immediately notified of changes in the status of their CDLs. A prototype system has been developed and will be evaluated during an 18-month pilot test in California and Colorado beginning in March 2006.
17	49 CFR Part 107	PHMSA	Federal Express Corp.	Recommends that carriers should not be penalized when a shipper fails to identify its package as hazmat.	The HMR generally prohibit accepting or transporting hazmat not in compliance with the regulations. All operating modes typically seek to bring enforcement actions against the shipper of the material. There are cases, however, where enforcement actions are appropriate against a carrier who knew, or should have known the material offered for transportation contains hazmat. The ''knowingly'' standard for civil penalty liability is defined in Federal hazardous material transportation law and embodies the ''negligence'' standard which is well developed in common law. There is currently an open proceeding (see OST–2001–10380 on the Department's Docket Management System) considering whether to issue further industry guidance on the ''knowingly'' standard. In addition, the FAA is considering allowing credit in any subsequent enforcement action to an air carrier that voluntarily provides hazmat recognition training to its employees. PHMSA notes the concern and will review existing enforcement guidance.
18	49 CFR Part 107	FAA PHMSA	United Air Lines	Recommends that the FAA should prosecute non-compliant shippers rather than carriers reporting hazmat discrepancies in accepted baggage or freight.	See response above (#17).

COMMENTS WARRANTING FURTHER CONSIDERATION—Continued

Item number	Regulation	Operating admin./ OST office	Commenter	Comment	Response
19	49 CFR Parts 387 and 371.	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Proposes adopting stricter standards for brokers and freight forwarders to include increasing the security bond, eliminating trust funds as a surety alternative, and eliminating freight forwarders as a separately-regulated category of transportation intermediaries and require them to follow broker requirements.	These comments and associated matters are currently under agency consideration.
20	49 CFR 373.101	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends adding a requirement for shipment date and pick-up and delivery times to bills of lading.	These comments were taken into consideration in the course of the existing open rulemaking (See RIN 2126–AA76).
21	49 CFR Parts 171–180.	PHMSA	United Air Lines	Recommends using the term ''dangerous goods'' rather than the term ''hazardous materials'' for consistency with foreign jurisdictions.	PHMSA appreciates the need to seek further harmonization of international hazmat regulations and will study this issue further but needs further information concerning the actual benefits to safety of changing terminology.

NO FURTHER ACTION

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
1	14 CFR 121.377	FAA	Steven M. Jones	Maintenance and preventative maintenance personnel duty time limitation regulation is unclear; commenter compares it to regulation for aircraft dispatcher duty time limitations.	FAA notes that this regulation is not as detailed as the aircraft dispatcher regulation. However, the FAA believes that the intent of this regulation is clear and has no data to support maintenance personnel working consecutively for seven days as commenter alleges. The FAA has evaluated the regulation and how it is understood in the industry and has determined that addressing the differing levels of detail in duty time regulations is not a priority.
2	49 CFR 382.107	FMCSA OST–ODAPC.	Roxanne Wyant	Suggests removing the term ''actual knowledge'' of drug or alcohol use from the list of grounds for finding a violation of the FMCSA rules.	If an employer learns reliably that a covered employee has engaged in conduct otherwise prohibited by the regulations, relating to use of illegal drugs or abuse of alcohol, it is fully consistent with the safety objectives of the regulation for the employer to treat that information as the basis for a violation of the rules, even if no drug or alcohol test had occurred.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
3		DOT	Air Transport Association of America, Inc.	Recommends restricting the number of regulatory proceedings, establishing smaller Government-industry working groups to develop recommendations, working to harmonize international regulatory regimes, and improving enforcement programs.	The Department agrees that it should strive to improve the efficiency of its rulemaking and enforcement processes and that many of the recommendations go to that effort. The Department already uses some of the recommended strategies where appropriate and will continue to do so. The Department is putting this on the No Further Action Warranted chart only because it is not tied to specific regulations.
4		OST–C	American Society of Travel Agents, Inc.	Suggests that the Department provide public notice and an opportunity to comment before new aviation enforcement interpretations are adopted.	Requiring advance notice and comment prior to adopting any new enforcement interpretation would significantly interfere with and burden the Department's discretion in administering aviation enforcement and could result in fewer, often-helpful, interpretations being issued. Moreover, it is not practical to conduct lengthy and costly proceedings to define what the Department believes is required by statute or to hold public hearings before issuing interpretations or policy statements. However, requests for reconsideration often are entertained.
5	14 CFR 121.311	FAA	Greg Niebeding, President of Baby B'Air Flight Vests.	Requests the FAA revise its regulations to allow the use of Baby B'Air Flight Vests during take-off and landing.	FAA considered this issue through a petition for an exemption and, in October 2004, determined that an exemption was not in the public interest. No new evidence was presented through this process.
6	49 CFR 571.204	NHTSA	Alliance of Automobile Manufacturers.	Suggests implementing and modifying test procedures manufacturers use to demonstrate regulatory compliance with FMVSS—like FMVSS 201.	While test procedures are provided in the FMVSS, they reflect the specifications established by regulation. The tests detail how NHTSA and its contractors should conduct compliance tests; the industry is not required to use NHTSA's test procedures.
7	14 CFR Part 93	FAA OST	Air Carrier Association of America.	Recommends review of regulations operating to frequently block low fare carriers from competing at various airports—specifically, the high-density rule.	FAA has an open rulemaking to address congestion at O'Hare airport (see RIN 2120–AI51) and has been analyzing market based approaches at LaGuardia that will likely involve rulemaking. It is not feasible at this time to begin a separate rulemaking in the interim to address certain elements of the High Density Rule, which phases out at LaGuardia and John F. Kennedy International Airport in January 2007. The FAA is also reluctant to promulgate changes to the slot rules at Ronald Reagan Washington National Airport until it has concluded its analysis of market approaches at LaGuardia.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
8	49 CFR Part 26	OST FHWA FAA FTA.	American Road and Transportation Builders Association.	Recommends one Disadvantaged Business Enterprise goal for minority and women contractors.	This is a Congressionally-mandated program. However, the Department hopes to address some program implementation issues through meetings with industry groups, including the American Road and Transportation Builders Association. Afterwards, any needed changes will be considered, if appropriate.
9	49 CFR 395.3	FMCSA	American Road and Transportation Builders Association.	Requests short-haul drivers in the transportation construction industry be excluded from the hours of service rule.	FMCSA published its hours of service rule on August 25, 2005 (see 70 FR 49978). The rule adopted a special hours of service regime for short-haul drivers.
10	40 CFR Part 93	FHWA	American Road and Transportation Builders Association.	Recommends allowing grandfathering or a grace period for Clean Air Act conformity so that transportation planning projects can better respond to obligations on short notice.	Section 6011 of the recently enacted long-term surface transportation authorization statute (Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users ''SAFETEA–LU'') provides for a one-year grace period for conformity determinations. Thus, this issue does not require rulemaking action.
11		FHWA	American Road and Transportation Builders Association.	Recommends allowing the Interstate Highway System an exemption from historic preservation requirements.	Section 6007 of SAFETEA–LU exempts the Interstate Highway System from consideration as a historic site under Section 4(f) of the National Historic Preservation Act. Therefore, no rulemaking action is required at this time.
12		DOT	Federal Express Corp.	Recommends expediting reevaluation and publication for comment of any notices or rules over 20 years old and reviewing existing rules to see if a revision can be made or a rule can be eliminated rather than issuing a new regulation that ''layers on.''	The Department's regulatory review plan addresses this issue by requiring all rules to be reviewed every ten years. It also asks for public comment on whether any specific review should be expedited. (See Appendix D to the Unified Agenda (70 FR 64079, 64943) The Department is putting this on the No Further Action Warranted chart because it is not tied to specific regulations in need of more immediate attention than our existing process will provide
13		DOT	Federal Express Corp.	Recommends organizing rules by specific regulated groups in separate and clearly identified sections.	As rules are rewritten, agencies do reorganize them to help regulated industries comply. There is some risk in both directions. E.g., FMCSA tried the suggested approach in a recent rulemaking and found that it required a lot of duplication, which would increase the chance for errors and inconsistencies. The Department is putting this on the No Further Action Warranted chart because it is not tied to specific regulations.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
14		DOT	Federal Express Corp.	Recommends harmonizing all rules with international rules and procedures.	Agencies attempt to harmonize their rules with international rules; however, this is not always possible. PHMSA is currently attempting to harmonize its hazardous materials nomenclature with the international system. FMCSA and Canada worked out uniform North American cargo securement standards—that process took nearly a decade. The Department is putting this on the No Further Action Warranted chart because it is not tied to specific regulations.
15		FMCSA, PHMSA	Federal Express Corp.	Recommends revising the policy for granting exemptions: either fully regulate an item or do not regulate it at all.	This is inconsistent with FMCSA's statutory authority, which permits exemptions if the specified level of safety can be maintained or improved. Similarly, PHMSA's statutory authority permits the agency to grant special permits authorizing variances from the hazmat regulations if the special permit provides an equivalent level of safety to that specified in the regulations. The special permit program provides an opportunity for the testing and evaluation of technological improvements in a real-world transportation environment. Special permits that result in demonstrated safety and efficiency benefits are frequently converted into regulations of general applicability.
16		DOT	Federal Express Corp.	Recommends designing a single federal program to require transportation worker identification cards (TWIC).	The Department acknowledges that there are multiple security programs currently in place. However, as the Transportation Security Administration (under Department of Homeland Security) is the lead Agency, the Department cannot take the lead on this problem.
17		FMCSA, NHTSA	Federal Express Corp.	Recommends standardizing and harmonizing safety and recording requirements for passenger and commercial vehicles.	NHTSA has exclusive authority to set manufacturing standards for the Department; FMCSA's rules apply only to the operators, not the manufacturers, of commercial motor vehicles. However, the agencies do work together on rules when appropriate.
18		FMCSA	Federal Express Corp.	Recommends that the Agency regulate all commercial drivers and vehicles including non-DOT drivers.	FMCSA regulates all drivers of commercial motor vehicles, as defined by 49 U.S.C. 31132.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
19	49 CFR Part 172	PHMSA	Federal Express Corp.	Recommends requiring that material safety data sheets (MSDS) be supplied to first responders and that any product information regarding hazardous materials (hazmat) be widely disseminated to the public.	This information is already widely distributed to employees of hazmat shippers, transport workers, and emergency responders. The hazardous material regulations (HMR) currently require hazmat shipments to be accompanied by emergency response information to assure that transport workers and emergency responders have sufficient information to protect themselves and others in the event of an accident or other emergency; however, this requirement can be met in a number of ways, including the use of an MSDS form.
20	49 CFR Parts 171–180.	PHMSA	Federal Express Corp.	Wants DOT to take full jurisdiction of all transportation safety issues.	PHMSA has worked with the other Federal agencies to define the limits of DOT's regulations. PHMSA published a rule on this subject in 2004 which is currently the subject of a legal challenge PHMSA's final rule codifies long-standing interpretations and administrative decisions concerning the applicability of DOT's regulations in the overall statutory framework which includes other agencies beyond the scope of DOT's jurisdiction.
21	49 CFR 571.208	NHTSA	Evenflo	Recommends working with manufacturers to assure appropriate child restraints will be available to conduct occupant crash protection testing and that Appendix A reflects only products currently in production.	It is not necessary to update Appendix A to remove child restraint systems (CRS) not currently in production because the appendix is intended to be representative of CRSs in use by the public, not merely those on the market. In addition, in November 2003, NHTSA established a procedure for amending Appendix A—seats will be added or removed when real world usage makes it appropriate. Moreover, manufacturers are provided sufficient lead-time as to the CRSs the agency is using in its compliance tests.
22	23 CFR Part 658	FHWA	American Trucking Associations.	Recommends granting States more flexibility in addressing operational requirements for Longer Combination Vehicle (LCV) restrictions.	The LCV ''freeze'' was put in place by Congress to protect national infrastructure and highway safety. FHWA does not have the authority to amend the LCV ''freeze''.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
23	49 CFR 392.9	FMCSA	American Trucking Associations.	Recommends eliminating the extra stops necessitated by the en route load securement inspection requirements for certain hazmat and improving the definition of ''impermissible cargo movement'' to avoid inconsistent enforcement.	This requirement was discussed during public meetings concerning the development of new cargo securement standards. The model regulations developed through this public meeting process included the cargo securement inspection provision—FMCSA and Canadian Provinces have implemented these model regulations. (See 67 FR 61212, published September 27, 2002.)
24	14 CFR 61.23	FAA	Aircraft Owners and Pilots Association.	Recommends changing the requirement that pilots hold a valid FAA medical certificate when exercising the privileges of a Recreational Pilot certificate to accept a valid driver's license.	FAA notes that private pilots can fly in the most complex airspace and to many of the nation's busiest airports. Therefore, they should be held to the highest standard of fitness. FAA further notes that, while some medical conditions may be grounds for disqualification, most states rely on voluntary disclosure of disqualifying conditions and test only vision. Therefore, it is not appropriate to make this revision.
25	14 CFR Part 61	FAA	Charles Garrison	Recommends changing the requirement that all private pilots hold a valid FAA medical certificate to accept a valid driver's license.	See response above (#24).
26	14 CFR Part 380	FAA	Airline Dispatchers Federation.	Recommends eliminating the distinction between public charters and other operations for purposes of safety.	DOT believes that it is important to maintain the distinction between economic/consumer protection regulations for Public Charters, in 14 CFR Part 380, and the safety regulations of 14 CFR Parts 121 and 135. The latter parts apply to direct air carriers, with whom the charter operators would contract; they do not apply to the charter operators themselves or to the public charter product which they sell to their customers.
27	49 CFR Part 177	PHMSA	American Trucking Associations.	Recommends requiring edible food to be labeled as edible to facilitate compliance with prohibition on transporting with poisons.	Current regulations only prohibit transporting poisons and edible food in the same motor vehicle if the food is marked or known to be foodstuffs. PHMSA does not have the authority to require marking of foodstuffs, but will suggest to its contacts in FDA that they may want to address this problem.
28	49 CFR Part 177	PHMSA	American Trucking Associations.	Recommends defining ''impermissible movement''.	This term is not used in the regulations and, therefore, need not be defined. Moreover, PHMSA believes that its more general requirement is a better standard for compliance and enforcement purposes.
29	49 CFR Part 382	OST–OADPC FMCSA.	American Trucking Associations.	Recommends allowing carriers to reduce their random testing rate if they have a low violation rate rather than basing it on the industry-wide violation rate.	The current regulation is a longstanding policy decision based on performance evidence. In addition, it is too difficult, time-consuming, and expensive to enforce the regulations on a carrier by carrier basis.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
30	49 CFR Part 365	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Proposes adopting stricter standards for brokers and freight forwarders to include lengthening the protest and review period for broker applications.	FMCSA does not see a connection between the requested action and the actual problem—brokers not paying the motor carrier for the transportation services rendered.
31	49 CFR 376.12	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends redefining ''Party'' to a brokered transaction.	FMCSA believes that the regulations adequately address the owner-operator's rights because the owner-operator must have a written lease agreement with the authorized motor carrier and that agreement must meet the specified requirements, which should be negotiable.
32	49 CFR Part 375	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends eliminating non-binding estimates for household goods moves.	FMCSA believes that this recommendation is adequately addressed in its recently issued final rule for Transportation of Household Goods Consumer Protection Regulations (see 70 FR 39949) and in household goods provisions adopted as part of SAFETEA–LU.
33	49 CFR 368.6(d)	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends revising regulation to allow public protests to applications from Mexico-domiciled carriers for operating authority in the border areas.	FMCSA considered this issue prior to promulgating its final rule regarding applications for provisional Certificates of Registration (see 67 FR 12654).
34	49 CFR 397.5	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Requests a review and revision of the hours of service and hazmat rules to ensure compatibility.	FMCSA believes that the rules are not incompatible and that there are various operational ways for a motor carrier to approach this issue and remain in compliance with both sets of rules. FMCSA has addressed this comment in responding to hours of service petitions for reconsideration.
35	49 CFR Pars 40 and 382.	FMCSA OST–OADPC.	Owner-Operator Independent Drivers Association, Inc.	Suggests several modifications to the drug and alcohol testing program.	DOT does not see a need to readdress any of these points before this rule is scheduled for its next periodic review in 2007.
36	49 CFR Part 571	NHTSA	Porsche	Suggests developing a method of implementing new safety requirements that does not jeopardize manufacturers of models with long production cycles by lengthening phase-in periods; establishing a new vehicle category; or establishing longer combined lead-time and phase-in periods across the board.	NHTSA provides flexible regulatory solutions for long lead times to low volume manufacturers, allowing them to load a higher percentage of their compliance toward the end of the phase-in period than larger volume manufacturers. In addition, many of the lead times are lengthy, to accommodate minimal impact or no impact to mid-cycle redesigns for manufacturers. Moreover, the current regulations provide provisions for small manufacturers to ask for specific exemptions if they are economically burdened by a regulatory change.
37		FTA	American Public Transit Association.	Requests transparency in non-rulemaking matters, including notice and an opportunity to comment on interpretations and policy statements that affect transit authorities.	FTA will embrace Section 3032 of SAFETEA–LU which should allay these concerns. The Department is putting this on the No Further Action Warranted chart only because it is not tied to any specific regulations.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
38	14 CFR 212.10	OST	United Air Lines	Requests eliminating DOT's authorization of block space arrangements.	These authorizations serve a number of public interest concerns, including assessing the competitive implications, security risks, and safety of the arrangements and, therefore, no rulemaking action is appropriate at this time.
39	14 CFR 212.10	OST	United Air Lines	Requests eliminating DOT's authorization of code-sharing arrangements.	These reviews serve a number of public interest concerns, including assessing the competitive implications, security risks, and safety or the arrangements and, therefore, no rulemaking action is appropriate at this time.
40	14 CFR 211.20	OST	United Air Lines	Recommends eliminating the requirement that U.S. carriers conduct safety audits of their foreign code-share partners.	To the extent that U.S. carriers represent and sell seats on foreign air carriers as if they were their own, it is reasonable to ask them to bear some responsibility for ensuring the safety of those passengers.
41		OST	United Air Lines	Requests DOT issue regulations precisely defining what constitutes a ''joint venture agreement'' for purposes of triggering statutory filing requirements.	The statute specifies certain types of joint venture agreements that must be filed for review and authorizes the Secretary to require certain additional types of agreements be filed for review. DOT believes that the statute is sufficiently clear and that regulations would add little additional clarity.
42		DOT	United Air Lines	Requests DOT exercise restraint in its reviews of airline operational events.	DOT does not dispute the need for appropriate restraint. However, this request does not require rulemaking.
43	49 CFR Part 177	PHMSA	American Trucking Associations.	Recommends developing a National Response Center or web-based database that carriers can tap into to find out which regulations apply because immediate notice of a hazmat spill is unduly burdensome.	Immediate notification is essential and PHMSA does not consider its ''as soon as practicable, but no more than 12 hours after an incident occurs'' to be unduly burdensome. PHMSA also believes that the cost of creating and maintaining a Federal database that would include all state and local reporting requirements would be prohibitive.
44	49 CFR Parts 171–180.	PHMSA	United Air Lines	Recommends requiring each hazmat shipper provide general awareness training to all of its employees.	PHMSA currently requires training for all employees who, during the course of their employment, affect the safe transportation of hazardous materials and estimates the requirement covers approximately 1.4 million individuals. PHMSA believes the regulations already cover the employee population in question. A significant increase in the number of employees subject to training would be cost prohibitive without a measurable safety impact. PHMSA and other DOT modes will continue to bring enforcement actions against shippers of undeclared hazmat.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
45	49 CFR Parts 171–180.	PHMSA	United Air Lines	Recommends requiring carriers of hazmat packages to leave a copy of the shipping papers, including full hazmat description, with the consignee in order to avoid reshipping of unpackaged hazmat cartons.	PHMSA believes consignees receive more than sufficient information and the cost to impose such an additional requirement would not be offset by any tangible benefit to safety.
46	49 CFR Parts 171–180.	PHMSA	United Air Lines	Recommends reaching out to small businesses to inform them of hazmat regulations.	PHMSA agrees that HMR compliance should be the subject of an extensive outreach campaign, specifically to small businesses. Although PHMSA currently has an extensive outreach program for small businesses, the agency is open to suggestions for improving its program.
47	49 CFR Parts 171–180.	PHMSA	United Air Lines	Recommends urging OSHA to require complete hazmat descriptions as part of all MSDSs.	PHMSA does not have the authority to change the information on the MSDS, but will suggest to its contacts at OSHA that they might want to address this problem.
48	49 CFR Parts 171–180.	PHMSA	United Air Lines	Recommends revitalizing DOT's work with the United Nations and the international community to harmonize hazmat shipping requirements.	PHMSA and the Department are both very active in working with the international community to ensure consistency in its regulations and international standards. PHMSA currently represents the U.S. on various international and UN technical committees. Because of difference of opinion in terms of safety issues, cost impacts, and issues related to compliance with the Administrative Procedure Act, there are instances where DOT regulations will vary from the international standards. Regardless, the Department will continue to seek ways in which to further harmonize global standards and would be receptive to further discussions.
49	14 CFR Part 119.53	FAA	National Air Carrier Association.	Suggests (1) allowing operations under a wet lease to continue while FAA reviews the lease and (2) eliminating subsection (f) because the special authority is unnecessary where the appropriate air carrier already has charter authority for the route.	These regulations were implemented to codify FAA policy. The review of lease arrangements prior to operations is necessary to confirm that each party to the wet lease holds the necessary operating and economic authority. For this reason, FAA does not intend to take further action.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
50	14 CFR Part 121	FAA	National Air Carrier Association. Regional Airline Association.	Suggests rescinding the recent change to Part 121 prohibiting an employer form hiring an employee to conduct safety-sensitive functions unless the employer first conducts pre-employment drug testing and receives a negative result.	In 1994, the FAA revised its ''prior to hire'' requirement and implemented a prior to performing safety-sensitive functions. This was amended in 2004 to return to the original ''prior to hire'' standard because communications with industry and enforcement cases revealed that some employers misunderstood the requirement and employees who were performing safety-sensitive functions would subsequently test positive for illegal drug use. In addition, FAA considered the reasons behind this suggestion as part of the public comment process prior to publishing its final rule in January 2004. For this reason, FAA does not intend to take further action.
51		PHMSA	Association of Hazmat Shippers.	Recommends that agencies do not issue regulations that go into effect prior to allowing public comment.	Agencies have the legal authority to issue rules without notice and comment and must occasionally use that authority to respond to emergencies and other situations that meet the statutory standard.
52	49 CFR Part 582	NHTSA	National Automobile Dealers Association.	Recommends pursuing the elimination of statutory requirements regarding mandatory distribution of insurance cost information booklets to dealerships.	NHTSA recognizes that these data only have limited usefulness to consumers, given that most insurance information is driver-specific, not vehicle-specific. However, it fulfills a statutory mandate.
53	49 CFR Part 583	NHTSA	National Automobile Dealers Association.	Recommends pursuing the elimination of statutory requirements regarding parts content labeling.	NHTSA has indicated on several occasions that, while a number of parties continue to have objections to the current labeling program, the objections are with the underlying statute. Any significant changes need to come from Congress.
54	49 CFR Part 595	NHTSA	National Automobile Dealers Association.	Recommends improving outreach regarding alteration and modification activities to aid small business compliance and enhance transportation safety.	Significant outreach efforts have and will continue to be expended. NHTSA reaches out to and travels to industry organizations to update them on regulatory requirements of relevance to their members and encourages them to share that information. NHTSA continues to be open to considering specific recommendations to improve its outreach.
55		OST	Regional Aviation Partners.	Recommends immediately implementing section 402 (fuel subsidies) of Vision 100.	While section 402 allows the Department to increase fuel compensation rates without regard to negotiated contracts in the event that air carriers experience significant increased costs, it is impracticable for the Department to do so given the limited funding for the program.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
56		OST	Regional Aviation Partners.	Recommends giving greater weight and consideration to community preferences in awarding Essential Air Service (EAS) contracts.	The program already affords significant weight to community views. However, this is only one of the factors considered, and the Department continues to need flexibility to consider all factors.
57		FTA	New York MTA	Suggests several technical changes to FTA program requirements, including reporting requirements for the national transit database.	Some of the issues raised are controlled by statute and cannot be addressed. The remaining data issues address data necessary for FTA to assure that it is exercising its authority properly.
58		FTA	New York MTA	Suggests several technical changes to FTA program requirements, including Clean Air Act regulations pertaining to transportation projects.	These issues were highly negotiated by EPA and DOT prior to adopting the program requirements. FTA does not agree that these issues need to be readdressed at this time.
59		FTA	New York MTA	Suggests several technical changes to FTA program requirements, including amending the Congestion Mitigation and Air Quality (CMAQ) program.	Eligibility for CMAQ funds is limited to programs and projects that help the nonattainment area attain the national ambient air quality standards. Because of the basic statutory objective of this program, there is no leeway to extend eligibility to routine maintenance and rehabilitation.
60	26 CFR 1.132–9	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including increasing transit subsidies and extending them to include parking.	This is an IRS regulation that FTA cannot amend.
61	23 CFR 658.5	FHWA	National Association of Home Builders.	Suggests modifying the truck height and width regulation to accommodate transportation of modular housing on the National Network.	The provisions governing this issue are Congressionally defined. Therefore, FHWA does not have the authority to make this change.
62		FHWA, FTA	California Federal Programming Group.	Recommends improving coordination among DOT databases and making them more user-friendly.	The Fiscal Management Information System (FMIS) is FHWA's primary information system for tracking individual Federal-aid highway projects. Since the data in the system is highway specific, there is no purpose in coordinating the FMIS with other non-highway DOT databases. FHWA believes that FMIS is reasonably user-friendly and provides training and assistance to users.
63	49 CFR Part 398	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends eliminating unique rules for migrant workers.	A comprehensive review of this part occurred in the early 1990s and the decision was made not to remove the migrant workers rules.

(Authority: 5 U.S.C. 610; E.O. 12866, 58 FR 51735, Oct. 4, 1993)

Issued this 14th day of April, 2006, at Washington, DC.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 06–5240 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Draft Advisory Circulars, Other Policy Documents and Proposed Technical Standard Orders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: This is a recurring Notice of Availability, and request for comments, on the draft advisory circulars (ACs), other policy documents, and proposed technical standard orders (TSOs) currently offered by the Aircraft Certification Service.

SUMMARY: The FAA's Aircraft Certification Service publishes proposed non-regulatory documents that are available for public comment on the Internet at *http://www.faa.gov/aircraft/draft_docs/*.

DATES: We must receive comments on or before the due date for each document as specified on the Web site.

ADDRESSES: Send comments on proposed documents to the Federal Aviation Administration at the address specified on the Web site for the document being commented on, to the attention of the individual and office identified as point of contact for the document.

FOR FURTHER INFORMATION CONTACT: See the individual or FAA office identified on the Web site for the specified document.

SUPPLEMENTARY INFORMATION:

Comments Invited

When commenting on draft ACs, other policy documents or proposed TSOs, you should identify the document by its number. The Director, Aircraft Certification Service, will consider all comments received on or before the closing date before issuing a final document. You can obtain a paper copy of the draft document or proposed TSO by contacting the individual or FAA office responsible for the document as identified on the Web site. You will find the draft ACs, other policy documents and proposed TSOs on the ''Aircraft Certification Draft Documents Open for Comment'' Web site at *http://www.faa.gov/aircraft/draft_docs/*. For Internet retrieval assistance, contact the AIR Internet Content Program Manager at 202–267–8361.

Background

We do not publish an individual **Federal Register** Notice for each document we make available for public comment. Persons wishing to comment on our draft ACs, other policy documents and proposed TSOs can find them by using the FAA's Internet address listed above. This notice of availability and request for comments on documents produced by the Aircraft Certification Service will appear again in 30 days.

Issued in Washington, DC, on June 6, 2006.

Terry Allen,

Acting Manager, Production and Airworthiness Division, Aircraft Certification Service.

[FR Doc. 06–5302 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 18, 2006, page 2982.

DATES: Please submit comments by July 12, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Commercial Space Transportation Licensing Regulations.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0608.

Forms(s): Form 8800–1.

Affected Public: An estimated 2 Respondents.

Abstract: The required information will be used to determine if applicant proposal for conducting commercial space launches can be accomplished in a safe manner according to regulations and license orders issued by the Office of the Associate Administrator for Commercial Space Transportation. Respondents are applying for licenses to authorize licensed launch activities.

Estimated Annual Burden Hours: An estimated 3,089 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 2, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 06–5304 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 15, 2006, pages 13445–13446.

DATES: Please submit comments by July 12, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title Recording of Aircraft Conveyances and Security Documents.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0043.

Forms(s): AC Form 8050–41.

Affected Public: An estimated 45,469 Respondents.

Abstract: The information collected includes mortgages submitted by the public for recording against aircraft, engines, propellers, and spare parts locations.

Estimated Annual Burden Hours: An estimated 45,469 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 2, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 06–5305 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held Tuesday, July 11, 2006, from 8 a.m. to 4:30 p.m., Wednesday, July 12, 2006, from 9 a.m. to 4:30 p.m., and Thursday, July 13, 2006, from 9 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, Conference Room 4A, 600 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kalinowski, Executive Director, ATPAC, System Operations Airspace and Aeronautical Information Management, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9205.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held Tuesday, July 11, 2006, from 8 a.m. to 4:30 p.m., Wednesday, July 12, 2006, from 9 a.m. to 4:30 p.m., and Thursday, July 13, 2006, from 9 a.m. to 12 p.m.

The agenda for this meeting will cover: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.
4. Report from Executive Director.
5. Items of Interest.
6. Discussion and agreement of location and dates for subsequent meetings. Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statement should notify the person listed above not later than July 3, 2006. The next quarterly meeting of the FAA ATPAC is planned to be held from July 11–13, 2006, in Washington, DC.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Nancy Kalinowski,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 06–5303 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Dane County, WI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: To correct a previous county location error in the **Federal Register**, Vol. 71, No. 101, Thursday, May 25, 2006, Notices, the FHWA and WisDOT is re-issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for proposed transportation improvements in the United States Highway (US) 51 corridor in the city of Madison, Dane County, Wisconsin generally between U.S. 12/18 (South Beltline Highway) and State Trunk Highway (STH) 19. The EIS is being prepared in conformance with 40 CFR 1500 and FHWA regulations.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Chandler, Field Operations Engineer, Federal Highway Administration, 567 D'Onofrio Drive—Suite 100, Madison, Wisconsin, 53719–2814; Telephone: (608) 829–7514. You may also contact Eugene Johnson, Director, Bureau of Equity and Environmental Services, Wisconsin Department of Transportation, P.O. Box 7965, Madison, Wisconsin, 53707–7965: Telephone: (608) 267–9527.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Offices' Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of Federal Register's home page at: *http://www.archives.gov/* and the Government Printing Offices' database at: *http://www.gpoaccess.gov/nara/index.html.*

Background

The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare an Environmental Impact Statement (EIS) on proposed improvements to address safety, operational and capacity concerns on an approximate 10-mile (16-kilometer) portion of U.S. 51 between Terminal Drive/Voges Road in the Village of McFarland and STH 19, in the Town of Burke in Dane County. These improvements are being considered to address existing and future transportation demand on U.S. 51 as identified in the 2003 Stoughton Road Needs Assessment Technical Report, safety concerns, and to identify land which may need to be preserved for future transportation improvements.

FHWA's decision to prepare a draft EIS is based on the initial environmental assessment that indicates the proposed action is likely to have significant impacts on the environment including wetlands. The draft EIS will

evaluate the social, economic, and environmental impacts of the alternatives including no build, improvements within the existing highway corridor, and improvements on new location.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, private agencies and organizations, and citizens who have expressed or are known to have an interest in this proposal.

During needs assessment activities, coordination was conducted with state and federal review agencies (including an April 2005 Pre-Consultation/NEPA 404 Merger Scoping Meeting) and there has been extensive coordination with local officials. Ongoing coordination with local, state, and federal agencies and officials, including Native American Tribes, is planned throughout the environmental analysis process. Public information meetings were conducted from 2003 to 2006 and several ongoing focus group meetings and workshops have been held since 2002. A Policy Advisory Committee consisting of neighborhood & business representatives and elected officials has met quarterly since the study began in 2002. A public information meeting is planned while the draft EIS is being written and also following completion of the draft EIS, to address the impacts of each alternative. Public notice will be given of the time and place of the meeting and the draft EIS will be available for public and agency review and comment prior to the meeting. Coordination with state and federal review agencies will also continue throughout preparation of the draft EIS.

To ensure that the full range of issues related to this proposed action are addressed, and all substantive issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the draft EIS should be directed to FHWA or the Wisconsin Department of Transportation at the addresses provided under the heading **FOR FURTHER INFORMATION CONTACT.**

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: June 6, 2006.

Mark R. Chandler,

Field Operations Engineer, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. E6–9064 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration.

TIME AND DATE: June 13, 2006; 10:15 a.m. to 11:30 a.m.

PLACE: Birmingham, Alabama.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: An overview of the Unified Carrier Registration Plan and Agreement requirements set forth under section 4305 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and the administrative functioning of the Board.

SUPPLEMENTARY INFORMATION: The meeting is being held in conjunction with the National Conference of State Transportation Specialists Annual Conference: The Ross Bridge Resort, 4000 Grand Avenue, Birmingham, Alabama 35226.

FOR FURTHER INFORMATION CONTACT: Mr. William Quade, (202) 366–2172, Director, Office of Safety Programs, Federal Motor Carrier Safety Administration, or Mr. Bryan Price, (412) 395–4816, Transportation Specialist, FMCSA Pennsylvania Division Office, office hours are from 8 a.m. to 5 p.m., E.T. Monday through Friday except Federal holidays.

Dated: June 7, 2006.

David Hugel,

Deputy Administrator.

[FR Doc. 06–5316 Filed 6–7–06; 4:09 pm]

BILLING CODE 4910–EX–P

Federal Register

Monday
June 12, 2006

Part II

Environmental Protection Agency

40 CFR Parts 60, 63, et al.

Standards of Performance for Stationary Spark Ignition Internal Combustion Engines and National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 63, 85, 90, 1048, 1065, and 1068

[EPA–HQ–OAR–2005–0030, FRL–8176–1]

RIN 2060–AM81 and 2060–AN62

Standards of Performance for Stationary Spark Ignition Internal Combustion Engines and National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing new source standards of performance for stationary spark ignition internal combustion engines. EPA is also proposing national emission standards for hazardous air pollutants for stationary reciprocating internal combustion engines that either are located at area sources of hazardous air pollutant emissions or that have a site rating of less than or equal to 500 brake horsepower and are located at major sources of hazardous air pollutant emissions.

DATES: Comments must be received on or before September 11, 2006, or 60 days after date of public hearing if later. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by the Office of Management and Budget (OMB) on or before July 12, 2006. *Public Hearing.* If anyone contacts us requesting to speak at a public hearing by July 3, 2006, a public hearing will be held on July 12, 2006. If you are interested in attending the public hearing, contact Ms. Pamela Garrett at (919) 541–7966 to verify that a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2005–0030, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: 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. Please include a total of two copies. EPA requests a separate copy also be sent to the contact person identified below (see **FOR FURTHER INFORMATION CONTACT**). In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for EPA, 735 17th St., NW., Washington, DC 20503.
- Hand Delivery: Air and Radiation Docket and Information Center, U.S. EPA, Room B102, 1301 Constitution Avenue, NW., Washington, DC. 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 No. EPA–HQ–OAR–2005–0030. 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 *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Public Hearing: If a public hearing is held, it will be held at EPA's campus located at 109 T.W. Alexander Drive in Research Triangle Park, NC or an alternate site nearby.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. We also rely on documents in Docket ID Nos. A–96–55 and A–2000–01, and incorporate those dockets into the record for this proposed rule. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Jaime Pagán, Energy Strategies Group, Sector Policies and Programs Division (D243–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5340; facsimile number (919) 541–5450; email address ''*pagan.jaime@epa.gov*.''

SUPPLEMENTARY INFORMATION:

Organization of This Document. The following outline is provided to aid in locating information in the preamble.

I. General Information
  A. Does this action apply to me?
  B. What should I consider as I prepare my comments for EPA?
II. Background
III. Summary of This Proposed Rule
  A. What is the source category regulated by this proposed rule?
  B. What are the pollutants regulated by this proposed rule?
  C. What are the proposed standards?
  D. What are the requirements for sources that are modified or reconstructed?
  E. What are the requirements for demonstrating compliance?
  F. What are the reporting and recordkeeping requirements?
IV. Rationale for Proposed Rule
  A. Which control technologies apply to stationary engines?
  B. How did EPA determine the basis and level of the proposed standards?
  C. How did EPA determine the compliance requirements?
  D. How did EPA determine the reporting and recordkeeping requirements?
  E. Why did EPA determine to exempt area sources from title V permit requirements?
V. Summary of Environmental, Energy and Economic Impacts
  A. What are the air quality impacts?
  B. What are the cost impacts?
  C. What are the economic impacts?
  D. What are the non-air health, environmental and energy impacts?
VI. Solicitation of Comments and Public Participation
VII. Statutory and Executive Order Reviews
  A. Executive Order 12866: Regulatory Planning and Review
  B. Paperwork Reduction Act
  C. Regulatory Flexibility Act
  D. Unfunded Mandates Reform Act of 1995

E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act

I. General Information

A. Does this action apply to me?

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	NAICS [1]	Examples of regulated entities
Any manufacturer that produces or any industry using a stationary internal combustion engine as defined in this proposed rule.	2211	Electric power generation, transmission, or distribution.
	622110	Medical and surgical hospitals.
	335312	Motor and generator manufacturing.
	333912	Pump and compressor manufacturing.
	333992	Welding and soldering equipment manufacturing.
	48621	Natural gas transmission.
	211111	Crude petroleum and natural gas production.
	211112	Natural gas liquids producers.
	92811	National security.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your engine is regulated by this action, you should examine the applicability criteria of this proposed rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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 diskor 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. Send or deliver information identified as CBI to only the following address: Mr. Jaime Pagán, c/o OAQPS Document Control Officer (Room C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2005–0030.

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

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

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

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

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

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

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

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

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

Docket. The docket number for this proposed rule is Docket ID No. EPA–HQ–OAR–2005–0030.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this proposed rule will be posted on the WWW through the Technology Transfer Network Web site (TTN Web). Following signature, EPA will post a copy of this proposed rule on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg*. The TTN provides information and technology exchange in various areas of air pollution control.

II. Background

This action proposes new source performance standards (NSPS) that would apply to new stationary spark ignition (SI) internal combustion engines (ICE). New source performance standards implement section 111(b) of the Clean Air Act (CAA), and are issued for categories of sources which cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The standards apply to new stationary sources of emissions, i.e., sources whose construction, reconstruction, or modification begins after a standard for those sources is proposed. The NSPS for stationary SI ICE would be promulgated under 40 CFR part 60, subpart JJJJ.

This action also proposes national emission standards for hazardous air pollutants (NESHAP) from existing, new, and reconstructed stationary reciprocating internal combustion engines (RICE) with a site rating of less than or equal to 500 horsepower (HP) located at major sources, and existing, new, and reconstructed stationary RICE located at area sources. We are proposing these requirements to meet our statutory obligation to address hazardous air pollutants (HAP) emissions from these sources under sections 112(d) and 112(k) of the CAA. The final NESHAP for stationary RICE would be promulgated under 40 CFR part 63, subpart ZZZZ, which already contains standards applicable to stationary RICE with a site rating above 500 HP located at major sources.

We are proposing these two sets of regulations under one notice of proposed rulemaking because the source categories being addressed are practically identical. In other words, stationary engines located at major and area sources of HAP will also be affected by NSPS regulations. Based on the similarities, we decided that it would be appropriate to propose the regulations at the same time and attempt to bring some consistency between them.

III. Summary of this Proposed Rule

A. What is the source category regulated by this proposed rule?

The proposed NSPS apply to new stationary SI ICE. A stationary internal combustion engine means any internal combustion engine, except combustion turbines, that converts heat energy into mechanical work and is not mobile. Stationary ICE differ from mobile ICE in that a stationary internal combustion engine is not a nonroad engine as defined at 40 CFR 1068.30, and is not used to propel a motor vehicle or a vehicle used solely for competition. Stationary ICE include reciprocating ICE, rotary ICE, and other ICE, except combustion turbines. The proposed NESHAP applies only to stationary RICE. To our knowledge, no rotary or other types of stationary ICE exist at this time.

The SI NSPS address emissions from new, modified and reconstructed stationary SI engines. An SI engine is either a gasoline-fueled engine; or any other type of engine, with a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark ignition engines usually use a throttle to regulate intake air flow to control power during normal operation. Dual-fuel engines in which a liquid fuel (typically diesel fuel) is used for compression ignition and gaseous fuel (typically natural gas) is used as the primary fuel at an annual average ratio of less than 2 parts diesel fuel to 100 parts total fuel on an energy equivalent basis are considered SI engines for purposes of this proposed rule.

The NESHAP address emissions from existing, new, and reconstructed stationary engines less than or equal to 500 HP located at major sources and all stationary engines located at area sources. A major source of HAP emissions is a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year, except that for oil and gas production facilities, a major source of HAP emissions is determined for each surface site. An area source of HAP emissions is a source that is not a major source.

If you are an owner or operator of an area source subject to this proposed rule, you are exempt from the obligation to obtain a permit under 40 CFR parts 70 or 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a) for a reason other than your status as an area source under this proposed rule.

1. SI NSPS

New source performance standards for stationary SI engines are issued under section 111(b) of the CAA. All new, modified and reconstructed stationary SI engines are covered regardless of size. The NSPS apply to stationary SI engines combusting any fuel (natural gas, gasoline, liquefied petroleum gas (LPG), compressed natural gas, landfill gas, digester gas, and any other applicable fuel). New source performance standards require these sources to control emissions to the level achievable by best demonstrated technology (BDT), considering costs and any non-air quality health and environmental impacts and energy requirements.

Under section 111 of the CAA, 42 U.S.C. 7411, the Administrator is required to publish, and periodically update, a list of source categories that in his or her judgment cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. This list appears in 40 CFR 60.16. The list reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare, and it is intended to identify major source categories for which standards of performance are to be promulgated.

EPA has determined that for purposes of NSPS regulations, the stationary internal combustion engine source category should be split into two source categories—SI engines and compression ignition (CI) engines. Proposed NSPS for stationary CI engines were published on July 11, 2005 (70 FR 39870).

2. NESHAP

The NESHAP portion of this action is a revision to the regulations in 40 CFR part 63, subpart ZZZZ, currently applicable to stationary RICE greater than 500 HP located at major sources, which were promulgated in 2004. Subpart ZZZZ of 40 CFR part 63 does not currently cover stationary engines located at area sources of HAP emissions, nor does it apply to stationary engines located at major sources with a site rating of 500 HP or less. When the subpart ZZZZ of 40 CFR part 63 regulations were promulgated in 2004 (69 FR 33474), EPA deferred promulgating regulations with respect to stationary engines 500 HP or less at major sources until further information on the engines could be obtained and analyzed. It was decided to regulate these smaller engines at the same time as we regulate engines located at area sources.

This action proposes to revise 40 CFR part 63, subpart ZZZZ, in order to address HAP emissions from stationary RICE less than or equal to 500 HP located at major sources and stationary RICE located at area sources. For stationary engines less than or equal to 500 HP at major sources, EPA must determine what is the appropriate maximum achievable control technology (MACT) for those engines under section 112(d)(3) of the CAA.

For stationary engines located at area sources, we have the flexibility to promulgate standards based on generally available control technology (GACT) under CAA section 112(d)(5). We are required to address HAP emissions from stationary RICE located at area sources under section 112(k) of the CAA, based on criteria set forth by EPA in the Urban Air Toxics Strategy described in the paragraph below.

On July 19, 1999, EPA announced in the **Federal Register** its plan for addressing exposure to air toxics in urban areas. The Urban Air Toxics Strategy (64 FR 38706) listed several source categories that emit one or more of the air toxic pollutants of greatest concern in urban areas. The stationary engine source category was one of the source categories listed and, as such, EPA is required to consider it for regulation. The strategy addressed sections 112(c)(3) and 112(k)(3)(B)(ii) of the CAA that instruct us to identify not less than 30 HAP which, as the result of emissions from area sources, present the greatest threat to public health in the largest number of urban areas, and to list sufficient area source categories or subcategories to ensure that emissions representing 90 percent of the 30 listed HAP are subject to regulation. The strategy included a list of 33 HAP judged to pose the greatest potential threat to public health in the largest number of urban areas (the urban HAP) and a list of area source categories emitting the listed HAP (area source HAP). Once listed, these area source categories shall be subject to standards under section 112(d) of the CAA.

We have divided the source category into the following subcategories: Stationary RICE less than 50 HP, landfill and digester gas stationary RICE, CI stationary RICE greater than or equal to 50 HP, and SI stationary RICE greater than or equal to 50 HP. The CI stationary RICE greater than or equal to 50 HP subcategory was further subcategorized into emergency and non-emergency engines, as was the

subcategory of SI stationary RICE greater than or equal to 50 HP. Spark ignition non-emergency stationary RICE greater than or equal to 50 HP were then subcategorized into 2 stroke lean burn (2SLB), 4 stroke lean burn (4SLB), and 4 stroke rich burn (4SRB) stationary RICE.

The regulatory approach being proposed in this action differentiates between gasoline, LPG, natural gas, and digester and landfill gas. Gasoline and LPG are fuels more commonly used in nonroad engines than stationary engines. Nonroad SI engines less than or equal to 19 kilowatt (KW) (25 HP) typically use gasoline. It is estimated that about 68 percent of SI nonroad engines above 19 KW (25 HP) use LPG. A smaller percentage of nonroad SI engines above 19 KW (25 HP) use gasoline (about 23 percent) and even less use compressed natural gas (about 9 percent). Natural gas fuel is more common in larger, stationary applications. Natural gas engines refer to all gaseous-fueled engines except those fueled by landfill and digester gas. Natural gas is primarily composed of methane and typically contains very low levels of sulfur. Other fuels used with stationary SI engines are landfill and digester gases. These gases are by-products of wastewater treatment and land application of municipal reuse. Landfill and digester gases, which are formed through anaerobic decomposition of organic materials, are principally comprised of methane and carbon dioxide, but small quantities of other compounds such as hydrogen sulfide, ammonia, volatile organic compounds, and particulate matter (PM) may also be present. These gases have a lower methane content than natural gas and may range from 50 to 65 percent. Although similar in composition to natural gas, there are some differences in the emissions from combustion of landfill and digester gases due to e.g., chlorinated compounds typically not found in natural gas. Both landfill and digester gases contain a family of silicon-based gases collectively called siloxanes. Combustion of siloxanes forms compounds that have been known to foul fuel systems, combustion chambers, and post-combustion catalysts.

B. What are the pollutants regulated by this proposed rule?

New source performance standards are developed under the authority of section 111 of the CAA. Emissions of criteria pollutants (those pollutants identified under section 110 of the CAA) are generally regulated under section 111 of the CAA, while HAP are regulated under section 112 of the CAA. Emissions from stationary engines contribute significantly to air pollution and cause adverse health and welfare effects. The pollutants to be regulated by the proposed NSPS for stationary SI engines are nitrogen oxides (NO_X), carbon monoxide (CO), and non-methane hydrocarbons (NMHC). In addition, a sulfur limit on gasoline is being proposed.

Nitrogen oxides are listed as criteria pollutants and are regulated due to their contribution to the formation of ozone. Nitrogen oxides are precursors to ozone formation. Exposure to ozone has been linked to health and welfare impacts. Health and welfare risks include impaired respiratory function, eye irritation, deterioration of materials such as rubber, and necrosis of plant tissue. Nitrogen oxides are also a major precursor for nitrate PM. Particulate matter, also regulated as a criteria pollutant, is associated with premature mortality and a number of serious adverse respiratory and cardiovascular effects, especially in children, the elderly, and people with existing heart or lung disease. Particulate matter also reduces visibility and damages building materials. Nitrogen oxides are also associated with various other health and welfare effects. Nitrogen dioxide can cause irritation of the lungs and can also reduce the resistance to respiratory infection. Nitrogen oxides are one of the major pollutants emitted from stationary ICE and stationary ICE are considered to cause or contribute significantly to nationwide releases of NO_X emissions.

Carbon monoxide is a criteria pollutant and is considered harmful to public health and the environment. Carbon monoxide has been linked to increased risk for people with heart disease, reduced visual perception, cognitive functions and aerobic capacity, and possible fetal effects. Stationary engines emit CO and are considered to contribute to several areas failing to attain the National Ambient Air Quality Standards for CO.

Emissions of NMHC from stationary engines contribute to the formation of ozone. In addition, emissions of NMHC include air toxics such as benzene, formaldehyde, acetaldehyde, 1,3-butadiene, and acrolein. These substances are known or suspected to be human or animal carcinogens, or having noncancer health effects such as irritation or corrosion of the eyes, nose, throat, and lungs; pulmonary and respiratory problems; and dermatitis and sensitization of the skin and respiratory tract. Stationary engines contribute to nationwide releases of NMHC emissions.

Sulfur dioxide (SO_2) is a criteria pollutant emitted from stationary SI engines due to sulfur in gasoline. It contributes to respiratory illness, particularly in children and the elderly, and aggravates existing heart and lung diseases. It also contributes to acid deposition, damaging forests, aquatic ecosystems, crops, and building materials. Sulfur dioxide undergoes chemical reactions in the atmosphere to form sulfate PM. The health effects of PM were previously described in this section. This proposed rule reduces SO_2 and sulfate PM by requiring the use of gasoline with lower sulfur levels, thus improving air quality, public health, and public welfare.

The NESHAP being proposed in this action would regulate emissions of HAP. Available emissions data show that several HAP are emitted from stationary engines, which are formed during the combustion process or that are contained within the fuel burned. Many HAP have been detected from the stationary engine exhaust, but only a handful of HAP represent the majority of HAP emissions from stationary engines. These HAP are formaldehyde, acrolein, methanol, and acetaldehyde. We described the health effects of these HAP and other HAP emitted from the operation of stationary ICE in the preamble to 40 CFR part 63, subpart ZZZZ, published on June 15, 2004, on page 33474 of the **Federal Register**. These HAP emissions are known to cause, or contribute significantly to air pollution, which may reasonably be anticipated to endanger public health or welfare.

Under the RICE NESHAP, we are proposing to limit emissions of HAP through emissions standards for NMHC and formaldehyde. We have determined that it is appropriate to use NMHC and formaldehyde or CO emissions as a surrogate for HAP emissions. For the RICE MHAP promulgated in 2004 (69 FR 33474) for engines greater than 500 HP located at major sources, EPA chose to select a single pollutant to serve as a surrogate for HAP emissions. Formaldehyde is the hazardous air pollutant present in the highest concentration from stationary engines. In addition, emissions data show that formaldehyde emission levels are related to other HAP emission levels. For the NESHAP promulgated in 2004, EPA also found that there is a strong relationship between CO emissions reductions and HAP emissions reductions from 2SLB, 4SLB, and CI stationary engines. Therefore, CO emissions reductions were chosen as a surrogate for HAP emissions reductions for 2SLB, 4SLB, and CI stationary

engines operating with oxidation catalyst systems for that rule. For the standards being proposed in this action, EPA believes that previously made decisions regarding the appropriateness of using formaldehyde and CO as surrogates for HAP are still valid. For this proposal, EPA conducted an analysis using available emissions data to look at the relationship between formaldehyde (a surrogate for HAP) and NMHC. Based on statistical results of engine exhaust data, these data indicate that there is a significant relationship between formaldehyde and NMHC emissions from 2SLB, 4SLB, and CI stationary RICE. For this reason, EPA believes it is appropriate to use NMHC emissions as a surrogate for formaldehyde, and consequently, also as a surrogate for HAP emissions. Much of the HAP being regulated are hydrocarbons; e.g., formaldehyde, an oxygenated hydrocarbon, is the HAP emitted in largest quantities from stationary engines. For more information on EPA's analysis of NMHC as a surrogate for HAP, refer to the docket for this proposal.

C. What are the proposed standards?

A description of the proposed standards is provided in the following sections.

1. SI NSPS

a. Stationary SI Engines ≤19 KW (25 HP). EPA is proposing emission standards that will affect manufacturers, owners, and operators of stationary SI engines. Engine manufacturers must certify their stationary SI engines with a maximum engine power less than or equal to 19 KW (25 HP) that are manufactured after January 1, 2008, to the certification emission standards for new nonroad SI engines in 40 CFR part 90, as applicable. The standards applicable to these engines are shown in Table 1 of this preamble.

TABLE 1.—NO_X, HC, NMHC, AND CO EMISSION STANDARDS IN G/KW-HR (G/HP-HR) FOR STATIONARY SI ENGINES >19 KW (25 HP)

Engine class[c]	Emission requirement in g/KW-hr (g/HP-hr)			Manufacture date[b]
	$HC+NO_X$	$NMHC+NO_X$[a]	CO	
I	16.1 (12.0)	14.8 (11.0)		January 1, 2008.
I–A	50 (37)	.....	610 (455)	
I–B	40 (30)	37 (27.6)		
II	12.1 (9.0)	11.3 (8.4)		

[a] $NMHC+NO_X$ standards are applicable only to natural gas fueled engines at the option of the manufacturer, in lieu of $HC+NO_X$ standards.
[b] Modified and reconstructed engines manufactured prior to January 1, 2008, must meet the standards applicable to engines manufactured after January 1, 2008.
[c] Class I–A: Engines with displacement <66 cubic centimeter (cc); Class I–B: Engines with displacement greater than or equal to 66 cc and less than 100 cc; Class I: Engines with displacement greater than or equal to 100 cc and less than 225 cc; Class II: Engines with displacement greater than or equal to 225 cc.

b. Stationary SI Gasoline Engines >19 KW (25 HP) and Rich Burn LPG Engines >19 KW (25 HP). Engine manufacturers must certify their stationary SI engines with a maximum engine power greater than 19 KW (25 HP) and less than 500 HP that use gasoline or rich burn engines greater than 19 KW (25 HP) and less than 500 HP that use LPG that are manufactured after January 1, 2008, to the certification emission standards for new nonroad SI engines in 40 CFR part 1048, as applicable. Engine manufacturers must certify their stationary SI engines with a maximum engine power greater than or equal to 500 HP that use gasoline or rich burn engines greater than or equal to 500 HP that use LPG that are manufactured after July 1, 2007, to the certification emission standards for new nonroad SI engines in 40 CFR part 1048. The standards applicable to engines greater than 19 KW (25 HP) that are gasoline or rich burn engines that use LPG are shown in Table 2 of this preamble.

TABLE 2.—NO_X, HC, AND CO EMISSION STANDARDS IN G/KW-HR (G/HP-HR) FOR STATIONARY SI GASOLINE ENGINES >19 KW (25 HP) AND RICH BURN LPG ENGINES >19 KW (25 HP)

Maximum engine power	Manufacture date	Emission requirement in g/KW-hr (g/HP-hr)[a, b]	
		$HC+NO_X$	CO
25<HP<500[c]	January 1, 2008	2.7 (2.0)	4.4 (3.3)
HP≥500[d]	January 1, 2008 (severe duty)	2.7 (2.0)	130.0 (97.0)
	July 1, 2007	2.7 (2.0)	4.4 (3.3)
	July 1, 2007 (severe duty)	2.7 (2.0)	130.0 (97.0)

[a] You may optionally certify your engines according to the following formula instead of the standards in Table 2 of this preamble: $(HC+NO_X)\times CO^{0.784}\leq 8.57$. The $HC+NO_X$ and CO emission levels you select to satisfy this formula, rounded to the nearest 0.1 g/kW-hr, become the emission standards that apply for those engines. You may not select an $HC+NO_X$ emission standard higher than 2.7 g/kW-hr or a CO emission standard higher than 20.6 g/kW-hr.
[b] Provisions in 40 CFR part 1048 allow engines with a maximum engine power at or below 30 KW (40 HP) with a total displacement at or below 1,000 cubic centimeters (cc) to comply with the requirements of 40 CFR part 90.

[c] Modified and reconstructed engines between 25 and 500 HP manufactured prior to January 1, 2008, must meet the standards applicable to engines manufactured after January 1, 2008.

[d] Modified and reconstructed engines greater than or equal to 500 HP manufactured prior to July 1, 2007, must meet the standards applicable to engines manufactured after July 1, 2007.

In addition to the emission standards shown in Table 2 of this preamble, there are separate field testing standards required under 40 CFR part 1048 that are part of the certification requirements for engine manufacturers.

c. Stationary Non-Emergency SI Natural Gas Engines 19<KW<37 (25<HP<50) and Lean Burn LPG Engines 19<KW<37 (25<HP<50). Owners and operators who purchase stationary SI engines with a maximum engine power between 19 and 37 KW (25 and 50 HP) that are natural gas engines or lean burn engines using LPG that are manufactured after January 1, 2008, must limit their exhaust emissions of NO_X to 2.0 grams per HP-hour (g/HP-hr), emissions of CO to 4.0 g/HP-hr, and emissions of NMHC to 1.0 g/HP-hr. More stringent emission standards take effect 3 years later, i.e., for stationary natural gas engines 19 to 37 KW (25 to 50 HP) and lean burn engines using LPG between 19 and 37 KW (25 and 50 HP) manufactured after January 1, 2011. These engines must comply with a NO_X standard of 1.0 g/HP-hr, a CO standard of 2.0 g/HP-hr, and a NMHC standard of 0.7 g/HP-hr. Engine manufacturers have the option to certify their stationary SI engines to these emission standards. However, the certification is only voluntary, and it is up to the manufacturer to decide if it believes certification is feasible and beneficial. Also, engine manufacturers have the option to certify stationary SI engines between 19 and 37 KW (25 and 50 HP) that are natural gas engines or lean burn engines using LPG to the emission standards in 40 CFR part 1048, as shown in Table 2 of this preamble. Additionally, engine manufacturers may certify engines between 19 and 30 KW (25 and 40 HP) with a displacement of 1,000 cc or less to the provisions of 40 CFR part 90 (shown in Table 1 of this preamble), which is consistent with similar provisions applicable to nonroad engines in this displacement and size category. A summary of the proposed standards for stationary non-emergency SI natural gas engines between 19 and 37 KW (25 and 50 HP) and stationary non-emergency lean burn LPG engines between 19 and 37 KW (25 and 50 HP) is provided in Table 3 of this preamble.

d. Stationary Non-Emergency SI Natural Gas Engines 50≤HP<500 and Lean Burn LPG Engines 50≤HP<500. EPA is proposing emission standards in two stages for these engines. Owners and operators who purchase stationary SI engines with a maximum engine power between 50 and 500 HP that are natural gas engines or lean burn engines using LPG that are manufactured after January 1, 2008, must limit their exhaust emissions of NO_X to 2.0 g/HP-hr, emissions of CO to 4.0 g/HP-hr, and emissions of NMHC to 1.0 g/HP-hr. Again, engine manufacturers may voluntarily certify these stationary SI engines to these emission standards, but the certification is not required by this proposed rule. Stationary SI engines with a maximum engine power between 50 and 500 HP that are natural gas engines or lean burn engines using LPG that are manufactured after January 1, 2011, must limit their exhaust emissions of NO_X to 1.0 g/HP-hr, emissions of CO to 2.0 g/HP-hr, and emissions of NMHC to 0.7 g/HP-hr. A summary of the emission standards EPA is proposing for these engines is shown in Table 3 of this preamble.

TABLE 3.—NO_X, NMHC, AND CO EMISSION STANDARDS IN G/HP-hr FOR STATIONARY SI ENGINES >19KW (25 HP)

[Except Gasoline and Rich Burn LPG Engines]

Engine type and fuel	Maximum engine power	Manufacture date [a]	Emission standards in g/HP-hr		
			NO_X	CO	NMHC
Non-Emergency SI Natural Gas and	25<HP<500 [a]	January 1, 2008	2.0	4.0	1.0
Non-Emergency SI Lean Burn LPG		January 1, 2011	1.0	2.0	0.7
Non-Emergency SI Natural Gas and	HP≤500	July 1, 2007	2.0	4.0	1.0
Non-Emergency SI Lean Burn LPG		July 1, 2010	1.0	2.0	0.7
Landfill/Digester Gas	HP≥500	January 1, 2008	3.0	5.0	1.0
		January 1, 2011	2.0	5.0	1.0
	HP≥500	July 1, 2007	3.0	5.0	1.0
		July 1, 2010	2.0	5.0	1.0
Emergency	All Sizes	January 1, 2009	2.0	4.0	1.0

[a] Stationary SI natural gas and lean burn LPG engines between 19 and 37 KW (25 and 50 HP) may comply with the requirements of Table 2 of this preamble, instead of this table, as applicable.

e. Stationary Non-Emergency SI Natural Gas Engines ≥500 HP and Non-Emergency Lean Burn LPG Engines ≥500 HP. EPA is proposing emission standards in two stages for stationary non-emergency SI natural gas engines greater than or equal to 500 HP and non-emergency lean burn LPG engines greater than or equal to 500 HP. Owners and operators who purchase stationary SI engines with a maximum engine power greater than or equal to 500 HP that are natural gas engines or lean burn engines using LPG that are manufactured after July 1, 2007, must limit their exhaust emissions of NO_X to 2.0 g/HP-hr, emissions of CO to 4.0 g/HP-hr, and emissions of NMHC to 1.0 g/HP-hr. Engine manufacturers may voluntarily certify these stationary SI engines to these emission standards, but the certification is not required by the rule, as proposed. Stationary SI engines with a maximum engine power greater than or equal to 500 HP that are natural gas engines or lean burn engines using LPG that are manufactured after July 1, 2010, must limit their exhaust emissions of NO_X to 1.0 g/HP-hr, emissions of CO to 2.0 g/HP-hr, and emissions of NMHC to 0.7 g/HP-hr. Again, manufacturers may voluntarily certify their engines to these emission standards. A summary of the emission standards EPA is proposing for these engines is shown in Table 3 of this preamble.

f. Stationary SI Landfill/Digester Gas Engines. Similar to other stationary SI engines, EPA is proposing emission standards in two stages for landfill and digester gas fired engines. Owners and operators who purchase stationary landfill or digester SI engines that are manufactured after July 1, 2007, that are greater than or equal to 500 HP must limit their exhaust emissions of NO_X to 3.0 g/HP-hr, emissions of CO to 5.0 g/HP-hr, and emissions of NMHC to 1.0 g/HP-hr. Stationary landfill and digester gas SI engines greater than or equal to 500 HP that are manufactured after July 1, 2010, must limit their exhaust emissions of NO_X to 2.0 g/HP-hr, emissions of CO to 5.0 g/HP-hr, and emissions of NMHC to 1.0 g/HP-hr. Again, engine manufacturers may voluntarily certify these stationary SI engines to these emission standards, but the certification is not required by the rule, as proposed. Stationary SI engines that use landfill or digester gas that are less than 500 HP are given an extra 6 months to comply with the standards. The first stage of limits of 3.0, 5.0, and 1.0 g/HP-hr, for NO_X, CO, and NMHC, respectively, applies to landfill and digester gas engines manufactured after January 1, 2008. The second stage of limits of 2.0, 5.0, and 1.0 g/HP-hr, for NO_X, CO, and NMHC, respectively, applies to landfill and digester gas engines manufactured after January 1, 2011. A summary of the emission standards EPA is proposing for these engines is shown in Table 3 of this preamble.

g. Stationary Emergency SI Engines. For stationary SI engines that are emergency engines, EPA is proposing a single stage of emission limits. Owners and operators who purchase stationary emergency engines that are manufactured after January 1, 2009, must limit their exhaust emissions of NO_X to 2.0 g/HP-hr, emissions of CO to 4.0 g/HP-hr, and emissions of NMHC to 1.0 g/HP-hr.

h. Fuel Requirements. In addition to emission standards, EPA is proposing that owners and operators who use gasoline in their stationary SI engine must use gasoline that meets the requirements of 40 CFR 80.195. The requirements include a gasoline sulfur per gallon cap of 80 parts per million (ppm).

2. NESHAP

a. Engines ≤500 HP at Major Sources. We are proposing that owners and operators of new and reconstructed stationary SI engines with a site rating of equal to or less than 500 HP located at a major source of HAP emissions must generally meet the same NMHC emission standards for new SI engines as proposed for the NSPS in 40 CFR part 60, subpart JJJJ.

One major difference between the SI NSPS and NESHAP requirements is that owners and operators of new or reconstructed 4SLB SI stationary engines between 250 and 500 HP located at a major source are required to either reduce CO emissions by 93 percent or more, or limit the concentration of formaldehyde in the stationary engine exhaust to 14 ppm by volume, dry basis (ppmvd) or less, at 15 percent oxygen (O_2). These engines would not be required to meet the NMHC standard. The formaldehyde standard is more stringent than the NMHC stage 1 and stage 2 emission standards of 1.0 and 0.7 g/HP-hr, respectively.

Under the NESHAP, owners and operators of new and reconstructed landfill and digester gas fired engines and new and reconstructed SI emergency engines are subject to the NMHC emission standards that are being proposed under the SI NSPS. New and reconstructed landfill and digester gas engines must, under the NESHAP, meet NMHC emission standards consistent with the SI NSPS, i.e., a NMHC standard of 1.0 g/HP-hr. Owners and operators of stationary landfill and digester gas engines must meet the NMHC standard if they are manufactured after January 1, 2008.

For new and reconstructed stationary SI engines with a site rating of equal to or less than 500 HP located at a major source of HAP emissions that are emergency engines, owners and operators who purchase such engines that are manufactured after January 1, 2009, must limit their exhaust emissions of NMHC to 1.0 g/HP-hr.

Finally, owners and operators of new and reconstructed stationary CI engines with a site rating of equal to or less than 500 HP located at a major source of HAP emissions that purchase 2007 model year and later stationary CI engines must meet the NMHC and PM emission standards for new CI engines specified in 40 CFR part 60, subpart IIII. Those standards are generally based on the certification emission standards for new nonroad CI engines. A summary of the standards being proposed for stationary engines less than or equal to 500 HP located at major sources is presented in Table 4 of this preamble.

Owners and operators of existing stationary engines with a site rating of equal to or less than 500 HP located at a major source of HAP emissions have an emissions standard of no emission reduction and are not subject to any specific requirements under subpart ZZZZ or subpart A of 40 CFR part 63. A stationary RICE is existing if it commences construction or reconstruction before June 12, 2006.

TABLE 4.—EMISSION STANDARDS FOR STATIONARY RICE >500 HP LOCATED AT MAJOR SOURCES OF HAP EMISSIONS AND STATIONARY RICE LOCATED AT AREA SOURCES OF HAP EMISSIONS

Engine type and fuel	Maximum engine power	Manufacture date [a]	Emission standards
Existing All Fuels and All Types	All Sizes		No Emission Reduction.
New/Reconstructed SI	≤25 HP	January 1, 2008	Meet 40 CFR part 60 subpart JJJJ.
New/Reconstructed SI Gasoline and Rich Burn LPG.	25>HP<500	January 1, 2008	Meet 40 CFR part 60 subpart JJJJ.
	HP≥500	July 1, 2007	
New/Reconstructed Non-Emergency SI Natural Gas.	25<HP<500 [a]	January 1, 2008	1.0 g/HP-hr NMHC.
and			
New/Reconstructed Non-Emergency SI Lean Burn LPG [b].		January 1, 2011	0.7 g/HP-hr 2011 NMHC.
New/Reconstructed Non-Emergency SI Natural Gas.	HP≥500	July 1, 2007	1.0 g/HP-hr NMHC
HP≤500	July 1, 2007	1.0 g/HP-hr NMHC..	

TABLE 4.—EMISSION STANDARDS FOR STATIONARY RICE >500 HP LOCATED AT MAJOR SOURCES OF HAP EMISSIONS AND STATIONARY RICE LOCATED AT AREA SOURCES OF HAP EMISSIONS—Continued

Engine type and fuel	Maximum engine power	Manufacture date [a]	Emission standards
and			
New/Reconstructed Non-Emergency SI Lean Burn LPG.	.....	July 1, 2010	0.7 g/HP-hr NMHC.
New/Reconstructed Non-Emergency SI 4SLB at Major Sources (except landfill and digester gas) [b].	250<HP ≤500	January 1, 2008 ...	93% CO Reduction or 14 ppmvd formaldehyde.
CI All Fuels	All Sizes	2007+ Model Year	Meet 40 CFR part 60 subpart IIII.
Landfill/Digester Gas	HP<500	January 1, 2008 ...	1.0 g/HP-hr NMHC.
	HP≥500	July 1, 2007	1.0 g/HP-hr NMHC.
Emergency SI	All Sizes	January 1, 2009 ...	1.0 g/HP-hr NMHC.

[a] Stationary SI natural gas and lean burn LPG engines between 19 and 37 KW (25 and 50 HP) may comply with the requirements of Table 2 of this preamble, instead of this table, as applicable.

[b] New and reconstructed non-emergency 4SLB engines at major sources with a site rating between 250 and 500 HP are not required to meet the 1.0 and 0.7 g/HP-hr NMHC emission standards.

b. Engines at Area Sources. We are proposing that owners and operators of new and reconstructed stationary engines located at area sources of HAP emissions generally meet the same requirements that apply to new and reconstructed stationary engines with a site rating of equal to or less than 500 HP located at a major source of HAP emissions. New and reconstructed stationary engines located at area sources with a site rating greater than 500 HP are required to meet the same NMHC standard as proposed in the SI NSPS for the engine's HP classification, or the same NMHC and PM standards as proposed in the CI NSPS for the engine's HP classification.

There is only one difference between the requirements for new and reconstructed stationary engines located at area sources and new and reconstructed stationary engines with a site rating of equal to or less than 500 HP located at major sources. Owners and operators of new or reconstructed 4SLB SI stationary engines between 250 and 500 HP located at area sources are not required to reduce CO emissions by 93 percent or more, or limit the concentration of formaldehyde in the stationary engine exhaust to 14 ppmvd or less at 15 percent O_2. New and reconstructed stationary SI engines located at area sources must, however, meet the NMHC emission standards shown in Table 4 of this preamble.

Owners and operators of existing stationary engines located at an area source of HAP emissions have an emission standard of no emission reduction and are not subject to any specific requirements under subpart ZZZZ or of subpart A of 40 CFR part 63.

D. What are the requirements for sources that are modified or reconstructed?

1. SI NSPS

The proposed standards apply to stationary SI engines subject to the SI NSPS that are modified or reconstructed after June 12, 2006. The guidelines for determining whether a source is modified or reconstructed are given in 40 CFR 60.14 and 40 CFR 60.15, respectively.

Stationary SI ICE less than or equal to 19 KW (25 HP) manufactured prior to January 1, 2008 that are modified or reconstructed after June 12, 2006 are required to meet the standards that apply to engines manufactured after January 1, 2008.

Stationary SI gasoline and rich burn LPG engines between 25 HP and 500 HP manufactured prior to January 1, 2008 that are modified or reconstructed after June 12, 2006 are required to meet the standards applicable to engines manufactured after January 1, 2008.

Stationary SI gasoline and rich burn LPG engines greater than or equal to 500 HP manufactured prior to July 1, 2007 that are modified or reconstructed after June 12, 2006 are required to meet the standards applicable to engines manufactured after July 1, 2007.

Stationary SI natural gas and lean burn LPG engines less than 500 HP manufactured prior to January 1, 2008 that are modified or reconstructed after June 12, 2006 are required to meet a NO_X emission standard of 3.0 g/HP-hr, a CO standard of 4.0 g/HP-hr, and a NMHC standard of 1.0 g/HP-hr.

Stationary SI natural gas and lean burn LPG engines greater than or equal to 500 HP manufactured prior to July 1, 2007 that are modified after June 12, 2006, are required to meet a NO_X emission standard of 3.0 g/HP-hr, a CO standard of 4.0 g/HP-hr, and a NMHC standard of 1.0 g/HP-hr.

Stationary SI landfill and digester gas engines less than 500 HP manufactured prior to January 1, 2008 that are modified or reconstructed after June 12, 2006 are required to meet a NO_X emission standard of 3.0 g/HP-hr, a CO standard of 5.0 g/HP-hr, and a NMHC standard of 1.0 g/HP-hr. Stationary SI landfill and digester gas engines greater than or equal to 500 HP manufactured prior to July 1, 2007 that are modified after June 12, 2006 are required to meet a NO_X emission standard of 3.0 g/HP-hr, a CO standard of 5.0 g/HP-hr, and a NMHC standard of 1.0 g/HP-hr.

Stationary SI emergency engines manufactured prior to January 1, 2009 that are modified or reconstructed after June 12, 2006 are required to meet a NO_X emission standard of 3.0 g/HP-hr, a CO standard of 4.0 g/HP-hr, and a NMHC standard of 1.0 g/HP-hr.

2. NESHAP

Similar concepts as those discussed above apply to engines subject to 40 CFR part 63 regulations; however, the concept of modification is not included in 40 CFR part 63. The proposed standards apply to stationary engines subject to the NESHAP that commence reconstruction on or after June 12, 2006. The reconstruction criteria are provided in 40 CFR 63.2.

E. What are the requirements for demonstrating compliance?

The following sections describe the requirements for demonstrating compliance under the stationary SI NSPS and NESHAP.

1. SI NSPS

Owners and operators of stationary engines subject to the requirements of the SI NSPS must operate and maintain

their stationary engine and after treatment control device (if any) according to the manufacturer's written instructions. Manufacturers of stationary SI engines required to certify their engines must demonstrate compliance by certifying that their stationary SI engines meet the emission standards, as specified in 40 CFR part 60, subpart JJJJ, as applicable, using the certification procedures in subpart B of 40 CFR part 90 and subpart C of 40 CFR part 1048, as applicable, and must test their engines as specified in those parts. Manufacturers who conduct voluntary certification must follow the same test procedures that apply to large SI nonroad engines under 40 CFR part 1048, but must use the D–2 cycle in International Organization for Standardization (ISO) 8178–4 for stationary engines. The test cycle requirements that manufacturers who conduct voluntary certification should follow are provided in Table 3 to 40 CFR 1048.505.

Manufacturers who opt to voluntary certify their stationary SI engines to the emission standards specified in this subpart must certify their engines using fuel that meets the definition of pipeline-quality natural gas, which according to the proposed definition must be composed of at least 70 percent methane by volume or have a gross calorific value between 950 and 1,100 British thermal units per standard cubic foot.

If the manufacturer chooses to certify its stationary SI engines to another fuel, the manufacturer must specify the properties of that fuel and what adjustments the owner or operator must make to the engine during installation in the field in order to meet the emission standards. The manufacturer must also perform certification testing on the engine on that fuel, as it would if it was certifying to pipeline-quality natural gas, in order to assure compliance with the emission standards. Manufacturers who conduct voluntary certification of stationary SI ICE must also provide instructions to the owner and operator for configuring the stationary engine to meet the emission standards on fuels that meet the pipeline-quality natural gas specifications and fuels that do not meet the pipeline-quality natural gas specifications. The manufacturer must provide information to the owner and operator of the certified stationary SI engine regarding the particular fuels to which the engine is certified, and instructions regarding configuring the engine in a manner most appropriate for reducing pollutant emissions for engines operating on such fuels. Owners and operators may operate their certified engine on other fuels that the engine is not certified to, but the engine would no longer be considered a certified engine and the owner or operator would be required to test the engine to demonstrate compliance with the emission standards.

EPA is proposing to allow owners and operators of natural gas engines to use propane as back up fuel for emergency purposes for no more than 100 hours per year. If propane is used for more than 100 hours per year in an engine that is not certified to the emission standards when using propane, the owners and operators are required to conduct a performance test to demonstrate compliance with the emission standards.

Owners and operators that operate engines that have been certified by the engine manufacturer are not required to perform any performance testing unless the engine is operated outside of the fuel properties specified by the manufacturer. If the owner or operator uses fuels that are outside of the fuel specifications or does not follow the adjustments specified by the manufacturer, the engine is no longer considered a certified engine and the owner or operator must test the engine to demonstrate compliance. If the engine is no longer considered a certified engine, the owner or operator must test the engine according to the test procedures that are specified for uncertified engines, as specified in this proposed rule.

Owners and operators subject to the emission standards specified in this proposed rule who use stationary SI engines with a maximum engine power of less than or equal to 19 KW (25 HP) or who use stationary SI engines with a maximum engine power greater than 19 KW (25 HP) and use gasoline or are rich burn engines greater than 19 KW (25 HP) using LPG must demonstrate compliance by using an engine certified to the emission standards specified in 40 CFR part 90 or 1048, as applicable.

Owners and operators subject to this proposed rule who use stationary SI engines with a maximum engine power greater than 19 KW (25 HP) that use fuels other than gasoline and that are not rich burn engines greater than 19 KW (25 HP) that use LPG, must demonstrate compliance by either using an engine certified to the emission standards specified in Table 3 of this preamble or by conducting an initial performance test to demonstrate compliance with the emission standards specified in Table 3 of this preamble. If the owner or operator purchases a certified engine, performance testing would not be required (unless the engine is operated differently than specified by the manufacturer). Owners and operators of uncertified engines that are greater than 500 HP must conduct subsequent performance tests every 3 years, or 8,760 hours of operation, whichever comes first.

2. NESHAP

Consistent with the requirements for owners and operators subject to the SI NSPS, owners and operators of stationary engines subject to the requirements of the NESHAP must also operate and maintain their stationary engine and exhaust aftertreatment device (if any) according to the manufacturer's written instructions. This requirement applies to stationary SI and CI engines regulated under this proposed rule.

Owners and operators subject to the NESHAP who use stationary SI engines must demonstrate compliance by meeting the NMHC emission standards specified in 40 CFR part 60, subpart JJJJ (unless they are new or reconstructed non-emergency 4SLB SI stationary RICE between 250 and 500 HP located at major sources). Under 40 CFR part 60, subpart JJJJ, as described in the previous section, certain stationary SI engines must be certified to the emission standards in 40 CFR part 90 or 1048, as applicable.

Owners and operators of uncertified SI engines subject to the emission standards proposed in the NESHAP must conduct an initial performance test to demonstrate compliance with the emission standards. Owners and operators of certified engines are not required to conduct any performance testing (unless the engine is operated differently than procedures specified by the manufacturer or procedures developed by the owner or operator that are approved by the engine manufacturer). Owners and operators of uncertified engines that are greater than 500 HP, subject to the emission standards proposed in this action must conduct subsequent performance tests every 3 years, or 8,760 hours of operation, whichever comes first. Owners and operators of uncertified engines subject to emission standards that are less than or equal to 500 HP are not required to perform subsequent performance tests after the initial performance test, unless the stationary engine is rebuilt or undergoes major repair or maintenance.

Owners and operators of new and reconstructed non-emergency 4SLB engines between 250 and 500 HP that are located at major sources of HAP emissions must demonstrate compliance

by conducting an initial performance test. These engines must also conduct subsequent performance test semiannually if they are complying with the requirement to reduce CO emissions and not using a continuous emissions monitoring system, and if they are complying with the requirement to limit the concentration of formaldehyde in the stationary engine exhaust.

Owners and operators subject to the NESHAP who use stationary CI engines must demonstrate compliance by using an engine certified to the NMHC and PM emission standards specified in 40 CFR part 60, subpart IIII, and by operating their engine properly, as stated above. The only exception is for owners and operators of stationary CI engines with a displacement of greater than or equal to 30 liters per cylinder who must demonstrate compliance through performance testing.

F. What are the reporting and recordkeeping requirements?

The following sections describe the reporting and recordkeeping requirements that are required under the SI NSPS and the NESHAP.

1. SI NSPS

Owners and operators of all engines (certified and uncertified) are required to maintain records of proper maintenance. An initial notification is required for owners and operators of engines greater than 500 HP that are not certified. Also, owners and operators who conduct performance testing are required to report the test results within 30 days of each performance test.

Owners and operators of emergency engines are required to keep records of their hours of operation. Owners and operators must install a non-resettable hour meter on their engines to record the necessary information. Emergency stationary engines may be operated for the purpose of maintenance checks and readiness testing, provided that the tests are recommended by the Federal, State or local government, the manufacturer, the vendor, or the insurance company associated with the engine. Maintenance checks and readiness testing of such units is limited to 100 hours per year. Owners and operators can petition the Administrator for additional hours, beyond the allowed 100 hours per year, if such additional hours should prove to be necessary for maintenance and testing reasons. A petition is not required if the hours beyond 100 hours per year for maintenance and testing purposes are mandated by regulation such as State or local requirements. There is no time limit on the use of emergency stationary engines in emergency situations, however, the owner or operator is required to record the length of operation and the reason the engine was in operation during that time. Records must be maintained documenting why the engine was operating to ensure the 100 hours per year limit for maintenance and testing operation is not exceeded.

2. NESHAP

Consistent with the SI NSPS (and the already proposed CI NSPS), owners and operators of stationary emergency engines (SI and CI) are required to keep records of their hours of operation under the NESHAP. Owners and operators must install a non-resettable hour meter on their engines to record the necessary information. Emergency stationary engines may be operated for the purpose of maintenance checks and readiness testing, provided that the tests are recommended by Federal, State or local government, the manufacturer, the vendor, or the insurance company associated with the engine. Maintenance checks and readiness testing of such units is limited to 100 hours per year. Owners and operators can petition the Administrator for additional hours, beyond the allowed 100 hours per year, if such additional hours should prove to be necessary for maintenance and testing reasons. A petition is not required if the hours beyond 100 hours per year for maintenance and testing purposes are mandated by regulation such as State or local requirements. There is no time limit on the use of emergency stationary engines in emergency situations. Owners and operators must also maintain records documenting the reason the engine was in operation.

The above proposed requirement to limit the operation of maintenance and testing operation to 100 hours per year is different than the requirement that was finalized for stationary engines greater than 500 HP located at major sources. Currently, stationary emergency engines greater than 500 HP located at major sources are required to limit non-emergency operation to 50 hours per year. Multiple comments received during the public comment period for NSPS for stationary CI engines argued that EPA should allow 100 hours per year for emergency engines to conduct necessary maintenance and testing. Based on those comments, EPA believes it would be appropriate to propose to allow 100 hours per year for maintenance and testing operation for emergency engines. As discussed, EPA is proposing 100 hours per year for maintenance and testing operation under the SI NSPS and the NESHAP being proposed in this action for stationary engines with a site rating of 500 HP or less located at major sources and stationary engines located at area sources. EPA believes it is appropriate to propose to amend the requirements of stationary engines greater than 500 HP located at major sources to allow emergency engines to operate 100 hours per year for maintenance and testing purposes. It is crucial to allow sufficient hours for maintenance and readiness testing to ensure that the emergency engine will respond as expected in the event of an emergency and EPA believes that 100 hours per year is adequate. EPA also believes it is appropriate to amend the emergency engine hour limitation in the NESHAP for stationary RICE greater than 500 HP located at major sources to ensure consistency between regulations affecting the same or similar sources. Further, as discussed, based on information received since the promulgation of the NESHAP for stationary RICE greater than 500 HP located at major sources, the 50 hours per year allowance currently in that regulation would not be sufficient to address necessary maintenance, testing, and readiness operation for emergency engines, and EPA is, therefore, proposing to increase the limitation to 100 hours per year.

Owners and operators of new and reconstructed stationary RICE which fire landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual affected by subpart ZZZZ of 40 CFR part 63, must monitor and record the fuel usage daily with separate fuel meters to measure the volumetric flow rate of each fuel.

IV. Rationale for Proposed Rule

A. Which control technologies apply to stationary engines?

EPA reviewed various control technologies applicable to stationary engines. For detailed information on the control technology review that EPA conducted, refer to information in the docket for this proposed rule. The following sections provide general descriptions of currently available controls that can be used to reduce emissions from stationary engines.

Non-selective catalytic reduction (NSCR) has been commercially available for many years and has been widely used on stationary engines. The technology can be applied to rich burn stationary engines and is capable of reducing NO_X emissions by 90 percent or more. The technology also reduces CO by about 90 percent. Emissions of NMHC and HAP are also reduced by

using the catalyst and significant reductions have been recorded. Based on our information, NSCR appears to be technically feasible for rich burn engines down to 19 KW (25 HP).

Selective catalytic reduction (SCR) is applicable to lean burn stationary engines, but has not been widely used on stationary SI engines. This technology is capable of achieving NO_X reductions of at least 90 percent. An oxidation catalyst is often used in conjunction with SCR to reduce emissions of CO, NMHC, and HAP. The technology has not been commonly applied to stationary engines and if applied, the applications have typically been on larger lean burn engines. Costs of SCR are generally high, including significant equipment, installation, and operating costs.

Oxidation catalyst is another type of aftertreatment that can be applied to stationary engines and is typically used with lean burn engines. The technology can be applied to either diesel or gas fired lean burn engines. Emissions of CO can be reduced by 90 percent or more and significant NMHC and HAP reductions are also possible. Applying the technology to diesel fired engines can reduce PM by about 25 to 30 percent. Oxidation catalyst control has been widely used and has been available for decades for use with lean burn stationary engines.

Catalyzed diesel particulate filters (CDPF) are applicable to CI engines using diesel fuel and are primarily used to reduce PM emissions. The technology is a newer technology than other aftertreatment control devices, but is becoming increasingly widespread. Applying CDPF can reduce PM emissions by 90 percent or more, and reductions in CO and HAP can be significant. The technology appears to be applicable to a wide range of diesel engines, except there may be issues with respect to applying the technology to smaller engines (less than 19 KW (25 HP)), and potentially also to extremely large engines (several thousand HP). Catalyzed diesel particulate filters are the basis for the Tier 4 emission standards for PM for most nonroad CI engines regulated by 40 CFR part 1039 and also for most new non-emergency stationary CI engines regulated under 40 CFR part 60, subpart IIII. Recently finalized standards for stationary CI engines in California are also based on the use of particulate filters in some cases.

Stationary SI engines burning natural gas typically have low levels of PM in the order of 0.01 g/HP-hr, according to engine manufacturers. This level is comparable to Tier 4 levels that nonroad and stationary CI engines will achieve with CDPF. For these reasons, EPA is not proposing PM emission standards for stationary SI engines. Emissions of sulfur oxides (SO_X) are usually low from natural gas fired engines since, in most cases, the fuel is inherently very low in sulfur. There are no controls currently available to control SO_X in the exhaust from stationary engines; the only way to limit SO_X is to minimize sulfur in the fuel.

Although aftertreatment devices can help achieve very significant reductions in exhaust emissions from stationary engines, there are other strategies available which can help reduce emissions. For example, lean burn technology alone produces much lower levels of NO_X than rich burn engines. In a lean burn engine, excess air is introduced into the engine with the fuel, reducing the temperature of the combustion process, which in turn reduces the NO_X significantly compared to a rich burn engine. Also, because excess O_2 is available, combustion is more efficient, so more power is produced with the same amount of fuel. Another example of an emission reduction strategy that prevents the formation of NO_X is exhaust gas recirculation. Exhaust gas recirculation has been widely used in automotive engines for many years to reduce NO_X emissions and could potentially be used in stationary engine applications. Also, in SI engines, modifications of the combustion chamber and fuel metering system can help improve mixing of the fuel and air, thus improving NMHC emissions. Spark-timing calibrations can also help reduce CO and NMHC emissions.

B. How did EPA determine the basis and level of the proposed standards?

1. SI NSPS

Section 111 of the CAA states that a standard of performance ''means a standard * * * which reflects the degree of emission limitation achievable through application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.''

The following discussion provides additional information by identifying specific technologies (referred to hereafter as ''BDT'') that EPA anticipates to be used to meet the NSPS. It must be noted, however, that EPA's proposal is that the best system of emissions reductions that has been adequately demonstrated is a set of emissions standards, including an averaging, banking and trading program, where applicable, that allows for the use of other potential technologies that meet or exceed the standards.

a. Stationary SI Engines ≤19 KW (25 HP). For stationary SI engines less than or equal to 19 KW (25 HP), the technologies that are the basis of the proposed standards are expected to be the same as the technologies that are the basis for the nonroad SI engine Phase 2 standards in this size range. The Phase 2 nonroad engine program will lead to increased use of automotive-style overhead valve technology for nonhandheld engines and is expected to be the technology that is relied upon to meet Phase 2 emission standards. Stationary engines less than or equal to 19 KW (25 HP) are required to be certified to the emission standards for new nonroad SI engines as specified in 40 CFR part 90. These standards are separated by the class of the engine (Class I through Class V) and each class is determined by the use of the engine, i.e., handheld or nonhandheld, and engine displacement. Phase 1 standards took effect for most new handheld and nonhandheld engines beginning in model year 1997. Phase 2 standards for nonhandheld engines are being phased in between 2001 and 2007. Phase 2 standards for handheld engines have been phased in starting in 2002. EPA believes it is appropriate to require new stationary SI engines less than or equal to 19 KW (25 HP) to meet the Phase 2 emission standards for nonhandheld nonroad SI engines, as nonhandheld engines would be more similar to stationary engines than handheld engines, and because by definition, a stationary engine cannot be a handheld engine. EPA believes that it is appropriate that the emission standards for new stationary SI engines less than or equal to 19 KW (25 HP) are the same as those for nonroad SI engines in this size range. To determine the BDT for these size engines, EPA analyzed the emission control strategies selected for the nonroad SI engine rule for engines less than or equal to 19 KW (25 HP). EPA concluded that the level and implementation timing of the nonroad SI engine standards are the most appropriate that can be justified for this size group of engines. EPA believes a manufacturer-based certification program is also appropriate for this group of engines and that there is little difference, if any, between nonroad and stationary SI engines in this size range. Engine manufacturers are already familiar with and have experience in

certifying their engine families according to EPA's certification program. For the reasons provided, BDT for stationary SI engines less than or equal to 19 KW (25 HP) is determined to be the control technologies used to comply with Phase 2 emission standards for nonhandheld nonroad SI engines under 40 CFR part 90. EPA is also proposing to allow manufacturers to certify any engine with a maximum engine power between 19 and 30 KW (25 and 40 HP) with total displacement of 1,000 cc or less to the nonhandheld nonroad SI engine standards under 40 CFR part 90. This option is already available for nonroad engines with these maximum power and displacement characteristics.

EPA expects to propose new standards in the near future applicable to nonroad SI engines less than or equal to 19 KW (25 HP) that will be more stringent than Phase 2 standards, giving appropriate lead time for the requirements. EPA will consider incorporating these more stringent standards into its stationary SI NSPS regulations as they apply to stationary SI engines in this HP range at the same time it revises its nonroad standards for SI engines.

EPA requests public comment on the issue of evaluating the appropriateness of future small non-road engine emission standards as they may apply to stationary SI engines less than or equal to 19 KW (25 HP).

b. Stationary SI Gasoline Engines >19 KW (25 HP) and Rich Burn LPG Engines >19 KW (25 HP). For stationary SI engines greater than 19 KW (25 HP) that use gasoline and rich burn engines greater than 19 KW (25 HP) that use LPG, the technology that is the basis of the proposed standards are the technologies used by nonroad SI engines greater than 19 KW (25 HP) to comply with the emission standards in 40 CFR part 1048. The majority of nonroad SI engines greater than 19 KW (25 HP) use LPG, but some operate on gasoline or natural gas. There are two tiers for nonroad SI engines in this size category. Tier 1 standards were scheduled to begin in 2004; Tier 2 standards will begin in 2007. The upcoming Tier 2 standards are based on three-way catalyst systems with electronic, closed-loop fuel systems. For stationary SI engines greater than 19 KW (25 HP) that use gasoline or are rich burn engines greater than 19 KW (25 HP) that use LPG, EPA believes these engines are very similar to nonroad SI equipment, and the same engines designed for use in nonroad applications are used in stationary applications. Therefore, for stationary SI engines greater than 19 KW (25 HP) that use gasoline and rich burn engines greater than 19 KW (25 HP) that use LPG, the BDT is the technology that is the basis for the Tier 2 emission standards for nonroad engines above 19 KW (25 HP) regulated under 40 CFR part 1048.

c. Stationary Non-Emergency SI Natural Gas Engines 25<HP<500 and SI Lean Burn LPG Engines 25<HP<500. For stationary non-emergency SI natural gas and lean burn LPG engines between 25 and 500 HP, EPA believes that these engines can be different than nonroad SI engines in the same size range that use gasoline or that are rich burn engines using LPG, and that more stringent standards are possible for these engines provided that sufficient lead time is given. Therefore, EPA evaluated currently available control technologies to reduce criteria pollutant emissions from these stationary SI engines. However, EPA is proposing to allow manufacturers to certify any SI natural gas or lean burn LPG engines between 19 and 37 KW (25 and 50 HP) to the standards for nonroad engines in this power range in 40 CFR part 1048 as an alternative to the standards being proposed in the SI NSPS. EPA believes that engines between 19 and 37 KW (25 and 50 HP) can be similar to nonroad engines in this size range and, therefore, feels it is appropriate to provide engine manufacturers with the option to certify these engines to 40 CFR part 1048. However, for engines greater than 37 KW (50 HP), EPA is not including this option. EPA believes that natural gas engines and lean burn LPG engines greater than 37 KW (50 HP) are different than those less than 37 KW (50 HP), which tend to be more like mobile engines and for that reason is proposing the emission standards discussed below.

For natural gas rich burn stationary engines, the technology that is the basis for the proposed standards is NSCR and is essentially the same technology as a three-way catalyst. As discussed, NSCR is widely available and has commonly been used on stationary rich burn engines across the U.S. The technology was the basis for the emission standards for HAP for the NESHAP for stationary RICE greater than 500 HP located at major sources and is also the basis for many State requirements for rich burn engines. Non-selective catalytic reduction has primarily been installed to reduce emissions of NO_X, but is also effective in reducing CO and NMHC emissions from stationary rich burn engines. No other technology was identified as applicable to rich burn engines that would achieve equivalent or higher emission reductions than NSCR. The technology can be purchased, installed, and operated for a reasonable cost on new engines and requires no extensive operator training or expertise. The technology is available from many catalyst vendors and is simple to acquire. For the reasons provided, BDT for rich burn engines between 25 and 500 HP that use fuels other than gasoline and LPG is NSCR.

As discussed, EPA is proposing a stage 1 NO_X emission limit of 2.0 g/HP-hr for stationary non-emergency SI engines between 25 and 500 HP that burn natural gas or that are lean burn engine using LPG. This limit would apply to engines manufactured after January 1, 2008. EPA believes that January 1, 2008, will provide sufficient time for engine manufacturers and owners and operators to make the necessary adjustments and preparations in order to develop and certify engines that are able to achieve the proposed standards. These engines would also have to meet a CO emission limit of 4.0 g/HP-hr and a NMHC emission limit of 1.0 g/HP-hr. EPA received information on the emissions from new stationary SI engines from various engine manufacturers. The average NO_X engine-out levels for rich burn engines without aftertreatment were in the order of 12 to 15 g/HP-hr. It is estimated that applying NSCR to new uncontrolled rich burn engines would be able to achieve controlled NO_X levels between 1.2 and 1.5 g/HP-hr, perhaps lower if the catalyst is designed for higher NO_X reduction. Based on these estimates, EPA feels it is reasonable to require a stage 1 NO_X emission limit of 2.0 g/HP-hr, which is based on engines using aftertreatment control. A stage 1 limit of 2.0 g/HP-hr takes into account uncertainty associated with meeting the standard. The engine may be capable of emitting an average of 1.5 g/HP-hr, but NO_X emissions may fluctuate above and below that level. A standard of 2.0 g/HP-hr provides the necessary flexibility to account for such fluctuations, which may occur from the engine control or aftertreatment systems, operational conditions, and/or variations in fuel quality.

For stage 2, EPA is proposing a more stringent NO_X emission limit of 1.0 g/HP-hr for stationary SI engines manufactured after January 1, 2011. Again, EPA is incorporating adequate lead time to account for steps engine manufacturers and owners and operators must take between stages 1 and 2 to achieve the standards throughout the new engine category. EPA has analyzed emissions information from several stationary rich burn engines and has concluded that the

1.0 g/HP-hr limit for NO_X is appropriate for the second stage of emissions requirements. As the uncontrolled NO_X levels indicate, levels lower than 1.5 g/HP-hr are possible with an NSCR reducing NO_X by 90 percent. In addition, a catalyst can be designed to optimize NO_X reduction and with an increased reduction efficiency, the proposed stage 2 NO_X emission limit can be achieved. The stage 2 limit beginning with engines manufactured after January 1, 2011, also gives manufacturers time to improve the design of their engines, which would make the stage 2 NO_X emission limits more easily attainable.

For CO, a similar approach was followed. The average engine-out CO levels for rich burn engines without aftertreatment controls vary between 7 and 13 g/HP-hr. A stage 1 CO limit would be easily achievable through application of NSCR. Similarly, using NSCR, the stage 2 limit for CO is expected to be achievable by all rich burn engines. The stage 2 standards recognize the inverse relationship between NO_X and CO emissions. In order to optimize NO_X emission reductions, CO emission reductions may not be as large. EPA believes the stage 2 CO limit is achievable by new rich burn engines by using NSCR and expects significant reductions from uncontrolled levels.

Finally, for NMHC, EPA is proposing a limit of 1.0 g/HP-hr for stage 1 and a limit of 0.7 g/HP-hr for stage 2. As with the relationship between NO_X and CO, the relationship between NO_X and NMHC, in terms of their formation during combustion, is inverse in nature. Uncontrolled NMHC emissions from new rich burn engines are between 0.6 and 1.0 g/HP-hr. Therefore, EPA believes that the proposed limit for NMHC is achievable.

For SI lean burn engines, EPA considered SCR. The technology is effective in reducing NO_X emissions, as well as other pollutant emissions, if an oxidation catalyst element is included. However, the technology has not been widely applied to stationary SI engines and has mostly been used with diesel engines and larger applications thousands of HP in size. The technology requires a significant understanding of its operation and maintenance requirements and is not a simple process to manage. Installation can be complex and requires experienced operators. Costs of SCR are high, and have been rejected frequently by States for this reason. EPA does not believe that SCR is a reasonable option for stationary SI lean burn engines. Stationary lean burn engines are, by design, low NO_X emitting units and have sometimes been favored over rich burn engines in areas with stringent air pollution control requirements due to their lower NO_X level. There are no other currently available add-on control technologies on the market to further reduce NO_X emissions from stationary SI lean burn engines, but low NO_X emission strategies and design are currently being used to minimize NO_X levels. Based on information received from engine manufacturers who produce such engines, average NO_X levels from 4SLB engines are between 1.0 and 2.0 g/HP-hr, which are comparable to engine-out NO_X levels from a rich burn engine with a catalyst. Carbon monoxide levels are also low from these engines and can be as low as 2.0 g/HP-hr. Stationary SI uncontrolled lean burn engines are much cleaner than uncontrolled rich burn engines. Levels of CO in lean burn engines are much lower than rich burn engines. Although oxidation catalysts can be installed in lean burn engines, EPA believes that no further controls are needed, given the already-low engine-out CO and NMHC emissions from them. The CO levels emitted from new lean burn SI engines are comparable to controlled levels from rich burn engines. For these reasons, the BDT for stationary SI lean burn engines is the low emitting level achieved by design and on-engine controls, and other combustion optimization techniques employed in new stationary SI lean burn engines. The BDT is the level achieved by new lean burn engines.

There are a few new stationary natural gas fired 2SLB sold per year in the U.S., but the total number manufactured and sold in the U.S. is insignificant compared to the number of other engine designs sold. In addition, there are only a few manufacturers who produce such engines. Available information shows that 2SLB engines that are pre-chamber combustion designs have similar emissions to natural gas fired 4SLB engines, and one manufacturer indicated that nearly all of the engines it sells for the U.S. are pre-chamber combustion engines.

d. Stationary Non-Emergency Natural Gas Engines ≥500 HP and Lean Burn LPG Engines ≥500 HP. For natural gas fired rich burn engines greater than or equal to 500 HP, the technology that is the basis for the proposed standards is NSCR. The technology was discussed in previous sections of this preamble and for the reasons discussed in that section, NSCR represents BDT for natural gas fired rich burn engines 500 HP and above.

The technology that is the basis for the proposed standards for lean burn natural gas and LPG engines greater than or equal to 500 HP is the level achieved by design and on-engine controls, and other combustion optimization techniques employed in new stationary SI lean burn engines. As discussed previously, EPA considered the use of SCR, but rejected the technology as BDT based on several factors. Emission levels from SI lean burn engines are comparable to controlled levels from rich burn engines and engine-out emissions from SI lean burn engines are at already low levels. New stationary natural gas engines greater than or equal to 500 HP and lean burn LPG engines greater than or equal to 500 HP must comply with two stages of limits. The first stage, effective for engines manufactured after July 1, 2007, requires these engines to comply with a NO_X limit of 2.0 g/HP-hr, a CO limit of 4.0 g/HP-hr, and a NMHC limit of 1.0 g/HP-hr. A second stage of limits, effective for engines manufactured after July 1, 2010, requires these engines to comply with a NO_X limit of 1.0 g/HP-hr, a CO limit of 2.0 g/HP-hr, and a NMHC limit of 0.7 g/HP-hr. EPA is proposing that stage 1 limits apply to engines manufactured after July 1, 2007, to provide enough lead time to make the necessary preparations and adjustment in order to meet the proposed limits. An extra 3 years is being proposed to reach compliance with stage 2 limits to account for further redesign, manufacturing and implementation issues that manufacturers and owner and operators must handle in order to meet these limits. EPA believes it is appropriate to distinguish between less than 500 HP engines and greater than or equal to 500 HP engines with respect to effective dates of stage 1 and stage 2 limits. In order to spread out resources and costs, EPA believes it is appropriate to provide additional time for engines less than 500 HP to meet the standards.

e. Stationary SI Landfill/Digester Gas Engines. For stationary landfill and digester gas fired engines, EPA evaluated currently available control technologies. Chemicals in landfill and digester gas fuels called siloxanes poison the catalyst in add-on control technologies such as SCR, NSCR, and oxidation catalysts, rendering them ineffective in very short periods of time. (See discussion below.) Emission standards requiring aftertreatment controls from such engines have typically not been required due to poisoning of the catalyst leading to poor reduction efficiencies and eventually destroying the add-on control device.

For this reason, EPA did not consider add-on control for landfill and digester gas applications.

The technology that is the basis for the proposed standards for landfill and digester gas engines is the level achieved by new lean burn engines. EPA has been told that lean burn engines are the preferred choice for landfill and digester gas applications because these engines have the lowest NO_X emissions without add-on control. Information EPA gathered during the proposal also shows that the majority of landfill applications use lean burn engines. There may be some rich burn engines being used in wastewater applications, and EPA is requesting comment on how common rich burn engine designs are in landfill and digester gas applications.

Test results EPA has obtained from various sanitation districts and regulatory control agencies indicate that landfill and digester gas engines are capable of meeting similar emission levels to those engines that are using natural gas fuels. However, there is a lot of variability in landfill and digester gas, and the methane content can change considerably from day to day. For these reasons, EPA is proposing emission standards that are similar to, but somewhat less stringent than, the standards for engines combusting natural gas. Lean burn engines are lower NO_X emitting units. EPA wishes to promote cleaner technology through proposing emission standards based on low NO_X design.

For stationary landfill and digester gas fired engines, EPA is proposing separate effective dates based on the size of the engine. In order to prepare the market for regulations applicable to these engines, EPA is proposing stage 1 limits for landfill and digester gas engines less than 500 HP that are manufactured after January 1, 2008. Stage 2 limits are required for landfill and digester gas engines less than 500 HP manufactured after January 1, 2011. Again, EPA believes it must provide adequate time between stages 1 and 2 in order for the market to make the necessary adjustments to meet stage 2 standards. EPA is proposing that landfill and digester gas engines greater than or equal to 500 HP meet stage 1 limits if they are manufactured after July 1, 2007, and stage 2 limits after July 1, 2010.

All landfill and digester gas engines are required to meet a NO_X limit of 3.0 g/HP-hr for stage 1 and a NO_X limit of 2.0 g/HP-hr for stage 2. The stage 2 CO and NMHC limits for these engines are not more stringent than stage 1, but remain the same for both stages at 5.0 and 1.0 g/HP-hr for CO and NMHC, respectively. EPA believes that trying to control the CO in these engines beyond 5.0 g/HP-hr may cause instability and could affect the ability of the engine to reduce NO_X levels; therefore, the same CO limit is being proposed for both stages. Emissions of NMHC are similar to natural gas fueled engines, but in order to provide landfill and digester gas engines with some flexibility to account for variability in the fuel, which can be beyond the control of the operator, EPA is proposing a NMHC limit that remains the same between stage 1 and stage 2 and is not proposing a more stringent limit for NMHC for the second stage.

f. Stationary Emergency SI Engines. As with landfill and digester gas fired applications, add-on controls have typically not been required on stationary emergency engines. Stationary engines used for emergency purposes are operated infrequently, and aftertreatment has often been avoided because of factors such as high costs per ton of pollutant removed due to short periods of operation. EPA's recently proposed regulations for stationary CI engines that required only in-engine controls for emergency engines, and did not require stringent standards based on add-on controls for stationary CI engines used for emergency purposes. Similarly, the RICE NESHAP promulgated in 2004 (69 FR 33474) did not require emergency engines to meet emission control requirements.

Engine manufacturers expressed during the proposal process that emergency SI engines should be exempt from emission standards, citing similar reasons to those provided above. However, we do not agree that emergency engines should be exempt from the standards.

Therefore, we have established that the technology that is the basis for the standards for stationary emergency engines is the level achieved by new lean burn engines. Lean burn engines are available in the power ranges that include emergency engines. EPA expects that the emission standards for emergency engines will be met with lean burn engines. Lean burn engines are available and represent the cleanest technology available without the use of exhaust aftertreatment.

EPA is providing stationary emergency engines significant lead-time to prepare to meet the proposed standards for emergency engines. This is particularly appropriate because emergency engines have generally not previously been subject to emission standards and therefore have not necessarily been optimized for emissions performance.

EPA is proposing a single stage of emission standards for emergency engines beginning in January 1, 2009. Stationary SI emergency engines manufactured after this date must meet a NO_X limit of 2.0 g/HP-hr, a CO limit of 4.0 g/HP-hr, and a NMHC limit of 1.0 g/HP-hr. As previously discussed in this preamble, stationary SI lean burn engines emit low levels of NO_X, in the range of 1.0 to 2.0 g/HP-hr, which means the limit being proposed for NO_X is achievable. Similar conclusions can be made regarding CO and NMHC as well.

g. Modified and Reconstructed Stationary SI Engines. EPA is proposing that owners and operators of stationary SI natural gas and lean burn LPG engines that are modified or reconstructed and become subject to this proposed rule limit their exhaust emissions of NO_X to 3.0 g/HP-hr, emissions of CO to 4.0 g/HP-hr, and emissions of NMHC to 1.0 g/HP-hr. These emission standards are consistent with the proposed Stage 1 emission standards for new natural gas and lean burn LPG engines, except that a less stringent NO_X emission standard is being proposed for these engines.

There are technical difficulties in reaching a NO_X level of 2.0 g/HP-hr for modified and reconstructed engines that were not originally built to meet a 2.0 g/HP-hr standard, and such a level, even where technically feasible, would in many cases require extensive work. In addition, lowering emissions of NO_X down to 2.0 g/HP-hr, even where possible, would often be very costly. EPA discussed this issue in one of the final rules associated with the NO_X State Implementation Plan call (69 FR 21604, 21617–21621). Therefore, EPA believes it is more appropriate to propose to require that modified and reconstructed engines manufactured prior to the dates when the 2.0 g/HP-hr standard takes effect must meet a NO_X emission standard of 3.0 g/HP-hr. This level can be achieved with retrofit technology without extensive hardware replacements and can be achieved without unreasonable costs.

2. NESHAP

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from new and existing sources in regulated source categories. The CAA requires the NESHAP for major sources to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the

CAA. In essence, the MACT floor ensures that the standards are set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better controlled and lower emitting sources in each source category or subcategory.

For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources in the category or subcategory (or the best performing 5 sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

Section 112 of the CAA allows EPA to establish subcategories among a group of sources, based on criteria that differentiate such sources. The subcategories that have been developed for stationary RICE were previously listed and are necessary in order to capture the distinct differences, which could affect the emissions of HAP from these engines. The complete rationale explaining the development of these subcategories is provided in the memorandum titled Subcategorization of Stationary Reciprocating Internal Combustion Engines 500 HP available from the docket.

a. Engines ≤500 HP at Major Sources. For the MACT floor determination, EPA s Office of Air Quality Planning and Standards RICE Population Database (hereafter referred to as the ''Population Database'') was consulted. The Population Database, which was developed for the stationary RICE NESHAP for engines greater than 500 HP at major sources, represents the best information available to EPA.

Information in the Population Database was obtained from several sources and is further described in the notice of proposed rulemaking for the RICE NESHAP (67 FR 77830). EPA queried the Population Database to determine how many stationary RICE less than or equal to 500 HP have catalyst type controls. According to the Population Database, neither engines less than 50 HP, landfill/digester gas fired engines, CI emergency engines, CI non-emergency engines, SI emergency engines, nor non-emergency 2SLB engines are equipped with catalyst type controls. The Population Database indicates that 32 (3.7 percent) out of 861 non-emergency use 4SLB engines are equipped with catalyst type controls. Out of a total of 3,533 non-emergency 4SRB engines 50 to 500 HP, 197 are using catalyst type controls (5.6 percent). The percentage for 4SRB engines may or may not be representative of current conditions, and EPA requests comments on this issue. For further information on EPA's analysis on the Population Database, refer to the docket for this proposed rule.

MACT Floor for Existing Sources

The MACT floor for existing stationary RICE must be no less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources. According to information in the Population Database, there are no existing engines less than 50 HP, landfill/digester gas fired engines, CI emergency engines, CI non-emergency engines, SI emergency engines, or non-emergency 2SLB engines that use catalyst type controls. Therefore, the MACT floor for these subcategories is no further emissions reductions.

For existing non-emergency 4SLB engines between 50 and 500 HP, there are insufficient numbers of engines using add-on controls that may reduce HAP to support basing the MACT floor on the use of add-on controls. The percentage (3.7) is below the criteria for a MACT floor that would require emissions reductions for existing stationary 4SLB engines. Therefore, the MACT floor for existing non-emergency use stationary 4SLB engines 50 to 500 HP is no further emissions reductions.

The percentage for existing non-emergency 4SRB engines is also below the criteria for a MACT floor that would require emissions reductions for existing 4SRB engines. Therefore, the MACT floor for existing non-emergency use stationary 4SRB engines 50 to 500 HP is no further emissions reductions.

MACT for Existing Sources

As stated, for existing sources, the MACT floor for each of the subcategories is no emission reduction, and the MACT standard must be no less stringent than the MACT floor.

EPA considered one regulatory option more stringent than the MACT floor for existing 2SLB and existing 4SLB engines, i.e., requiring a specific HAP reduction through the use of an oxidation catalyst. Oxidation catalysts provide significant reductions of HAP emissions, as well as considerable reductions of CO. Catalyst cost information was obtained from vendors of catalytic control equipment and annual costs were derived from the data. Estimates of cost per ton of applying oxidation catalyst to various size engines were developed. The cost of oxidation catalysts was determined to outweigh the potential HAP emission reduction benefits for these subcategories. Therefore, the beyond-the-floor option was determined as inappropriate for these subcategories. Non-air quality health, environmental impacts and energy effects were also not significant factors. EPA is not aware of any other options which could serve as the basis for MACT to reduce HAP emissions from existing 2SLB and existing 4SLB engines. Therefore, MACT is equal to the MACT floor for these engines. For specific details on this analysis, refer to memorandum entitled ''Regulatory Alternatives and MACT for Stationary Reciprocating Internal Combustion Engines ≤500 HP at Major Sources,'' available from the docket for this proposed rule.

EPA considered one regulatory option more stringent than the MACT floor for existing 4SRB engines, i.e., requiring a specific HAP reduction through the use of NSCR.

An NSCR, or three-way catalyst, is a catalytic post-combustion control device that oxidizes HAP emissions, and also reduces criteria pollutants such as NO_X and CO. To operate effectively, NSCR requires stoichiometric conditions to enhance both oxidation and reduction reactions in the exhaust stream. Removal efficiencies for NSCR were previously discussed in this preamble. Again, cost information was obtained from catalyst vendors and annual NSCR costs were estimated based on these data. The costs per ton of pollutant removed by applying NSCR to various size 4SRB engines were calculated, and are documented in information included in the docket. Based on the costs per ton of HAP removed from existing 4SRB engines, it was determined that requiring NSCR on existing engines would not be appropriate and, therefore, the MACT for existing 4SRB engines is the MACT floor, i.e., no emission reduction. No other technology was identified as appropriate for reducing HAP from 4SRB engines.

Cost per ton estimates are presented in the memorandum entitled ''Cost per Ton of HAP Reduced for Stationary RICE,'' included in the docket. EPA's analysis of regulatory alternatives

beyond-the-floor is presented in the memorandum entitled ''Regulatory Alternatives and MACT for Stationary Reciprocating Internal Combustion Engines 500 Horsepower at Major Sources.''

EPA considered one regulatory option more stringent than the MACT floor for existing CI engines, which is the use of CDPF. A description of the technology and potential emission reductions were previously discussed in this preamble. Using available information, the cost for applying CDPF to existing CI engines was estimated. Based on the estimated cost per ton of HAP removed, EPA determined that requiring the use of CDPF would be too high for existing CI engines. Therefore, the MACT for existing CI engines is the MACT floor, i.e., no emission reduction.

The MACT floor for existing digester and landfill gas stationary engines is no emission reduction. The use of oxidation catalysts to reduce HAP emissions from this subcategory of RICE was found to be technically infeasible. This is due to the fact that digester gases and landfill gases contain a family of silicon-based compounds called siloxanes. Combustion of siloxanes can foul post-combustion catalysts, rendering them inoperable within a short period of time. Because of these technical issues associated with applying oxidation catalyst control, there are no viable beyond-the-floor regulatory options for these stationary RICE. Therefore, no emission reduction is MACT for existing digester and landfill gas stationary RICE.

Emission control technologies which reduce HAP emissions from stationary RICE have not been applied to stationary RICE which operate exclusively as emergency units. Thus, the MACT floor is no emission reduction. In considering the application of HAP emission control technologies to stationary RICE which operate exclusively as emergency units, there are a number of concerns regarding the technical feasibility, primarily in the areas of the long term durability and effectiveness of emission control. Whether such concerns are warranted or not, however, emission control is not considered cost effective because of the very small reductions in HAP emissions which might be achieved through the use of such technologies. In addition, non-air quality health, environmental impacts and energy effects were not significant factors. As a result, MACT for existing stationary RICE which operate exclusively as emergency engines is no emission reduction.

MACT Floor for New Sources

The MACT floor for new stationary RICE must be no less stringent than the emission control achieved in practice by the best controlled similar source. Since the Population Database indicates that there are no existing engines less than 50 HP, landfill/digester gas fired engines, CI emergency engines, CI non-emergency engines, SI emergency engines, or non-emergency 2SLB engines that are using catalyst type controls, the MACT floor for these new stationary RICE is no further emissions reductions.

As discussed, EPA established a subcategory for non-emergency 4SLB engines between 50 and 500 HP. However, based on information received by EPA, there are few, if any, stationary 4SLB engines less than 250 HP. Information regarding the smallest 4SLB engines produced is available from the docket. The additional cost and complexity of components associated with lean burn engine design is not cost effective for smaller engines (less than 400 HP), according to industry.

Stationary 4SLB engines greater than or equal to 250 HP tend to be similar to larger engines, i.e., those that are greater than 500 HP, and on a mass basis, engines greater than or equal to 250 HP emit more than smaller engines. In addition, engines of such size have traditionally been treated by States as larger engines, rather than smaller engines, and stationary 4SLB SI engines below 250 HP have generally been regulated as smaller engines. In some cases, engines greater than 250 HP may be required to meet more stringent emission standards than smaller engines. In addition, the type of add-controls that can be applied to 4SLB engines greater than or equal to 250 HP are the same as those that can be applied to larger engines, i.e., those greater than 500 HP, and those engines are capable of achieving very similar emission reductions as larger engines. Further, larger engines are typically employed in different applications than smaller engines are and may be more likely to be used in electric power generation and gas transmission and processing. In addition, smaller engines may tend to be used more by small businesses or for agricultural purposes and may resemble nonroad engines more than those greater than or equal to 250 HP, which are more similar to traditional stationary engines. For these reasons, EPA believes that non-emergency 4SLB engines greater than or equal to 250 HP more closely resemble larger engines and should be treated in a similar manner as the engines greater than 500 HP were treated.

The Population Database indicates that there are non-emergency 4SLB engines in the size range of 250 to 500 HP employing catalyst type controls, and according to the Population Database, the smallest 4SLB engine equipped with catalyst control is 270 HP. However, EPA received additional information indicating that there is a 260 HP engine operating with oxidation catalyst control and is, therefore, the smallest existing 4SLB engine of which EPA is aware that is equipped with add-on control.

EPA believes it is unreasonable to require new 4SLB engines smaller than 250 HP to meet emission standards based on add-on control. The cost per ton for new 4SLB engines between 250 and 500 HP located at major sources is reasonable. Looking at the cost effectiveness for engines smaller than 250 HP, the cost per ton of HAP removed rapidly increases with decreasing size. EPA believes an appropriate cutoff for requiring emission standards based on add-on controls is 250 HP. This conclusion is consistent with other findings, including an analysis of the Population Database of the smallest engine with catalyst control and information from other sources. This conclusion is also consistent with the MACT floor decision for new 4SLB engines greater than 500 HP located at major sources. For these reasons, the MACT floor for new 4SLB engines between 250 and 500 HP located at major sources is the level of control achieved by application of oxidation catalyst controls. The MACT floor for new 4SLB engines between 50 and 250 HP is no further HAP emission reduction.

We request comment on our proposed approach for MACT requirements for new 4SLB engines (250–500 HP). EPA's Population Database indicates that oxidation catalysts are used in some of these engines, and this technology forms the basis of the proposed standards. It is likely that these oxidation catalysts are used to meet State requirements developed as part of EPA programs such as New Source Review (NSR) and Prevention of Significant Deterioration (PSD), which focus on the control of criteria pollutants, rather than HAP. However, oxidation catalysts installed to control CO and NMHC can also reduce HAP emissions. We request comment on EPA's determination that oxidation catalysts should be the basis of the MACT floor for new 4SLB engines in the size range of 250 to 500 HP.

The Population Database indicates that there are non-emergency 4SRB

engines 50 to 500 HP operating with catalyst type controls, and, therefore, the MACT floor for new non-emergency 4SRB engines between 50 and 500 HP is the level achieved by the use of NSCR.

MACT for New Sources

For 2SLB, there are no engines in the Population Database that are using catalyst type controls. Therefore, the MACT floor for new stationary 2SLB is no further emissions reductions. In addition, the cost effectiveness of adding an oxidation catalyst to a new 2SLB engine was not determined to be economically feasible, and MACT for new 2SLB engines is, therefore, no emission reduction. This determination is different than MACT for engines greater than 500 HP located at major sources because for those engines, the Population Database indicates that there are existing 2SLB engines greater than 500 HP operating with catalytic controls. As stated, no existing 2SLB engines less than or equal to 500 HP are using catalytic controls, according to the Population Database. However, we are proposing to require these engines to meet NMHC emission standards that are based on the use of on-engine controls in order to reduce levels of HAP.

For engines less than 50 HP, EPA evaluated beyond-the-floor options for engines less than or equal to 19 KW (25 HP) and engines above 19 KW (25 HP) separately. Stationary SI engines less than or equal to 19 KW (25 HP) are required under the proposed SI NSPS to meet the certification standards for new nonroad SI engines in 40 CFR part 90 for nonhandheld engines. The technologies that are the basis for those standards rely on engine-based controls. Under the SI NSPS, those controls were determined to be BDT for new stationary SI engines less than or equal to 19 KW (25 HP). The beyond-the-floor analysis for stationary SI engines less than or equal to 19 KW (25 HP) considered the use of those technologies, and EPA believes it is appropriate to set MACT for these engines at the level of control required by the SI NSPS.

The emission standards for nonhandheld engines include limits for HC + NO_X (or NMHC + NO_X standards for natural gas fueled engines, at the option of the manufacturer) and CO. EPA has determined that NMHC can be used as a surrogate for HAP and, therefore, believes it is appropriate to require a standard based on NMHC as opposed to a HAP standard. For more information on EPA's decision to use NMHC as a surrogate for HAP, refer to the memorandum entitled ''Non-methane Hydrocarbons as a Surrogate for Hazardous Air Pollutants for Stationary Internal Combustion Engines,'' available from the docket.

For new stationary SI engines between 19 and 37 KW (25 and 50 HP), EPA evaluated beyond-the-floor options based on the requirements for new stationary SI engines under the SI NSPS. Under the SI NSPS, engines greater than 19 KW (25 HP) that use gasoline or that are rich burn engines greater than 19 KW (25 HP) that use LPG, are required to be certified to the emission standards in 40 CFR part 1048. The technologies that are the basis for those standards are three-way catalyst systems (NSCR) with electronic, closed-loop fuel systems. These technologies were determined to be BDT for new stationary SI engines greater than 19 KW (25 HP) that use gasoline and rich burn engines greater than 19 KW (25 HP) that use LPG under the SI NSPS. These are the same engines that would be covered by the NESHAP, and, therefore, EPA believes it is appropriate to go beyond-the-floor for these engines and require that owners and operators of these engines meet the standards proposed in the SI NSPS.

The nonroad standards for SI engines greater than 19 KW (25 HP) include HC + NO_X standards and standards for CO. The engine has to meet the numerical emission standard based on NMHC emissions if the engine is fueled by natural gas. As discussed, EPA has determined that NMHC is an appropriate surrogate for HAP, and EPA believes it is appropriate to require the nonroad SI engine standards in 40 CFR part 1048 for these engines. In addition, these engines are the same engines that are covered by the SI NSPS and would be subject to certification requirements of 40 CFR part 1048 even in the absence of the NESHAP.

Finally, EPA would like to ensure consistency and avoid conflicting requirements between regulations affecting the same or similar source categories. Therefore, EPA believes it is appropriate to set MACT for these engines at the level of control required by the SI NSPS.

For stationary SI engines between 19 and 37 KW (25 and 50 HP) that use natural gas or are lean burn LPG engines, EPA described that requiring engine certification would be inappropriate for various reasons. For the SI NSPS, EPA determined that it was more appropriate to rely on a voluntary engine certification program combined with requirements for owners and operators. EPA considers this approach as a reasonable beyond-the-floor option for new stationary SI engines between 19 and 37 KW (25 and 50 HP) located at major sources. Again, the same engines would be covered under the SI NSPS, and would, under that rule, be required to meet NO_X, CO, and NMHC emission standards. Therefore, EPA considers the NMHC emission standards from the SI NSPS as the most appropriate beyond-the-floor option.

It was previously discussed that it is appropriate to use NMHC as a surrogate for HAP. The SI NSPS propose different NMHC emission standards and timing based on the type and size of the engine. The SI NSPS propose a NMHC limit of 0.7 or 1.0 g/HP-hr, which EPA believes is reasonable to require for engines under the NESHAP as well. For stationary SI engines between 19 and 37 KW (25 and 50 HP) that use natural gas or are lean burn engines using LPG, MACT is determined to be the level required for these engines under the SI NSPS, i.e., an emission standard of 0.7 or 1.0 g/HP-hr for NMHC. The NMHC limit of 1.0 g/HP-hr is required for natural gas fired engines less than 500 HP and lean burn engines less than 500 HP using LPG that are manufactured after January 1, 2008. The limit of 0.7 g/HP-hr for NMHC is required for natural gas fired engines less than 500 HP and lean burn engines less than 500 HP that use LPG that are manufactured after January 1, 2011. EPA believes that the implementation dates are the most stringent that can be justified that provide engine manufacturers with sufficient time to prepare their products for compliance.

According to the Population Database, there are existing 4SLB stationary engines currently operating with oxidation catalyst systems. No technology achieving greater emission reductions was found. We previously discussed the decision to set the MACT floor for new 4SLB engines between 250 and 500 HP located at major sources based on the use of oxidation catalyst. For new 4SLB engines between 50 and 250 HP, the MACT floor is no emission reduction. We also discussed in an earlier section that we believe non-emergency 4SLB engines between 250 and 500 HP are more similar to large engines, i.e., those greater than 500 HP. The formaldehyde level required by the existing 40 CFR part 63, subpart ZZZZ, for new 4SLB engines greater than 500 HP located at major sources is based on using oxidation catalyst. A formaldehyde concentration level of 14 ppmvd at 15 percent O_2 was promulgated for those engines. As an alternative, a 93 percent reduction of CO was provided.

EPA believes these levels are reasonable for new 4SLB engines

between 250 and 500 HP located at major sources as well. EPA expects the capabilities of the oxidation catalyst to be the same for engines between 250 and 500 HP as they are for engines greater than 500 HP. For these reasons, MACT is the level of control achieved by using oxidation catalyst, i.e., either a 93 percent reduction of CO or a formaldehyde outlet concentration limit of 14 ppmvd at 15 percent O_2.

For new 4SLB engines between 50 and 250 HP located at major sources, the proposed MACT standard is equal to the NMHC standard required under the proposed SI NSPS.

The MACT standard for new 4SRB stationary RICE must be at least as stringent as the MACT floor for existing 4SRB stationary RICE. Regulatory options more stringent than the MACT floor include requiring the use of NSCR; no other technology achieving greater emissions reductions was found.

As discussed, EPA generally believes it is appropriate to base the MACT standards for new stationary SI engines on the standards being proposed in the stationary SI NSPS (except for new and reconstructed 4SLB engines between 250 and 500 HP located at major sources). This conclusion affects new stationary rich burn engines. EPA discussed selecting NSCR as BDT for most new stationary rich burn engines earlier in this preamble. We discussed the appropriateness of following the SI NSPS for new SI engines less than or equal to 19 KW (25 HP) and new SI engines greater than 19 KW (25 HP) that use gasoline or that are rich burn engines greater than 19 KW (25 HP) that use LPG. For the reasons previously discussed, MACT for new 4SRB engines between 25 and 500 HP located at major sources are the NMHC standards that are required in the SI NSPS. EPA also discussed the appropriateness of requiring exhaust-based emission standards of 1.0 and 0.7 g/HP–hr of NMHC and has explained the reason for setting a NMHC standard and not a HAP standard. For rich burn engines greater than 19 KW (25 HP) that do not use LPG, it was determined that a mandatory certification program would not be appropriate due to fuel quality and other issues.

Therefore, an emission standard is being proposed, and is determined to be MACT for these engines. Owners and operators can either purchase an engine that is certified to this standard, or alternatively, conduct emissions testing to demonstrate compliance with the NMHC emission limit, if their engine is not certified by a manufacturer. The MACT for new 4SRB engines is the level of control required by the SI NSPS, i.e., a NMHC standard of 1.0 or 0.7 g/HP–hr, as applicable.

For CI non-emergency engines, there are no engines in the Population Database that are using catalyst type controls. Therefore, the MACT floor for new stationary non-emergency CI RICE is no further emissions reductions.

Catalyzed diesel particulate filters have been proven effective in reducing emissions of HAP and are the basis for the majority of Tier 4 emission standards for new nonroad and stationary diesel engines that will go into effect at the beginning of the next decade. The technology was also relied upon for the standards issued for stationary CI engines in California. No other technology was found to be more effective in reducing HAP from CI engines than CDPF, and, therefore, the MACT for new stationary CI non-emergency engines is the level of control achieved through application of CDPF, with an appropriate period of lead time equal to that provided for nonroad CI engines.

New stationary CI engines less than or equal to 500 HP located at major sources will be affected by the upcoming NSPS for stationary CI engines (40 CFR part 60, subpart IIII). The CI NSPS rely in large part on certification of engines by the engine manufacturers following well-established procedures developed under the nonroad CI engine program. The CI NSPS require minimal effort from engine owners and operators, and places the burden and responsibility mainly on the engine manufacturer during the useful life of the engine.

Cost effectiveness analysis conducted for the CI NSPS show that the costs of applying CDPF to new stationary CI engines are reasonable. Under the CI NSPS, most owners and operators will demonstrate compliance with 40 CFR part 60, subpart IIII by purchasing a certified engine. The only ongoing compliance requirement for owners and operators is to operate and maintain the engine (and control device) according to the manufacturer's written specifications. It is assumed that the engine will remain in compliance with the emission standards for the useful life of the engine, if the engine is operated and maintained properly.

For new stationary CI engines less than or equal to 500 HP located at major sources affected by 40 CFR part 63, subpart ZZZZ, proposed in this action, EPA believes it would be appropriate to require owners and operators to comply with the NMHC and PM requirements in 40 CFR part 60, subpart IIII. Although MACT for these sources is the level of control achieved by CDPF, with appropriate lead time for application of this technology for these engines, owners and operators will not be the party installing CDPF on their engines; the engine manufacturers will be responsible for this.

The requirements of the CI NSPS include emission standards that will be phased in depending on the model year. Requirements include emission standards for NO_X, CO, PM, HC, and NMHC with increasing stringency. The standards regulating emissions of NMHC and PM are particularly relevant for regulating HAP emissions. The final level of emission standards (Tier 4), rely, in most cases, at least for larger size engines, on the implementation of NO_X adsorber and, importantly for this discussion, CDPF. With the addition of CDPF controls in Tier 4 certified engines, emissions of HAP will be significantly reduced and the goal of section 112(d)(5) of the CAA will be realized by following the CI NSPS.

EPA believes it is appropriate to require that stationary CI engines meet PM and NMHC standards that apply to stationary CI engines under the CI NSPS because, while most HAP emissions from diesel engines are gaseous hydrocarbons, there are HAP that become adsorbed on the diesel particles; therefore, meeting the emission standards under the CI NSPS for HC/NMHC and PM helps ensure maximum control of HAP. For the reasons provided, EPA believes MACT for new stationary CI engines is appropriate, and is the level of control required by the CI NSPS achieved through application of CDPF.

There are no landfill or digester gas fired stationary RICE in the Population Database using catalyst type controls, and therefore the MACT floor for new stationary landfill and digester gas engines is no further emissions reductions. The applicability of HAP emission control technology, such as the use of an oxidation catalyst system for example, was considered for this subcategory of stationary RICE for beyond-the-floor controls. However, digester gases and landfill gases, as discussed, may contain compounds that foul catalyst elements reducing the catalyst efficiency very quickly. Pretreatment systems to remove siloxanes from the gases prior to combustion were considered; however, there are no pretreatment systems found to be in use and the long-term effectiveness is unknown. Therefore, there is no add-on emission control technology that could be applied to the subcategory of stationary RICE to reduce HAP emissions. However, we are requiring these engines to meet a standard equal to the use of on-engine

controls to reduce HAP emissions, i.e., through a NMHC emission standard.

For new emergency engines, aftertreatment-based beyond-the-floor options are not considered cost effective due to the very small reductions in HAP emissions that might be achieved through the use of catalyst-based technologies on new emergency stationary engines. In addition, there are concerns regarding the technical feasibility, long term durability, and effectiveness of emission control. Non-air quality health, environmental impacts and energy effects were not significant factors. Consequently, there is no HAP emission reduction that could be identified as MACT for new emergency use SI stationary RICE. Therefore, MACT is equal to the amount of engine-based control deemed BDT under the NSPS for this subcategory of SI engines. New and reconstructed SI emergency engines are required to meet the NMHC standard that is being proposed under the SI NSPS, i.e., 1.0 g/HP–hr, starting with engines manufactured after January 1, 2009.

Add-on controls have been determined to be inappropriate for application to emergency engines; however, EPA believes that requiring on-engine controls to new emergency CI engines would be appropriate. The recently proposed NSPS for stationary CI engines set standards of performance for emergency engines based on engine-based, as opposed to aftertreatment-based, technologies. These standards equate to the Tier 2 and Tier 3 emission standards for nonroad CI engines and are based on technologies such as combustion optimization and advanced fuel injection controls. EPA believed that these technologies were appropriate for emergency engines covered by the CI NSPS. EPA also believes that it is appropriate to require new stationary CI emergency engines less than or equal to 500 HP located at major sources to meet similar standards as emergency engines are required to under the CI NSPS. EPA does not see any reason why new emergency CI engines should be treated differently under the NESHAP. For the reasons provided, MACT for new stationary CI emergency engines less than or equal to 500 HP located at major sources is the level of control achieved by on-engine controls and will be required to meet the standards for emergency engines under the CI NSPS.

b. Engines at Area Sources. Under section 112(k) of the CAA, EPA developed a national strategy to address air toxic pollution from area sources. The strategy is part of EPA's overall national effort to reduce toxics, but focuses on the particular needs of urban areas. Section 112(k) of the CAA requires EPA to list area source categories and to ensure 90 percent of the emissions from area sources are subject to standards pursuant to section 112(d) of the CAA. Under section 112(k), the CAA specifically mandated that EPA develop a strategy to address public health risks posed by air toxics from area sources in urban areas. Section 112(k) of the CAA also mandates that the strategy achieve a 75 percent reduction in cancer incidence attributable to HAP emitted by stationary sources. As mentioned, stationary RICE are listed as a source category under the Urban Air Toxics Strategy developed under the authority of sections 112(k) and 112(c)(3) of the CAA. These area sources are subject to standards under section 112(d) of the CAA.

Section 112(d)(5) of the CAA indicates that EPA may elect to promulgate standards or requirements to area sources ''which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants.'' For determining emission limitations, GACT standards can be more flexible requirements than MACT standards. For example, GACT standards do not have a requirement to set a control baseline or ''floor'' that is equal to the average emission levels achieved by the best performing 12 percent of a type of facility, for existing sources, or the emission control achieved in practice by the best controlled similar source, for new sources. Therefore, EPA is permitted to consider costs and other factors during each phase of the GACT analysis. Control technology options available to be applied to stationary engines located at area sources are the same as those discussed for engines located at major sources.

The standards being proposed in this action are applicable to stationary RICE located at area sources of HAP emissions. EPA has chosen to propose national standards, which not only focus on urban areas, but address emissions from area sources in all areas (urban and rural).

For stationary RICE, it would not be practical or appropriate to limit the applicability to urban areas and EPA has determined that national standards are appropriate. Stationary RICE are located in both urban and rural areas. In fact, there are some rural areas with high concentrations of stationary RICE. Stationary RICE are employed in various industries used for both the private and public sector for a wide range of applications such as generator sets, irrigation sets, air and gas compressors, pumps, welders, and hydro power units. Stationary RICE may be used by private entities for agricultural purposes and be located in a rural area, or it may be used as a standby generator for an office building located in an urban area. Other stationary RICE may operate at large sources for electric power generation, transmission, or distribution purposes.

EPA determined that stationary RICE are located all over the U.S., and EPA cannot say that these sources are more prevalent in certain areas of the country. Therefore, for the source category of stationary RICE, EPA is proposing national requirements without a distinction between urban and non-urban areas.

For existing engines, GACT for engines located at area sources is equal to MACT for engines less than or equal to 500 HP located at major sources. For new sources, we are proposing the same requirements for GACT for engines located at area sources as we are for MACT for engines less than or equal to 500 HP located at major sources, except for new and reconstructed non-emergency 4SLB engines between 250 and 500 HP located at area sources. As discussed, new and reconstructed non-emergency 4SLB engines between 250 and 500 HP located at major sources are required to meet the standards that were finalized for new 4SLB engines greater than 500 HP located at major sources (69 FR 33474). New 4SLB engines at area sources will be required to meet the NMHC emission standards being proposed for SI engines under the NSPS.

C. How did EPA determine the compliance requirements?

The following sections describe how EPA determined the compliance requirements for engines subject to the SI NSPS and NESHAP.

1. SI NSPS

Unlike the NSPS for stationary CI engines, the compliance requirements for the SI NSPS contemplate that many new SI engines might not be certified by the manufacturer. EPA only requires a subset of stationary engines to be certified, and otherwise provides only for optional certification by engine manufacturers. The engines that are not required to be certified are those SI engines that are greater than 19 KW (25 HP) that are not gasoline engines and that are not rich burn engines that use LPG. EPA does not believe it is feasible to require these engines to be certified due to fuel quality issues and other factors. Not only do gaseous fuel quality and properties vary significantly across

the country, gaseous-fueled stationary engines also have to be set up at each individual site to account for site-specific conditions. Due to varying gaseous fuel and conditions based on the physical location of the engine, manufacturers would not necessarily be able to define a set of operating conditions during the engine certification process that would guarantee a certain level of emissions from the engine. Instead, the engine would have to be adjusted in the field in order to meet the applicable standards. Lean burn engines that are using LPG are included in the voluntary certification program instead of the mandatory certification program because these engines are similar to gaseous-fueled stationary engines.

However, EPA does not preclude the possibility that some manufacturers may be able to certify some or all of their stationary gaseous-fueled, or lean burn LPG fueled, engines. EPA believes that a certification program that is somewhat different from the nonroad CI engine certification program, which allows for a wider range of fuel quality and for adjustment of the engine in the field according to the manufacturer's instructions, is feasible. EPA has written this proposed rule to allow engine manufacturers to voluntarily certify their stationary SI engines greater than 19 KW (25 HP) that use fuels such as natural gas.

Should the engine manufacturer determine that it is feasible to certify their engine families, such certification would substantially reduce the burden for owners and operators purchasing those engines. These engine owners and operators would not be required to conduct performance testing should they purchase a certified engine.

There are minimum specific compliance requirements for owners and operators subject to the SI NSPS that purchase certified engines. For certified engines, the testing performed by engine manufacturers during the certification process serves to demonstrate compliance with the emission limitations on an initial and ongoing basis until the end of the engine's useful life. The certification program reduces the burden on individual engine owners and operators and eliminates the requirement to do performance testing. In addition to engine certification, owners and operators of all engines subject to the proposed standards are required to operate and maintain their engine and control device (if any) according to the manufacturer's written instructions. This requirement is consistent with the CI NSPS and is a reasonable and non-burdensome requirement. EPA believes certification is the best option for ensuring initial and continuous compliance.

If the manufacturer puts restrictions on the type of fuel to be used in an engine, or if the manufacturer requires specific configuration instructions to the owner or operator for installing the engine to ensure conformance to the standards as certified, then the owner or operator must follow those instructions and limitations in order to avoid the requirement to do its own testing or otherwise be in noncompliance with the regulations.

For owners and operators of uncertified engines, EPA believes that performance testing is necessary to ensure compliance with the emission limitations. EPA believes it is appropriate to require an initial performance test for uncertified engines. Since these engines have not gone through the certification process where the engine has been rigorously tested to meet the required emission standards, on-site testing is the best way to ensure that the emission limitations have been met. Also, EPA is requiring that uncertified engines greater than 500 HP be tested on a regular basis every 3 years, or 8,760 hours of operation, whichever comes first. EPA believes such a requirement is appropriate for these size engines, but does not believe that further testing is necessary for smaller engines, i.e., those less than or equal to 500 HP, unless these engines undergo major repair or maintenance or are rebuilt.

EPA believes that certification is appropriate for stationary engines that are similar to nonroad engines or that are used for both nonroad and stationary applications. Therefore, EPA is requiring manufacturers of all new stationary engines 19 KW (25 HP) and below and all new gasoline engines and rich burn LPG engines to certify these engines using the provisions in 40 CFR parts 90 and 1048, as appropriate.

In general, nonroad certification provisions specify that engine manufacturers must establish appropriate engine families and certify each engine family to the applicable emission standards using the fuel specifications required in those parts (40 CFR parts 90 and 1048). Manufacturers that voluntarily certify new stationary engines to the standards in this proposed rule are subject to similar requirements, with certain differences. Nonroad standards include evaporative and field testing emission standards, but those standards would not apply to manufacturers who participate in voluntary certification of stationary SI engines. The concept of useful life is also part of the nonroad engine certification program and is being proposed for voluntary certification, but different useful life values apply. Fuels used in engines potentially participating in the voluntary certification program, specifically natural gas and LPG, may have different compositions depending on the area the fuel is used. Manufacturers who choose to certify engines under EPA's proposed voluntary certification program must certify their natural gas engines using pipeline-quality natural gas meeting EPA's specifications defined in this proposed rule. The same is true for manufacturers certifying lean burn LPG engines under the proposed certification program and manufacturers must certify their engines for operation using fuel that meets the specifications in 40 CFR 1068.720.

Alternatively, manufacturers can certify their engines on fuels other than, or in addition to, pipeline-quality natural gas. If so, the manufacturer must specify the properties and composition of the other fuel and must perform certification testing on the fuel it is certifying the engine on. If an aftertreatment device is needed, manufacturers who certify engines under the voluntary certification program would be required to certify their engines with the appropriate aftertreatment equipment. Manufacturers must provide information to the owner or operator as to the necessary adjustments to be made in the field upon installation in order to ensure that the engine meets the emission standards demonstrated during factory certification. This provision would allow the owner or operator to run the engine on fuels that are within the range of properties specified by the manufacturer in the certification. The engine certification is valid, provided that the owner or operator uses the fuels specified by the engine manufacturer.

EPA is proposing to include restrictions on the import of stationary SI ICE ≤19 KW (25 HP), stationary rich burn LPG SI engines and stationary gasoline SI ICE to prevent the importation of engines that do not meet the applicable requirements of this proposed rule. This proposed rule includes a provision that prohibits importers from bringing into the U.S. stationary SI ICE ≤19 KW (25 HP), stationary rich burn LPG SI engines and gasoline SI ICE that do not meet the emission standards specified in this proposed rule after certain dates. The proposed dates for limiting the

importation of engines into the U.S. provides sufficient time to account for the time that may be required to bring an engine into the U.S., and EPA believes it is appropriate to propose importation dates that provides for such flexibility. We are limiting this restriction only to stationary SI ICE ≤19 KW (25 HP) and to stationary gasoline and rich burn LPG SI ICE because these are the only types of SI ICE that would have an emissions certification requirement. All other SI ICE would not be required to certify their emissions—unless the manufacturer chooses the option to certify—thus, the compliance burden would fall on the owner/operator of the engine.

2. NESHAP

Overall, the NESHAP compliance requirements are very similar to the compliance requirements discussed above for the SI NSPS. Again, EPA is proposing requirements that often rely on, or allow for, engine certification by manufacturers. The testing that manufacturers conduct during the certification process for such engines will ensure that the engine is in compliance throughout its useful life. EPA believes relying on engine certification is appropriate and no additional testing is being proposed for certified engines.

For those engines that will not be certified by engine manufacturers, EPA is proposing that owners and operators conduct initial performance testing to demonstrate compliance with the emission standards. Since there is no official certification testing by engine manufacturers on these engines, performance testing when the engine is installed in the field is appropriate. This is the best way to ensure that the engine meets the emission standards.

In addition to requiring initial performance testing for those engines subject to the NESHAP that are not certified, uncertified engines greater than 500 HP must conduct additional performance testing every 3 years or 8,760 hours of operation, whichever comes first. Unless engines subject to the NESHAP less than or equal to 500 HP undergo major repair or maintenance or are rebuilt, no further testing is required for these engines. EPA believes that subsequent performance testing is appropriate for engines greater than 500 HP due to their size. Many States mandate more stringent compliance requirements for large engines and the RICE NESHAP for engines greater than 500 HP located at major sources also required further performance testing following the initial compliance demonstration. Finally, EPA expects engines that are greater than 500 HP are less likely to be certified since they are not mass-produced, and it would be less cost effective for manufacturers to certify them.

All engines subject to the NESHAP are required to operate and maintain their stationary engine and control device (if any) according to the manufacturer's written instructions.

D. How did EPA determine the reporting and recordkeeping requirements?

The following sections describe how EPA determined the reporting and recordkeeping requirements for engines subject to the SI NSPS and NESHAP.

1. SI NSPS

For engines subject to the SI NSPS, EPA is proposing that owners and operators maintain records of proper maintenance. If the engine is certified, the owner or operator must keep documentation from the manufacturer that the engine is certified to meet the emission standards. EPA does not expect this to be a burdensome requirement and thinks that, in many cases, owners and operators may be documenting this information already. An initial notification is required for uncertified engines greater than 500 HP. Also, owners and operators who conduct performance testing are required to report the test results each time a performance test is conducted.

Owners and operators of emergency engines are required to keep records of their hours of operation (emergency and non-emergency). Owners and operators must install a non-resettable hour meter on their engines to record the necessary information. The owner and operators are required to record the time of operation and the reason the engine was in operation during that time. EPA believes these requirements are appropriate for emergency engines. The requirement to maintain records documenting why the engine was operating will ensure that regulatory agencies have the necessary information to determine if the engine was in compliance with the maintenance and testing hour limitation of 100 hours per year.

2. NESHAP

Similar to the SI NSPS, engines subject to the NESHAP are also required to maintain records of proper maintenance. Again, EPA does not expect this to be a burdensome requirement and thinks that, in many cases, owners and operators may be documenting this information already. If the engine is certified, the owner or operator must keep documentation from the manufacturer that the engine is certified to meet the emission standards. Further, an initial notification is required for stationary SI engines greater than 500 HP that are not certified. Also, owners and operators of engines that are not certified must conduct performance testing to demonstrate compliance with the emission standards and are required to report the test results each time a performance test is conducted.

Consistent with the SI NSPS, owners and operators of emergency engines subject to the NESHAP are also required to keep records of their hours of operation. Under the NESHAP, this requirement applies not only to SI emergency engines, but to CI emergency engines as well. Owners and operators must install a non-resettable hour meter on their engines to record the necessary information. EPA believes these requirements are appropriate for emergency engines and are consistent with what was proposed for new CI engines under the NSPS.

Owners and operators of new and reconstructed stationary RICE which fire landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis affected by 40 CFR part 63, subpart ZZZZ, must monitor and record the fuel usage daily with separate fuel meters to measure the volumetric flow rate of each fuel. This requirement is appropriate and consistent with fuel monitoring requirements for engines greater than 500 HP located at major sources.

E. Why Did EPA Determine to Exempt Area Sources From Title V Permit Requirements?

Section 502(a) of the CAA specifies the sources that are required to obtain operating permits under title V. These sources include (1) any affected source subject to the acid deposition provisions of title IV of the CAA, (2) any major source, (3) any source required to have a permit under parts C or D of title I of the CAA, (4) ''any other source (including an area source) subject to standards under section 111 (NSPS) or 112 (NESHAP),'' and (5) any other stationary source in a category designated by regulations promulgated by the Administrator.

Section 502(a) of the CAA also provides that the Administrator may ''promulgate regulations to exempt one or more source categories (in whole or in part) from the requirements of this subsection if the Administrator finds that compliance with such requirements is impracticable, infeasible, or unnecessarily burdensome on such categories, except that the Administrator may not exempt any major source from

such requirements.'' EPA has exempted many area sources subject to CAA section 111 or 112 standards from title V requirements in prior rulemakings, in particular see a recent final rule, 70 FR 75320, December 19, 2005, that provides additional background information and rationale for such exemptions for a large number of area sources subject to CAA section 112 standards.

In the case of affected stationary engines located at area sources, EPA believes compliance with permit requirements under title V would be impracticable, infeasible and unnecessarily burdensome for the reasons explained below.

First, title V permits would be unnecessarily burdensome for area sources subject to this proposed rule because title V would not result in significant improvements to compliance with the CAA section 111 and 112 standards for the area sources. (The term ''title V permits'' used here refers to permits issued under 40 CFR parts 70 or 71 by either a State or local agency or EPA.) For a great number of these area sources, these engines are the only emission source and the owner/operator (often a hospital or a school) will not be at all familiar with the requirements for permits.

To demonstrate compliance with these CAA section 111 and 112 standards, the NSPS require the owner or operator of the area source to either purchase a certified stationary SI engine or to conduct performance testing. Certification that the engine meets the emission reduction requirements of this proposed rule is done by the manufacturer of the engine, rather than the area source that owns or operates the engine. This strategy places a significant amount of responsibility for compliance with the standard on the manufacturer, compared to many other emission standards that place the compliance responsibility on the owner or operator.

The strategy of this proposed rule of requiring the manufacture of cleaner burning emission sources for many of the affected engines (manufacturer-based controls) has been employed in other CAA section 111 standards, for example, the NSPS for new residential woodstoves (subpart AAA of 40 CFR part 60). We exempted area sources subject to the woodstove NSPS in the final rule for part 70 (57 FR 32250, July 21, 1992) for reasons similar to these we describe today for stationary SI engines. (See 40 CFR 70.3(b)(4) and 40 CFR 71.3(b)(4).)

For those engines that are not certified and located at area sources, EPA believes it would be unnecessarily burdensome to require title V permits. Many of these engines are small consumer items that are owned by sources that are not otherwise regulated. Also, title V would not result in significant improvements to compliance with the standard for these area sources because the CAA section 111 and 112 standards themselves contains adequate compliance requirements for these area sources, consistent with the CAA, without relying on title V. For example, owners and operators of engines that are not certified have to conduct performance testing to demonstrate compliance with the proposed emission standards. Notification, recordkeeping, and reporting requirements are also proposed for these sources that own and operator engines that are not certified and combined with performance testing requirements provide adequate assurance that area sources are in compliance with CAA section 111 and 112 standards.

Second, title V would impose certain burdens and costs on area sources subject to this proposed rule that EPA does not believe are justified when compared to the potential for title V permits to improve compliance with the CAA section 111 and 112 standards for such sources. This is so because EPA believes the costs and burdens of title V permits for the typical area sources subject to this proposed rule would be significant. This assessment is not based on any particular empirical data or study but on a review of the types of stand-alone area sources that would be subject to this proposed rule. (See current ICR for 40 CFR part 70, EPA ICR # 1587.06 and OMB control number 2060–0243 for EPA's best estimate of the burdens and costs of title V for sources subject to 40 CFR part 70 on a national, aggregate basis.) Also, as explained above, EPA's judgment is that requiring operating permits for these area sources would not result in significant improvements to compliance over that already required by this proposed rule. Thus, the burdens and cost of title V for these area sources would be significant, and in any case, they will be unnecessary and not justified, when compared to the low potential for title V permits to improve compliance for them, consistent with the ''unnecessarily burdensome'' criterion of section 502(a) of the CAA.

Thus, we have decided to propose to exempt area sources subject to this proposed rule from title V operating permit requirements under 40 CFR part 70 and 40 CFR part 71, and we have incorporated language in this proposed rule to specify this. Under this approach title V exemptions are allowed for an area source, provided the area source is not required to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a) for another reason, such as when the source becomes a major source.

Also note that this exemption only affects whether an area source is required to obtain an operating permit, it has no bearing on any other requirements of this proposed rule.

V. Summary of Environmental, Energy and Economic Impacts

A. What are the air quality impacts?

This proposed rule is estimated to reduce NO_X emissions from stationary SI ICE by an estimated 66,000 tons per year (tpy), CO emissions by about 38,000 tpy, NMHC emissions by about 2,000 tpy, and HAP emissions by approximately 800 tpy in the year 2015. This proposed rule is estimated to reduce NO_X emissions by 73,000 tpy, CO emissions by 41,000 tpy, NMHC emissions by 2,000 tpy, and HAP emissions by 900 tpy in the year 2020. This proposed rule is estimated to reduce NO_X emissions by 88,000 tpy, CO emissions by 48,000 tpy, NMHC emissions by 3,000 tpy, and HAP emissions by 1,000 tpy in the year 2030.

EPA estimates that a total of about 150,000 stationary SI engines will be affected by this proposed rule by the year 2015. A total of 433,000 stationary SI engines will be affected by the year 2030. An estimated 623,000 stationary CI engines will be affected by this proposed rule by the year 2015. However, stationary CI engines affected by this proposed rule would also be subject to the CI NSPS. Further information regarding the estimated reductions of this proposed rule can be found in the memorandum entitled ''Cost Impacts and Emission Reductions Associated with Proposed NSPS for Stationary SI ICE and NESHAP for Stationary RICE,'' which is available in the docket.

B. What are the cost impacts?

The total national capital cost for this proposed rule is estimated to be approximately $37 million in the year 2015, with a total national annual cost of $17 million in the year 2015. In the year 2020, the total national capital and annual costs for this proposed rule are estimated to be $40 million and $18 million, respectively. In the year 2030, the total national capital and annual costs for this proposed rule are estimated to be $47 million and $20 million, respectively.

C. What are the economic impacts?

The economic impacts of this proposed rule are estimated in terms of

changes in price and output for affected producers defined by industry and affected consumers. These price and output changes are estimated for four industries that may be affected by this proposed rule: NAICS 333912 (Pump and Compressor Manufacturing), NAICS 333911 (Pump and Pumping Equipment Manufacturing), NAICS 335312 (Motor and Generator Manufacturing), and NAICS 33399P (All other Miscellaneous General Purpose, Machinery). Prices are expected to increase by no more than 0.08 percent for output from any of the industries affected by this proposed rule. Affected output is expected to decrease by no more than 0.003 percent from any of these industries. The decrease in total surplus (consumer + producer surplus) is about $11 million, or less than 0.1 percent.

As part of the assessment of the economic impacts of this proposal, EPA has estimated the health benefits of reducing NO_X emissions as a result of this proposed rule. For the reduction of 66,000 tons of NO_X, we estimate that the human health benefits in the year 2015 will be in the range of $72 million to $765 million, or about 4 to 40 times the annual cost in that year. To get this estimate, we assumed that each ton of NO_X reduced was worth in the range of $1,100 to $11,600 in human health benefits. In developing this estimate, EPA is using the approach and methodology laid out in the document titled ''Validating Regulatory Analysis: 2005 Report to Congress by OMB.''

EPA plans to do a more extensive calculation of the benefits of this rulemaking during the development of the final rule. Executive Order 12866 and OMB Circular A–4 require the estimation of the costs, benefits and economic impacts for any significant regulatory action with an annual impact on the economy of greater than $100 million. For the final rulemaking, EPA will perform a more extensive assessment of the human health benefits and provide a more complete characterization of the uncertainty in its estimate as outlined in the OMB Circular A–4 guidance.

D. What are the non-air health, environmental and energy impacts?

EPA does not anticipate any significant non-air health, environmental or energy impacts as a result of this proposed rule.

VI. Solicitation of Public Comments and Public Participation

EPA seeks full public participation in arriving at its final decisions, and strongly encourages comments on all aspects of this proposed rule from all interested parties. Whenever applicable, full supporting data and detailed analysis should be submitted to allow EPA to make maximum use of the comments. The Agency invites all parties to coordinate their data collection activities with EPA to facilitate mutually beneficial and cost-effective data submissions.

Specifically, we request comments on the issue of measuring NMHC emissions. Hydrocarbons are a by-product of the combustion of fuel from stationary engines. Because methane is orders of magnitude less reactive in the atmosphere than other hydrocarbons, it is often excluded from emission estimates. Therefore, NMHC emission standards are sometimes used to regulate emissions of hydrocarbons from fuel combustion sources. The emissions of NMHC are the measured hydrocarbon components detected using a Flame Ionization Detector (FID), subtracting out the methane concentration. Most hydrocarbons can be measured with an FID, with the exception of oxygenated compounds. Many of these oxygenated compounds, which include formaldehyde, acetaldehyde, methanol, and acrolein, have been identified as HAP emitted in high quantities from stationary engines. Formaldehyde was found to be the most significant HAP, comprising more than 70 percent of all HAP emissions from stationary natural gas fired engines. EPA recognizes that test methods which measure NMHC commonly do not measure formaldehyde. However, EPA has found that there is a linear correlation with NMHC emissions and formaldehyde emissions, and is proposing that NMHC be used as a surrogate for formaldehyde emissions from stationary SI ICE. EPA recognizes that measuring NMHC directly does not measure HAP such as formaldehyde, and requests comments on this issue.

We also request comment on our proposed approach for emergency SI engines. The proposed standards for emergency SI engines require the same levels of emissions as the proposed Phase 1 standards for non-emergency SI natural gas engines, except that additional lead time is provided. EPA recognizes that emergency SI engines must satisfy unique demands and performance requirements. We request comment on the costs, emission reductions and technical feasibility of the standards for rich-burn and lean-burn SI emergency engines and any potential difficulties associated with the proposed standards for emergency SI engines. In addition, we are also requesting comment on our proposal to allow the use of propane for up to 100 hours per year for emergency backup purposes even if the engine is not designed to operate on propane. Industry requested that such an allowance would be appropriate to include in the rule.

In addition, we are requesting comment on the proposed emission standards for landfill and digester gas fired engines that are rich burn engines. While we recognize that there are issues related to the application of add-on controls to engines firing landfill and digester gas, we believe that the emission standards proposed can be met by lean burn engine designs. Information we have received during the proposal indicates that the majority of landfill gas applications are using lean burn engines, therefore, we do not expect any problems complying with the proposed standards as the standards can be met through on-engine controls. However, there may be a few stationary engines that are rich burn engines that may have problems complying with the proposed emission standards if they are burning landfill or digester gas. We request comments on how common rich burn engines are in such applications. We are also requesting comments on the costs, emission reductions and technical feasibility of the proposed second phase of standards for SI landfill/digester gas engines under the NSPS that would tighten the NO_X limit from 3 to 2 g/bhp-hr.

Finally, we are requesting comment on our proposed approach for addressing engines using LPG. In the proposal we are treating rich burn engines that use LPG and lean burn engines that use LPG differently. We are proposing to regulate rich burn engines that use LPG with gasoline engines, and lean burn engines that use LPG with natural gas engines. We are requesting comment on this proposed regulatory regime for stationary SI engines that use LPG.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a regulatory action is ''significant'' and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''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 the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order. EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 2227.01.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NSPS General Provisions (40 CFR part 60, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

This proposed rule will not require any notifications or reports beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the final rule) is estimated to be 132,381 labor hours per year at a total annual cost of $18,475,453. This estimate includes a one-time notification for engines greater than 500 HP that are not certified, engine certification, engine performance testing, and recordkeeping. There are no capital/start-up costs associated with the monitoring requirements over the 3-year period of the ICR. The operation and maintenance costs for the monitoring requirements over the 3-year period of the ICR are estimated to be $8,964,391 per year.

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; 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.

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 in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA–HQ–OAR–2005–0030. Submit any comments related to the ICR for this proposed rule to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after June 12, 2006, a comment to OMB is best assured of having its full effect if OMB receives it by July 12, 2006. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For the purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business based on the following Small Business Administration (SBA) size standards, which are based on employee size: NAICS 333911—Pump and Pumping Equipment Manufacturing—500 employees or less; NAICS 333912—Pump and Compressor Manufacturing—500 employees or less; NAICS 33399P—All other Miscellaneous General Purpose, Machinery—500 employees or less; and NAICS 335312—Motor and Generator Manufacturing—1,000 employees or less; (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; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. For more information, refer to *http://www.sba.gov/size/sizetable2002.html*. The small entity impacts of this proposed rule are estimated in terms of comparing the compliance costs to revenues at affected firms. For more detail, see the current Economic Impact and Small Business Analysis in the public docket.

After considering the economic impacts of this proposed rule on small entities, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule is expected to affect 21 ultimate parent businesses. Five of the parent businesses are small according to the SBA small business size standard. One of these 5 firms would have an annualized cost of more than 1 percent of sales associated with meeting the requirements; the estimated cost is between 3 and 4 percent for this small firm. Also, no other adverse impacts are expected to these affected small businesses.

For more information on the small entity impacts associated with this proposed rule, please refer to the Economic Impact and Small Business Analyses in the public docket.

Although this proposed rule would not have a significant economic impact on a substantial number of small entities, we nonetheless tried to reduce

the impact of this proposed rule on small entities. When developing the revised standards, we took special steps to ensure that the burdens imposed on small entities were minimal. We conducted several meetings with industry trade associations to discuss regulatory options and the corresponding burden on industry, such as recordkeeping and reporting.

Following publication of this proposed rule, copies of the **Federal Register** action and, in some cases, background documents, will be publicly available to all industries, organizations, and trade associations that have had input during the regulation development, as well as State and local agencies. We continue to be interested in the potential impacts of this proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this proposed rule 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 the private sector in any 1 year. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, this proposed rule is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) requires us 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'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule 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 proposed rule primarily affects private industry, and does not impose significant economic costs on State or local governments. Thus, Executive Order 13132 does not apply to this proposed rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

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

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives.

We interpret Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

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

Executive Order 13211 (66 FR 28355, May 22, 2001) provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, a Statement of Energy Effects for certain actions identified as ''significant energy

actions.'' Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1) (i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.'' This proposed rule is a significant energy action as designated by the Administrator of the Office of Information and Regulatory Affairs. We have, therefore, prepared a Statement of Energy Effects for this action as follows.

The increase in petroleum product output, which includes increases in fuel production, is estimated at less than 0.00001 percent, or about 10 barrels per day based on 2006 U.S. fuel production nationwide. The reduction in coal production is zero since no coal-fired units will be affected by the requirements of this proposed rule. The reduction in electricity output is estimated at 0.00002 percent, or about 88,000 kilowatt-hours per year based on 2006 U.S. electricity production nationwide. Production of natural gas is expected to decrease by 286,000 cubic feet (ft^3) per day, a decrease of 0.00002 percent from 2006 U.S. production levels. The maximum of all energy price increases, which include increases in natural gas prices as well as those for petroleum products, and electricity, is estimated to be 0.0001 percent nationwide. Energy distribution costs may increase by roughly no more than the same amount as electricity rates. We expect that there will be no discernable impact on the import of foreign energy supplies, and no other adverse outcomes are expected to occur with regards to energy supplies. The increase in cost of energy production should be minimal given the very small increases in energy prices and outputs shown above. All of the estimates presented above account for some pass-through of costs to consumers as well as the direct cost impact to producers. For more information on these estimated energy effects, please refer to the economic impact analysis for the proposed rule. This analysis is available in the public docket.

Therefore, we conclude that the proposed rule when implemented will not have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. No. 104–113, section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This proposed rule involves technical standards. EPA cites the standard test procedures in 40 CFR part 1048, subpart F, §§ 1048.501–515. Other test methods cited in this proposed rule are EPA Methods 1, 1A, 3, 3A, 3B, 4, 10, 18, 25, and 25A of 40 CFR part 60, EPA Methods 320 or 323 of 40 CFR part 63, appendix A, EPA Performance Specifications (PS) 3 and 4A; and ASTM D6522–00 (2005) (for Method 3A and 10) and D6348–03 (for Method 320 or 323). Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these methods. No applicable voluntary consensus standards were identified for EPA Method 1A, PS 3 and 4A, and the nonroad test procedures in 40 CFR part 1048, subpart F, sections 1048.501–515. The search and review results have been documented and are placed in the docket (Docket ID No. EPA–HQ–OAR–2005–0030) for this proposed rule.

One potentially applicable voluntary consensus standard that was identified is not acceptable as an alternative as written, but may be acceptable if minor adjustments are made to the procedures. EPA invites comments on the use of this ISO standard for this proposed rule. The voluntary consensus standard ISO 8178–1:1996, ''Reciprocating ICE—Exhaust Emission Measurement—Part 1: Test-bed Measurement of Gaseous and Particulate Exhaust Emissions,'' is not acceptable as an alternative to the test procedures in § 60.4240 of this proposed rule (specifically 40 CFR 86.1310) for the following reasons. Although ISO 8178–1:1996 has many of the features of EPA test procedures, the ISO standard allows the gaseous measurements to be made in an undiluted sample whereas EPA procedures in 40 CFR 86.1310 require at least one dilution of the sample. The ISO method does allow the gaseous measurements to be made during the double diluted sampling procedures for particulate matter, but it is not required by the ISO method. Also, in the measurement of hydrocarbons, the ISO method only specifies that the sample lines are to be maintained above 70 °C and advises that the flow capacity of the sample lines is used to prevent condensation. In EPA procedures in 40 CFR 86.1310, the sample lines must be maintained at 191 °C during the hydrocarbon tests to prevent condensation.

Two voluntary consensus standards were identified as appropriate to this proposed rule. The voluntary consensus standard ASTM D6420–99 (2004), ''Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (GC/MS),'' is appropriate in the cases described below for inclusion in this proposed rule in addition to EPA Method 18 codified at 40 CFR part 60, appendix A, for measurement of total nonmethane organic. Therefore, the standard ASTM D6420–99 is cited in this proposed rule.

Similar to EPA's performance-based Method 18, ASTM D6420–99 is also a performance-based method for measurement of total gaseous organic compounds. However, ASTM D6420–99 was written to support the specific use of highly portable and automated GC/MS. While offering advantages over the traditional Method 18, the ASTM method does allow some less stringent criteria for accepting GC/MS results than required by Method 18. Therefore, ASTM D6420–99 is a suitable alternative to Method 18 only where:

(1) The target compound(s) are those listed in section 1.1 of ASTM D6420–99, and

(2) The target concentration is between 150 ppbv and 100 ppmv.

For target compound(s) not listed in section 1.1 of ASTM D6420–99, but potentially detected by mass spectrometry, the regulation specifies that the additional system continuing calibration check after each run, as detailed in section 10.5.3 of the ASTM method, must be followed, met, documented, and submitted with the data report even if there is no moisture condenser used or the compound is not considered water soluble. For target compound(s) not listed in section 1.1 of ASTM D6420–99, and not amenable to detection by mass spectrometry, ASTM D6420–99 does not apply.

As a result, EPA will cite ASTM D6420–99 in this proposed rule. EPA will also cite Method 18 as a GC option in addition to ASTM D6420–99. This will allow the continued use of GC configurations other than GC/MS.

The voluntary consensus standard ASME PTC 19–10–1981—Part 10, ''Flue and Exhaust Gas Analyses,'' is cited in this proposed rule for its manual method for measuring the O_2 content of exhaust gas. This part of ASME PTC 19–10–1981—Part 10 is an acceptable alternative to Method 3B.

The search for emissions measurement procedures identified ten other voluntary consensus standards. EPA determined that nine of these ten standards identified for measuring emissions of the HAP or surrogates subject to emission standards in this proposed rule were impractical alternatives to EPA test methods for the purposes of this proposed rule. Therefore, EPA does not intend to adopt these standards for this purpose. (See the rulemaking docket for the reasons for this determination for these nine standards.)

One of the ten voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this rule because it is under development by a voluntary consensus body: ASME/BSR MFC 13M, ''Flow Measurement by Velocity Traverse,'' possibly for EPA Method 1.

Sections 60.4240 and 63.6620 of this proposed rule lists the testing methods included in the regulation. Under §§ 60.8, 60.13, 63.7(f) and 63.8(f) of subpart A to the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures.

List of Subjects

40 CFR Part 60

Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

40 CFR Part 90

Administrative practice and procedure, Air pollution control.

40 CFR Part 1048

Administrative practice and procedure, Air pollution control.

40 CFR Part 1065

Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements, Research.

40 CFR Part 1068

Administrative practice and procedure, Imports, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements, Warranties.

Dated: May 23, 2006.

Stephen L. Johnson,

Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

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

2. Part 60 is amended by adding subpart JJJJ to read as follows:

Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

What This Subpart Covers

Sec.
60.4230 Am I subject to this subpart?

Emission Standards for Manufacturers

60.4231 What emission standards must I meet if I am a manufacturer of stationary SI internal combustion engines?
60.4232 How long must my engines meet the emission standards if I am a manufacturer of stationary SI internal combustion engines?

Emission Standards for Owners and Operators

60.4233 What emission standards must I meet if I am an owner or operator of a stationary SI internal combustion engine?
60.4234 How long must I meet the emission standards if I am an owner or operator of a stationary SI internal combustion engine?

Other Requirements for Owners and Operators

60.4235 What fuel requirements must I meet if I am an owner or operator of a stationary SI gasoline fired internal combustion engine subject to this subpart?
60.4236 What is the deadline for importing or installing stationary SI ICE produced in the previous model year?
60.4237 What are the monitoring requirements if I am an owner or operator of an emergency stationary SI internal combustion engine?

Compliance Requirements for Manufacturers

60.4238 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines ≤19 KW (25 HP)?
60.4239 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines >19 KW (25 HP) that use gasoline?
60.4240 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines >19 KW (25 HP) that are rich burn engines that use LPG?
60.4241 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines participating in the voluntary certification program?
60.4242 What other requirements must I meet if I am a manufacturer of stationary SI internal combustion engines?

Compliance Requirements for Owners and Operators

60.4243 What are my compliance requirements if I am an owner or operator of a stationary SI internal combustion engine?

Testing Requirements for Owners and Operators

60.4244 What test methods and other procedures must I use if I am an owner or operator of a stationary SI internal combustion engine?

Notification, Reports, and Records for Owners and Operators

60.4245 What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary SI internal combustion engine?

Definitions

60.4246 What definitions apply to this subpart?

Tables to Subpart JJJJ of Part 60

Table 1 to Subpart JJJJ of Part 60—NO_X, NMHC, and CO Emission Standards in g/HP-hr for Stationary SI Engines >25 HP (except Gasoline and Rich Burn LPG Engines)
Table 2 to Subpart JJJJ of Part 60—Requirements for Performance Tests

What This Subpart Covers

§ 60.4230 Am I subject to this subpart?

(a) The provisions of this subpart are applicable to manufacturers, owners, and operators of stationary spark

ignition (SI) internal combustion engines (ICE) as specified in paragraphs (a)(1) through (5) of this section. For the purposes of this subpart, the date that construction commences is the date the engine is ordered by the owner or operator.

(1) Manufacturers of stationary SI ICE with a maximum engine power less than or equal to 19 kilowatt (KW) (25 horsepower (HP)) that are manufactured on or after January 1, 2008.

(2) Manufacturers of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) that are gasoline fueled or that are rich burn engines fueled by liquefied petroleum gas (LPG), where the date of manufacture is:

(i) On or after July 1, 2007, for engines with a maximum engine power greater than or equal to 500 HP,

(ii) On or after January 1, 2008, for engines with a maximum engine power less than 500 HP.

(3) Manufacturers of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) that are not gasoline fueled and are not rich burn engines fueled by LPG, where the manufacturer participates in the voluntary manufacturer certification program described in this subpart and where the date of manufacture is:

(i) On or after July 1, 2007, for engines with a maximum engine power greater than or equal to 500 HP,

(ii) On or after January 1, 2008, for engines with a maximum engine power less than 500 HP,

(iii) On or after January 1, 2009, for emergency engines.

(4) Owners and operators of stationary SI ICE that commence construction after June 12, 2006 where the stationary SI ICE are manufactured:

(i) On or after July 1, 2007, for engines with a maximum engine power greater than or equal to 500 HP,

(ii) On or after January 1, 2008, for engines with a maximum engine power less than 500 HP,

(iii) On or after January 1, 2009, for emergency engines with a maximum engine power greater than 19 KW (25 HP) that are not gasoline fueled and are not rich burn engines fueled by LPG.

(5) Owners and operators of stationary SI ICE that commence modification or reconstruction after June 12, 2006.

(b) The provisions of this subpart are not applicable to stationary SI ICE being tested at an engine test cell/stand.

(c) If you are an owner or operator of an area source subject to this subpart, you are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart as applicable.

(d) For the purposes of this subpart, stationary SI ICE using alcohol-based fuels are considered gasoline engines.

(e) Stationary SI ICE used for national security are eligible for exemption from the requirements of this subpart as described in 40 CFR 1068.225, except that owners and operators, as well as manufacturers, may be eligible to request this exemption.

Emission Standards for Manufacturers

§ 60.4231 What emission standards must I meet if I am a manufacturer of stationary SI internal combustion engines?

(a) Stationary SI internal combustion engine manufacturers must certify their stationary SI ICE with a maximum engine power less than or equal to 19 KW (25 HP) manufactured on or after January 1, 2008 to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90.

(b) Stationary SI internal combustion engine manufacturers must certify their stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) that use gasoline and that are manufactured on or after the applicable date in § 60.4230(a)(2) to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 1048. Stationary SI internal combustion engine manufacturers may certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cubic centimeters (cc) to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90.

(c) Stationary SI internal combustion engine manufacturers must certify their stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) that are rich burn engines that use LPG and that are manufactured on or after the applicable date in § 60.4230(a)(2) to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 1048. Stationary SI internal combustion engine manufacturers may certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90.

(d) Stationary SI internal combustion engine manufacturers of engines with a maximum engine power greater than 19 KW (25 HP) that do not use gasoline and are not rich burn engines that use LPG who choose to certify engines under the voluntary manufacturer certification program described in this subpart must certify those engines to the emission standards in Table 1 to this subpart.

§ 60.4232 How long must my engines meet the emission standards if I am a manufacturer of stationary SI internal combustion engines?

Engines manufactured by stationary SI internal combustion engine manufacturers must meet the emission standards as required in § 60.4231 during the useful life of the engines.

Emission Standards for Owners and Operators

§ 60.4233 What emission standards must I meet if I am an owner or operator of a stationary SI internal combustion engine?

(a) Owners and operators of stationary SI ICE with a maximum engine power less than or equal to 19 KW (25 HP) manufactured on or after January 1, 2008 must comply with the emission standards in § 60.4231(a) for their stationary SI ICE.

(b) Owners and operators of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) manufactured on or after the applicable date in § 60.4230(a)(2) that use gasoline must comply with the emission standards in § 60.4231(b) for their stationary SI ICE.

(c) Owners and operators of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) manufactured on or after the applicable date in § 60.4230(a)(2) that are rich burn engines that use LPG must comply with the emission standards in § 60.4231(c) for their stationary SI ICE.

(d) Owners and operators of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) that do not use gasoline and are not rich burn engines that use LPG must comply with the emission standards in Table 1 to this subpart for their stationary SI ICE. These emission standards include emission standards for stationary SI landfill/digester gas ICE and stationary SI emergency ICE.

(e) Owners and operators of any modified or reconstructed stationary SI ICE subject to this subpart must meet the requirements as specified in paragraphs (e)(1) through (5) of this section.

(1) Owners and operators of stationary SI ICE with a maximum engine power less than or equal to 19 KW (25 HP), that

are modified or reconstructed after June 12, 2006, must comply with the same emission standards as those specified in paragraph (a) of this section.

(2) Owners and operators of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) that use gasoline engines, that are modified or reconstructed after June 12, 2006, must comply with the same emission standards as those specified in paragraph (b) of this section.

(3) Owners and operators of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) that are rich burn engines that use LPG, that are modified or reconstructed after June 12, 2006, must comply with the same emission standards as those specified in paragraph (c) of this section.

(4) Owners and operators of stationary SI natural gas and lean burn LPG engines with a maximum engine power greater than 19 KW (25 HP), that are modified or reconstructed after June 12, 2006, must comply with the same emission standards as those specified in paragraph (d) of this section, except that such owners and operators must meet a nitrogen oxides (NO_X) emission standard of 3.0 grams per HP-hour (g/HP-hr), a carbon monoxide (CO) emission standard of 4.0 g/HP-hr, and a non-methane hydrocarbons (NMHC) emission standard of 1.0 g/HP-hr, where the date of manufacture of the engine is:

(i) Prior to July 1, 2007, for non-emergency engines with a maximum engine power greater than or equal to 500 HP;

(ii) Prior to January 1, 2008, for non-emergency engines with a maximum engine power less than 500 HP;

(iii) Prior to January 1, 2009, for emergency engines.

(5) Owners and operators of stationary SI landfill/digester gas ICE engines with a maximum engine power greater than 19 KW (25 HP), that are modified or reconstructed after June 12, 2006, must comply with the same emission standards as those specified in paragraph (d) of this section for stationary landfill/digester gas engines.

§ 60.4234 How long must I meet the emission standards if I am an owner or operator of a stationary SI internal combustion engine?

Owners and operators of stationary SI ICE must operate and maintain stationary SI ICE that achieve the emission standards as required in § 60.4233 according to the manufacturer's written instructions or procedures developed by the owner or operator that are approved by the engine manufacturer, over the entire life of the engine.

Other Requirements for Owners and Operators

§ 60.4235 What fuel requirements must I meet if I am an owner or operator of a stationary SI gasoline fired internal combustion engine subject to this subpart?

Owners and operators of stationary SI ICE subject to this subpart that use gasoline must use gasoline that meets the per gallon sulfur limit in 40 CFR 80.195.

§ 60.4236 What is the deadline for importing or installing stationary SI ICE produced in the previous model year?

(a) After January 1, 2010, owners and operators may not install stationary SI ICE with a maximum engine power of less than 500 HP that do not meet the applicable requirements in § 60.4233.

(b) After July 1, 2009, owners and operators may not install stationary SI ICE with a maximum engine power of greater than or equal to 500 HP that do not meet the applicable requirements in § 60.4233.

(c) For emergency stationary SI ICE with a maximum engine power of greater than 19 kW (25 HP) that are not gasoline fueled engines and that are not rich burn engines fueled by LPG, owners and operators may not install engines that do not meet the applicable requirements in § 60.4233 after January 1, 2011.

(d) In addition to the requirements specified in §§ 60.4231 and 60.4233, it is prohibited to import stationary SI ICE ≤19 KW (25 HP), stationary rich burn LPG SI ICE, and stationary gasoline SI ICE that do not meet the applicable requirements specified in paragraphs (a) and (b) of this section, after the date specified in paragraph (a) and (b) of this section.

(e) The requirements of this section do not apply to owners and operators of stationary SI ICE that have been modified or reconstructed, and they do not apply to engines that were removed from one existing location and reinstalled at a new location.

§ 60.4237 What are the monitoring requirements if I am an owner or operator of an emergency stationary SI internal combustion engine?

If you are an owner or operator of an emergency stationary SI internal combustion engine, you must install a non-resettable hour meter prior to startup of the engine.

Compliance Requirements for Manufacturers

§ 60.4238 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines ≤19 KW (25 HP)?

Stationary SI internal combustion engine manufacturers who are subject to the emission standards specified in § 60.4231(a) must certify their stationary SI ICE using the certification procedures required in 40 CFR part 90, subpart B, and must test their engines as specified in that part.

§ 60.4239 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines >19 KW (25 HP) that use gasoline?

Stationary SI internal combustion engine manufacturers who are subject to the emission standards specified in § 60.4231(b) must certify their stationary SI ICE using the certification procedures required in 40 CFR part 1048, subpart C, and must test their engines as specified in that part. Stationary SI internal combustion engine manufacturers who certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90 must certify their stationary SI ICE using the certification procedures required in 40 CFR part 90, subpart B, and must test their engines as specified in that part.

§ 60.4240 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines >19 KW (25 HP) that are rich burn engines that use LPG?

Stationary SI internal combustion engine manufacturers who are subject to the emission standards specified in § 60.4231(c) must certify their stationary SI ICE using the certification procedures required in 40 CFR part 1048, subpart C, and must test their engines as specified in that part. Stationary SI internal combustion engine manufacturers who certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90 must certify their stationary SI ICE using the certification procedures required in 40 CFR part 90, subpart B, and must test their engines as specified in that part.

§ 60.4241 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines participating in the voluntary certification program?

(a) Manufacturers of stationary SI internal combustion engines with a maximum engine power greater than 19 KW (25 HP) that do not use gasoline and are not rich burn engines that use LPG can choose to certify their engines to the emission standards in § 60.4231(d) under the voluntary certification program described in this subpart. Manufacturers who certify their engines under the voluntary certification program must meet the requirements as specified in paragraphs (b) through (g) of this section.

(b) Manufacturers must certify their stationary SI ICE using the certification procedures required in 40 CFR part 1048, subpart C, and must follow the same test procedures that apply to large SI nonroad engines under 40 CFR part 1048, but must use the D–2 cycle of International Organization of Standardization 8178–4 specified in Table 3 to 40 CFR 1048.505.

(c) Certification of stationary SI ICE to the emission standards specified in § 60.4231(d) is voluntary. However, once the manufacturer produces stationary SI ICE certified to the emission standards specified in § 60.4231(d) for a given model year, the requirements on the manufacturer for such stationary SI ICE are not voluntary.

(d) Manufacturers of natural gas fired stationary SI ICE who conduct voluntary certification of stationary SI ICE to the emission standards specified in § 60.4231(d) must certify their engines for operation using fuel that meets the definition of pipeline-quality natural gas. The fuel used for certifying stationary SI natural gas engines must meet the definition of pipeline-quality natural gas as described in § 60.4246. In addition, the manufacturer must provide information to the owner and operator of the certified stationary SI engine including the specifications of the pipeline-quality natural gas to which the engine is certified and what adjustments the owner or operator must make to the engine when installed in the field to ensure compliance with the emission standards.

(e) Manufacturers of stationary SI ICE that are lean burn engines fueled by LPG who conduct voluntary certification of stationary SI ICE to the emission standards specified in § 60.4231(d) must certify their engines for operation using fuel that meets the specifications in 40 CFR 1065.720.

(f) Manufacturers may certify their engines for operation using gaseous fuels in addition to pipeline-quality natural gas; however, the manufacturer must specify the properties of that fuel and provide testing information showing that the engine will meet the emission standards specified in § 60.4231(d) when operating on that fuel. The manufacturer must also provide instructions for configuring the stationary engine to meet the emission standards on fuels that do not meet the pipeline-quality natural gas definition. The manufacturer must also provide information to the owner and operator of the certified stationary SI engine regarding the configuration that is most conducive to reduced emissions where the engine will be operated on particular fuels to which the engine is not certified.

(g) A stationary SI engine manufacturer may certify an engine family solely to the standards applicable to landfill/digester gas engines as specified in § 60.4231(d), but must certify their engines for operation using landfill/digester gas and must add a permanent label stating that the engine is for use only in landfill/digester gas applications. The label must be added according to the labeling requirements specified in 40 CFR 1048.135(b).

§ 60.4242 What other requirements must I meet if I am a manufacturer of stationary SI internal combustion engines?

(a) Stationary SI internal combustion engine manufacturers must meet the provisions of 40 CFR part 90 or 40 CFR part 1048, as applicable, as well as 40 CFR part 1068 for engines that are certified to the emission standards in 40 CFR part 1048, except that engines certified pursuant to the voluntary certification procedures in § 60.4241 are permitted to provide instructions to owners and operators allowing for deviations from certified configurations, if such deviations are consistent with the provisions of paragraphs § 60.4241(c) through (f). Labels on engines certified to 40 CFR part 1048 must refer to stationary engines, rather than or in addition to nonroad engines, as appropriate.

(b) An engine manufacturer certifying an engine family or families to standards under this subpart that are identical to standards applicable under 40 CFR part 90 or 40 CFR part 1048 for that model year may certify any such family that contains both nonroad and stationary engines as a single engine family and/or may include any such family containing stationary engines in the averaging, banking and trading provisions applicable for such engines under those parts.

(c) Manufacturers of engine families certified to 40 CFR part 1048 may meet the labeling requirements referred to in paragraph (a) of this section for stationary SI ICE by either adding a separate label containing the information required in paragraph (a) of this section or by adding the words ''and stationary'' after the word ''nonroad'' to the label.

(d) For all engines manufactured on or after January 1, 2011, a stationary SI engine manufacturer that certifies an engine family solely to the standards applicable to emergency engines must add a permanent label stating that the engines in that family are for emergency use only. The label must be added according to the labeling requirements specified in 40 CFR 1048.135(b).

Compliance Requirements for Owners and Operators

§ 60.4243 What are my compliance requirements if I am an owner or operator of a stationary SI internal combustion engine?

(a) If you are an owner or operator, you must operate and maintain the stationary SI internal combustion engine and control device according to the manufacturer's written instructions or procedures developed by the owner or operator that are approved by the engine manufacturer. In addition, owners and operators of certified engines may only change those settings that are allowed by the manufacturer to ensure compliance with the applicable emission standards. If you own or operate a stationary SI internal combustion engine that is certified to 40 CFR part 90 or 1048, you must also meet the requirements of 40 CFR parts 90, 1048, and/or part 1068, as they apply to you.

(b) If you are an owner or operator of a stationary SI internal combustion engine that is manufactured after July 1, 2007, for engines with maximum engine power at or above 500 HP, or January 1, 2008, for engines with maximum engine power below 500 HP, and must comply with the emission standards specified in § 60.4233(a) through (c), you must comply by purchasing an engine certified to the emission standards in § 60.4231(a) through (c), as applicable, for the same engine class and maximum engine power. The engine must be installed and configured according to the manufacturer's specifications.

(c) If you are an owner or operator of a stationary SI internal combustion engine and must comply with the emission standards specified in § 60.4233(d), you must demonstrate compliance according to one of the

methods specified in paragraphs (c)(1) and (2) of this section.

(1) Purchasing an engine certified according to procedures specified in this subpart, for the same model year. The engine must be installed and configured according to the manufacturer's specifications to ensure compliance with the applicable standards. Owners and operators of engines that have been certified by the engine manufacturer are not required to conduct any performance testing unless the engine is operated outside of the fuel properties specified by the manufacturer. If the owner or operator uses fuels outside of the fuel specifications (other than propane used solely for emergency purposes for up to 100 hours per year) or does not follow the adjustments specified by the manufacturer, the engine is no longer considered a certified engine and the owner or operator must test the engine to demonstrate compliance, according to the procedures specified in § 60.4244.

(2) Conducting an initial performance test to demonstrate compliance with the emission standards specified in Table 1 to this subpart and according to the requirements specified in § 60.4244, as applicable. If you are an owner or operator of a stationary SI internal combustion engine that is greater than 500 HP, you must also conduct subsequent performance tests every 3 years or 8,760 hours of operation, whichever comes first.

(d) If you are an owner or operator of a stationary SI internal combustion engine that must comply with the emission standards specified in § 60.4233(e), you must demonstrate compliance according paragraph (c)(2) of this section.

(e) Emergency stationary ICE may be operated for the purpose of maintenance checks and readiness testing, provided that the tests are recommended by Federal, State or local government, the manufacturer, the vendor, or the insurance company associated with the engine. Maintenance checks and readiness testing of such units is limited to 100 hours per year. There is no time limit on the use of emergency stationary ICE in emergency situations. The owner or operator may petition the Administrator for approval of additional hours to be used for maintenance checks and readiness testing, but a petition is not required if the owner or operator maintains records indicating that Federal, State, or local standards require maintenance and testing of emergency ICE beyond 100 hours per year. For owners and operators of emergency engines, any operation other than emergency operation and maintenance and testing as permitted in this section, is prohibited.

(f) Owners and operators of stationary SI natural gas fired engines may operate their engines using propane for a maximum of 100 hours per year as an alternative fuel solely during emergency operations, but must keep records of such use. If propane is used for more than 100 hours per year in an engine that is not certified to the emission standards when using propane, the owners and operators are required to conduct a performance test to demonstrate compliance with the emission standards of § 60.4233.

Testing Requirements for Owners and Operators

§ 60.4244 What test methods and other procedures must I use if I am an owner or operator of a stationary SI internal combustion engine?

Owners and operators of stationary SI ICE who conduct performance tests must follow the procedures in paragraphs (a) through (f) of this section.

(a) Each performance test must be conducted according to the requirements in § 60.8 and under the specific conditions that are specified by Table 2 to this subpart.

(b) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 60.8(c).

(c) You must conduct three separate test runs for each performance test required in this section, as specified in § 60.8(f). Each test run must last at least 1 hour.

(d) To determine compliance with the NO_X mass per unit output emission limitation, convert the concentration of NO_X in the engine exhaust using Equation 1 of this section:

$$ER = \frac{C_d \times 1.912 \times 10^{-3} \times Q \times T}{HP - hr} \qquad \text{(Eq. 1)}$$

Where:

ER = Emission rate of NO_X in g/HP-hr.

C_d = Measured NO_X concentration in parts per million (ppm).

1.912×10^{-3} = Conversion constant for ppm NO_X to grams per standard cubic meter at 25 degrees Celsius.

Q = Stack gas volumetric flow rate, in standard cubic meter per hour.

T = Time of test run, in hours.

HP-hr = Brake work of the engine, horsepower-hour (HP-hr).

(e) To determine compliance with the CO mass per unit output emission limitation, convert the concentration of CO in the engine exhaust using Equation 2 of this section:

$$ER = \frac{C_d \times 1.164 \times 10^{-3} \times Q \times T}{HP - hr} \qquad \text{(Eq. 2)}$$

Where:

ER = Emission rate of CO in g/HP-hr.

C_d = Measured CO concentration in ppm.

1.164×10^{-3} = Conversion constant for ppm CO to grams per standard cubic meter at 25 degrees Celsius.

Q = Stack gas volumetric flow rate, in standard cubic meters per hour.

T = Time of test run, in hours.

HP-hr = Brake work of the engine, in HP-hr.

(f) To determine compliance with the NMHC mass per unit output emission limitation, convert the concentration of NMHC in the engine exhaust using Equation 3 of this section:

$$ER = \frac{C_d \times 1.832 \times 10^{-3} \times Q \times T}{HP - hr} \qquad \text{(Eq. 3)}$$

Where:

ER = Emission rate of NMHC in g/HP-hr.

C_d = NMHC concentration measured as propane in ppm.

1.832×10^{-3} = Conversion constant for ppm NMHC measured as propane, to grams per standard cubic meter at 25 degrees Celsius.

Q = Stack gas volumetric flow rate, in standard cubic meters per hour.

T = Time of test run, in hours.

HP-hr = Brake work of the engine, in HP-hr.

Notification, Reports, and Records for Owners and Operators

§ 60.4245 What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary SI internal combustion engine?

Owners or operators of stationary SI ICE must meet the following notification, reporting and recordkeeping requirements.

(a) Owners and operators of all stationary SI ICE must keep records of the information in paragraphs (a)(1) through (4) of this section.

(1) All notifications submitted to comply with this subpart and all documentation supporting any notification.

(2) Maintenance conducted on the engine.

(3) If the stationary SI internal combustion engine is a certified engine, documentation from the manufacturer that the engine is certified to meet the emission standards and information as required in 40 CFR parts 90 and 1048.

(4) If the stationary SI internal combustion engine is not a certified engine, documentation that the engine meets the emission standards.

(b) The owner or operator of stationary SI emergency ICE must keep records of the hours of operation of the engine that is recorded through the non-resettable hour meter. The owner or operator must document how many hours are spent for emergency operation, including what classified the operation as emergency and how many hours are spent for non-emergency operation.

(c) Owners and operators of stationary SI ICE greater than or equal to 500 HP that have not been certified by an engine manufacturer to meet the emission standards in § 60.4231 must submit an initial notification as required in § 60.7(a)(1). The notification must include the information in paragraphs (c)(1) through (5) of this section.

(1) Name and address of the owner or operator;

(2) The address of the affected source;

(3) Engine information including make, model, engine family, serial number, model year, maximum engine power, and engine displacement;

(4) Emission control equipment; and

(5) Fuel used.

(d) Owners and operators of stationary SI ICE that have not been certified by an engine manufacturer to meet the emission standards in § 60.4231 must submit a copy of each performance test as conducted in § 60.4244 within 30 days after the test has been completed.

Definitions

§ 60.4246 What definitions apply to this subpart?

As used in this subpart, all terms not defined herein shall have the meaning given them in the CAA and in subpart A of this part.

Certified stationary internal combustion engine means an engine that belongs to an engine family that has a certificate of conformity that complies with the emission standards and requirements in this part, or of 40 CFR part 90 or 40 CFR part 1048, as appropriate.

Combustion turbine means all equipment, including but not limited to the turbine, the fuel, air, lubrication and exhaust gas systems, control systems (except emissions control equipment), and any ancillary components and sub-components comprising any simple cycle combustion turbine, any regenerative/recuperative cycle combustion turbine, the combustion turbine portion of any cogeneration cycle combustion system, or the combustion turbine portion of any combined cycle steam/electric generating system.

Compression ignition means relating to a type of stationary internal combustion engine that is not a spark ignition engine.

Diesel fuel means any liquid obtained from the distillation of petroleum with a boiling point of approximately 150 to 360 degrees Celsius. One commonly used form is number 2 distillate oil.

Digester gas means any gaseous by-product of wastewater treatment typically formed through the anaerobic decomposition of organic waste materials and composed principally of methane and CO_2.

Emergency stationary internal combustion engine means any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary SI ICE used for peak shaving are not considered emergency stationary ICE.

Engine manufacturer means the manufacturer of the engine. See the definition of ''manufacturer'' in this section.

Four-stroke engine means any type of engine which completes the power cycle in two crankshaft revolutions, with intake and compression strokes in the first revolution and power and exhaust strokes in the second revolution.

Gasoline means any fuel sold in any State for use in motor vehicles and motor vehicle engines, or nonroad or stationary engines, and commonly or commercially known or sold as gasoline.

Landfill gas means a gaseous byproduct of the land application of municipal refuse typically formed through the anaerobic decomposition of waste materials and composed principally of methane and CO_2.

Lean burn engine means any two-stroke or four-stroke spark ignited engine that does not meet the definition of a rich burn engine.

Liquefied petroleum gas means any liquefied hydrocarbon gas obtained as a by-product in petroleum refining of natural gas production.

Manufacturer has the meaning given in section 216(1) of the Clean Air Act. In general, this term includes any person who manufactures a stationary engine for sale in the United States or otherwise introduces a new stationary engine into commerce in the United States. This includes importers who import stationary engines for resale.

Maximum engine power means maximum engine power as defined in 40 CFR 1048.801.

Model year means either: The calendar year in which the engine was originally produced, or the annual new model production period of the engine manufacturer if it is different than the calendar year. This must include January 1 of the calendar year for which the model year is named. It may not begin before January 2 of the previous calendar year, and it must end by December 31 of the named calendar year. For an engine that is converted to a stationary engine after being placed into service as a nonroad or other non-stationary engine, model year means the calendar year or new model production period in which the engine was originally produced.

Natural gas means a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the Earth's

surface, of which the principal constituent is methane. Natural gas may be field or pipeline quality.

Non-methane hydrocarbons means the difference between the emitted mass of total hydrocarbons and the emitted mass of methane.

Other internal combustion engine means any internal combustion engine, except combustion turbines, which is not a reciprocating internal combustion engine or rotary internal combustion engine.

Pipeline-quality natural gas means a naturally occurring fluid mixture of hydrocarbons (e.g., methane, ethane, or propane) produced in geological formations beneath the Earth's surface that maintains a gaseous state at standard atmospheric temperature and pressure under ordinary conditions, and which is provided by a supplier through a pipeline. Pipeline-quality natural gas must either be composed of at least 70 percent methane by volume or have a gross calorific value between 950 and 1,100 British thermal units per standard cubic foot.

Reciprocating internal combustion engine means any internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work.

Rich burn engine means any four-stroke spark ignited engine where the manufacturer's recommended operating air/fuel ratio divided by the stoichiometric air/fuel ratio at full load conditions is less than or equal to 1.1. Engines originally manufactured as rich burn engines, but modified prior to June 12, 2006 with passive emission control technology for NO_X (such as pre-combustion chambers) will be considered lean burn engines. Also, existing engines where there are no manufacturer's recommendations regarding air/fuel ratio will be considered a rich burn engine if the excess oxygen content of the exhaust at full load conditions is less than or equal to 2 percent.

Rotary internal combustion engine means any internal combustion engine which uses rotary motion to convert heat energy into mechanical work.

Spark ignition means relating to either: A gasoline-fueled engine; or any other type of engine with a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark ignition engines usually use a throttle to regulate intake air flow to control power during normal operation. Dual-fuel engines in which a liquid fuel (typically diesel fuel) is used for compression ignition and gaseous fuel (typically natural gas) is used as the primary fuel at an annual average ratio of less than 2 parts diesel fuel to 100 parts total fuel on an energy equivalent basis are spark ignition engines.

Stationary internal combustion engine means any internal combustion engine, except combustion turbines, that converts heat energy into mechanical work and is not mobile. Stationary ICE differ from mobile ICE in that a stationary internal combustion engine is not a nonroad engine as defined at 40 CFR 1068.30, and is not used to propel a motor vehicle or a vehicle used solely for competition. Stationary ICE include reciprocating ICE, rotary ICE, and other ICE, except combustion turbines.

Stationary internal combustion engine test cell/stand means an engine test cell/stand, as defined in subpart PPPPP of this part, that test stationary ICE.

Stoichiometric means the theoretical air-to-fuel ratio required for complete combustion.

Subpart means 40 CFOFR part 60, subpart JJJJ.

Total hydrocarbons means the combined mass of organic compounds measured by the specified procedure for measuring total hydrocarbon, expressed as a hydrocarbon with a hydrogen-to-carbon mass ratio of 1.85:1.

Two-stroke engine means a type of engine which completes the power cycle in single crankshaft revolution by combining the intake and compression operations into one stroke and the power and exhaust operations into a second stroke. This system requires auxiliary scavenging and inherently runs lean of stoichiometric.

Useful life means the period during which the engine is designed to properly function in terms of reliability and fuel consumption, without being remanufactured, specified as a number of hours of operation or calendar years, whichever comes first. The values for useful life for stationary SI ICE with a maximum engine power less than or equal to 19 KW (25 HP) are given in 40 CFR 90.105. The values for useful life for stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) certified to 40 CFR part 1048 are given in 40 CFR 1048.101(g). The useful life for stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) certified under the voluntary manufacturer certification program of this subpart is 8,000 hours or 10 years, whichever comes first.

Voluntary certification program means an optional engine certification program that manufacturers of stationary SI internal combustion engines with a maximum engine power greater than 19 KW (25 HP) that do not use gasoline and are not rich burn engines that use LPG can choose to participate in to certify their engines to the emission standards in § 60.4231(d).

Tables to Subpart JJJJ of Part 60

TABLE 1 TO SUBPART JJJJ OF PART 60.—NO_X, NMHC, AND CO EMISSION STANDARDS IN G/HP-HR FOR STATIONARY SI ENGINES >25 HP

[Except gasoline and rich burn LPG engines]

Engine type and fuel	Maximum engine power	Manufacture date [a]	Emission standards in g/HP-hr		
			NO_X	CO	NMHC
Non-Emergency SI Natural Gas	25<HP<500 [a]	January 1, 2008	2.0	4.0	1.0
and					
Non-Emergency SI Lean Burn LPG		January 1, 2011	1.0	2.0	0.7
Non-Emergency SI Natural Gas	HP≥500	July 1, 2007	2.0	4.0	1.0
and					
Non-Emergency SI Lean Burn LPG		July 1, 2010	1.0	2.0	0.7
Landfill/Digester Gas	HP<500	January 1, 2008	3.0	5.0	1.0
		January 1, 2011	2.0	5.0	1.0
	HP ≥500	July 1, 2007	3.0	5.0	1.0
		July 1, 2010	2.0	5.0	1.0

TABLE 1 TO SUBPART JJJJ OF PART 60.—NO_X, NMHC, AND CO EMISSION STANDARDS IN G/HP-HR FOR STATIONARY SI ENGINES >25 HP—Continued

[Except gasoline and rich burn LPG engines]

Engine type and fuel	Maximum engine power	Manufacture date [a]	Emission standards in g/HP-hr		
			NO_X	CO	NMHC
Emergency	All Sizes	January 1, 2009	2.0	4.0	1.0

[a] Stationary SI natural gas and lean burn LPG engines between 25 and 50 HP may comply with the requirements of 40 CFR part 1048, instead of this table. Stationary SI internal combustion engine manufacturers may certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90.

TABLE 2 TO SUBPART JJJJ OF PART 60.—REQUIREMENTS FOR PERFORMANCE TESTS

As stated in § 60.4244, you must comply with the following requirements for performance tests:

For each	Complying with the requirement	You must	Using	According to the following requirements
Stationary SI internal combustion engine demonstrating compliance according to § 60.4243(c)(2).	a. limit the concentration of NO_X in the stationary SI internal combustion engine exhaust.	i. Select the sampling port location and the number of traverse points;	(1) Method 1 or 1A of 40 CFR part 60, Appendix A or ASTM method D6522–00 (2005).	(a) If using a control device, the sampling site must be located at the outlet of the control device.
		ii. If necessary, measure moisture content of the stationary internal combustion engine exhaust at the sampling port location; and	(2) Method 4 of 40 CFR part 60, appendix A.	(b) Measurements to determine moisture must be made at the same time as the measurement for NO_X concentration.
		iii. Measure NO_X at the exhaust of the stationary internal combustion engine.	(3) Method 7E of 40 CFR part 60, appendix A, or Method D6522–00 (2005).	(c) Results of this test consist of the average of the three 1-hour or longer runs.
	b. limit the concentration of CO in the stationary SI internal combustion engine exhaust.	i. Select the sampling port location and the number of traverse points;	(1) Method 1 or 1A of 40 CFR part 60, Appendix A.	(a) If using a control device, the sampling site must be located at the outlet of the control device.
		ii. If necessary, measure moisture content of the stationary internal combustion engine exhaust at the sampling port location; and	(2) Method 4 of 40 CFR part 60, appendix A.	(b) Measurements to determine moisture must be made at the same time as the measurement for CO concentration.
		iii. Measure CO at the exhaust of the stationary internal combustion engine.	(3) Method 10 of 40 CFR part 60, appendix A, or ASTM Method D6522–00 (2005).	(c) Results of this test consist of the average of the three 1-hour or longer runs.
	c. limit the concentration of NMHC in the stationary SI internal combustion engine exhaust.	i. Select the sampling port location and the number of traverse points;	(1) Method 1 or 1A of 40 CFR part 60, Appendix A.	(a) If using a control device, the sampling site must be located at the outlet of the control device.
		ii. If necessary, measure moisture content of the stationary internal combustion engine exhaust at the sampling port location; and	(2) Method 4 of 40 CFR part 60, appendix A.	(b) Measurements to determine moisture must be made at the same time as the measurement for NMHC concentration.
	.....	iii. Measure NMHC at the exhaust of the stationary internal combustion engine.	(3) Method 25 or Methods 25A and 18 of part 40 CFR part 60, appendix A.	(c) Results of this test consist of the average of the three 1-hour or longer runs.

PART 63—[AMENDED]

3. The authority citation for part 63 continues to read as follows:

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

Subpart A—[Amended]

4. Section 63.14 is amended by revising paragraph (b)(27) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(b) * * *

(27) ASTM D6522–00 (2005), Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide,

and Oxygen Concentrations in Emissions from Natural Gas Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers, IBR approved for § 63.9307(c)(2) and Table 5 to subpart ZZZZ of part 63.

* * * * *

5. Section 63.6580 is revised to read as follows:

§ 63.6580 What is the purpose of subpart ZZZZ?

Subpart ZZZZ establishes national emission limitations and operating limitations for hazardous air pollutants (HAP) emitted from stationary reciprocating internal combustion engines (RICE) located at major and area sources of HAP emissions. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and operating limitations.

6. Section 63.6585 is amended by revising the introductory text and adding paragraphs (c) and (d) to read as follows:

§ 63.6585 Am I subject to this subpart?

You are subject to this subpart if you own or operate a stationary RICE at a major or area source of HAP emissions, except if the stationary RICE is being tested at a stationary RICE test cell/stand.

* * * * *

(c) An area source of HAP emissions is a source that is not a major source.

(d) If you are an owner or operator of an area source subject to this subpart, you are exempt from the obligation to obtain a permit under 40 CFR parts 70 or 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart as applicable.

7. Section 63.6590 is amended by revising paragraphs (a), (b)(1) introductory text, (b)(2), and (b)(3), to read as follows:

§ 63.6590 What parts of my plant does this subpart cover?

This subpart applies to each affected source.

(a) *Affected source.* An affected source is any existing, new, or reconstructed stationary RICE located at a major or area source of HAP emissions, excluding stationary RICE being tested at a stationary RICE test cell/stand.

(1) *Existing stationary RICE.* (i) For stationary RICE with a site rating of more than 500 brake horsepower (HP) located at a major source of HAP emissions, a stationary RICE is existing if you commenced construction or reconstruction of the stationary RICE before December 19, 2002.

(ii) For stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions, a stationary RICE is existing if you commenced construction or reconstruction of the stationary RICE before June 12, 2006.

(iii) For stationary RICE located at an area source of HAP emissions, a stationary RICE is existing if you commenced construction or reconstruction of the stationary RICE before June 12, 2006.

(iv) A change in ownership of an existing stationary RICE does not make that stationary RICE a new or reconstructed stationary RICE.

(2) *New stationary RICE.* (i) A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is new if you commenced construction of the stationary RICE on or after December 19, 2002.

(ii) A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is new if you commenced construction of the stationary RICE on or after June 12, 2006.

(iii) A stationary RICE located at an area source of HAP emissions is new if you commenced construction of the stationary RICE on or after June 12, 2006.

(3) *Reconstructed stationary RICE.* (i) A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is reconstructed if you meet the definition of reconstruction in § 63.2 and reconstruction is commenced on or after December 19, 2002.

(ii) A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is reconstructed if you meet the definition of reconstruction in § 63.2 and reconstruction is commenced on or after June 12, 2006.

(iii) A stationary RICE located at an area source of HAP emissions is reconstructed if you meet the definition of reconstruction in § 63.2 and reconstruction is commenced on or after June 12, 2006.

(b) * * *

(1) An affected source which meets either of the criteria in paragraph (b)(1)(i) through (ii) of this section does not have to meet the requirements of this subpart and of subpart A of this part except for the initial notification requirements of § 63.6645(h).

* * * * *

(2) A new or reconstructed stationary RICE which combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis must meet the initial notification requirements of § 63.6645(h) and the requirements of §§ 63.6625(c), 63.6650(g), and 63.6655(c). These stationary RICE do not have to meet the emission limitations and operating limitations of this subpart.

(3) A stationary RICE which is an existing spark ignition 2 stroke lean burn (2SLB) stationary RICE, an existing spark ignition 4 stroke lean burn (4SLB) stationary RICE, an existing 4 stroke rich burn (4SRB) stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions, an existing 4SRB stationary RICE located at an area source of HAP emissions, an existing compression ignition (CI) stationary RICE, an existing emergency stationary RICE, an existing limited use stationary RICE, or an existing stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, does not have to meet the requirements of this subpart and of subpart A of this part. No initial notification is necessary.

8. Section 63.6595 is amended by revising paragraphs (a) and (b)(2) to read as follows:

§ 63.6595 When do I have to comply with this subpart?

(a) *Affected Sources.* (1) If you have an existing stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you must comply with the applicable emission limitations and operating limitations no later than June 15, 2007.

(2) If you start up your new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions before August 16, 2004, you must comply with the applicable emission limitations and operating limitations in this subpart no later than August 16, 2004.

(3) If you start up your new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions after August 16, 2004, you must comply with the applicable emission limitations and operating limitations in this subpart upon startup of your affected source.

(4) If you start up your new or reconstructed stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions before [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must comply with the applicable emission limitations and operating limitations in this subpart no later than [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

(5) If you start up your new or reconstructed stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must comply with the applicable emission limitations and operating limitations in this subpart upon startup of your affected source.

(6) If you start up your new or reconstructed stationary RICE located at an area source of HAP emissions before [DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER], you must comply with the applicable emission limitations and operating limitations in this subpart no later than [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

(7) If you start up your new or reconstructed stationary RICE located at an area source of HAP emissions after [DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER], you must comply with the applicable emission limitations and operating limitations in this subpart upon startup of your affected source.

(b) * * *

(2) Any stationary RICE for which construction or reconstruction is commenced before your area source becomes a major source of HAP must be in compliance with the provisions of this subpart that are applicable to RICE located at major sources within 3 years after your area source becomes a major source of HAP.

* * * * *

9. Section 63.6600 is revised to read as follows:

§ 63.6600 What emission limitations and operating limitations must I meet if I own or operate a stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions?

(a) If you own or operate an existing, new, or reconstructed spark ignition 4SRB stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you must comply with the emission limitations in Table 1a to this subpart and the operating limitations in Table 1b to this subpart which apply to you.

(b) If you own or operate a new or reconstructed 2SLB or 4SLB stationary RICE with a site rating of more than 500 brake HP located at major source of HAP emissions or a new or reconstructed CI stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you must comply with the emission limitations in Table 2a to this subpart and the operating limitations in Table 2b to this subpart which apply to you.

(c) If you own or operate any of the following RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with the emission limitations in Tables 1a and 2a to this subpart or operating limitations in Tables 1b and 2b to this subpart: an existing 2SLB stationary RICE, an existing 4SLB stationary RICE, or an existing CI stationary RICE; a stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis; an emergency stationary RICE; or a limited use stationary RICE.

10. Section 63.6601 is added to read as follows:

§ 63.6601 What emission limitations must I meet if I own or operate a stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions or a stationary RICE located at an area source of HAP emissions?

(a) If you own or operate a new or reconstructed stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions or a new or reconstructed stationary RICE located at an area source of HAP emissions, you must comply with the emission limitations in Table 3 to this subpart which apply to you.

(b) If you own or operate an existing stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions or an existing stationary RICE located at an area source, you do not need to comply with the emission limitations in Table 3 to this subpart.

11. Section 63.6610 is amended by revising the section heading, adding introductory text, and revising paragraphs (a) through (c) to read as follows:

§ 63.6610 By what date must I conduct the initial performance tests or other initial compliance demonstrations if I own or operate a stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions?

If you own or operate a stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions you are subject to the requirements of this section.

(a) You must conduct the initial performance test or other initial compliance demonstrations in Table 5 to this subpart that apply to you within 180 days after the compliance date that is specified for your stationary RICE in § 63.6595 and according to the provisions in § 63.7(a)(2).

(b) If you commenced construction or reconstruction between December 19, 2002 and June 15, 2004 and own or operate stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you must demonstrate initial compliance with either the proposed emission limitations or the promulgated emission limitations no later than February 10, 2005 or no later than 180 days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

(c) If you commenced construction or reconstruction between December 19, 2002 and June 15, 2004 and own or operate stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, and you chose to comply with the proposed emission limitations when demonstrating initial compliance, you must conduct a second performance test to demonstrate compliance with the promulgated emission limitations by December 13, 2007 or after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

* * * * *

12. Section 63.6611 is added to read as follows:

§ 63.6611 By what date must I conduct the initial performance tests or other initial compliance demonstrations if I own or operate a stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions or a stationary RICE located at an area source of HAP emissions?

(a) If you own or operate a new or reconstructed 4SLB stationary RICE with a site rating of greater than or equal to 250 and less than or equal to 500 brake HP located at a major source of HAP emissions, you must conduct an initial performance test within 240 days after the compliance date that is specified for your stationary RICE in § 63.6595 and according to the

provisions specified in Table 5 to this subpart, as appropriate.

(b) If you own or operate a new or reconstructed uncertified stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions or a new or reconstructed uncertified stationary RICE located at an area source of HAP emissions you must conduct an initial performance test within 240 days after the compliance date that is specified for your stationary RICE in § 63.6595 and according to the provisions specified in Table 5 to this subpart, as appropriate.

(c) If you own or operate a new or reconstructed certified stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions or a certified stationary RICE located at an area source of HAP emissions you are not required to conduct an initial performance test.

13. Section 63.6615 is revised to read as follows:

§ 63.6615 When must I conduct subsequent performance tests?

If you must comply with the emission limitations and operating limitations, you must conduct subsequent performance tests as specified in Table 4 to this subpart.

14. Section 63.6620 is amended by revising paragraphs (a) and (b) and adding paragraph (j) to read as follows:

§ 63.6620 What performance tests and other procedures must I use?

(a) You must conduct each performance test in Tables 4 and 5 to this subpart that applies to you.

(b) Each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions that this subpart specifies in Table 5. The test must be conducted at any load condition within plus or minus 10 percent of 100 percent load.

* * * * *

(j) To determine compliance with the non-methane hydrocarbons (NMHC) mass per unit output emission limitation, you must use Equation 5 of this section:

$$ER = \frac{C_d \times 1.832 \times 10^{-3} \times Q \times T}{HP - hr} \qquad \text{(Eq. 5)}$$

Where:

ER = Emission rate of NMHC in g/HP-hr.

C_d = NMHC concentration measured as propane in ppm.

1.832×10^{-3} = Conversion constant for ppm NMHC measured as propane, to grams per standard cubic meter at 25 degrees Celsius.

Q = Stack gas volumetric flow rate, in standard cubic meters per hour.

T = Time of test run, in hours.

HP-hr = Brake work of the engine, in HP-hr.

15. Section 63.6625 is amended by revising the introductory text of paragraph (a), revising paragraph (b), and adding paragraphs (d), (e), and (f) to read as follows:

§ 63.6625 What are my monitoring, installation, operation, and maintenance requirements?

(a) If you elect to install a continuous emissions monitoring system (CEMS) as specified in Table 6 of this subpart, you must install, operate, and maintain a CEMS to monitor CO and either oxygen or CO_2 at both the inlet and the outlet of the control device according to the requirements in paragraphs (a)(1) through (4) of this section.

* * * * *

(b) If you are required to install a continuous parameter monitoring system (CPMS) as specified in Table 6 to this subpart, you must install, operate, and maintain each CPMS according to the requirements in § 63.8.

* * * * *

(d) If you are operating a new or reconstructed emergency stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions or a new or reconstructed stationary RICE located at an area source of HAP emissions, you must install a non-resettable hour meter prior to the startup of the engine.

(e) If you are operating a new or reconstructed stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions or a new or reconstructed stationary RICE located at an area source of HAP emissions, you must operate and maintain the stationary RICE and control device according to the manufacturer's written instructions or procedures developed by the owner or operator that are approved by the engine manufacturer.

(f) If you are operating a new or reconstructed certified stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions (except new or reconstructed 4SLB stationary RICE with a site rating of equal to or greater than 250 brake HP and less than or equal to 500 brake HP located at a major source of HAP emissions) or a new or reconstructed certified stationary RICE located at an area source, you may only change those settings that are allowed by the manufacturer.

16. Section 63.6630 is amended by revising paragraph (a) to read as follows:

§ 63.6630 How do I demonstrate initial compliance with the emission limitations and operating limitations?

(a) You must demonstrate initial compliance with each emission and operating limitation that applies to you according to Table 6 to this subpart.

* * * * *

17. Section 63.6640 is amended by revising paragraphs (a), (b), and (e) and adding paragraph (f) to read as follows:

§ 63.6640 How do I demonstrate continuous compliance with the emission limitations and operating limitations?

(a) You must demonstrate continuous compliance with each emission limitation and operating limitation in Tables 1a and 1b, Tables 2a and 2b, and Table 3 to this subpart that apply to you according to methods specified in Table 7 to this subpart.

(b) You must report each instance in which you did not meet each emission limitation or operating limitation in Tables 1a and 1b, Tables 2a and 2b, and Table 3 to this subpart that apply to you. These instances are deviations from the emission and operating limitations in this subpart. These deviations must be reported according to the requirements in § 63.6650. If you change your catalyst, you must reestablish the values of the operating parameters measured during the initial performance test. When you reestablish the values of your operating parameters, you must also conduct a performance test to demonstrate that you are meeting the required emission limitation applicable to your stationary RICE.

* * * * *

(e) You must also report each instance in which you did not meet the requirements in Table 9 to this subpart that apply to you. If you own or operate an existing 2SLB stationary RICE, an existing 4SLB stationary RICE, an existing 4SRB stationary RICE with a site rating equal to or less than 500 brake HP located at a major source of

HAP emissions, an existing 4SRB stationary RICE located at an area source of HAP emissions, an existing CI stationary RICE, an existing emergency stationary RICE, an existing limited use emergency stationary RICE, or an existing stationary RICE which fires landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, you do not need to comply with the requirements in Table 9 to this subpart. If you own or operate a new or reconstructed stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, a new or reconstructed emergency stationary RICE, or a new or reconstructed limited use stationary RICE, you do not need to comply with the requirements in Table 9 to this subpart, except for the initial notification requirements.

(f) If you own or operate a stationary emergency RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions or a stationary emergency RICE located at an area source of HAP emissions, you may operate your emergency stationary RICE for the purpose of maintenance checks and readiness testing. Maintenance checks and readiness testing of such units is limited to 100 hours per year. There is no time limit on the use of stationary emergency RICE in emergency situations. The owner or operator may petition the Administrator for approval of additional hours to be used for maintenance checks and readiness testing, but a petition is not required if the owner or operator maintains records that Federal, State, or local standards require maintenance and testing or emergency engines beyond 100 hours per year. For owners and operators or emergency engines, any operation other than emergency operation and maintenance and testing as permitted in this section, is prohibited.

18. Section 63.6645 is amended by:

a. Revising paragraphs (a), (b), and (c);

b. Redesignating paragraphs (d) through (f) as paragraphs (h) through (j);

c. Adding paragraphs (d) through (g); and

d. Revising newly redesignated paragraphs (h) and (j) to read as follows:

§ 63.6645 What notifications must I submit and when?

(a) If you own or operate a stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions or a new or reconstructed 4SLB stationary RICE with a site rating of greater than or equal to 250 HP located at a major source of HAP emissions, you must submit all of the notifications in §§ 63.7(b) and (c), 63.8(e), (f)(4) and (f)(6), 63.9(b) through (e), and (g) and (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2), if you start up your stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions before the effective date of this subpart, you must submit an Initial Notification not later than December 13, 2004.

(c) If you start up your new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions on or after August 16, 2004, you must submit an Initial Notification not later than 120 days after you become subject to this subpart.

(d) As specified in § 63.9(b)(2), if you start up your stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions before the effective date of this subpart and you are required to submit an initial notification, you must submit an Initial Notification not later than [180 DAYS AFTER DATE THE FINAL RULE IS PUBLISHED IN THE **Federal Register**].

(e) If you start up your new or reconstructed stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions on or after [60 DAYS AFTER DATE THE FINAL RULE IS PUBLISHED IN THE **Federal Register**] and you are required to submit an initial notification, you must submit an Initial Notification not later than 120 days after you become subject to this subpart.

(f) As specified in § 63.9(b)(2), if you start up your stationary RICE located at an area source of HAP emissions before the effective date of this subpart and you are required to submit an initial notification, you must submit an Initial Notification not later than [180 DAYS AFTER DATE THE FINAL RULE IS PUBLISHED IN THE **Federal Register**].

(g) If you start up your new or reconstructed stationary RICE located at an area source of HAP emissions on or after [60 DAYS AFTER DATE THE FINAL RULE IS PUBLISHED IN THE **Federal Register**] and you are required to submit an initial notification, you must submit an Initial Notification not later than 120 days after you become subject to this subpart.

(h) If you are required to submit an Initial Notification but are otherwise not affected by the requirements of this subpart, in accordance with§ 63.6590(b), your notification should include the information in § 63.9(b)(2)(i) through (v), and a statement that your stationary RICE has no additional requirements and explain the basis of the exclusion (for example, that it operates exclusively as an emergency stationary RICE if it has a site rating of more than 500 brake HP located at a major source of HAP emissions).

* * * * *

(j) If you are required to conduct a performance test or other initial compliance demonstration as specified in Tables 5 and 6 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii).

(1) For each initial compliance demonstration required in Table 6 to this subpart that does not include a performance test, you must submit the Notification of Compliance Status before the close of business on the 30th day following the completion of the initial compliance demonstration.

(2) For each initial compliance demonstration required in Table 6 to this subpart that includes a performance test conducted according to the requirements in Table 5 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th day following the completion of the performance test according to § 63.10(d)(2).

19. Section 63.6650 is amended by:

a. Revising paragraph (a);

b. Revising paragraph (b) introductory text;

c. Revising paragraph (f); and

d. Revising paragraph (g) introductory text to read as follows:

§ 63.6650 What reports must I submit and when?

(a) You must submit each report in Table 8 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 8 to this subpart and according to the requirements in paragraphs (b)(1) through (5) of this section.

* * * * *

(f) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6 (a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a Compliance report pursuant to Table 8 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the

Compliance report includes all required information concerning deviations from any emission or operating limitation in this subpart, submission of the Compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a Compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(g) If you are operating as a new or reconstructed stationary RICE which fires landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, you must submit an annual report according to Table 8 to this subpart by the date specified unless the Administrator has approved a different schedule, according to the information described in paragraphs (b)(1) through (b)(5) of this section. You must report the data specified in (g)(1) through (g)(3) of this section.

* * * * *

20. Section 63.6655 is amended by revising paragraph (d) and adding paragraphs (e) and (f) to read as follows:

§ 63.6655 What records must I keep?

* * * * *

(d) You must keep the records required in Table 7 to this subpart to show continuous compliance with each emission or operating limitation that applies to you.

(e) If you own or operate a stationary emergency RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions or a stationary emergency RICE located at an area source of HAP emissions you must keep records of the operation of the engine that is recorded through the non-resettable hour meter. You must keep records of the operation in emergency and non-emergency that are recorded through the non-resettable hour meter. You must record the time of operation of the engine and the reason the engine was in operation during that time.

(f) If you own or operate a stationary emergency RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions or a stationary emergency RICE located at an area source of HAP emissions, you must keep records documenting proper engine maintenance.

21. Section 63.6665 is revised to read as follows:

§ 63.6665 What parts of the General Provisions apply to me?

Table 9 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you. If you own or operate an existing 2SLB RICE, an existing 4SLB stationary RICE, an existing 4SRB RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions, an existing 4SRB RICE located at an area source of HAP emissions, an existing CI stationary RICE, an existing stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, an existing emergency stationary RICE, or an existing limited use stationary RICE, you do not need to comply with any of the requirements of the General Provisions. If you own or operate a new stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, a new emergency stationary RICE, or a new limited use stationary RICE, you do not need to comply with the requirements in the General Provisions except for the initial notification requirements.

22. Section 63.6675 is amended by:

a. Adding definitions of ''Certified stationary RICE,'' ''Compression Ignition,'' ''Gasoline,'' ''Maximum engine power,'' ''Model year,'' ''Non-methane hydrocarbons,'' ''Spark ignition,'' ''Total hydrocarbons,'' and ''Useful life'' in alphabetical order;

b. Removing the definitions for ''Compression ignition engine'' and ''Spark ignition engine;'' and

c. Revising the definitions of ''Emergency stationary RICE'' and ''Natural gas;'' to read as follows:

§ 63.6675 What definitions apply to this subpart?

* * * * *

Certified stationary RICE means an engine that belongs to an engine family that has a certificate of conformity that complies with the emission standards and requirements in this part, or of 40 CFR part 90 or 40 CFR part 1048, as appropriate.

Compression ignition means relating to a type of stationary internal combustion engine that is not a spark ignition engine.

* * * * *

Emergency stationary RICE means any stationary RICE whose operation is limited to emergency situations and required testing and maintenance. Examples include stationary RICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary RICE used to pump water in the case of fire or flood, etc. Stationary RICE used for peak shaving are not considered emergency stationary RICE.

* * * * *

Gasoline means any fuel sold in any State for use in motor vehicles and motor vehicle engines, or nonroad or stationary engines, and commonly or commercially known or sold as gasoline.

* * * * *

Maximum engine power means maximum engine power as defined in 40 CFR 1039.801.

Model Year means either: the calendar year in which the engine was originally produced, or the annual new model production period of the engine manufacturer if it is different than the calendar year. This must include January 1 of the calendar year for which the model year is named. It may not begin before January 2 of the previous calendar year, and it must end by December 31 of the named calendar year. For an engine that is converted to a stationary engine after being placed into service as a nonroad or other non-stationary engine, model year means the calendar year or new model production period in which the engine was originally produced.

Natural gas means a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the Earth's surface, of which the principal constituent is methane. Natural gas may be field or pipeline quality.

Non-methane hydrocarbons means the difference between the emitted mass of total hydrocarbons and the emitted mass of methane.

* * * * *

Spark ignition means relating to either: a gasoline-fueled engine; or any other type of engine a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark ignition engines usually use a throttle to regulate intake air flow to control power during normal operation. Dual-fuel engines in which a liquid fuel (typically diesel fuel) is used for CI and gaseous fuel (typically natural gas) is used as the primary fuel at an annual average ratio of less than 2 parts diesel fuel to 100 parts total fuel on an energy equivalent basis are spark ignition engines.

* * * * *

Total hydrocarbons means the combined mass of organic compounds measured by the specified procedure for measuring total hydrocarbon, expressed as a hydrocarbon with a hydrogen-to-carbon mass ratio of 1.85:1.

* * * * *

Useful life means the period during which the engine is designed to properly function in terms of reliability and fuel consumption, without being remanufactured, specified as a number of hours of operation or calendar years, whichever comes first. The values for useful life for stationary CI ICE with a displacement of less than 10 liters per cylinder are given in 40 CFR 1039.101(g). The values for useful life for stationary CI ICE with a displacement of greater than or equal to 10 liters per cylinder and less than 30 liters per cylinder are given in 40 CFR 94.9(a). The values for useful life for stationary SI ICE with a maximum engine power less than or equal to 25 HP are given in 40 CFR 90.105. The values for useful life for stationary SI ICE with a maximum engine power greater than 25 HP certified to 40 CFR part 1048 are given in 40 CFR 1048.101(g). The useful life for stationary SI ICE with a maximum engine power greater than 25 HP certified under the voluntary manufacturer certification program 40 CFR part 60 subpart JJJJ is 8,000 hours or 10 years, whichever comes first.

23. Table 1a to Subpart ZZZZ of Part 63 is revised to read as follows:

TABLE 1A TO SUBPART ZZZZ OF PART 63.—EMISSION LIMITATIONS FOR EXISTING, NEW, AND RECONSTRUCTED SPARK IGNITION, 4SRB STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS

[As stated in § 63.6600, you must comply with the following emission limitations for existing, new and reconstructed 4SRB stationary RICE >500 HP located at a major source of HAP emissions at 100 percent load plus or minus 10 percent:]

For each . . .	You must meet the following emission limitations . . .
1. 4SRB stationary RICE	a. reduce formaldehyde emissions by 76 percent or more. If you commenced constructed or reconstruction between December 19, 2002, and June 15, 2004, you may reduce formaldehyde emissions by 75 percent or more until June 15, 2007; or b. limit the concentration of formaldehyde in the stationary RICE exhaust 350 ppbvd or less at 15 percent O_2.

24. Table 1b to Subpart ZZZZ of Part 63 is revised to read as follows:

TABLE 1B TO SUBPART ZZZZ OF PART 63.—OPERATING LIMITATIONS FOR EXISTING, NEW, AND RECONSTRUCTED SPARK IGNITION, 4SRB STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS

[As stated in §§ 63.6600, 63.6630 and 63.6640, you must comply with the following operating emission limitations for existing, new and reconstructed 4SRB stationary RICE >500 HP located at a major source of HAP emissions:]

For each . . .	You must meet the following operating limitation . . .
1. 4SRB stationary RICE complying with the requirement to reduce formaldehyde emissions by 76 percent or more (or by 75 percent or more, if applicable) and using NSCR; or 4SRB stationary RICE complying with the requirement to limit the concentration of formaldehyde in the stationary RICE exhaust to 350 ppbvd or less at 15 percent O_2 and using NSCR.	a. maintain your catalyst so that the pressure drop across the catalyst does not change by more than 2 inches of water at 100 percent load plus or minus 10 percent from the pressure drop across the catalyst measured during the initial performance test; and b. maintain the temperature of your stationary RICE exhaust so that the catalyst inlet temperature is greater than or equal to 750 °F and less than or equal to 1250 °F.
2. 4SRB stationary RICE complying with the requirement to reduce formaldehyde emissions by 76 percent or more (or by 75 percent or more, if applicable) and not using NSCR; or 4SRB stationary RICE complying with the requirement to limit the concentration of formaldehyde in the stationary RICE exhaust to 350 ppbvd or less at 15 percent O_2 and not using NSCR.	comply with any operating limitations approved by the Administrator.

25. Table 2a to Subpart ZZZZ of Part 63 is revised to read as follows:

TABLE 2A TO SUBPART ZZZZ OF PART 63.—EMISSION LIMITATIONS FOR NEW AND RECONSTRUCTED LEAN BURN AND COMPRESSION IGNITION STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS

[As stated in § 63.6600, you must comply with the following emission limitations for new and reconstructed lean burn and new and reconstructed compression ignition stationary RICE >500 HP located at a major source of HAP emissions at 100 percent load plus or minus 10 percent:]

For each . . .	You must meet the following emission limitation . . .
1. 2SLB stationary RICE	a. reduce CO emissions by 58 percent or more; or b. limit concentration of formaldehyde in the stationary RICE exhaust to 12 ppmvd or less at 15 percent O_2. If you commenced construction or reconstruction between December 19, 2002, and June 15, 2004, you may limit concentration of formaldehyde to 17 ppmvd or less at 15 percent O_2 until June 15, 2007.
2. 4SLB stationary RICE	a. reduce CO emissions by 93 percent or more; or b. limit concentration of formaldehyde in the stationary RICE exhaust to 14 ppmvd or less at 15 percent O_2.
3. CI stationary RICE	a. reduce CO emissions by 70 percent or more; or b. limit concentration of formaldehyde in the stationary RICE exhaust to 580 ppbvd or less at 15 percent O_2.

26. Table 2b to Subpart ZZZZ of Part 63 is revised to read as follows:

TABLE 2B TO SUBPART ZZZZ OF PART 63.—OPERATING LIMITATIONS FOR NEW AND RECONSTRUCTED LEAN BURN AND COMPRESSION IGNITION STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS

[As stated in §§ 63.6600, 63.6630, and 63.6640, you must comply with the following operating limitations for new and reconstructed lean burn and new and reconstructed compression ignition stationary RICE >500 HP located at a major source of HAP emissions:

For each . . .	You must meet the following operating limitation . . .
1. 2SLB and 4SLB stationary RICE and CI stationary RICE complying with the requirement to reduce CO emissions and using an oxidation catalyst; or 2SLB and 4SLB stationary RICE and CI stationary RICE complying with the requirement to limit the concentration of formaldehyde in the stationary RICE exhaust and using an oxidation catalyst.	a. maintain your catalyst so that the pressure drop across the catalyst does not change by more than 2 inches of water at 100 percent load plus or minus 10 percent from the pressure drop across the catalyst that was measured during the initial performance test; and b. maintain the temperature of your stationary RICE exhaust so that the catalyst inlet temperature is greater than or equal to 450 °F and less than or equal to 1350 °F.
2. 2SLB and 4SLB stationary RICE and CI stationary RICE complying with the requirement to reduce CO emissions and not using an oxidation catalyst; or 2SLB and 4SLB stationary RICE and CI stationary RICE complying with the requirement to limit the concentration of formaldehyde in the stationary RICE exhaust and not using an oxidation catalyst.	comply with any operating limitations approved by the Administrator.

27. Tables 3 through 8 to Subpart ZZZZ of Part 63 are amended by:

a. Redesignating Tables 3 through 8 as Tables 4 through 9;

b. Adding Table 3; and

c. Revising the newly redesignated Tables 4 through 9 to read as follows:

TABLE 3 TO SUBPART ZZZZ OF PART 63.—EMISSION LIMITATIONS FOR NEW AND RECONSTRUCTED STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS OR NEW OR RECONSTRUCTED STATIONARY RICE LOCATED AT AN AREA SOURCE OF HAP EMISSIONS

For each. . .	With a Maximum Engine Power. . .	And with a Manufacture Date of[a]. . .	You must meet the following emission limitation. . .
1. New or reconstructed SI stationary RICE	≤25 HP	January 1, 2008	Comply with the NMHC emission standards for new SI engines as specified in 40 CFR part 60 subpart JJJJ § 60.4233(a).
2. New or reconstructed SI stationary RICE using gasoline or rich burn engines using LPG.	25<HP<500 HP ≥500	January 1, 2008 July 1, 2007	Comply with the NMHC emission standards for new SI engines as specified in 40 CFR part 60 subpart JJJJ § 60.4233(b) or (c), as applicable.
3. New or reconstructed non-emergency SI natural gas stationary RICE, except engines addressed in row 5 of this table.			

TABLE 3 TO SUBPART ZZZZ OF PART 63.—EMISSION LIMITATIONS FOR NEW AND RECONSTRUCTED STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS OR NEW OR RECONSTRUCTED STATIONARY RICE LOCATED AT AN AREA SOURCE OF HAP EMISSIONS—Continued

For each. . .	With a Maximum Engine Power. . .	And with a Manufacture Date of[a]. . .	You must meet the following emission limitation. . .
and	25<HP<500[a]	January 1, 2008	Limit the concentration of NMHC in the stationary RICE exhaust to 1.0 and g/HP-hr.
New or reconstructed non-emergency SI lean burn LPG stationary RICE, except engines addressed in row 5 of this table.	.....	January 1, 2011	Limit the concentration of NMHC in the stationary RICE exhaust to 0.7 g/HP-hr.
4. New or reconstructed non-emergency SI natural gas Stationary RICE.	HP≥500	July 1, 2007	Limit the concentration of NMHC in the stationary RICE exhaust to 1.0 g/HP-hr.
and			
New or reconstructed non-emergency SI lean burn LPG stationary RICE.	.....	July 1, 2010	Limit the concentration of NMHC in the stationary RICE exhaust to 0.7 g/HP-hr.
5. New or reconstructed non-emergency 4SLB stationary RICE located at a major source of HAP emissions (except landfill and digester gas)).	250 ≤HP ≤500.	See applicability dates in § 63.6595.	a. reduce CO emissions by 93 percent or more; or b. limit the concentration of formaldehyde in the stationary RICE exhaust to 14 ppmvd or less at 15 percent O_2.
6. New or reconstructed 2007 model year and later CI stationary RICE.	Any	2007+ model year	Comply with the PM and NMHC emission standards for new CI engines as specified in 40 CFR part 60 subpart IIII §§ 60.4204 and 60.4205, as applicable.
7. New or reconstructed landfill/digester gas stationary RICE.	HP<500	January 1, 2008	Limit the concentration of NMHC in the stationary RICE exhaust to 1.0 g/HP-hr.
	HP ≥500	July 1, 2007	Limit the concentration of NMHC in the stationary RICE exhaust to 1.0 g/HP-hr.
8. New or reconstructed emergency SI stationary RICE.	Any	January 1, 2009	Limit the concentration of NMHC in the stationary RICE exhaust to 1.0 g/HP-hr.

[a] Stationary SI natural gas and lean burn LPG engines between 25 and 50 HP may comply with the requirements of row 2 of this table, instead of row 3 of this table, as applicable.

TABLE 4 TO SUBPART ZZZZ OF PART 63.—SUBSEQUENT PERFORMANCE TESTS

As stated in §§ 63.6615 and 63.6620, you must comply with the following subsequent performance test requirements:

For each . . .	Complying with the requirement to . . .	You must . . .
1. 2SLB, 4SLB, and CI stationary RICE	Reduce CO emissions and not using a CEMS	Conduct subsequent performance tests semiannually.[a]
2. 4SRB stationary RICE with a brake HP ≥5,000 HP.	Reduce formaldehyde emissions	Conduct subsequent performance tests semiannually.[a]
3. Stationary RICE (all stationary RICE subcategories and all brake HP ratings.	Limit the concentration of formaldehyde in the stationary RICE exhaust.	Conduct subsequent performance tests semiannually.[a]
4. New and reconstructed non-emergency stationary RICE with a brake HP >500 HP located at an area source of HAP emissions.	Limit the concentration of NMHC in the stationary RICE exhaust.	Conduct subsequent performance tests every 3 years or 8,760 hours of operation, whichever comes first.[b]

[a] After you have demonstrated compliance for two consecutive tests, you may reduce the frequency of subsequent performance tests to annually. If the results of any subsequent annual performance test indicate the stationary RICE is not in compliance with the CO or formaldehyde emission limitation, or you deviate from any of your operating limitations, you must resume semiannual performance tests.

[b] New and reconstructed uncertified stationary RICE with a brake HP ≤500 are not required to conduct subsequent performance testing unless the stationary RICE is rebuilt or undergoes major repair or maintenance. Certified engines are not required to conduct any performance testing.

TABLE 5 TO SUBPART ZZZZ OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS

[As stated in §§ 63.6610, 63.6611, 63.6620, and 63.6640, you must comply with the following requirements for performance tests for stationary RICE:]

For each . . .	Complying with the requirement . . .	You must . . .	Using . . .	According to the following to requirements . . .
1. 2SLB, 4SLB, and CI stationary RICE.	a. reduce CO emissions.	i. measure the O_2 at the inlet and outlet of the control device; and	(1) portable CO and O_2 analyzer	(a) using ASTM D6522–00 (2005)[a] (incorporated by reference see § 63.14). Measurements to determine O_2 must be made at the same time as the measurements for CO concentration.
	ii. measure the CO at the inlet and the outlet of the control device.	(1) portable CO and O_2 analyzer.	(a) using ASTM D6522–00 (2005)[a] (incorporation by reference, see § 63.14). The CO concentration must be at 15 percent O_2, dry basis.	

TABLE 5 TO SUBPART ZZZZ OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

[As stated in §§ 63.6610, 63.6611, 63.6620, and 63.6640, you must comply with the following requirements for performance tests for stationary RICE:]

For each . . .	Complying with the requirement . . .	You must . . .	Using . . .	According to the following to requirements . . .
2. 4SRB stationary RICE.	a. reduce formaldehyde emissions.	i. select the sampling port location and the number of traverse points; and.	(1) Method 1 or 1A of 40 CFR part 60, appendix A § 63.7(d)(1)(i).	(a) sampling sites must be located at the inlet and outlet of the control device.
	.....	ii. measure O_2 at the inlet of the control device; and	(1) Method 3 or 3A or 3B of 40 CFR part 60, appendix A, or ASTM Method D6522–00(2005).	(a) measurements to determine O_2 concentration must be made at the same time as the measurements for formaldehyde concentration.
	.....	iii. measure moisture content at the inlet and outlet of the control device; and	(1) Method 4 of 40 CFR part 60, appendix A, or Test Method 320 of 40 CFR part 63, appendix A or ASTM D 6348–03.	(a) measurements to determine moisture content must be made at the same time and location as the measurements for formaldehyde concentration.
	.....	iv. measure formaldehyde at the inlet and the outlet of the control device.	(1) Method 320 or 323 of 40 CFR part 63, appendix A; or ASTM D6348–03,[b] provided in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent R must be greater than or equal to 70 and less than or equal to 130.	(a) formaldehyde concentration must at 15 percent O_2, dry basis. Results of this test consist of the average of the three 1-hour or longer runs.
3. stationary RICE	a. limit the concentration of formaldehyde in the stationary RICE exhaust.	i. select the sampling port location and the number of traverse points; and	(1) Method 1 or 1A of 40 CFR part 60, appendix A § 63.7(d)(1)(i).	(a) if using a control device, the sampling site must be located at the outlet of the control device.
	.....	ii. determine the O_2 concentration of the stationary RICE exhaust at the sampling port location; and	(1) Method 3 or 3A or 3B of 40 CFR part 60, appendix A, or ASTM Method D6522–00 (2005).	(a) measurements to determine O_2 concentration must be made at the same time and location as measurements for formaldehyde concentration.
	.....	iii. measure moisture content of the stationary RICE exhaust at the sampling port location; and	(1) Method 4 of 40 CFR part 60, appendix A, or Test Method 320 of 40 CFR part 63, appendix A, or ASTM D 6348–03.	(a) measurements to determine moisture content must be made at the same time and location as the measurements for formaldehyde concentration.
	.....	iv. measure formaldehyde at the exhaust of the stationary RICE.	(1) Method 320 or 323 of 40 CFR part 63, appendix A; or ASTM D6348–03[b] provided in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent R must be greater than or equal to 70 and less than or equal to 130.	(a) Formaldehyde concentration must be at 15 percent O_2, dry basis. Results of this test consist of the average of the three 1-hour or longer runs.
4. New or reconstructed uncertified stationary RICE, except stationary RICE with a brake HP >500 located at a major source of HAP emissions and new and reconstructed 4SLB stationary RICE 250≤HP≤500 located at a major source of HAP emissions.	limit the concentration of NMHC in the stationary RICE exhaust.	i. select the sampling port location and the number of traverse points;	(1) Method 1 or 1A of 40 CFR part 60, appendix A.	(a) if using a control device, the sampling site must be located the outlet of the control device.

TABLE 5 TO SUBPART ZZZZ OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

[As stated in §§ 63.6610, 63.6611, 63.6620, and 63.6640, you must comply with the following requirements for performance tests for stationary RICE:]

For each . . .	Complying with the requirement . . .	You must . . .	Using . . .	According to the following to requirements . . .
	.....	ii. If, necessary, measure moisture content of the stationary internal combustion engine exhaust at the sampling port location; and	(2) Method 4 of 40 CFR part 60, appendix A.	(b) measurements to determine moisture must be made at the same time as the measurement for NMHC concentration.
	.....	iii. measure NMHC at the exhaust of the stationary internal combustion engine.	(3) Method 25 or Methods 25A and 18 of 40 CFR part 60, appendix A.	(c) Results of this test consist of the average of the three 1-hour or longer runs.

[a] You may also use Methods 3A and 10 as options to ASTM–D6522–00 (2005). You may obtain a copy of ASTM–D6522–00 (2005) from at least one of the following addresses: American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428—2959, or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106.

[b] You may obtain a copy of ASTM–D6348–03 from at least one of the following addresses: American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106.

TABLE 6 TO SUBPART ZZZZ OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS AND OPERATING LIMITATIONS

[As stated in §§ 63.6625 and 63.6630 you must initially comply with the emission and operating limitations as required by the following:]

For each. . .	Complying with the requirement to. . .	You have demonstrated initial compliance if. . .
1. 2SLB, 4SLB, and CI stationary RICE	a. reduce CO emissions and using oxidation catalyst, and using a CPMS.	i. the average reduction of emissions of CO determined from the initial performance test achieves the required CO percent reduction; and ii. you have installed a CPMS to continuously monitor catalyst inlet temperature according to the requirements in § 63.6625(b); and iii. you have recorded the catalyst pressure drop and catalyst inlet temperature during the initial performance test.
2. 2SLB, 4SLB, and CI stationary RICE	a. reduce CO emissions and not using oxidation catalyst.	i. the average reduction of emissions of CO determined from the initial performance test achieves the required CO percent reduction; and ii. you have installed a CPMS to continuously monitor operating parameters approved by the Administrator (if any) according to the requirements in § 63.6625(b); and iii. you have recorded the approved operating parameters (if any) during the initial performance test.
3. 2SLB, 4SLB, and CI stationary Rice	a. reduce CO emissions, and using a CEMS	i. you have installed a CEMS to continuously monitor CO and either O_2 or CO_2 at both the inlet and outlet of the oxidation catalyst according to the requirements in § 63.6625(a); and ii. you have conducted a performance evaluation of your CEMS using PS 3 and 4A of 40 CFR part 60, appendix B; and iii. the average reduction of CO calculated using § 63.6620 equals or exceeds the required percent reduction. The initial test comprises the first 4-hour period after successful validation of the CEMS. Compliance is based on the average percent reduction achieved during the 4-hour period.

TABLE 6 TO SUBPART ZZZZ OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS AND OPERATING LIMITATIONS—Continued

[As stated in §§ 63.6625 and 63.6630 you must initially comply with the emission and operating limitations as required by the following:]

For each. . .	Complying with the requirement to. . .	You have demonstrated initial compliance if. . .
4. 4SRB stationary RICE	a. reduce formaldehyde emissions and using NSCR.	i. the average reduction of emissions of formaldehyde determined from the initial performance test is equal to or greater than the required formaldehyde percent reduction; and ii. you have installed a CPMS to continuously monitor catalyst inlet temperature according to the requirements in § 63.6625(b); and iii. you have recorded the catalyst pressure drop and catalyst inlet temperature during the initial performance test.
5. 4SRB stationary RICE	a. reduce formaldehyde emissions and not using NSCR.	i. the average reduction of emissions of formaldehyde determined from the initial performance test is equal to or greater than the required formaldehyde percent reduction; and ii. you have installed a CPMS to continuously monitor operating parameters approved by the Administrator (if any) according to the requirements in § 63.6625(b); and iii. you have recorded the approved operating parameters (if any) during the initial performance test.
6. Stationary RICE	a. limit the concentration of formaldehyde in the stationary RICE exhaust and using oxidation catalyst or NSCR.	i. the average formaldehyde concentration corrected to 15 percent O_2, dry basis, from the three test runs is less than or equal to the formaldehyde emission limitation; and ii. you have installed a CPMS to continuously monitor catalyst inlet temperature according to the requirements in § 63.6625(b); and iii. you have recorded the catalyst pressure drop and catalyst inlet temperature during the initial performance test.
7. Stationary RICE	a. limit the concentration of formaldehyde in the stationary RICE exhaust and not using oxidation catalyst or NSCR.	i. the average formaldehyde concentration, corrected to 15 percent O_2, dry basis, from the three test runs is less than or equal to the formaldehyde emission limitation; and ii. you have installed a CPMS to continuously monitor operating parameters approved by the Administrator (if any) according to the requirements in § 63.6625(b); and iii. you have recorded the approved operating parameters (if any) during the initial performance test.
8. New and reconstructed SI stationary RICE with a maximum engine power ≤25 HP.	meet emission standards in § 63.6605	you have purchased an engine certified to the emission standards specified in 40 CFR part 60, subpart JJJJ § 60.4233(a).
9. New and reconstructed SI stationary RICE with a maximum engine power >25 HP that use gasoline or that are rich burn and use LPG.	meet emission standards in § 63.6605	you have purchased an engine certified to the emission standards specified in 40 CFR part 60, subpart JJJJ, §§ 60.4233(b) or (c), as applicable.
10. New and reconstructed SI stationary RICE with a maximum engine power >25 HP that use fuels other than gasoline and are not rich burn engines that use LPG.	meet emission standards in § 63.6605	i. you have purchased an engine certified to the emission standards specified in 40 CFR part 60, subpart JJJJ; or ii. the average NMHC concentration, from the three test runs is less than or equal to 0.7g/HP–hr.
11. New and reconstructed CI stationary RICE	meet emission standards in § 63.6605	you have purchased an engine certified to the emission standards specified in 40 CFR part 60, subpart IIII, §§ 60.4204 and 60.4205, as applicable.

TABLE 7 TO SUBPART ZZZZ OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS AND OPERATING LIMITATIONS

[As stated in § 63.6640, you must continuously comply with the emissions and operating limitations as required by the following:]

For each . . .	Complying with the requirement to . . .	You must demonstrate continuous compliance by . . .
1. 2SLB, 4SLB, and CI stationary RICE	a. reduce CO emissions and using an oxidation catalyst, and using a CPM.	i. conducting semiannual performance tests for CO to demonstrate that the required CO percent reduction is achieved [a]; and ii. collecting the catalyst inlet temperature data according to § 63.6625(b); and iii. reducing these data to 4-hour rolling averages; and iv. maintaining the 4-hour rolling averages within the operating limitations for the catalyst inlet temperature; and v. measuring the pressure drop across the catalyst once per month and demonstrating that the pressure drop across the catalyst is within the operating limitation established during the performance test.
2. 2SLB, 4SLB, and CI stationary RICE	a. reduce CO emissions and not using an oxidation catalyst, and using a CPMS.	i. conducting semiannual performance tests for CO to demonstrate that the required CO percent reduction is achieved [a]; and ii. collecting the approved operating parameter (if any) data according to § 63.6625(b); and iii. reducing these data to 4-hour rolling averages; and iv. maintaining the 4-hour rolling averages within the operating limitations for the operating parameters established during the performance test.
3. 2SLB, 4SLB, and CI stationary RICE	a. reduce CO emissions and using a CEMS	i. collecting the monitoring data according § 63.6625(a), reducing the measurements to 1-hour averages, calculating the percent reduction of CO emissions according to § 63.6620; and ii. demonstrating that the catalyst achieves the required percent reduction of CO emissions over the 4-hour averaging period; and iii. conducting an annual RATA of your CEMS using PS 3 and 4A of 40 CFR part 60, appendix B, as well as daily and periodic data quality checks in accordance with 40 CFR part 60, appendix F, procedure 1.
4. 4SRB stationary RICE	a. reduce formaldehyde emissions and using NSCR.	i. collecting the catalyst inlet temperature data according to § 63.6625(b); and ii. reducing these data to 4-hour rolling averages; and iii. maintaining the 4-hour rolling averages within the operating limitations for the catalyst inlet temperature; and iv. measuring the pressure drop across the catalyst once per month and demonstrating that the pressure drop across the catalyst is within the operating limitation established during the performance test.
5. 4SRB stationary RICE	a. reduce formaldehyde emissionis and not using NSCR.	i. collecting the approved operating parameter (if any) data according to § 63.6625(b); and ii. reducing these data to 4-hour rolling averages; and iii. maintaining the 4-hour rolling averages within the operating limitations for the operating parameters established during the performance test.
6. 4SRB stationary RICE with a brake HP ≥5,000.	reduce formaldehyde emissions	conducting semiannual performance tests for formaldehyde to demonstrate that the required formaldehyde percent reduction is achieved [a].

TABLE 7 TO SUBPART ZZZZ OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS AND OPERATING LIMITATIONS—Continued

[As stated in § 63.6640, you must continuously comply with the emissions and operating limitations as required by the following:]

For each . . .	Complying with the requirement to . . .	You must demonstrate continuous compliance by . . .
7. stationary RICE	limit the concentration of formaldehyde in the stationary RICE exhaust and using oxidation catalyst or NSCR.	i. conducting semiannual performance tests for formaldehyde to demonstrate that your emissions remain at or below the formaldehyde concentration the stationary limit [a]; and ii. collecting the catalyst inlet temperature data according to § 63.6625(b); and iii. reducing these data to 4-hour rolling averages; and iv. maintaining the 4-hour rolling averages within the operating limitations for the catalyst inlet temperature; and v. measuring the pressure drop across the catalyst once per month and demonstrating that the pressure drop across the catalyst is within the operating limitation established during the performance test.
8. stationary RICE	limit the concentration of formaldehyde in the stationary RICE exhaust and not using oxidation catalyst or NSCR.	i. conducting semiannual performance tests for formaldehyde to demonstrate that your emissions remain at or below the formaldehyde concentration limit [a]; and ii. collecting the approved operating parameter (if any) data according to § 63.6625(b); and ii. reducing these data to 4-hour rolling averages; and iii. maintaining the 4-hour rolling averages within the operating limitations for the operating parameters established during the performance test.
9. New and reconstructed uncertified stationary RICE with a brake HP >500 located at an area source of HAP emissions.	limit the concentration of NMHC in the stationary RICE exhaust.	i. conducting performance tests every 3 years or 8,760 hours of operation, whichever comes first for NMHC to demonstrate that the required NMHC limit is achieved; and ii. operating and maintaining your stationary RICE and control device according to the manufacturer's written instructions.
10. New and reconstructed certified stationary RICE, except stationary RICE with a brake HP >500 located at a major source of HAP emissions.	meet the emission standards specified in 40 CFR part 60 subpart JJJJ § 60.4233, as applicable.	operating and maintaining your stationary RICE and control device according to the manufacturer's written instructions.

[a] After you have demonstrated compliance for two consecutive tests, you may reduce the frequency of subsequent performance tests to annually. If the results of any subsequent annual performance test indicate the stationary RICE is not in compliance with the CO or formaldehyde emission limitation, or you deviate from any of your operating limitations, you must resume semiannual performance tests.

TABLE 8 TO SUBPART ZZZZ OF PART 63.—REQUIREMENTS FOR REPORTS.

[As stated in § 63.6650, you must comply with the following requirements for reports:]

For each . . .	You must submit a(n)	The report must contain . . .	You must submit the report . . .
1. Stationary RICE with a brake HP >500 located at a major source of HAP emissions.	a. compliance report	i. if there are no deviations from any emission limitations or operating limitations that apply to you, a statement that there were no deviations from the emission limitations or operating limitations during the reporting period. If there were no periods during which the CMS, including CEMS and CPMS, was out-of-control, as specified in § 63.8(c)(7), a statement that there were not periods during which the CMS was out-of-control during the reporting period; or.	(a) semiannually according to the requirements in § 63.6650(b).

TABLE 8 TO SUBPART ZZZZ OF PART 63.—REQUIREMENTS FOR REPORTS.—Continued

[As stated in § 63.6650, you must comply with the following requirements for reports:]

For each . . .	You must submit a(n)	The report must contain . . .	You must submit the report . . .
and			
New or reconstructed 4SLB stationary RICE with a 250≤HP≤500 located at a major source of HAP emissions.	.....	ii. if you had a deviation from any emission limitation or operating limitation during the reporting period, the information in § 63.6660(d). If there were periods during which the CMS, including CEMS and CPMS, was out-of-control, as specified in § 63.8(c)(7), the information in § 63.6650(e); or	(a) semiannually according to the requirements in § 63.6650(b).
		iii. if you had a startup, shutdown or malfunction during the reporting period, the information in § 63.10(d)(5)(i).	(a) semiannually according to the requirements in § 63.6650(b).
2. Stationary RICE with a brake HP >500 located at a major source of HAP emissions.	b. an immediate startup, shutdown, and malfunction report if actions addressing the startup, shutdown, or malfunction were inconsistent with your startup, shutdown, or malfunction plan during the reporting period.	i. actions taken for the event; and	(a) by fax or telephone within 2 working days after starting actions inconsistent with the plan.
and			
New or reconstructed 4SLB stationary RICE with a 250≤HP≤500 located at a major source of HAP emissions.		ii. the information in § 63.10(d)(5)(ii).	(a) by letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authorities. (§ 63.10(d)(5)(ii)) plan.
3. New or reconstructed stationary RICE which fires landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis.	c. Report	i. the fuel flow rate of each fuel and the heating values that were used in your calculations, and you must demonstrate that the percentage of heat input provided by landfill gas or digester gas, is equivalent to 10 percent or more of the gross heat input on an annual basis; and.	(a) annually, according to the requirements in § 63.6650.
		ii. the operating limits provided in your federally enforceable permit, and any deviations from these limits; and	(a) see item 3(c)(i)(a).
		iii. any problems or errors suspected with the meters.	(a) see item 3(c)(i)(a).

TABLE 9 TO SUBPART ZZZZ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ

[As stated in § 63.6665, you must comply with the following applicable general provisions.]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.1	General applicability of the General Provisions.	Yes.	
§ 63.2	Definitions	Yes	Additional terms defined in § 63.6675.
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities and circumvention.	Yes.	
§ 63.5	Construction and reconstruction ...	Yes.	
§ 63.6(a)	Applicability	Yes.	
§ 63.6(b)(1)–(4)	Compliance dates for new and reconstructed sources.	Yes.	
§ 63.6(b)(5)	Notification	Yes.	
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance dates for new and reconstructed area sources that become major sources.	Yes.	

TABLE 9 TO SUBPART ZZZZ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ—Continued

[As stated in § 63.6665, you must comply with the following applicable general provisions.]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.6(c)(1)–(2)	Compliance dates for existing sources.	Yes.	
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance dates for existing area sources that become major sources.	Yes.	
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)	Operation and maintenance	Yes.	
§ 63.6(e)(2)	[Reserved].		
§ 63.6(e)(3)	Startup, shutdown, and malfunction plan.	Yes.	
§ 63.6(f)(1)	Applicability of standards except during startup shutdown malfunction (SSM).	Yes.	
§ 63.6(f)(2)	Methods for determining compliance.	Yes.	
§ 63.6(f)(3)	Finding of compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of alternate standard	Yes.	
§ 63.6(h)	Opacity and visible emission standards.	No	Subpart ZZZZ does not contain opacity or visible emission standards.
§ 63.6(i)	Compliance extension procedures and criteria.	Yes.	
§ 63.6(j)	Presidential compliance exemption.	Yes.	
§ 63.7(a)(1)–(2)	Performance test dates	Yes	Subpart ZZZZ contains performance test dates at §§ 63.6610 and 63.6611.
§ 63.7(a)(3)	CAA section 114 authority	Yes.	
§ 63.7(b)(1)	Notification of performance test	Yes.	
§ 63.7(b)(2)	Notification of rescheduling	Yes.	
§ 63.7(c)	Quality assurance/test plan	Yes.	
§ 63.7(d)	Testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests.	Yes.	
§ 63.7(e)(2)	Conduct of performance tests and reduction of data.	Yes	Subpart ZZZZ specifies test methods at § 63.6620.
§ 63.7(e)(3)	Test run duration	Yes.	
§ 63.7(e)(4)	Administrator may require other testing under section 114 of the CAA.	Yes.	
§ 63.7(f)	Alternative test method provisions	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of tests	Yes.	
§ 63.8(a)(1)	Applicability of monitoring requirements.	Yes	Subpart ZZZZ contains specific for monitoring at requirements § 63.6625.
§ 63.8(a)(2)	Performance specifications	Yes.	
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring for control devices	No.	
§ 63.8(b)(1)	Monitoring	Yes.	
§ 63.8(b)(2)–(3)	Multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)	Monitoring system operation and maintenance.	Yes.	
§ 63.8(c)(1)(i)	Routine and predictable SSM	Yes.	
§ 63.8(c)(1)(ii)	SSM not in Startup Shutdown Malfunction.	Yes	Plan
§ 63.8(c)(1)(iii)	Compliance with operation and maintenance requirements.	Yes.	
§ 63.8(c)(2)–(3)	Monitoring system installation	Yes.	
§ 63.8(c)(4)	Continuous monitoring system (CMS) requirements.	Yes	Except that subpart ZZZZ does not require Continuous Opacity Monitoring System (COMS).
§ 63.8(c)(5)	COMS minimum procedures	No	Subpart ZZZZ does not require COMS.
§ 63.8(c)(6)–(8)	CMS requirements	Yes	Except that subpart ZZZZ does not require COMS.
§ 63.8(d)	CMS quality control	Yes.	

TABLE 9 TO SUBPART ZZZZ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ—Continued

[As stated in § 63.6665, you must comply with the following applicable general provisions.]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.8(e)	CMS performance evaluation	Yes	Except for 63.8(e)(5)(ii), which applies to COMS.
§ 63.8(f)(1)–(5)	Alternative monitoring method	Yes.	
§ 63.8(f)(6)	Alternative to relative accuracy test.	Yes.	
§ 63.8(g)	Data reduction	Yes	Except that provisions for COMS are not applicable. Averaging periods for demonstrating compliance are specified at ''63.6635 and 63.6640.
§ 63.9(a)	Applicability and State delegation of notification requirements.	Yes.	
§ 63.9(b)(1)–(5)	Initial notifications	Yes	Except that § 63.9(b)(3) is reserved.
§ 63.9(c)	Request for compliance extension	Yes.	
§ 63.9(d)	Notification of special compliance requirements for new sources.	Yes.	
§ 63.9(e)	Notification of performance test	Yes.	
§ 63.9(f)	Notification of visible emission (VE)/opacity test.	No	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.9(g)(1)	Notification of performance evaluation.	Yes.	
§ 63.9(g)(2)	Notification of use of COMS data	No	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.9(g)(3)	Notification that criterion for alternative to RATA is exceeded.	Yes	If alternative is in use.
§ 63.9(h)(1)–(6)	Notification of	Yes	Except that notifications for compliance status sources using a CEMS are due 30 days after completion of performance evaluations.§ 63.9(h)(4) is reserved.
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in previous information	Yes.	
§ 63.10(a)	Administrative provisions for record keeping/reporting.	Yes.	
§ 63.10(b)(1)	Record retention	Yes.	
§ 63.10(b)(2)(i)–(v) SSM	Records related to	Yes.	
§ 63.10(b)(2)(vi)–(xi)	Records	Yes.	
§ 63.10(b)(2)(xii)	Record when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to RATA.	Yes	For CO standard if using RATA alternative.
§ 63.10(b)(2)(xiv)	Records of supporting documentation.	Yes.	
§ 63.10(b)(3)	Records of applicability determination.	Yes.	
§ 63.10(c)	Additional records for sources using CEMS.	Yes	Except that § 63.10(c)(2)–(4) and (9) are reserved.
§ 63.10(d)(1)	General reporting requirements	Yes.	
§ 63.10(d)(2)	Report of performance test results	Yes.	
§ 63.10(d)(3)	Reporting opacity or VE observations.	No	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.10(d)(4)	Progress reports	Yes.	
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports.	Yes.	
§ 63.10(e)(1) and (2)(i)	Additional CMS reports	Yes.	
§ 63.10(e)(2)(ii)	COMS-related report	No	Subpart ZZZZ does not require COMS.
§ 63.10(e)(3)	Excess emission and parameter exceedances reports.	Yes	Except that § 63.10(e)(3)(i)(C) is reserved.
§ 63.10(e)(4)	Reporting COMS data	No	Subpart ZZZZ does not require COMS.
§ 63.10(f)	Waiver for recordkeeping/reporting.	Yes.	
§ 63.11	Flares	No.	
§ 63.12	State authority and delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by reference	Yes.	
§ 63.15	Availability of information	Yes.	

PART 85—[AMENDED]

28. The authority citation for part 85 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

29. Section 85.2401 is amended by revising paragraph (a)(13) to read as follows:

§ 85.2401 To whom do these requirements apply?

(a) * * *

(13) Stationary internal combustion engines (See 40 CFR part 60, subparts IIII and JJJJ).

* * * * *

30. Section 85.2403 is amended by revising paragraph (b)(11) to read as follows:

§ 85.2403 What definitions apply to this subpart?

* * * * *

(b) * * *

(11) 40 CFR part 60, subparts IIII and JJJJ.

* * * * *

31. Section 85.2405 is amended by adding paragraph (f) to read as follows:

§ 85.2405 How much are the fees?

* * * * *

(f) Fees for stationary SI internal combustion engine certificate requests shall be calculated in the same manner as for NR SI certificate. Fees for certificate requests where the certificate would apply to stationary and mobile engines shall be calculated in the same manner as fees for the certificate requests for the applicable mobile source engines.

PART 90—[AMENDED]

32. The authority citation for part 90 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

33. Section 90.1 is amended by adding paragraph (h) to read as follows:

§ 90.1 Applicability.

* * * * *

(h) This part applies as specified in 40 CFR part 60 subpart JJJJ, to spark-ignition engines subject to the standards of 40 CFR part 60, subpart JJJJ.

34. Section 90.107 is amended by adding paragraph (d)(12) to read as follows:

§ 90.107 Application for certificate.

* * * * *

(d) * * *

(12) A statement indicating whether the engine family contains only nonroad engines, only stationary engines, or both.

* * * * *

35. Section 90.114 is amended by revising paragraph (c)(7) to read as follows:

§ 90.114 Requirement of certification—engine information label.

* * * * *

(c) * * *

(7) The statement ''THIS ENGINE CONFORMS TO U.S. EPA REGULATIONS FOR [MODEL YEAR] ENGINES.'';

* * * * *

36. Section 90.201 is revised to read as follows:

§ 90.201 Applicability.

The requirements of this subpart C are applicable to all Phase 2 spark-ignition engines subject to the provisions of subpart A of this part except as provided in § 90.103(a). These provisions are not applicable to any Phase 1 engines. Participation in the averaging, banking and trading program is voluntary, but if a manufacturer elects to participate, it must do so in compliance with the regulations set forth in this subpart. The provisions of this subpart are applicable for $HC+NO_X$ ($NMHC+NO_X$) emissions but not for CO emissions. To the extent specified in 40 CFR part 60, subpart JJJJ, stationary engines certified under this part and subject to the standards of 40 CFR part 60, subpart JJJJ, may participate in the averaging, banking, and trading program described in this subpart.

PART 1048—[AMENDED]

37. The authority citation for part 1048 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

38. Section 1048.1 is amended by revising paragraph (c) to read as follows:

§ 1048.1 Does this part apply to me?

* * * * *

(c) The definition of nonroad engine in 40 CFR 1068.30 excludes certain engines used in stationary applications. These engines may be required by 40 CFR part 60, subpart JJJJ, to comply with some of the provisions of this part 1048; otherwise, these engines are only required to comply with the requirements in § 1048.20. In addition, the prohibitions in 40 CFR 1068.101 restrict the use of stationary engines for nonstationary purposes unless they are certified under this part 1048 to the same standards that would apply to nonroad engines for the same model year.

* * * * *

39. Section 1048.20 is amended by revising paragraph (a) introductory text and adding paragraph (c) to read as follows:

§ 1048.20 What requirements from this part apply to excluded stationary engines?

(a) You must add a permanent label or tag to each new engine you produce or import that is excluded under § 1048.1(c) as a stationary engine and is not required by 40 CFR part 60, subpart JJJJ, to meet the standards and other requirements of this part 1048 that are equivalent to the requirements applicable to nonroad SI engines for the same model year. To meet labeling requirements, you must do the following things:

* * * * *

(c) Stationary engines required by 40 CFR part 60, subpart JJJJ, to meet the requirements of this part 1048, or 40 CFR part 90, must meet the labeling requirements of 40 CFR 60.4242.

40. Section 1048.101 is amended by adding paragraph (a)(4) to read as follows:

§ 1048.101 What exhaust emission standards must my engines meet?

* * * * *

(a) * * *

(4) For constant-speed engines, the emission standards do not apply for transient testing if you do both of the following things:

(i) Demonstrate that the specified transient duty-cycle is not representative of how your engines will operate in use.

(ii) Demonstrate that the engine's emission controls will function properly to control emissions during transient operation in use. In most cases, you may do this by showing that you use the same controls as a similar variable-speed engine that is certified as complying with the emission standards during transient testing.

* * * * *

41. Section 1048.205 is amended by revising paragraph (w) to read as follows:

§ 1048.205 What must I include in my application?

* * * * *

(w) State whether your certification is intended to include engines used in stationary applications. Also State whether your certification is limited for certain engines. If this is the case, describe how you will prevent use of these engines in applications for which they are not certified. This applies for engines such as the following:

(1) Constant-speed engines.

(2) Variable-speed engines.

* * * * *

PART 1065—[AMENDED]

42. The authority citation for part 1065 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

43. Section 1065.1 is amended by adding paragraph (a)(6) to read as follows:

§ 1065.1 Applicability.

(a) * * *

(6) Stationary spark-ignition engines certified using the provisions of 40 CFR part 1048, as indicated under 40 CFR part 60, subpart JJJJ, the standard-setting part for these engines.

* * * * *

PART 1068—[AMENDED]

44. The authority citation for part 1068 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

45. Section 1068.1 is amended by adding paragraph (a)(5) to read as follows:

§ 1068.1 Does this part apply to me?

(a) * * *

(5) Stationary spark-ignition engines certified to the provisions of 40 CFR part 1048, as indicated under 40 CFR part 60, subpart JJJJ.

* * * * *

[FR Doc. 06–4919 Filed 6–9–06; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Monday,
June 12, 2006

Part III

Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, et al.
Hazardous Materials: Requirements for UN Cylinders; Final Rule

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, 172, 173, 178, and 180

[Docket No. PHMSA–2005–17463 (HM–220E)]

RIN 2137–AD91

Hazardous Materials: Requirements for UN Cylinders

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule.

SUMMARY: In this final rule, PHMSA is amending the Hazardous Materials Regulations (HMR) to adopt standards for the design, construction, maintenance and use of cylinders and multiple-element gas containers based on the standards contained in the United Nations Recommendations on the Transport of Dangerous Goods. Aligning the HMR with the international standards promotes greater flexibility, permits the use of advanced technology for the manufacture of pressure receptacles, provides for a broader selection of pressure receptacles, reduces the need for special permits, and facilitates international commerce in the transportation of compressed gases without sacrificing the current level of safety and without imposing undue burdens on the regulated community.

DATES: *Effective Date:* This final rule is effective on September 11, 2006.

Voluntary Compliance Date: Compliance with the requirements adopted herein is authorized as of June 12, 2006. However, persons voluntarily complying with these regulations should be aware that appeals may be received and as a result of PHMSA's evaluation of these appeals, the amendments adopted in this final rule could be subject to further revision.

Incorporation by Reference Date: The incorporation by reference of publications listed in this final rule has been approved by the Director of the Federal Register as of September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Duane Pfund, telephone number (202) 366–0656, Assistant International Standards Coordinator; Mark Toughiry, telephone number (202) 366–4545, Office of Hazardous Materials Technology; or Kevin Leary and Cameron Satterthwaite, telephone number (202) 366–8553, Office of Hazardous Materials Standards, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

List of Topics

I. Background
II. Overview of Changes in This Final Rule
III. Summary of Comments
  A. Approval of Independent Inspection Agencies (IIAs; Notified Bodies) and Certification of UN Pressure Receptacles
  B. Approval of UN Pressure Receptacle Manufacturers
IV. Summary of Regulatory Changes by Section
V. Rulemaking Analyses and Notices
  A. Statutory/Legal Authority for This Rulemaking
  B. Executive Order 12866 and DOT Regulatory Policies and Procedures
  C. Executive Order 13132
  D. Executive Order 13175
  E. Regulatory Flexibility Act and Executive Order 13272
  F. Paperwork Reduction Act
  G. Unfunded Mandates Reform Act of 1995
  H. Regulation Identifier Number (RIN)
  I. Environmental Assessment
  J. Privacy Act

I. Background

The United Nations Recommendations on the Transport of Dangerous Goods (UN Model Regulations) establish international standards for the safe transportation of hazardous materials. The UN Model Regulations are not regulations, but rather recommendations issued by the UN Sub-Committee of Experts on the Transport of Dangerous Goods (UN Sub-Committee of Experts). These recommendations are amended and updated biennially by the UN Sub-Committee of Experts. The UN Model Regulations serve as the basis for national, regional, and international modal regulations, including the International Maritime Dangerous Goods (IMDG) Code issued by the International Maritime Organization, and the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) issued by ICAO. The HMR authorize domestic transportation of hazardous materials shipments prepared in accordance with the IMDG Code if all or part of the transportation is by vessel, subject to certain conditions and limitations, and the transportation of hazardous materials shipments prepared in accordance with the ICAO Technical Instructions for transportation by aircraft and by motor vehicle either before or after being transported by aircraft.

Since 1999, the UN Sub-Committee of Experts has been working to develop international standards for the design, construction, inspection, and testing of cylinders and other pressure receptacles for inclusion in the UN Model Regulations. Their objective was to develop cylinder standards that are globally accepted for international transportation, storage, and use. Representatives from the European Industrial Gases Association, the Compressed Gas Association, the European Cylinder Makers Association, the International Standards Organization Technical Committee 58 (ISO/TC 58), and cylinder experts from DOT, participated in the UN Sub-Committee of Experts' efforts.

The standards developed for cylinders and other gas receptacles address manufacture, approval, filling, and use. The cylinders and other gas receptacles must be in compliance with ISO standards for design, manufacture, and testing; constructed of materials that are compatible with the gas to be contained in the cylinder, as established in ISO standards; and periodically requalified according to ISO standards. The standards were adopted by the UN Sub-Committee of Experts and are included in the 13th revised edition of the UN Model Regulations. Cylinders manufactured in accordance with these requirements are marked with the internationally recognized UN mark, which is an indication that the cylinders meet the applicable standards.

The continually increasing amount of hazardous materials transported in international commerce warrants the harmonization of domestic and international requirements to the greatest extent possible. Harmonization serves to facilitate international transportation and at the same time ensures the safety of people, property and the environment. While the intent of harmonization is to align the HMR with international standards, we review and consider each amendment on its own merit. Each amendment is considered on the basis of the overall impact on transportation safety and the economic implications associated with its adoption into the HMR. Our goal is to harmonize without sacrificing the current level of safety and without imposing undue burdens on the regulated community.

On March 9, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA, we) published a notice of proposed rulemaking (NPRM) (70 FR 11768) proposing to adopt into the HMR the UN standards for cylinders (pressure receptacles limited to a water capacity of 150 L),

tubes (pressure receptacles with a water capacity exceeding 150 L and not more than 3,000 L capacity), cylinder bundles (cylinders held together in a frame and manifolded together with up to a total water capacity of 3,000 L or 1,000 L for toxic gases), and multiple element gas containers or MEGCs (assemblies of UN cylinders, tubes or bundles of cylinders interconnected by a manifold and assembled within a framework). Our proposal did not remove existing requirements for DOT specification cylinders; rather, we proposed to incorporate the UN standards so that a shipper may use either a DOT specification cylinder or a UN standard pressure receptacle, as appropriate, for individual gases and circumstances. The goal of this rulemaking is to promote greater flexibility and permit the use of advanced technology for the manufacture of pressure receptacles, to provide for a broader selection of pressure receptacles, to reduce the need for special permits, and to facilitate international commerce in the transportation of compressed gases without sacrificing the current level of safety and without imposing undue burden on the regulated community.

DOT technical experts participated in evaluating the ISO standards and the requirements of the UN Model Regulations applicable to pressure receptacles. Based on this evaluation, we believe the amendments adopted in this final rule will provide an equivalent level of safety to that achieved under the HMR.

II. Overview of Changes in This Final Rule

This final rule amends the HMR to authorize:

- Design, construction and testing of refillable seamless aluminum alloy cylinders conforming to ISO 7866;
- Design, construction and testing of refillable seamless steel cylinders conforming to ISO 9809–1, ISO 9809–2, and ISO 9809–3;
- Design, construction and testing of non-refillable metallic cylinders conforming to ISO 11118;
- Design, construction and testing of composite cylinders conforming to ISO 11119–1, 11119–2 and 11119–3, with certain limitations;
- Design, construction and testing of refillable seamless steel tubes with a water capacity between 150 L and 3,000 L conforming to ISO 11120;
- Design, construction and testing of UN acetylene cylinders conforming to applicable ISO standards, except the cylinders must be refillable, made of seamless steel, filled with a suitable quantity of solvent (solvent-free not authorized) and fitted with suitable fusible plugs;
- Design, construction and testing of MEGCs;
- Requalification of UN pressure receptacles, including pressure receptacles installed as components of MEGCs;
- A quality conformity assessment system for UN pressure receptacles based on section 6.2.2.5 of the UN Model Regulations;
- A 10-year requalification interval for UN pressure receptacles, except for acetylene and composite cylinders and pressure receptacles used for certain specifically named gases; and
- Compliance with the UN pressure receptacle filling densities prescribed in P200 of the UN Model Regulations and as prescribed in § 173.302b or § 173.304b of this final rule.

III. Summary of Comments

PHMSA received eighteen comments in response to the March 9, 2005 NPRM from gas distributors, trade associations, cylinder manufacturers, an independent inspection agency, and a consultant. The following companies, organizations and individuals submitted comments: Air Liquide Canada Inc. (Air Liquide Canada; RSPA–2004–17463–20), Air Products and Chemicals (Air Products; RPSA–2004–17463–9), Arrowhead Industrial Services, Inc. (Arrowhead; RSPA–2004–17463–12), Baker Petrolite Corporation (Baker; RSPA–2004–17463–23), Barlen and Associates Inc. (Barlen; RSPA–2004–17463–16, RSPA–2004–17463–17), Carleton Aerosystems, Inc (Carleton; RSPA–2004–17463–19), Compressed Gas Association (CGA; RSPA–2004–17463–13), Lincoln Composites Inc. (Lincoln Composite; RSPA–2004–17463–4), Luxfer Gas Cylinders (Luxfer; RSPA–2004–17463–14, RSPA–2004–17463–15), Matheson Tri-Gas (Matheson; RSPA–2004–17463–8), National Propane Gas Association (NPGA; RSPA–2004–17463–22), Norris Cylinder Company (Norris; RPSA–2004–17463–10), Praxair, Inc. (Praxair; RSPA–2004–17463–21), Public Utilities Commission of Ohio (PUCO; RSPA–2004–17463–7), Taylor-Wharton Harsco (Taylor-Wharton; RSPA–2004–17463–6) and TLCCI Inc. (TLCCI; RSPA–2004–17463–11).

Commenters were supportive of PHMSA's efforts to harmonize the HMR with the international cylinder standards. Most of the proposals in the NPRM received little or no comment. Several comments were beyond the scope of the rulemaking and are not addressed in this final rule. The majority of the comments relate to the approval process for independent inspection agencies, UN pressure receptacles, and manufacturers of UN pressure receptacles. These comments are discussed below.

A. Approval of Independent Inspection Agencies (IIAs; Notified Bodies) and Certification of UN Pressure Receptacles

Current approval procedures: Current § 107.803 contains procedures and application criteria for a person seeking approval as an IIA to perform inspections, verifications, and certifications of DOT specification cylinders as prescribed in 49 CFR parts 178 and 180 and special permit cylinders. These requirements apply to DOT specification and special permit cylinders manufactured within or outside the United States. An IIA applicant is required to submit the following information: A detailed description of the testing facilities; a description of the applicant's qualifications to perform the inspections and verifications prescribed in part 178; ownership information; the name of each individual responsible for certifying the inspection and test results; and a statement that the applicant will perform the prescribed functions independent of the cylinder manufacturers and owners.

Under the current procedures for approval of foreign cylinder manufacturers and IIAs, a cylinder manufacturer located outside the United States must be approved by the Associate Administrator under § 107.807, and must employ an IIA approved under § 107.803, before any cylinders may be manufactured, inspected, certified, and marked to a DOT specification or DOT special permit. An applicant under these sections may be a person or a corporation.

Prior to scheduling an approval inspection, the manufacturer and the IIA must each submit an application for approval and must jointly or separately prepare a quality control manual, which demonstrates production and inspection procedures based on the relevant cylinder specification in 49 CFR part 178 and relates those procedures to the specification for which approval is sought. The manufacturer must produce a prototype lot of cylinders. The IIA applicant must conduct a preliminary audit with design qualification testing to certify the design for the prototype cylinders meets the applicable DOT specification or special permit. The IIA applicant prepares documentation indicating a current audit was performed with certified test results showing the prototype cylinders comply

with the DOT specification or special permit.

The manufacturer submits the design application to the Associate Administrator for approval. If all documents are found acceptable, the applicant is notified regarding details of the required on-site inspection to be conducted by a DOT representative. A DOT approval inspection consists of witnessing and reviewing manufacturing, inspection and test procedures of a designated cylinder lot produced to the specification or special permit for which approval is sought. This inspection includes, but is not limited to, the following: Reviewing all controls; ensuring the traceability of raw material and partially completed cylinders throughout production; verifying the chemical analysis of each heat of material by witnessing a lab check analysis or by obtaining certified check analysis of the samples taken from each lot; observing the IIA performing the duties as required in § 178.35(c) of 49 CFR and the applicable cylinder specification or special permit; witnessing all inspections and tests required for newly manufactured cylinders; and reviewing the test results.

During the inspection, sample cylinders are selected from the lot for on-site testing. If the procedures and controls are acceptable, and all test results obtained from the sample cylinders comply with the specification or special permit requirements, an additional group of cylinders is randomly selected from the same lot. The manufacturer must ship these cylinders to a contract test lab in the United States for verification testing. If the results of the verification testing comply with the specification or special permit requirements and corroborate test results obtained during the inspection, separate approvals are issued to the manufacturer and the IIA to perform cylinder certifications at this particular facility location of the manufacturer.

Proposed revisions to cylinder approval procedures: In the NPRM, we proposed to broaden the applicability of § 107.803 to include UN pressure receptacles. In paragraph (c)(8), we proposed to permit the selection of a person whose principal place of business is in a country other than the United States based on an approval issued by a foreign Competent Authority. Also in paragraph (c)(8)(ii), we proposed to require an IIA applicant to submit written evidence the foreign Competent Authority provides similar authority to IIAs and manufacturers of UN pressure receptacles in the United States with no additional limitations that are not required of it own citizenry.

Arrowhead disagrees with the language in § 107.803(c)(8), stating the wording will allow the U.S. Competent Authority to delegate approval responsibilities to a foreign national government without specifying any globally recognized assessment standards and minimum requirements, such as ISO 17020. Arrowhead suggests the U.S. Competent Authority should consider establishing accreditation processes similar to those presently used in Europe. For the reasons discussed below we disagree with Arrowhead's position. ISO 17020, titled ''General criteria for the operation of various types of bodies performing inspection,'' contains general criteria for the qualification of third party inspection bodies. This standard is intended for use by inspection bodies and their accreditation bodies.

As adopted in this final rule, the Associate Administrator approves all IIAs, both foreign and domestic. The Associate Administrator may approve foreign IIAs on the basis of an on-site audit performed by a U.S. DOT representative or an approval issued by the foreign Competent Authority of the country of the manufacturer. In the latter situation, the applicant must submit a copy of its Competent Authority approval for the type of pressure receptacle for which a U.S. approval is being sought. The Associate Administrator will review the certifying documents from the foreign competent authority and other required supporting application documents. The criteria for approving IIAs incorporate many of the same principles for technical competence and impartiality specified in ISO 17020. In addition, we may perform competency assessments of the IIA in conjunction with manufacturing audits. The Associate Administrator reserves the right to accept or deny an applicant.

In the NPRM, we proposed to require each new UN pressure receptacle design type to be approved by the Associate Administrator and marked with the letters ''USA'' to identify the United States of America as the country of approval. The USA marking is required on all UN pressure receptacles manufactured within or being shipped to, from or within the United States. Air Liquide Canada states we should accept UN pressure receptacles as having an equivalent level of safety without regard to the country of manufacture. We agree cylinders bearing a UN marking must conform to the appropriate UN and ISO standards and should be acceptable throughout the world. However, it is essential we maintain oversight of IIAs and cylinder manufacturers to ensure the accountability of persons who conduct cylinder inspections and certifications. Without the benefit of appropriate compliance oversight, there is no way to ensure a UN cylinder was manufactured and tested to standards offering an equal or greater level of integrity as provided by the standards contained in part 178. Therefore, in this final rule we are adopting the proposal requiring a UN cylinder, acceptable for import and use within the United States, to bear a ''USA'' mark to indicate it has been approved by the U.S. DOT. This oversight and approval process is necessary to ensure a level of safety is maintained for the cylinders as intended by the standards prescribed in 6.2.2.5 of the UN Model Regulations and the HMR. A UN cylinder without the ''USA'' marking may be transported in the United States in accordance with the provisions prescribed in paragraph (k) or (l) of § 173.301, or under the terms of a DOT special permit.

The European Commission (EC) Member States require UN cylinders and valves to be marked with a π (Pi) mark. The Pi mark provides an easily recognizable indication of conformance with the Transportable Pressure Equipment Directive (Council Directive 1999/36/EC of April 29, 1999) (TPED). Only UN cylinders with the Pi mark are allowed free movement and use in all EC Member states. The Pi mark may be applied on cylinders and valves only under the authority of a Notified Body. Within the EC, member states approve organizations as Notified Bodies to perform specific tasks identified in the TPED. The applicable tasks identified in the TPED are the same as the functions prescribed for Notified Bodies in the UN Model Regulations and are equivalent to the functions prescribed for IIAs in this final rule.

Under this final rule, the Associate Administrator may approve any qualified person or organization located outside the United States as an IIA based on an on-site audit at the foreign manufacturing facility or based on an approval issued by the foreign Competent Authority. An IIA who is not a resident of the United States must designate a person in the United States to act on his or her behalf. (See 49 CFR 107.705(a), 107.801(c).)

The NPRM proposed to require an applicant to submit written evidence the foreign Competent Authority provides similar authority to IIAs and manufacturers of UN pressure receptacles in the United States with no additional limitations not required of its own citizenry. Upon further

consideration, we believe requiring an applicant to submit written evidence of the foreign Competent Authority's reciprocal agreement should not be the applicant's responsibility. Instead, we are adding § 107.809 to contain conditions for approval of UN pressure receptacle manufacturers. As adopted in this rule § 107.809 specifies failure of a competent authority to recognize qualified IIAs domiciled in the United States as a possible basis for the disapproval of an application. If the United States recognizes Notified Bodies designated by the Competent Authority of another country, equal treatment should be expected from the Competent Authority of the foreign country relative to IIAs domiciled in the United States.

Over the last five years, we have made efforts to work with the EC to attain mutual recognition of U.S. IIAs under the TPED. Our efforts to obtain mutual recognition of U.S. based companies have not been successful because it is the position of the EC that only Member States may approve bodies under their own jurisdiction. Only one U.S.-based IIA has been recognized within the EC because of a provision in the TPED requiring a notified body to be ''established within the Community''. The EC has interpreted this provision to mean a notified body must have an established legal entity (place of business) within an EC member state. As an alternative, we suggested to the EC our willingness to work toward developing a mutual recognition agreement (MRA). In its response, the EC stated its reluctance to initiate new MRA negotiations. Instead, the EC suggested we pursue this matter with its U.S. counterpart, the U.S. Trade Representative. Our efforts to obtain recognition by the TPED for U.S. companies to perform conformity assessment and inspection activities for UN pressure receptacles are on-going.

Air Products and CGA request PHMSA work with the UN to create a registry of internationally recognized bodies and the criteria for being listed in that registry. They further request the registry be published and maintained so regional approvals, such as the European Pi mark or our ''USA'' markings, are not necessary. As stated earlier, the United States will work with the EC and other government bodies to establish mutual recognition of independent inspection bodies. We will continue to maintain a list of IIAs approved by the Associate Administrator to perform inspections and verifications of cylinder manufacture, repair and modification as prescribed in parts 178 and 180. The list of approved IIAs is available from the Associate Administrator (PHH–32) and may be viewed on the Internet by accessing *http://www.phmsa.dot.gov.* However, the establishment of a registry of internationally recognized bodies will not obviate the need for the ''USA'' marking. The ''USA'' marking is a certification that the UN pressure receptacle conforms in all respects to the applicable part 178 requirements.

B. Approval of UN Pressure Receptacle Manufacturers

In the NPRM, we proposed to require each manufacturer to have in place a documented quality system for the manufacture of UN pressure receptacles. The manufacturer's quality system involves detailed documentation related to the types of UN pressure receptacles to be produced, and written polices, procedures and instructions. The documentation must include: (1) Adequate descriptions of the organizational structure; (2) responsibilities of personnel with regard to design and product quality; (3) the design control and verification techniques; (4) cylinder manufacturing, quality control, quality assurance and operating instructions; (5) quality records, such as inspection reports, test data, and calibration data; (6) the process for control of documents and their revision; (7) means for control of non-conforming gas cylinders, purchased components, in-process and final materials; and (8) the training of relevant personnel. The manufacturer's quality system will be audited by PHMSA during the final review of the initial design type approval.

Lincoln Composite expresses concern regarding the potential complexity of compliance and enforcement of the manufacturer's quality system due to the lack of formalized assessment criteria in the NPRM. Lincoln Composite requests we recognize manufacturers with a quality control system certified to existing international quality control standards such as ISO 9000 as meeting the intent of § 178.69. CGA and Taylor-Wharton also recommend we acknowledge a manufacturer's systems approved by a competent authority and in conformance with internationally recognized quality systems such as the ISO 9000 series. The requirements for a manufacturer's quality system, as specified in this final rule, conform to those contained in the UN Model Regulations. These requirements are based on the fundamentals of the ISO 9000 series. Therefore, companies operating in conformance with the ISO 9000 series should be able to adapt their quality management system to fully conform to the prescribed requirements.

In the NPRM, we proposed to require the Associate Administrator to approve all modifications to an approved quality management system. CGA and Taylor-Wharton recommend a revision of the regulatory language to read: ''The manufacturer shall notify the Associate Administrator of any intended changes to the approved quality system prior to making the change.'' Lincoln Composite objects to the need to obtain an approval for all quality system changes and recommends requiring an approval only when the quality system change reduces the number, type, or frequency of inspections for a specific design type. Lincoln Composite further suggests we delegate to the production IIA the authority to determine what quality system changes require approval. We disagree with the commenters as their suggestions would allow a manufacturer to modify the approved quality system without approval from the Associate Administrator. Based on experience gained through interaction with manufacturers seeking modifications to approved quality systems, we may consider revising this language at a later date if we find these requests pertain to matters that will not substantially affect the overall process.

Arrowhead and Barlen ask PHMSA to specifically exclude section 5.1 of ISO Technical Report 14600 from incorporation in the final rule. They state the language in this section authorizes a manufacturer to self-certify high pressure cylinders. We did not propose to incorporate ISO Technical Report 14600 by reference in the NPRM and are not adopting it in this final rule. In § 178.71, we are adopting a conformity assessment system consistent with the system described in section 6.2.2.5 of the UN Model Regulations. The conformity assessment system requirements in the UN Model Regulations were adopted on the basis of the requirements in ISO Technical Report 14600. The procedures prescribed in § 178.71 of the final rule require an IIA, and not a company employee, to perform cylinder certifications.

IV. Summary of Regulatory Changes by Section

The following is a section-by-section summary of the changes adopted in this final rule and, where applicable, a discussion of comments received.

Part 107

Section 107.801

This section lists persons who are required to obtain approvals to inspect, requalify, test, or certify cylinders. In the NPRM, we proposed to expand the scope of the functions performed by IIAs and cylinder requalifiers to include UN pressure receptacles. We are adopting this provision as proposed.

Section 107.803

This section establishes requirements for the approval of IIAs. In this final rule, we are revising the application criteria for IIA applicants to include inspections, verifications, and certifications of UN pressure receptacles. The revisions to this section are discussed earlier in this preamble under the heading ''III.A. Approval of Independent Inspection Agencies (IIAs; Notified Bodies) and Certification of UN Cylinders.''

Section 107.805

This section establishes requirements for cylinder requalifiers. In this final rule, we are revising the procedures and application criteria for persons seeking to be approved as cylinder requalifiers to also apply to persons seeking to be approved as UN pressure receptacle requalifiers.

Section 107.809

New § 107.809 contains the conditions applicable to UN pressure receptacle approvals as discussed earlier in this preamble under the heading ''III.A. Approval of Independent Inspection Agencies (IIAs; Notified Bodies) and Certification of UN Cylinders.''

Part 171

Section 171.7

This section addresses material incorporated by reference. In paragraph (a)(3), in the table of material incorporated by reference, under the General Services Administration, the reference to Federal Specification RR–C–901C titled ''Cylinders, Compressed Gas: High Pressure Steel'' is updated to read Federal Specification RR–C–901D titled ''Cylinders, Compressed Gas: Seamless Shatterproof, High Pressure DOT 3AA Steel, and 3AL Aluminum.'' This standard is referenced in §§ 173.302, 173.336, and 173.337 for the cleaning of aluminum cylinders.

We are adding 20 new ISO entries for standards containing design, manufacture, testing, requalification, and use requirements for UN pressure receptacles as proposed in the NPRM.

Air Products requests we update the reference to CGA S–1.1, ''Pressure Relief Standards'' from the 2001 edition to the more recent 2003 edition. We agree the more recent 2003 edition of CGA S–1.1 should be referenced for UN pressure receptacles. In addition, we are continuing to exclude the requirements in 9.1.1.1 from mandatory compliance. Section 171.7 continues to reference the 2001 edition of CGA S–1.1 for the DOT specification cylinders. Amending provisions relative to DOT specification cylinder is beyond the scope of this rulemaking. Therefore, we will consider requiring the 2003 edition of this standard for DOT specification cylinders in a future rulemaking.

Matheson requests we incorporate by reference the valve requirements contained in CGA V–9, ''Standard for Compressed Gas Cylinder Valves'' in place of, or in addition to, ISO 10297 in § 173.301b. CGA V–9 contains general design, performance, design qualification tests, and maintenance requirements for valves. Since we did not propose to reference CGA V–9 in the NPRM, the adoption of this standard is beyond the scope of this rule. We will address this matter in a future rulemaking. Matheson also requests we incorporate by reference CGA Technical Bulletin, TB–16, ''Recommended Coding System of Threaded Cylinder Outlets and Threaded Valve Inlets.'' TB–16 recommends that all new cylinder valves and cylinders made after December 31, 1998, be permanently marked with the thread codes. We may consider a proposal to incorporate CGA TB–16 in a future rulemaking.

Under the entry for United Nations, we are revising the reference to the UN Recommendations on the Transport of Dangerous Goods to include the new 49 CFR section references added in this rule. The new references are §§ 173.40, 173.192, 173.302b, 173.304b, and 178.75.

All incorporated matter is available for inspection at the Office of the Federal Register or the U.S. Department of Transportation, PHMSA's Office of Hazardous Materials Standards, Room 8430, NASSIF Building, 400 Seventh Street, SW., Washington, DC 20590. Persons may also obtain these documents from the sources identified in § 171.7 of the HMR.

Section 171.8

Section 171.8 sets forth definitions for terms used in the HMR. In this section, we are adding new definitions for ''bundles of cylinders,'' ''multiple element gas containers or MEGCs,'' ''settled pressure,'' ''UN cylinder,'' ''UN pressure receptacle,'' ''UN tube,'' and ''working pressure.''

In the NPRM, we proposed to define ''working pressure'' to mean the ''settled pressure'' of a compressed gas at a reference temperature of 15 °C (59 °F). Praxair notes the term ''settled pressure'' is not defined in the regulations, but is used to define the term ''working pressure,'' which includes a reference temperature different from that of 65 °C (149 °F) and is used in determining the filling pressures in §§ 173.301—173.305. We agree with the commenter that the term ''settled pressure'' should be defined. We are defining the term ''settled pressure'' to mean ''pressure exerted by the contents of a UN pressure receptacle in thermal and diffusive equilibrium.'' This definition is consistent with that specified in the UN Model Regulations.

Section 171.11

This section contains provisions for the shipment of hazardous materials by aircraft in accordance with the ICAO Technical Instructions. In the NPRM, we proposed to add a new paragraph (d)(19), and is adopted as new paragraph (d)(20) herein, to authorize the transport of hazardous materials in cylinders (including UN pressure receptacles) in accordance with the ICAO Technical Instructions, under certain conditions. Proposed paragraph (d)(19) reads:

(d)(19) Cylinders transported to, from or within the United States must conform to the applicable requirements of this subchapter. Unless otherwise excepted in this subchapter, a cylinder may not be transported unless—

(i) The cylinder is manufactured, inspected and tested in accordance with a DOT specification or a UN standard prescribed in part 178 of this subchapter, except that cylinders not conforming to these requirements must meet the requirements in § 173.301(j) through (k);

(ii) The cylinder is equipped with a pressure relief device in accordance with § 173.301(f) of this subchapter and conforms to the applicable requirements in part 173 for the hazardous material involved;

(v) For aluminum cylinders in oxygen service except those used aboard aircraft in accordance with the applicable airworthiness requirements and operating regulations, the opening is configured with straight (parallel) threads (UN cylinders are marked with the cylinder thread type, e.g. ''18P'' or ''18S''); and

(vi) A UN cylinder is marked with ''USA'' as a country of approval in conformance with §§ 178.69 and 178.70 of this subchapter.

Air Liquide Canada, CGA, and Taylor-Wharton request we revise paragraph (d)(19)(ii) to permit the transportation of UN cylinders without PRDs for export

only. Upon further consideration, we agree with the commenters' request to permit UN cylinders not intended for use in the United States to be filled and transported for export only. In this final rule, these cylinders may be transported under the conditions prescribed in paragraph (l) of § 173.301. Paragraph (l) permits, under certain conditions, the transportation of UN pressure receptacles without the ''USA'' marking, and ''USA'' marked UN pressure receptacles without the required PRD, to be filled for export only. We are making a similar change to the regulatory language in §§ 171.12 and 171.12a. These amendments eliminate the need for DOT–E 12929, which authorizes certain DOT specification cylinders and foreign cylinders without PRDs to be charged and transported for export only. We are also adding certain safety conditions prescribed in DOT E–12929:

(1) Each DOT specification cylinder or UN pressure receptacle must be plainly and durably marked ''For Export Only'';

(2) The shipping paper must include the following certification: ''This cylinder has (These cylinders have) been retested and refilled in accordance with the DOT requirements for export.''; and

(3) The emergency response information provided with the shipment and available from the emergency response telephone contact person must indicate the pressure receptacles are not fitted with pressure relief devices and provide appropriate guidance in the event of exposure to a fire.

For aluminum cylinders in oxygen service, we proposed in paragraph (d)(19)(v), to require each opening to be configured with straight (parallel) threads. The UN Model Regulations permit the use of either tapered or straight threads in aluminum alloy oxygen cylinders through the incorporation by reference of other ISO standards. However, we did not propose to allow the use of tapered threads in aluminum alloy cylinders used in oxygen service and transported in the United States. This position is consistent with the current requirement in § 173.302(b) of the HMR, which requires each aluminum oxygen cylinder opening to be configured with straight threads only. Requiring the use of straight threads eliminates the possibility of a taper threaded valve being inadvertently inserted into a straight threaded cylinder opening. Such a mismatch or cross connect could lead to a violent expulsion of the taper threaded valve or unintended release of oxygen which cause product loss, property damage, personal injury, or death.

Within the United States, there are 20 million or more DOT 3AL aluminum alloy cylinders in oxygen service equipped with straight threads. At the time of the proposed rule, we were concerned that allowing the use of UN aluminum alloy oxygen cylinders with tapered threads could increase the potential for inserting improper valves, even though the UN cylinders will be marked with the thread type code, e.g. 18P for straight or 25E for tapered. Persons who are not familiar with the ISO thread type codes may assume that the aluminum alloy oxygen cylinder is equipped with straight threads.

Although our experience in the United States involves straight thread designs, we are aware the use of both thread designs may offer certain advantages. In the NPRM, we asked commenters to address the impact of retaining the prohibition against using taper threads in aluminum alloy oxygen cylinders.

Barlen supports the proposed prohibition. Citing the difference between the European and U.S. tapered threads, Barlen explains the angle of the European tapered threads provides for more problem-free valve insertion into aluminum cylinders and asserts that cylinder owners support this proposal. Air Liquide Canada, CGA, and Matheson do not support the proposed prohibition. CGA states the UN cylinders will be marked with information significantly different than a DOT cylinder. The commenters further suggest that the cylinders and valves must be marked with the thread type. Matheson requests we mandate the use of tapered ISO threads for aluminum UN cylinders in oxygen service and suggest this will avoid any safety concern where valve ejection can take place because of incorrect valves.

CGA and Matheson state all UN cylinders and their valves should be marked with the ISO thread type. Matheson states the cylinders and valves should be marked according to the CGA technical bulletin, TB–16, ''Recommended Coding System for Threaded Cylinders Outlets and Threaded Valve Insets.'' CGA developed this technical bulletin for use in the United States and Canada in response to several serious incidents where users inserted a straight thread valve into a cylinder with taper threads, inserted a taper thread valve into a cylinder with straight threads, or interchanged ISO and/or other metric classification threads with American National Standards threads. Also CGA published safety bulletin, SB–19, ''Potential Valve Thread and Cylinder Thread Mismatch'' to alert users that mismatching the thread on the valve and the cylinder can result in the ejection of the valve. The safety bulletin contains illustrations of various valve thread types.

Upon consideration of the comments received, in this final rule we are allowing the openings on aluminum alloy UN cylinders in oxygen service to be configured with straight or taper threads. The thread type must be marked on the cylinder as required by § 178.71(o)(11) and on the valve as required by ISO 10297, as referenced in §§ 173.301b(c) and 178.71(d)(2). Further, we are adding a requirement, in § 173.301(a)(10) that any person who installs a valve into an aluminum cylinder in oxygen service must verify the valve and the cylinder have the same thread type. We believe these requirements will provide for harmonization with the UN Model Regulations while maintaining an adequate level of safety.

We are adopting the requirement that each UN cylinder be marked with ''USA'' as a country of approval for transportation within the United States as discussed earlier in this preamble.

Section 171.12

This section contains provisions for the import and export of hazardous materials in commerce. Paragraph (b) contains provisions specific to the shipment of hazardous materials by vessel in accordance with the IMDG Code. In this final rule, we are revising paragraph (b)(15) to authorize the transport of hazardous materials in UN pressure receptacles in accordance with the IMDG Code under certain conditions. Readers should refer to the preamble discussion to § 171.11 for changes made to this section.

Section 171.12a

This section contains provisions for the transportation by rail or highway of shipments of hazardous materials conforming to the regulations of the Government of Canada. Paragraph (b) contains provisions specific to the shipment of hazardous materials in accordance with the Transport Dangerous Goods (TDG) Regulations. We are revising paragraph (b)(13) to authorize the transport of hazardous materials in UN pressure receptacles in accordance with the TDG Regulations under certain conditions. Readers should refer to the preamble discussion to § 171.11 for changes made to this section.

Part 172

Section 172.101

In § 172.101, we are amending the Hazardous Materials Table (HMT). In a

final rule published July 31, 2003 (Docket No. RSPA 2002–13658 (HM–215E), 68 FR 44992), we revised eleven entries by removing the qualifying word ''compressed.'' The eleven entries are as follows:

1008 Boron trifluoride
2417 Carbonyl fluoride
1911 Diborane
1962 Ethylene
2193 Hexafluoroethane *or* Refrigerant gas R116
2451 Nitrogen trifluoride
2198 Phosphorous pentafluoride
2203 Silane
1859 Silicon tetrafluoride
1982 Tetrafluoromethane or Refrigerant gas R14
2036 Xenon

We also made revisions for consistency with another amendment that revised the reference temperature used in the definitions of a non-liquefied and liquefied compressed gas in § 173.115(d) and (e), respectively, from 20 °C (68 °F) to − 50 °C (− 58 °F) consistent with internationally accepted definitions for gases adopted in the Twelfth Edition of the UN Model Regulations. In the NPRM, we solicited comments on whether the packaging authorization for these gases should remain in § 173.302 or be relocated to § 173.304. Praxair recommends revising the packaging authorization reference found in column 8B of the HMT to show 304 for the following gases so as to remain consistent with the requirements of other liquefied gases: Boron trifluoride, UN1008, Carbonyl fluoride, UN2417, Diborane, UN1911, Nitrogen trifluoride, UN2451, Phosphorus pentafluoride, UN2198, Silane, UN2203, Silicon tetrafluoride, UN1859, Tetrafluoromethane, UN1982, and Xenon, UN2036. Although these materials now meet the definition of liquefied compressed gases in § 173.115(e) based on the revised reference temperatures, it remains our understanding that these gases seldom encounter temperatures of − 50 °C (− 58 °F) and below when transported within the United States. Since these gases will seldom, if ever, reach temperatures causing them to become liquefied in transportation, we have determined the non-bulk packaging authorizations for these gases should remain in § 173.302.

Air Products and CGA note in the NPRM, the Hazardous Materials Table entry, ''Ammonia, anhydrous, 2.3, UN 1005'' was missing the symbol ''I'' which identifies the proper shipping name as appropriate for describing materials in international transportation. The symbol was inadvertently removed in the NPRM. We are correcting this error in this final rule.

New Special provision N86 is added to 21 entries. This special provision prohibits the shipment of these gases in UN pressure receptacles made of aluminum. The 21 entries are as follows:

1001 Acetylene
1017 Chlorine
1037 Ethyl chloride
1045 Fluorine, compressed
1048 Hydrogen bromide, anhydrous
1050 Hydrogen chloride, anhydrous
1052 Hydrogen fluoride, anhydrous
1062 Methyl bromide
1063 Methyl chloride *or* Refrigerant gas R 40
1085 Vinyl bromide, stabilized
1086 Vinyl chloride, stabilized
1581 Chloropicrin and Methyl bromide mixture
1582 Chloropicrin and Methyl chloride mixture
1749 Chlorine trifluoride
1860 Vinyl fluoride, stabilized
1912 Methyl chloride and Methylene chloride mixture
2190 Oxygen difluoride, compressed
2196 Tungsten hexafluoride
2197 Hydrogen iodide, anhydrous
2548 Chlorine pentafluoride
2901 Bromine chloride

• New special provision N87 is added to eight entries. The special provision prohibits the shipment of these gases in UN pressure receptacles with copper valves. The eight entries are as follows:

1005 Ammonia, anhydrous
1032 Dimethylamine, anhydrous
1036 Ethylamine
1043 Fertilizer ammoniating solution *with free ammonia*
1061 Methylamine, anhydrous
1083 Trimethylamine, anhydrous
2073 Ammonia solution, *relative density less than 0.880 at 15 °C in water, with more than 35% but not more than 50% ammonia.*
3318 Ammonia solution, *relative density less than 0.880 at 15 °C in water, with more than 50% ammonia.*

• New special provision N88 is added to three entries. The special provision provides that the UN pressure receptacle's metal parts in contact with the gas must contain no more than 65% copper. Barlen disagrees with our adding this special provision, citing the low occurrence of copper metal coming in contact with any of the specifically named gases. Praxair requests we revise this special provision to allow metal parts to contain a ''nominal'' 65% copper, suggesting that some brass alloys contain slightly more than 65% copper. We agree with the latter commenter and will allow brass alloys that may contain slightly more than 65% copper. However, we believe the term ''nominal'' is not sufficiently prescriptive. Therefore, we are providing that the copper content of metal parts in contact with the gases may exceed the limit with a tolerance of 1%. The three entries are as follows:

1001 Acetylene, dissolved
1060 Methyl acetylene and propadiene mixtures, stabilized
2452 Ethylacetylene, stabilized

• New special provision N89 is added to ten entries. The special provision provides that when steel UN pressure receptacles are used, only those bearing an ''H'' mark are authorized. We proposed to add this requirement to fourteen entries. However, Barlen, Matheson, and Praxair request that we do not assign this special provision to Arsine (UN2188), Germane (UN2192), Phosphine (UN2199), and Silane (UN2203) because these ladings are not prone to hydrogen disassociating from the compounds and posing a threat of hydrogen embrittlement, as is the case with pure hydrogen. We agree with the commenters and we are not adding this special provision to Arsine (UN2188), Germane (UN2192), Phosphine (UN2199), and Silane (UN2203). We are adding the special provision to the following ten entries:

1048 Hydrogen bromide, anhydrous
1049 Hydrogen, compressed
1050 Hydrogen chloride, anhydrous
1053 Hydrogen sulphide
1064 Methyl mercaptan
1911 Diborane
1957 Deuterium, compressed
2034 Hydrogen and Methane mixture, compressed
2197 Hydrogen iodide, anhydrous
2600 Carbon monoxide and Hydrogen mixture, compressed

Part 173

Section 173.40

This section establishes general packaging requirements for toxic materials packaged in cylinders. In the NPRM we proposed to revise this section to include UN cylinders. In paragraph (a), we proposed to prohibit the transport of Hazard Zone A material in UN tubes and MEGCs. Baker expresses concern regarding the proposal to prohibit the transport of Hazard Zone A material in UN tubes and MEGCs. We disagree. This final rule is intended to align the HMR with international standards. The UN Model Regulations prohibit the transportation of Hazard Zone A materials in UN tubes and MEGCs; therefore we are adopting the prohibition as proposed.

In paragraph (b), we proposed to limit a UN cylinder used for Hazard Zone A

or B material to a maximum water capacity of 85 liters. To maintain consistency with the UN Model Regulations, we are not adopting the NPRM proposal to limit UN cylinders to a capacity of 85 liters for Hazard Zone B materials. We are placing the 85 L limitation for Hazard Zone A materials in paragraph (d)(4).

We also proposed to require the UN cylinder to have a minimum test pressure of 200 bar and a minimum wall thickness of 3.5 mm if made of aluminum alloy or 2 mm if made of steel or, alternatively, be packed in an outer packaging meeting the Packing Group I performance level. Praxair believes these restrictions in the proposed paragraph (b) should be moved to § 173.192 and apply only to Hazard Zone A materials. We disagree. Section 173.40 contains general packaging requirements for toxic materials. Relocating the requirements for minimum test pressure and minimum wall thickness to § 173.192 would apply these requirements to Division 2.3, Hazard Zone A materials, but not to the Division 6.1 Hazard Zone A materials.

Praxair notes the UN Model Regulations allow UN pressure receptacles containing certain Hazard Zone B materials to meet minimum test pressures lower than 200 bar. Although the commenter is correct, the UN Model Regulations also require UN pressure receptacles containing other Hazard Zone B materials to have a minimum test pressure greater than 200 bar. To maintain consistency with the UN Model Regulations, in this final rule we are specifying when UN pressure receptacles are used, the minimum test pressure must be in accordance with P200 of the UN Model Regulations.

We are revising paragraph (e) to specify that MEGCs are authorized for Hazard Zone B materials subject to the conditions and limitations of § 173.312.

Section 173.163

This section lists requirements for transporting hydrogen fluoride in cylinders. We are revising this section to authorize UN cylinders for the transport of hydrogen fluoride.

Section 173.192

This section lists requirements for transporting bromoacetone, methyl bromide, chloropicrin, and methyl bromide or methyl chloride mixtures in cylinders. We are revising the introductory text and paragraph (a) to specify that UN cylinders with a marked test pressure of 200 bar or greater are authorized for certain toxic gases in Hazard Zone A. Praxair requests that provisions from § 173.40 applicable to Hazard Zone A materials be relocated to this section. Readers should refer to the preamble discussion in § 173.40.

Section 173.195

This section lists requirements for transporting hydrogen cyanide and anhydrous, stabilized (hydrocyanic acid, aqueous solution) in cylinders. As proposed in the NPRM, we are adding a new paragraph (a)(3) to authorize the use of UN cylinders with a minimum test pressure of 100 bar and a maximum filling ratio of 0.55 for hydrogen cyanide, anhydrous, stabilized or hydrocyanic acid, aqueous solution. We are prohibiting the use of UN tubes and MEGCs.

Section 173.201

This section lists authorized packagings for the transportation of liquid hazardous materials in Packing Group I. As proposed in the NPRM, we are revising paragraph (c) to authorize the use of UN cylinders for liquid hazardous materials in Packing Group I.

Section 173.205

This section addresses general requirements for liquid hazardous materials. As proposed in the NPRM, we are revising this section to authorize the use of UN cylinders for liquid hazardous materials.

Section 173.226

This section lists authorized packagings for the transportation of Division 6.1 materials in Hazard Zone A. As proposed in the NPRM, we are revising paragraph (a) to authorize the use of UN cylinders for materials poisonous by inhalation, Division 6.1, Packing Group I, Hazard Zone A.

Section 173.227

This section lists authorized packagings for Division 6.1 materials in Hazard Zone B. We proposed to revise paragraph (a) to authorize the use of UN cylinders for materials poisonous by inhalation, Division 6.1, Packing Group I, Hazard Zone B, subject to the terms and conditions of § 173.40. Praxair suggests the requirements in § 173.40 should not apply to cylinders used for Division 6.1 Hazard Zone B materials. Readers should refer to the preamble discussion in § 173.40.

Section 173.228

This section lists authorized packagings for bromine pentafluoride or bromine trifluoride. We proposed to revise paragraph (a) to authorize the use of UN cylinders, but not UN tubes and MEGCs, for ''Bromine pentafluoride'' and ''Bromine trifluoride,'' which are poisonous Hazard Zone A and B materials, respectively. The shipment of these materials is subject to the terms and conditions of § 173.40. Praxair requests we allow the use of UN tubes and MEGCs to maintain consistency with the capacity authorized for DOT specification cylinders. We disagree. Consistent with § 173.40 and the UN Model Regulations, ''Bromine pentafluoride'' and ''Bromine trifluoride'' must be transported in seamless cylinders. The use of UN tubes and MEGCs is prohibited.

Section 173.301

This section establishes general requirements for the transportation of compressed gases in cylinders. As proposed in the NPRM, we are revising this section to apply to UN pressure receptacles. In the NPRM, we proposed to add a new paragraph (a)(10) to require a cylinder certified to ISO 11119–3 to have a working pressure not to exceed 62 bar when used for Division 2.1 materials due to our concerns about the permeation of flammable gases through the plastic liner at high temperatures. Upon further review of the requirements in ISO 11119–3 and composite cylinders authorized by special permits, we found the permeation of flammable gases from these cylinders at high temperatures to be negligible. Therefore, we are not adopting the proposed requirement for composite cylinders to have a test pressure less than 62 bar when used for Division 2.1 materials.

In the NPRM, we proposed to prohibit the use of ISO 11119–3 composite cylinders for underwater breathing applications because of the effects of saltwater on some resins. CGA notes ISO 11119–3 contains special requirements for cylinders used in underwater applications. Lincoln Composite states the primary pressure containment structure of ISO 11119–2 and 11119–3 cylinders is the composite over wrap and any adverse effect of saltwater on the structural performance of the resin matrix of composite cylinders manufactured to ISO 11119–3 would also apply to the resin matrix of composite cylinders manufactured to ISO 11119–2. Lincoln Composites requests we remove this underwater use restriction or apply the restriction to composite cylinders manufactured to ISO 11119–2 and to ISO 11119–3 and cites extensive experience in producing and using composite cylinders in saltwater environments without incident. We agree with the commenter regarding the uniform regulation of ISO 11119–2 and 11119–3 for underwater

use. The ISO standards permit a wide range of resin mixtures for the construction of composite cylinders. In reviewing a manufacturer's prototype design of a composite cylinder intended for underwater applications, we will determine the suitability of the particular resin for underwater application. Therefore, in this final rule, in § 173.301b(g), we will permit the use of ISO 11119–2 and 11119–3 composite cylinders for underwater applications. Composite cylinders manufactured to ISO 11119–2 or 11119–3 for underwater applications must be stamped with the ''UW'' marking as specified in § 178.71(o)(17).

In this final rule, we are adding a new paragraph (a)(10) to require a person who installs a valve into an aluminum cylinder in oxygen service to verify the valve and the cylinder have the same thread type, as we state in the earlier preamble discussion to § 171.11.

In paragraph (c) of the NPRM, we proposed to prohibit the use of a UN non-refillable cylinder, or a UN composite cylinder certified to ISO 11119–3 (fully wrapped fibre reinforced composite gas cylinders with non-load sharing metallic liners or non-metallic liners) for toxic gas or toxic gas mixtures in Hazard Zone A or B. Lincoln Composite agrees with the limited use of non-metallic (plastic) composite cylinders for toxic gases or toxic gas mixtures containing a Division 2.3, Hazard Zone A or B, material. However, Lincoln Composite believes we should not ban the use of these composite cylinders without ''definitive performance goals.'' Lincoln Composite acknowledges, however, that the suitability of plastic-lined composite cylinders for toxic gases is an issue yet to be evaluated. PHMSA does not have sufficient safety data on the permeation of toxic gases from composite cylinders. Therefore, in the absence of this data, we are adopting the prohibition as proposed.

In paragraph (d), we are prohibiting the use of UN cylinders made of aluminum alloy 6351–T6 as proposed.

We are revising paragraph (f)(5) to specify PRDs are not required on UN pressure receptacles transported in accordance with paragraph (k) or (l) of this section, for consistency with the revisions made to §§ 171.11, 171.12, and 171.12a in this final rule. Readers should refer to our earlier preamble discussion to § 171.11.

As proposed in the NPRM, we are revising paragraph (h) to specify UN pressure receptacles must meet the cylinder valve protection requirements in § 173.301b(f).

As proposed in the NPRM, we are revising paragraph (i), containing requirements for cylinders mounted on a motor vehicle or in frames, to specify MEGCs must meet the requirements in § 173.312.

Also, as proposed in the NPRM, we are revising paragraphs (j), (k) and (l) to include UN cylinders. Paragraph (l) is revised to permit the transportation of UN cylinders without PRDs that are not intended for use in the United States to be filled and transported for export only, under certain conditions. These conditions provide that a UN cylinder manufactured, inspected, tested and marked in accordance with part 178 of this subchapter and otherwise conforms to the requirements of this part for the gas involved, except that the cylinder is not equipped with a PRD, may be filled with a gas and offered for transportation and transported for export under certain conditions. Readers should refer to our earlier discussion to § 171.11 regarding the transport of UN pressure receptacles without PRDs for export only.

Section 173.301b

New § 173.301b contains additional general requirements for the shipment of hazardous materials in UN pressure receptacles.

When a refillable pressure receptacle is filled with a gas different from that previously contained in the cylinder, the cylinder must be cleaned in accordance with ISO 11621 prior to refilling. We proposed to require a UN pressure receptacle to have its valve protected in accordance with the methods prescribed in § 173.301b(f). CGA and Taylor Wharton request we clarify this requirement applies to valves that have inherent protection as provided by the ISO standard. We are revising the requirement to clarify that the valves must be designed and constructed with sufficient inherent strength to withstand damage in accordance with Annex B of ISO 10297. In this final rule, we are placing this requirement in § 173.301b(c)(2).

We proposed in paragraph (g) to require a non-refillable UN pressure receptacle transported as an inner packaging of a combination packaging to be limited to a water capacity not exceeding 1.25 L when used for a flammable or toxic gas, and to be prohibited for a Hazard Zone A material. Praxair suggests current regulations do not impose a limit on the water capacity for DOT specification cylinders in flammable gas service; therefore, no limit should be prescribed for the UN cylinders. We disagree with the commenter. Current § 173.302a limits the internal volume of DOT 39 non-refillable cylinders to 1.23 L when filled with a Division 2.1 material and § 173.40 prohibits the use of DOT 39 cylinders for Hazard Zone A materials. We are adopting the provision as proposed and placing it in paragraph (d). We are also rearranging the other requirements in this section for the benefit of users.

Section 173.302

This section addresses requirements for filling cylinders with non-liquefied (permanent) compressed gases. As proposed in the NPRM, we are making several revisions to this section. Paragraph (a) is revised to authorize the use of UN pressure receptacles for permanent gases. Paragraph (b)(2) is revised to permit the openings in aluminum UN cylinders in oxygen service to be configured with straight or taper threads as we stated in the earlier preamble discussion to § 171.11. We proposed in paragraph (b)(3) to require UN pressure receptacles to be subject to the cleaning requirements in ISO 11621 and to update the cleaning requirements for DOT specification cylinders from Federal Specification RR–C–901C to Federal Specification RR–C–901D. However, in the NPRM, we failed to update one of the paragraph cites we referenced in Federal Specification RR–C–901D. Luxfer requests we correct the cite reference to paragraph 4.4.2.2 to read paragraph 4.2.2.2. The sampling provisions in Federal Specification RR–C–901C, paragraph 4.4.2.2, are actually contained in Federal Specification RR–C–901D, paragraph 4.3.2. Therefore, in this final rule, we are correcting the cite reference to read paragraph 4.3.2.

Section 173.302b

New § 173.302b contains the filling requirements for UN pressure receptacles used to transport non-liquefied (permanent) gases. Praxair requests we revise paragraph (d) to authorize the use of UN tubes for diborane and diborane mixtures. We disagree. We did not propose to allow the use of UN tubes for diborane and diborane mixtures because their use is not authorized under the UN Model Regulations. Readers should refer to the earlier discussion in § 173.40.

Praxair requests we revise paragraph (e) to increase the settled pressure in UN pressure receptacles for carbon monoxide to the level permitted for DOT specification cylinders. As proposed in the NPRM, the settled pressure in UN cylinders for carbon monoxide is equivalent to the settled pressure allowed for DOT cylinders. The limits may appear to be different because the settled pressure in UN

cylinders is linked to the test pressure at 65 °C (149 °F) while the settled pressure in DOT cylinders is linked to service pressure at a reference temperature of 20 °C (65 °F).

Section 173.303

This section establishes requirements for filling cylinders with acetylene. As proposed in the NPRM, we are authorizing the use of UN cylinders and bundles of cylinders for acetylene. The cylinder must conform to ISO 9809 and have fusible plugs in accordance with ISO 3807–2. Taylor-Wharton requests we consider increasing the settled pressure of DOT specification cylinders for acetylene. This comment is beyond the steps of this rulemaking. We will consider the commenter's request in a future rulemaking.

In the NPRM, we proposed a new paragraph (f) to authorize UN cylinders and bundles of cylinders for the transport of acetylene gas. In this paragraph, we proposed that any metal part in contact with the contents may not contain more than 65% copper in the alloy. As discussed earlier in this preamble, special provision N88 contains this same requirement; therefore, it is removed in paragraph (f).

Section 173.304

This section addresses requirements for filling cylinders with liquefied compressed gases. As proposed in the NPRM, we are revising paragraph (a) to authorize the use of UN pressure receptacles for liquefied compressed gases.

Section 173.304b

New § 173.304b contains specific requirements for the shipment of liquefied compressed gases in UN pressure receptacles. In paragraph (b), we proposed to allow UN pressure receptacles to be filled with liquefied gases by using the numerical values and data specified in Table 2 of P200 of the UN Model Regulations or by using the formulas in paragraphs (b)(3) and (b)(4) of § 173.304b for determining filling limits for liquefied compressed gases and gas mixtures with unknown densities. Barlen and Matheson express concern regarding the required use of these formulas, which generally result in lower and more restrictive filling limits than those permitted in § 173.301. Barlen and Matheson request we revise the method for determining filling limits of liquefied compressed gases and gas mixtures in UN pressure receptacles to remove these proposed formulas or allow the use of alternative methods. We agree. In this final rule, we are permitting use of alternative methods for determining filling limits for liquefied compressed gases and gas mixtures in UN pressure receptacles.

CGA notes that the P200 filling limits in the UN Model Regulations were under review at the time we published the NPRM. This review, completed during the summer of 2005, verified the acceptance of most of the current P200 filling ratio values. Based on this review, we are lowering the filling limits for eleven gases. We are adding a table containing the revised filling limits for the effected gases in paragraph (c). Matheson further notes gas mixtures are not specifically addressed in the regulatory text, and requests we add the term ''mixture'' as appropriate. We agree, and have added the term ''mixture'' as appropriate.

Section 173.312

New § 173.312 contains general requirements for MEGCs consistent with the UN Model Regulations. This new section includes filling requirements, provisions for damage protection, and HMR references for manufacturing and requalification. Praxair requests we revise proposed paragraph (a)(6) to require UN pressure receptacles to be assembled with a manifold and individual shutoff valves to allow each UN pressure receptacle to be filled separately when used for Division 2.2 liquefied gases, or any 2.1 or 2.3 gases. We agree and we are revising this section accordingly.

Section 173.323

This section specifies requirements applicable to ethylene oxide. As proposed in the NPRM, we are revising paragraph (b)(2) to authorize the use of UN pressure receptacles as authorized packagings for any ethylene oxide gas, with the exception of acetylene.

Section 173.334

This section specifies requirements applicable to organic phosphates mixed with compressed gas. As proposed in the NPRM, we are revising paragraph (a) to authorize the use of UN cylinders for certain compressed gases that are mixed with organic phosphates.

Section 173.336

This section addresses requirements for nitrogen dioxide, liquefied, and dinitrogen tetroxide, liquefied. As proposed in the NPRM, we are revising this section to authorize the use of UN cylinders for nitrogen dioxide, liquefied and dinitrogen tetroxide, liquefied. The use of UN tubes and MEGCs is not authorized. In addition, we are correcting an inconsistency in the current requirements. We are relocating from § 173.337 the requirement for cylinders to be equipped with a stainless steel valve and valve seat that will not deteriorate if in contact with nitrogen dioxide. Praxair requests we allow the use of UN pressure receptacles of equal capacity to DOT specification cylinders. Although this request may have merit, we did not propose to allow the use of UN tubes in this section because the UN Model Regulations do not permit the use of UN tubes or MEGCs for the transport of nitrogen dioxide, liquefied or dinitrogen tetroxide, liquefied.

In addition, the reference to GSA Federal Specification RR–C–901C is revised to read RR–C–901D and the reference to paragraph 4.4.2.2 is revised to read 4.3.2. In addition, readers should refer to the preamble discussion to § 173.302.

Section 173.337

This section addresses requirements for nitric oxide. As proposed in the NPRM, we are revising this section to authorize the use of UN cylinders for nitric oxide. UN tubes and MEGCs are not authorized. In addition, the reference to GSA Federal Specification RR–C–901C is revised to read RR–C–901D and the reference to paragraph 4.4.2.2 is revised to read 4.3.2. In addition, readers should refer to the preamble discussion to § 173.302.

Part 178

Section 178.69

New § 178.69 contains the responsibilities and requirements applicable to manufacturers of UN pressure receptacles. Praxair requests we remove the words ''made in the United States'' stating the NPRM language unnecessarily restricts the requirements to U.S. manufacturers. We agree with the commenter and have revised this section to reference UN cylinders marked with ''USA'' as a country of approval.

CGA and Taylor-Wharton request PHMSA clarify that a manufacturer's quality system be documented in the ''English language.'' We have revised the regulatory text accordingly.

Section 178.70

New § 178.70 contains the procedures for obtaining design type approval to manufacture UN pressure receptacles. These procedures include a pre-audit inspection by an IIA, an application for initial design type approval, approval modification procedures, production inspections, and recordkeeping requirements. Praxair requests we revise paragraph (a) to clarify the requirements

in this section apply to all manufacturers of UN pressure receptacles regardless of whether the manufacturer's facility is located inside or outside of the United States. We agree and are revising the language in paragraph (a) to clearly state this section applies to all manufacturers of UN pressure receptacles intended for the transportation of hazardous materials within the United States regardless of the manufacturer's location.

CGA, Norris and Taylor-Wharton object to the requirement for a separate audit and inspection prior to the production of each design type and request we only require an audit and inspection prior to the initial manufacture of UN pressure receptacles and not for subsequent design type approvals. CGA and Taylor-Wharton request we do not subject manufacturers to auditing and destructive testing for each new design type without warrant. CGA and Taylor-Wharton further object to the requirement in § 178.70(f)(4) requiring a sample from the production lot to be selected and sent to a testing laboratory, and suggest this requirement should be at the discretion of DOT. Norris objects to the requirement for separate inspection audits that must be conducted by the IIA and the Associate Administrator prior to registration of a new UN cylinder design type. Norris suggests requiring separate inspections by the IIA and the Associate Administrator when applying for the initial design approval but not for subsequent design type approvals. Norris suggests manufacturers submit the documentation for each subsequent design type to the IIA who will also witness the tests, then submit the results of the testing to the Associate administrator for final approval. We disagree with the commenters. To assure the level of safety required under the HMR is maintained, PHMSA reserves the right to conduct subsequent audits prior to the manufacture of each new design type to verify each additional UN pressure receptacle design type is designed and manufactured to the appropriate standards.

Section 178.71

New § 178.71 contains the manufacturing specifications for UN pressure receptacles, including the specification marking requirements. As proposed in the NPRM, this section prescribes definitions for terms such as ''alternative arrangement,'' ''design type,'' and ''UN pressure receptacle design type.'' In addition, in this final rule we are adding a definition for ''design type approval,'' based on a request from CGA. A design type approval is the overall approval of the manufacturer's quality system and approval of the design type of each pressure receptacle to be produced. The initial and subsequent design type approval process is outlined in § 178.70 of this final rule and Section IV of the preamble to the NPRM. Finally, a number of ISO technical standards containing design, construction, and test requirements for seamless or composite UN pressure receptacles are incorporated by reference.

We proposed to subject the pressure receptacles to a hydraulic volumetric expansion test at the time of manufacture. CGA and Taylor-Wharton request we permit the use of both the volumetric expansion test and the proof pressure test for UN cylinders, tubes, and bundles of cylinders. We disagree. The volumetric expansion test measures a cylinder's elastic expansion and ensures the adequacy of the physical properties of each cylinder.

In § 178.71(d)(4) of the NPRM, we proposed to require UN pressure receptacles filled by volume to be equipped with a level indicator. Praxair requests we revise this section to authorize the use of a volume activated shut-off valve as an alternative to a level indicator. A petition for a rulemaking (P–1039) submitted by NPGA regarding the volumetric filling of liquefied petroleum gas cylinders is beyond the scope of this rulemaking, but will be considered along with Praxair's request in a future proceeding. Therefore, we are adopting this provision as proposed. CGA and Taylor-Wharton request we incorporate by reference ISO 4706–1, ''Refillable Welded Steel Gas Cylinders-Test pressure 60 bar and below'' ISO 4706–2, ''Refillable Welded Steel Gas Cylinders-Test pressure greater than 60 bar'' as the standards are approved, or consider the current 1989 version of IS0 4706. We did not propose in the NPRM to adopt the design, construction, and test requirements for refillable, welded steel cylinders. Therefore, the commenters' request is outside the scope of this rulemaking. Further, ISO has not finalized the refillable, welded steel cylinders standards. When those standards are finalized, we will consider whether to adopt them into the HMR.

In the NPRM, we proposed to allow the use of refillable composite cylinders designed, manufactured and tested in accordance with ISO 11119. In addition, we proposed for these composite cylinders to be designed and manufactured to unlimited service life standards while limiting their service life to fifteen years from the date of manufacture. Barlen agrees with this position. Lincoln Composite disagrees with this position, citing the rigorous hydraulic cycle requirements in ISO 11119 necessary to designate a cylinder for unlimited life as compared to the hydraulic cycling required for the DOT-Fully Wrapped Carbon Fiber Reinforced Composite (DOT–CFFC) cylinders which are currently authorized under several special permits. Lincoln Composite further requests that we provide an unlimited service life for those cylinders designed, manufactured and tested to the unlimited life requirements provided by ISO 11119. We disagree. Hydraulic cycling in a controlled setting alone does not provide an adequate evaluation of the conditions that may be encountered in the transportation of a composite cylinder. Therefore, limiting the service life for composite cylinders is warranted at this time. Any increase in service life for these composite cylinders would have to be based on a sound non-destructive examination (NDE) performed during requalification. The NDE method used would have to accurately detect and measure a flaw (*e.g.* impact damage) that occurred during the transportation of the composite cylinders and that may or may not be detectable by a visual inspection. We are conducting research to evaluate several NDE methods on composite cylinders made in accordance with DOT–CFFC requirements. In the interim, we may consider extending the service life of composite cylinders on a case-by-case basis through an approval from the Associate Administrator.

We proposed in the NPRM to prohibit in the United States the manufacture and use of fully wrapped UN composite cylinders without liners under ISO 11119–3. Carleton expresses concern regarding the properties of ISO 11119–3 composite cylinders with non-metallic and non-load sharing metal liners that do not exhibit the leak before burst failure mode. Carleton suggests this is a primary safety feature of composite cylinders with a load sharing metallic liner. Carleton requests we ensure adequate safety data exists before authorizing the manufacture and use of composite cylinders with non-metallic and non load-sharing metal liners. Lincoln Composite disagrees with the prohibition on the manufacture of ISO 11119–3 composite cylinders without liners based on the satisfactory shipping experience of fully wrapped composite cylinders under several DOT special permits. Lincoln Composite points out that DOT–E 8487, originally issued September 11, 1980, is for fully

wrapped fiberglass composite shell with an aluminum liner, which carries no more than 20% of the pressure load at burst. After review of the ISO 11119–3 standard and the design and shipping experience of composite cylinders under special permits, we agree with the Lincoln Composite and in this final rule are authorizing the use of composite cylinders without liners for Division 2.1 and 2.2 gases. As specified in ISO 11119–3 for composite cylinders without liners, the test pressure must be limited to less than 60 bar.

Carleton notes the preamble in the NPRM contains a list of criteria that constitute a change in an existing approved design. The commenter requests we use the criteria contained in the DOT–CFFC cylinder standard for defining a new composite cylinder design. We disagree. The design change criteria contained in the NPRM preamble is specified in ISO 11119 and must be used when determining if a change constitutes a new design.

CGA and Taylor-Wharton request that we require manufacturers to mark the ISO porous mass standard and not the ISO standard identification that is the ''9809'' on acetylene cylinders. They suggest that the ''9809'' marking could lead to confusion and cause these cylinders to be filled with a gas other than acetylene. In this final rule, we are requiring acetylene cylinders to be made of steel. Therefore, we are requiring the cylinder to be marked with the acetylene porous mass standard followed by the steel shell standard, for example ''ISO 3807–2/ISO 9809–1.'' This will provide for easy identification of acetylene cylinders and verification of the steel shell.

Section 178.74

New § 178.74 contains the approval procedures for MEGCs. These provisions include procedures for submitting and processing applications for approval, approval denials and terminations, approval modifications, and the responsibilities of MEGC manufacturers and of approval agencies.

The MEGC's manufacturer will submit the application to the approval agency. Each application must include all engineering drawings and calculations necessary for the approval agency to ensure the MEGC design complies in all respects with the requirements in § 178.75 and documentation showing the cylinders or tubes comprising the MEGC assembly are approved. An incomplete application will be returned to the applicant with an explanation.

If an application is complete, the approval agency will review the design and arrange with the MEGC manufacturer to witness all required tests. Upon satisfactory completion of the prototype testing, the approval agency will prepare a design type approval certificate and return the certificate and documentation to the manufacturer. The manufacturer will submit the certificate and an approval application to the Associate Administrator. If the application and supporting documentation of the examination and tests performed are acceptable, the Associate Administrator will approve the certificate. The approval agency will be required to maintain a set of the approved drawings and calculations for each MEGC design it reviews and a copy of each initial design type approval certificate approved by the Associate Administrator for at least 20 years. The approval agency will ensure each MEGC is manufactured to the approved design type and fully conforms to the applicable requirements. The approval agency will issue a certificate of compliance for each MEGC manufactured.

Section 178.75

New § 178.75 contains the manufacturing specifications for MEGCs and definitions for: ''Leakproofness test,'' ''Manifold,'' ''Maximum permissible gross mass or MPGM,'' and ''Structural equipment.'' This section also references a number of ISO technical standards for the design and construction of MEGCs. In addition, the section includes requirements for specification marking. In the NPRM, we proposed for shut off valves, other than those with screwed spindles, to require ''the open and closed positions and the direction of closure must be clearly shown.'' Air Products suggests that we revise this statement for clarity purposes. We believe the NPRM language is appropriate and are adopting the proposed language in this final rule.

Section 180.201

This section lists persons to whom the requirements for qualification, maintenance, and use of cylinders apply. As proposed in the NPRM, we are revising the general applicability provisions to include UN pressure receptacles.

Section 180.203

This section establishes definitions specific to cylinder qualification, maintenance, and use. As proposed in the NPRM, we are revising the definition for ''cylinder'' to include UN pressure receptacles.

Section 180.205

We are revising the section heading to read: ''General requirements for requalification of specification cylinders.''

Section 180.207

New § 180.207 contains the UN pressure receptacle requalification requirements, which include requalification intervals and procedures. All seamless steel and aluminum cylinder types authorized in this final rule must be requalified in accordance with ISO 6406 (for steel) and 10461 (for aluminum). Both ISO 6406 and ISO 10461 provide for the periodic requalification of cylinders by an ultrasonic examination or a pressure test. The pressure test may be either the hydraulic proof pressure test or the hydrostatic volumetric expansion test. In the NPRM, we solicited comments on whether we should permit, under certain conditions, requalification of UN pressure receptacles by the proof pressure method as an alternative to the volumetric expansion test. Arrowhead supports the proposal to require volumetric expansion testing of all UN pressure receptacles. Barlen suggests that, with the exception of pure or mixtures of carbon dioxide, all cylinders in Division 2.1 and 2.2 services could be retested by the proof pressure method. Barlen further suggests PHMSA mandate that the cylinders be marked with a clear indication of their gas service and authorize a 15-year retest period.

The hydrostatic volumetric expansion test provides useful information during the manufacturing of a cylinder to assure a complete and uniform heat treatment of that cylinder. Permanent expansion in excess of 10% of total expansion at the time of manufacture may indicate a defective cylinder. During requalification, hydrostatic volumetric expansion testing may result in excessive permanent expansion (above 10%) if a cylinder has a substantial loss of side-wall thickness due to severe internal or external corrosion. A cylinder that has been engulfed in a fire for a period of time also may undergo excessive expansion. Cylinders showing excessive permanent expansion must be condemned.

Based on studies reviewed by PHMSA, a cylinder must lose a substantial amount of its original wall thickness before excessive permanent expansion is measured during a hydrostatic pressure test. Since a complete visual inspection (external and internal) is required for any requalification, a cylinder with side-

wall corrosion will be rejected in accordance with the appropriate requalification standard. The size of rejectable side-wall corrosion is much smaller than what will cause excessive permanent expansion.

Based on a survey we have conducted with participation from re-testers, over 90% of all cylinders rejected during requalification are rejected because of flaws identified through visual inspection. Both the hydraulic volumetric expansion test and the proof pressure test will provide equal assurance that a cylinder, at the time of requalification has been pressurized to approximately 1.5 times the service pressure without failure. Based on the review of public comments, our technical evaluation of these two test methods and their impact, we will allow UN pressure receptacles, including UN pressure receptacles installed in MEGCs, to be requalified by either the hydraulic volumetric expansion method or the hydraulic proof pressure method.

Proposed paragraph (a)(3) states a cylinder with a specified service life may not be refilled and offered for transportation after its authorized service life has expired. Further, the paragraph states, a UN composite cylinder may not be requalified beyond its 15-year authorized service life unless approval has been received from the Associate Administrator. CGA and Lincoln Composite request we revise paragraph (a)(3) to clarify that UN pressure receptacles may have their authorized service life extended if specifically approved by the Associate Administrator. We are revising paragraph (a)(3) as requested by the commenters. This provision applies only to UN composite cylinders, since we did not propose to limit the authorized service life of seamless UN pressure receptacles. Air Products requests we align the requalification interval for DOT specification cylinders with the interval of the corresponding UN pressure receptacle. This rulemaking addresses UN cylinder requirements; thus, the requalification requirements for DOT specification cylinders are beyond the scope of this rulemaking.

We proposed, in paragraph (d)(1), to allow UN pressure receptacles made of high strength steel with a tensile strength equal to or greater than 950 MPa and UN tubes to be requalified in accordance with § 180.209 or in accordance with procedures approved by the Associate Administrator. CGA and Taylor-Wharton request we require all seamless steel UN pressure receptacles to be requalified in accordance with the requirements of ISO 6406. They state requalifiers will not be able to determine the 950 MPa limitation of the steel because the tensile strength is not required to be marked on the cylinders. Therefore, a requalifier will not be able to determine if a hydrostatic test is appropriate. We agree. Most, if not all, UN seamless steel cylinders with a tensile strength less than 950 MPa will bear the H mark to show the compatibility of the steel with corrosive or embrittling gases as required by ISO 11114–1. Therefore, those UN seamless steel cylinders bearing the H mark may be tested by the hydrostatic test method. Those UN seamless steel cylinders bearing no H mark must be requalified by ultrasonic examination (UE) in accordance with ISO 6406 by a requalifier who is approved by the Associate Administrator to requalify pressure receptacles using UE. UN tubes and MEGCs may be requalified by acoustic emission (AE) under the terms of a special permit issued by the Associate Administrator. A list of requalifiers who are authorized to examine UN pressure receptacles by UE or AE is available for review on the PHMSA Web site: *http://hazmat.dot.gov/sp_app/approvals/exsys.htm#approvals.*

Section 180.212

This section addresses requirements for the repair of DOT–3 series specification cylinders. As proposed in the NPRM, we are revising the cylinder repair requirements to include UN pressure receptacles.

Section 180.213

This section establishes marking requirements for requalified cylinders. As proposed in the NPRM, we are revising the requalification marking provisions to include UN pressure receptacles. Lincoln Composite requests we permit the use of a permanent label bearing the requalification markings on UN composite cylinders. Lincoln Composite states the label should be applied to the cylinder in a manner prescribed by the cylinder's manufacturer because differing surface treatments during manufacture may limit or preclude the use of certain adhesives. We agree, and are authorizing the label to be affixed to the cylinder in a manner authorized by the cylinder manufacturer. We are also correcting a cite reference.

Section 180.217

New § 180.217 contains requalification requirements for MEGCs. This section specifies the requalification intervals and marking requirements for MEGCs and is adopted as proposed in the NPRM.

Other Miscellaneous Comments

Praxair recommends that throughout the final rule, we revise the term ''UN cylinders'' to the read ''UN cylinders or UN pressure receptacles,'' noting that the term ''UN pressure receptacles'' includes pressure receptacles with a capacity larger than the 150 L capacity in the definition of UN cylinder. We disagree with the commenter. Revising the term ''UN cylinders'' to read ''UN cylinders or UN pressure receptacles'' would permit the use of UN tubes, which are not permitted for certain hazardous materials.

Carleton raised three questions regarding DOT fully wrapped aluminum lined composite (CFFC) cylinder specifications and DOT fiber reinforced plastic type composite (FRP–1) cylinder specifications. Carleton asks whether DOT FRP–1 and DOT CFFC will continue as active standards; how long will these standards remain active; and may new designs be qualified to these standards. With exception of the question regarding the future longevity of the DOT FRP–1 and DOT DFFC standards, the answer to these questions is yes. This final rule addresses the design and manufacture of UN pressure receptacles and MEGCs. We did not propose to modify DOT CFFC or DOT FRP–1 specifications. Taylor-Wharton requests PHMSA consider clarifying that the service pressure is not required to be marked on DOT series 8 acetylene cylinders. We agree with the commenter that 49 CFR 178.59 and 178.60 do not require the service pressures to be marked on acetylene cylinders. This final rule addresses UN pressure receptacles and, therefore, any revision to these sections is beyond the scope of this rulemaking.

PUCO expressed concern regarding the adoption of UN pressure receptacles and potential confusion of enforcement agencies. PUCO requests PHMSA, in coordination with DOT modal administrations and state enforcement agencies, to create and disseminate training materials describing the changes and how to properly inspect UN pressure receptacles. To assist enforcement agencies and the regulated communities, we will develop and dissementiate training materials regarding these amendments following the publication of this final rule.

V. Rulemaking Analyses and Notices

A. Statutory/Legal Authority for This Rulemaking

This final rule is published under the following statutory authorities:

1. 49 U.S.C. 5103(b) authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. This final rule aligns the HMR with the UN Model Regulations, which will (1) promote flexibility; (2) permit the use of technological advances for the manufacture of pressure receptacles; (3) provide for a broader selection of pressure receptacles; (4) reduce the need for special permits and exemptions to the existing regulations; and (5) facilitate international commerce in the transportation of compressed gases while maintaining a level of safety at least equal to that achieved under the HMR. To this end, as discussed in detail earlier in this preamble, the final rule amends the HMR to more fully align it with the biennial updates of the UN Recommendations, the IMDG Code and the ICAO Technical Instructions to facilitate the transport of hazardous materials in international commerce.

2. 49 U.S.C. 5120(b) authorizes the Secretary of Transportation to ensure that, to the extent practicable, regulations governing the transportation of hazardous materials in commerce are consistent with standards adopted by international authorities. This final rule amends the HMR to maintain alignment with international standards by incorporating various amendments to facilitate the transport of hazardous material in international commerce. To this end, as discussed in detail earlier in this preamble, the final rule incorporates changes into the HMR based on the Thirteenth Revised Edition of the UN Recommendations, Amendment 32 to the IMDG Code, and the 2005–2006 ICAO Technical Instructions, which became effective January 1, 2005. The continually increasing amount of hazardous materials transported in international commerce warrants the harmonization of domestic and international requirements to the greatest extent possible. Harmonization serves to facilitate international transportation; at the same time, harmonization ensures the safety of people, property, and the environment by reducing the potential for confusion and misunderstanding that could result if shippers and transporters were required to comply with two or more conflicting sets of regulatory requirements. While the intent of this rulemaking is to align the HMR with international standards, we review and consider each amendment on its own merit based on its overall impact on transportation safety and the economic implications associated with its adoption into the HMR. Our goal is to harmonize without sacrificing the current HMR level of safety and without imposing undue burdens on the regulated public. Thus, as discussed in detail earlier in this preamble, there are several instances where we elected not to adopt a specific provision of the UN Model Regulations, the IMDG Code or the ICAO Technical Instructions. Further, we are maintaining a number of current exceptions for domestic transportation that should minimize the compliance burden on the regulated community.

B. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is a not considered a significant regulatory action under section 3(f) of Executive Order 12866 or the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). This final rule was not reviewed by the Office of Management and Budget. A regulatory evaluation is in the docket for this rulemaking.

This final rule adds provisions to the HMR, based on the standards contained in the United Nations Model Regulations, that would permit the design, construction, maintenance, and use of seamless UN pressure receptacles and MEGCs. The changes provide shippers with an optional means of compliance; therefore, any increased compliance costs associated with the proposals in this final rule would be incurred voluntarily by the compressed gas industry. Ultimately, we expect each company to make reasonable decisions based on its own business operations and future goals. Thus, costs incurred if a company elects to manufacture or use UN pressure receptacles and MECGs would be balanced by the benefits (e.g., access to foreign markets) accruing from this decision.

More broadly, this final rule harmonizes the requirements in the HMR for the manufacture and use of cylinders with international standards in the UN Model Regulations. Harmonization of the HMR with international standards will eliminate inconsistencies between the regulations, thereby facilitating efficient transportation of hazardous materials in pressure receptacles across national borders. More importantly, harmonized regulations reduce the potential for misunderstanding and confusion and, thus, enhance safety.

C. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This final rule preempts State, local and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous materials transportation law, 49 U.S.C. 5101–5128, contains an express preemption provision (49 U.S.C. 5125(b)) that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(5) The design, manufacture, fabrication, inspection, marking, maintenance, reconditioning, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses covered subject items (1), (2), (3), and (5) described above and would preempt State, local, and Indian tribe requirements not meeting the ''substantively the same'' standard. This final rule is necessary to harmonize domestic regulations for the transportation of hazardous materials in cylinders with international standards.

Federal hazardous materials transportation law provides at § 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. The effective date of Federal preemption will be 90 days from publication of this final rule in the **Federal Register**.

D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not have tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

E. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. 601–611) requires each agency to review regulations and assess their impact on small businesses and other small entities to determine whether the proposed rule is expected to have a significant impact on a substantial number of small entities. This rule imposes only minimal new costs of compliance on the regulated industry. Based on the assessment in the regulatory evaluation, I hereby certify that while this rule applies to a substantial number of small entities, there will not be a significant economic impact on those small entities. A detailed Regulatory Flexibility analysis is available for review in the docket.

This final rule has been developed in accordance with Executive Order 13272 (''Proper Consideration of Small Entities in Agency Rulemaking'') and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

Need for the final rule. Current requirements for the manufacture, use, and requalification of cylinders can be traced to standards first applied in the early 1900s. Over the years, the regulations have been revised to reflect advancements in transportation efficiency and changes in the national and international economic environment. The changes in this final rule permit shippers to use either current DOT specification cylinders or the new seamless UN pressure receptacles and MEGCs for the transportation of compressed gases. This action is being taken to facilitate international transportation, increase flexibility for the regulated community and promote technological advancement while maintaining a comparable level of safety.

Description of action. In this final rule, we are adding optional requirements for the manufacture, maintenance, testing, and use of UN pressure receptacles and to adopt a qualification and approval process for persons who choose to certify refillable UN pressure receptacles.

Identification of potentially affected small entities. Businesses likely to be affected by the final rule are cylinder manufacturers, cylinder requalifiers, independent inspection agencies, and commercial establishments that own and use DOT specification cylinders. There are approximately three United States manufacturers of seamless pressure receptacles. In addition, the Associate Administrator has approved approximately 2,150 active domestic cylinder requalifiers who use the volumetric expansion test and seven domestic independent inspection agencies. There are also two facilities approved to perform seamless cylinder repairs. Cylinder requalifiers include businesses that manage large fleets of cylinders, such as cylinders filled with propane to power forklift trucks and for use by retail customers through cylinder exchange programs. There are literally hundreds of thousands of commercial establishments that own and use cylinders manufactured to DOT specifications. These business sectors include agriculture; mining; construction; manufacturing; transportation; communications; electric, gas, and sanitary services; wholesale trade; retail trade; and other services.

Unless alternative definitions have been established by the agency in consultation with the Small Business Administration (SBA), the definition of ''small business'' has the same meaning as under the Small Business Act. Since no such special definition has been established, we employ the thresholds published by SBA for industries subject to the HMR. Based on 1997 data compiled by the U.S. Census Bureau, it appears that upwards of 97 percent of firms subject to this final rule are small businesses. For the most part, these entities will incur minimal costs to comply with the provisions of this final rule. The provisions are optional; companies will choose to expand their operations to include UN pressure receptacles based on their ability to offset any additional costs.

Reporting and recordkeeping requirements. Consistent with the UN Model Regulations, the final rule includes a new recordkeeping requirement for a proposed quality control system for facilities that manufacture UN pressure receptacles in the United States. The requirements will affect about 50 cylinder manufacturers; we anticipate that each manufacturer may incur minimal costs each year to comply with the new requirement.

Related Federal rules and regulations. With respect to the transportation of compressed gases in cylinders, there are no related rules or regulations issued by other department or agencies of the Federal Government.

Alternate proposals for small business. While certain regulatory actions may affect the competitive situation of an individual company or group of companies by imposing relatively greater burdens on small rather than large enterprises, we do not believe that this will be the case with this final rule. The requirements for the manufacture, testing, and use of UN pressure receptacles as in the final rule are optional. Ultimately, we expect each company to make reasonable decisions based on its own business operations and future goals. Thus, the costs incurred if a company elects to manufacture or use UN pressure receptacles and MECGs would be balanced by the benefits (e.g., access to foreign markets) accruing from this decision.

Conclusion. I certify this final rule would not have a significant economic impact on a substantial number of small entities. The costs associated with this final rule will be assumed voluntarily based on a company's ability to offset the costs with benefits such as increased access to foreign markets. Indeed, adoption of the UN pressure receptacle standards should result in overall cost savings to those who choose to utilize them and will ease the regulatory compliance burden for shippers engaged in international commerce, including trans-border shipments in North America.

F. Paperwork Reduction Act

This final rule resulted in an increase in annual burden and costs based on a new information collection requirement. This notice identifies a new information collection request that PHMSA submitted to the Office of Management and Budget (OMB) for approval based on the requirements in this final rule. The information collection regarding the design, construction, maintenance and use of UN cylinders has been approved by OMB under OMB Control No. 2137–0621, ''Requirements for UN Cylinders,'' with an expiration date of May 31, 2008.

PHMSA developed burden estimates to reflect changes in this final rule. PHMSA estimates that the total information collection and recordkeeping burden for the current requirements of this final rule will be as follows:

OMB No. 2137–0621:

Total Annual Number of Respondents: 50.

Total Annual Responses: 150.
Total Annual Burden Hours: 900.
Total Annual Burden Cost: $22,500.00.

Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it has been approved by OMB and displays a valid OMB control number. Section 1320.8(d), Title 5, Code of Federal Regulations requires that PHMSA provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. PHMSA specifically requested comments on the information collection and recordkeeping burdens associated with developing, implementing, and maintaining these requirements for approval under this final rule. No comments were received regarding this information collection.

Direct your requests for a copy of the information collection to Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (PHH–10), Pipeline and Hazardous Materials Safety Administration (PHMSA), Room 8102, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone (202) 366–8553.

G. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $120.7 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

H. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

I. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), requires Federal agencies to consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. There are no significant environmental impacts associated with this final rule. We are revising certain HMR requirements for the transportation of hazardous materials in cylinders in order to promote safer transportation practices, facilitate international commerce, and make these requirements compatible with international standards regarding such transportation.

J. Privacy Act

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

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 178

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Incorporation by reference, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, we amend 49 CFR Chapter I as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–121 sections 212–213; Pub. L. 104–134 section 31001; 49 CFR 1.45, 1.53.

■ 2. Section 107.801(a) is revised to read as follows:

§ 107.801 Purpose and scope.

(a) This subpart prescribes procedures for—

(1) A person who seeks approval to be an independent inspection agency to perform tests, inspections, verifications and certifications of DOT specification cylinders or UN pressure receptacles as required by parts 178 and 180 of this chapter;

(2) A person who seeks approval to engage in the requalification (*e.g.* inspection, testing, or certification), rebuilding, or repair of a cylinder manufactured in accordance with a DOT specification or a pressure receptacle in accordance with a UN standard, under subchapter C of this chapter or under the terms of a special permit issued under this part;

(3) A person who seeks approval to perform the manufacturing chemical analyses and tests of DOT specification cylinders, special permit cylinders, or UN pressure receptacles outside the United States.

* * * * *

■ 3. In § 107.803, the section heading is revised, paragraph (c)(8) is redesignated as paragraph (c)(9), and a new paragraph (c)(8) is added to read as follows:

§ 107.803 Approval of an independent inspection agency (IIA).

* * * * *

(c) * * *

(8) If the applicant's principal place of business is in a country other than the United States, the Associate Administrator may approve the applicant on the basis of an approval issued by the Competent Authority of the country of manufacture. The Competent Authority must maintain a current listing of approved IIAs and their identification marks. The applicant must provide a copy of the designation from the Competent Authority of that country delegating to the applicant an approval or designated agency authority for the type of packaging for which a DOT or UN designation is sought; and

* * * * *

■ 4. In § 107.805, the section heading and paragraphs (a), (c)(2), and (d) are revised to read as follows:

§ 107.805 Approval of cylinder and pressure receptacle requalifiers.

(a) *General.* A person must meet the requirements of this section to be

approved to inspect, test, certify, repair, or rebuild a cylinder in accordance with a DOT specification or a UN pressure receptacle under subpart C of part 178 or subpart C of part 180 of this chapter, or under the terms of a special permit issued under this part.

* * * * *

(c) * * *

(2) The types of DOT specification or special permit cylinders, or UN pressure receptacles that will be inspected, tested, repaired, or rebuilt at the facility;

* * * * *

(d) *Issuance of requalifier identification number (RIN).* The Associate Administrator issues a RIN as evidence of approval to requalify DOT specification or special permit cylinders, or UN pressure receptacles if it is determined, based on the applicant's submission and other available information, that the applicant's qualifications and, when applicable, facility are adequate to perform the requested functions in accordance with the criteria prescribed in subpart C of part 180 of this subchapter.

* * * * *

■ 5. Section 107.809 is added to read as follows:

§ 107.809 Conditions of UN pressure receptacle approvals.

(a) Each approval issued under this subpart contains the following conditions:

(1) Upon the request of the Associate Administrator, the applicant or holder must allow the Associate Administrator or the Associate Administrator's designee to inspect the applicant's pressure receptacle manufacturing and testing facilities and records, and must provide such materials and pressure receptacles for analyses and tests as the Associate Administrator may specify. The applicant or holder must bear the cost of the initial and subsequent inspections, analyses, and tests.

(2) Each holder must comply with all of the terms and conditions stated in the approval letter issued under this subpart.

(b) In addition to the conditions specified in § 107.713, an approval may be denied or if issued, suspended or terminated if the Competent Authority of the country of manufacture fails to initiate, maintain or recognize an IIA approved under this subpart; fails to recognize UN standard packagings manufactured in accordance with this subchapter; or implements a condition or limitation on United States citizens or organizations that is not required of its own citizenry.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 6. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub L. 104–134 section 31001.

■ 7. In § 171.7, in the table in paragraph (a)(3) make the following changes:

■ a. Under Compressed Gas Association Inc., a new entry for CGA S–1.1, 2003 edition, is added;

■ b. Under General Services Administration, the entry Federal Specification RRC901C is removed, and an entry for RR-C–901D is added;

■ c. Revise the entry for ''International Organization for Standardization,'' and

■ d. Under ''United Nations,'' the entry for UN Recommendations on the Transport of Dangerous Goods is revised.

The revisions and additions read as follows:

§ 171.7 Reference material.

(a) * * *

(3) Table of material incorporated by reference. * * *

Source and name of material	49 CFR reference
* * * * * * *	
Compressed Gas Association, Inc.,	
* * * * * * *	
CGA Pamphlet S–1.1, Pressure Relief Device Standards—Part 1—Cylinders for Compressed Gases, 2003 (with the exception of paragraph 9.1.1.1), Eleventh Edition.	173.301, 178.75.
* * * * * * *	
General Services Administration,	
* * * * * * *	
Federal Specification RR-C–901D, Cylinders, Compressed Gas: Seamless Shatterproof, High Pressure DOT 3AA Steel, and 3AL Aluminum, February 21, 2003 (Superseding RR-C–901C, 1981).	173.302; 173.336; 173.337.
* * * * * * *	
International Organization for Standardization, Case Postale 56, CH–1211, Geneve 20, Switzerland; Also available from: ANSI 25 West 43rd Street, New York, NY 10036	
ISO 82–74(E) Steels Tensile Testing	178.270–3.
ISO 535–1991(E) Paper and board—Determination of water absorptiveness—Cobb method	178.516; 178.707; 178.708.
ISO 1496–1: 1990 (E)—Series 1 freight containers—Specification and testing, Part 1: General cargo containers. Fifth Edition, (August 15, 1990).	173.411
ISO 1496–3—Series 1 freight containers—Specification and testing—Part 3: Tank containers for liquids, gases and pressurized dry bulk, Fourth edition, March 1995, (E).	178.74; 178.75; 178.274.
ISO 2431–1984(E) Standard Cup Method	173.121.
ISO 2592–1973(E) Petroleum products—Determination of flash and fire points—Cleveland open cup method.	173.120.
ISO 2919–1980(E) Sealed radioactive sources—Classification	173.469.
ISO 3036–1975(E) Board—Determination of puncture resistance	178.708.
ISO 3574–1986(E) Cold-reduced carbon steel sheet of commercial and drawing qualities	178.503; Part 178, appendix C.
ISO 3807–2, Cylinders for acetylene—Basic requirements—Part 2: Cylinders with fusible plugs, First edition, March 2000, (E).	173.303; 178.71.
ISO 4126–1 Safety valves—Part 1: General Requirements, December 15, 1991, First Edition	178.274.
ISO 6406, Gas cylinders—Seamless steel gas cylinders—Periodic inspection and testing, Second edition, February 2005, (E).	180.207.

Source and name of material	49 CFR reference
ISO 6892 Metallic materials—Tensile testing, July 15, 1984, First Edition	178.274.
ISO 7225, Gas cylinders—Precautionary labels, First edition, November 1994, (Corrected and reprinted August 1995), (E).	178.71.
ISO 7866, Gas cylinders—Refillable seamless aluminum alloy gas cylinders—Design, construction and testing, First edition, June 1999, (E).	178.71.
ISO 8115 Cotton bales—Dimensions and density, 1986 Edition	172.102.
ISO 9809–1: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 1: Quenched and tempered steel cylinders with tensile strength less than 1 100 MPa., First edition, June 1999, (E).	178.71; 178.75.
ISO 9809–2: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 2: Quenched and tempered steel cylinders with tensile strength greater than or equal to 1 100 MPa., First edition, June 2000, (E).	178.71; 178.75.
ISO 9809–3: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 3: Normalized steel cylinders, First edition, December 2000, (E).	178.71; 178.75.
ISO 9978:1992(E)—Radiation protection—Sealed radioactive sources—Leakage test methods. First Edition, (February 15, 1992).	173.469.
ISO 10297, Gas cylinders—Refillable gas cylinder valves—Specification and type testing, First edition, May 1999, (E).	173.301b, 178.71.
ISO 10461, Gas cylinders—Seamless aluminum—alloy gas cylinders—Periodic inspection and testing, Second edition, February 2005, (E).	180.207.
ISO 10462, Gas cylinders—Transportable cylinders for dissolved acetylene—Periodic inspection and maintenance, Second edition, February 2005, (E).	180.207.
ISO 11114–1, Transportable gas cylinders—Compatibility of cylinder and valve materials with gas contents—Part 1: Metallic materials, First edition, October 1997, (E).	173.301b; 178.71.
ISO 11114–2, Transportable gas cylinders—Compatibility of cylinder and valve materials with gas contents—Part 2: Non-metallic materials, First edition, December 2000, (E).	173.301b; 178.71.
ISO 11117, Gas cylinders—Valve protection caps and valve guards for industrial and medical gas cylinders—Design, construction and tests, First edition, August 1998, (E).	173.301b.
ISO 11118, Gas cylinders—Non-refillable metallic gas cylinders—Specification and test methods, First edition, October 1999, (E).	178.71.
ISO 11119–1, Gas cylinders—Gas cylinders of composite construction—Specification and test methods—Part 1: Hoop-wrapped composite gas cylinders, First edition, May 2002, (E).	178.71.
ISO 11119–2, Gas cylinders—Gas cylinders of composite construction—Specification and test methods—Part 2: Fully wrapped fibre reinforced composite gas cylinders with load-sharing metal liners, First edition, May 2002, (E).	178.71.
ISO 11119–3, Gas cylinders of composite construction—Specification and test methods—Part 3: Fully wrapped fibre reinforced composite gas cylinders with non-load-sharing metallic or non-metallic liners, First edition, September 2002, (E).	178.71.
ISO 11120, Gas cylinders—Refillable seamless steel tubes of water capacity between 150 L and 3000 L—Design, construction and testing, First edition, March 1999, (E).	178.71; 178.75.
ISO 11621, Gas cylinders—Procedures for change of gas service, First edition, April 1997, (E)	173.302, 173.336, 173.337.
ISO 11623, Transportable gas cylinders—Periodic inspection and testing of composite gas cylinders, First edition, March 2002, (E).	180.207.
* * * * * * *	
United Nations,	
* * * * * * *	
UN Recommendations on the Transport of Dangerous Goods, Thirteenth Revised Edition (2003), Volumes I and II.	171.12; 172.202; 172.401; 172.502; 173.22; 173.24; 173.24b; 173.40; 173.192; 173.197; 173.302b; 173.304b; Part 173, appendix H; 178.75; 178.274; 178.801.
* * * * * * *	

■ 8. In § 171.8, definitions for ''bundle of cylinders,'' ''multiple element gas container or MEGC,'' ''settled pressure,'' ''UN cylinder,'' ''UN pressure receptacle,'' ''UN tube'' and ''working pressure'' are added in alphabetical order to read as follows:

§ 171.8 Definitions.

* * * * *

Bundle of cylinders means assemblies of UN cylinders fastened together and interconnected by a manifold and transported as a unit. The total water capacity for the bundle may not exceed 3,000 L, except that a bundle intended for the transport of gases in Division 2.3 is limited to a water capacity of 1,000 L.

* * * * *

Multiple-element gas container or MEGC means assemblies of UN cylinders, tubes, or bundles of cylinders interconnected by a manifold and assembled within a framework. The term includes all service equipment and structural equipment necessary for the transport of gases.

* * * * *

Settled pressure means the pressure exerted by the contents of a UN pressure receptacle in thermal and diffusive equilibrium.

* * * * *

UN cylinder means a transportable pressure receptacle with a water capacity not exceeding 150 L that has been marked and certified as conforming to the applicable

requirements in part 178 of this subchapter.

* * * * *

UN pressure receptacle means a UN cylinder or tube.

* * * * *

UN tube means a seamless transportable pressure receptacle with a water capacity exceeding 150 L but not more than 3,000 L that has been marked and certified as conforming to the requirements in part 178 of this subchapter.

* * * * *

Working pressure for purposes of UN pressure receptacles, means the settled pressure of a compressed gas at a reference temperature of 15 °C (59 °F).

* * * * *

■ 9. In § 171.11, paragraph (d)(20) is added to read as follows:

§ 171.11 Use of ICAO Technical Instructions.

* * * * *

(d) * * *

(20) Cylinders (including UN pressure receptacles) transported to, from, or within the United States must conform to the applicable requirements of this subchapter. Unless otherwise excepted in this subchapter, a cylinder may not be transported unless;

(i) The cylinder is manufactured, inspected and tested in accordance with a DOT specification or a UN standard prescribed in part 178 of this subchapter, except that cylinders not conforming to these requirements must meet the requirements in § 173.301(j), (k) or (l) of this subchapter;

(ii) The cylinder is equipped with a pressure relief device in accordance with § 173.301(f) of this subchapter and conforms to the applicable requirements in part 173 for the hazardous material involved;

(iii) For an aluminum cylinder in oxygen service, except when used aboard an aircraft in accordance with the applicable airworthiness requirements and operating regulations, the cylinder openings conform to the requirements in this paragraph. For a DOT specification cylinder (e.g. 3AL), the opening must be configured with straight (parallel) threads. A UN pressure receptacle may have straight (parallel) or tapered threads provided the UN pressure receptacle is marked with the thread type (e.g. ''17E, 25E, 18P or 25P'') and fitted with the properly marked valve; and

(iv) The UN pressure receptacle is marked with ''USA'' as a country of approval in conformance with §§ 178.69 and 178.70 of this subchapter.

■ 10. In § 171.12, paragraph (b)(15) is revised to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(b) * * *

(15) Cylinders (including UN pressure receptacles) transported to, from, or within the United States must conform to the applicable requirements of this subchapter. Unless otherwise excepted in this subchapter, a cylinder may not be transported unless;

(i) The cylinder is manufactured, inspected and tested in accordance with a DOT specification or a UN standard prescribed in part 178 of this subchapter, except that cylinders not conforming to these requirement must meet the requirements in § 173.301(j), (k) or (l) of this subchapter;

(ii) The cylinder is equipped with a pressure relief device in accordance with § 173.301(f) of this subchapter and conforms to the applicable requirements in part 173 of this subchapter for the hazardous material involved;

(iii) For an aluminum cylinder in oxygen service used for other than aircraft parts, the cylinder openings conform to the requirements of this paragraph. For a DOT specification cylinder (e.g. DOT 3AL), the opening must be configured with straight (parallel) threads. A UN pressure receptacle may have straight (parallel) or tapered threads provided the cylinder is marked with the thread type, e.g. ''17E, 25E, 18P, 25P'' and fitted with the properly marked valve; and

(iv) The UN pressure receptacle is marked with ''USA'' as a country of approval in conformance with §§ 178.69 and 178.70 of this subchapter.

* * * * *

■ 11. In § 171.12a, paragraph (b)(13) is revised to read as follows:

§ 171.12a Canadian shipments and packagings

* * * * *

(b) * * *

(13) When the provisions of this subchapter require that a DOT specification or a UN standard packaging must be used for a hazardous material, a packaging authorized by the TDG Regulations may be used only if it corresponds to the DOT specification or UN standard authorized by this subchapter. Unless otherwise excepted in this subchapter, a cylinder (including UN pressure receptacles) may not be transported unless;

(i) The packaging is a UN pressure receptacle marked with the letters ''CAN'' for Canada as a country of manufacture or a country of approval or is a cylinder that was manufactured, inspected and tested in accordance with a DOT specification or a UN standard prescribed in part 178 of this subchapter, except that cylinders not conforming to these requirements must meet the requirements in § 173.301(j), (k), (l) or (m) of this subchapter.

(ii) The cylinder conforms to the applicable requirements in part 173 of this subchapter for the hazardous material involved; and

(iii) For an aluminum cylinder in oxygen service used for other than aircraft parts, the cylinder openings conform to the requirements of this paragraph. For a DOT specification cylinder (e.g. DOT 3AL), the opening must be configured with straight (parallel) threads. UN pressure receptacles may have straight (parallel) or tapered threads provided the cylinder is marked with the thread type, e.g. ''17E, 25E, 18P, 25P'' and fitted with the properly marked valve.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

■ 12. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 44701; 49 CFR 1.53.

§ 172.101 [Amended]

■ 13. In the § 172.101 Hazardous Materials Table, the following entries are revised to read as follows:

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification	PG	Label codes	Special provisions (§ 172.102)	Packaging (§ 173.***) (8)			Quantity limitations (9)		Vessel stowage (10)	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	[REVISE:]												
	*		*	*		*	*		*	*			
	Acetylene, dissolved	2.1	UN1001		2.1	N88	None	303	None	Forbidden	15 kg	D	25, 40, 57
	*		*	*		*	*		*	*			
I	Ammonia, anhydrous	2.3	UN1005		2.3, 8	4, N87, T50.	None	304	314, 315	Forbidden	Forbidden	D	40, 57
	*		*	*		*	*		*	*			
I	Ammonia solution, relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia.	2.2	UN3318		2.3, 8	4, N87, T50.	None	304	314, 315	Forbidden	Forbidden	D	40, 57
	*		*	*		*	*	*		*			
	Ammonia solution, relative density less than 0.880 at 15 degrees C in water, with more than 35 percent but not more than 50 percent ammonia.	2.2	UN2073		2.2	N87	306	304	314, 315	Forbidden	150 kg	E	40, 57
	*		*	*		*	*	*		*			
	Arsine	2.3	UN2188		2.3, 2.1	1	None	192	245	Forbidden	Forbidden	D	40
	*		*	*		*	*	*		*			
	Bromine chloride	2.3	UN2901		2.3, 8, 5.1	2, B9, B14, N86.	None	304	314, 315	Forbidden	Forbidden	D	40, 89, 90
	*		*	*		*	*	*		*			
	Carbon monoxide and hydrogen mixture, compressed.	2.3	UN2600		2.3, 2.1	6, N89	None	302	302	Forbidden	Forbidden	D	40, 57
	*		*	*		*	*	*		*			
	Chlorine	2.3	UN1017		2.3, 8	2, B9, B14, N86, T50, TP19.	None	304	314, 315	Forbidden	Forbidden	D	40, 51, 55, 62, 68, 89, 90
	*		*	*		*	*		*	*			
	Chlorine pentafluoride	2.3	UN2548		2.3, 5.1, 8	1, B7, B9, B14, N86.	None	304	314	Forbidden	Forbidden	D	40, 89, 90
	*		*	*		*	*		*	*			
	Chlorine trifluoride	2.3	UN1749		2.3, 5.1, 8	2, B7, B9, B14, N86.	None	304	314	Forbidden	Forbidden	D	40, 89, 90
	*		*	*		*	*		*	*			
	Chloropicrin and methyl bromide mixtures.	2.3	UN1581		2.3	2, B9, B14, N86, T50.	None	193	314, 315	Forbidden	Forbidden	D	25, 40
	*		*	*		*	*		*	*			
	Chloropicrin and methyl chloride mixtures.	2.3	UN1582		2.3	2, N86, T50.	None	193	245	Forbidden	Forbidden	D	25, 40
	*		*	*		*	*		*	*			
	Deuterium, compressed	2.1	UN1957		2.1	N89	306	302	None	Forbidden	150 kg	E	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification	PG	Label codes	Special provisions (§ 172.102)	Packaging (§ 173.***) (8)			Quantity limitations (9)		Vessel stowage (10)	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	*		*	*		*	*		*	*			
	Diborane	2.3	UN1911		2.3, 2.1	1, N89	None	302	None	Forbidden	Forbidden	D	40, 57
	*		*	*		*	*		*	*			
	Dimethylamine, anhydrous	2.1	UN1032		2.1	N87, T50	None	304	314, 315	Forbidden	150 kg	D	40
	*		*	*		*	*		*	*			
	Ethyl chloride	2.1	UN1037		2.1	B77, N86, T50.	None	322	314, 315	Forbidden	150 kg	B	40
	*		*	*		*	*		*	*			
	Ethylacetylene, stabilized	2.1	UN2452		2.1	N88	None	304	314, 315	Forbidden	150 kg	B	40
	*		*	*		*	*		*	*			
	Ethylamine	2.1	UN1036		2.1	B77, N87, T50.	None	321	314, 315	Forbidden	150 kg	D	40
	*		*	*		*	*		*	*			
	Fertilizer ammoniating solution with free ammonia.	2.2	UN1043		2.2	N87	306	304	314, 315	Forbidden	150 kg	E	40
	*		*	*		*	*		*	*			
	Fluorine, compressed	2.3	UN1045		2.3, 5.1, 8	1, N86	None	302	None	Forbidden	Forbidden	D	40, 89, 90
	*		*	*		*	*		*	*			
	Germane	2.3	UN2192		2.3, 2.1	2	None	302	245	Forbidden	Forbidden	D	40
	*		*	*		*	*		*	*			
	Hydrogen and Methane mixtures, compressed.	2.1	UN2034		2.1	N89	306	302	302, 314, 315.	Forbidden	150 kg	E	40, 57
	*		*	*		*	*		*	*			
	Hydrogen bromide, anhydrous	2.3	UN1048		2.3, 2.8	3, B14, N86, N89.	None	304	314, 315	Forbidden	Forbidden	D	40
	*		*	*		*	*		*	*			
	Hydrogen chloride, anhydrous	2.3	UN1050		2.3, .8	3, N86, N89.	None	304	None	Forbidden	Forbidden	D	40
	*		*	*		*	*		*	*			
	Hydrogen, compressed	2.1	UN1049		2.1	N89	306	302	302, 314	Forbidden	150 kg	E	40, 57
	*		*	*		*	*		*	*			
	Hydrogen fluoride, anhydrous	8	UN1052	I	8, 6.1	3, B7, B46, B71, B77, N86, T10, TP2.	None	163	243	Forbidden	Forbidden	D	40
	*		*	*		*	*		*	*			
	Hydrogen iodide, anhydrous	2.3	UN2197		2.3	3, B14, N89.	None	304	314, 315	Forbidden	Forbidden	D	40
	*		*	*		*	*		*	*			
	Hydrogen sulfide	2.3	UN1053		2.3, 2.1	2, B9, B14, N89.	None	304	314, 315	Forbidden	Forbidden	D	40

*	*	*	*	*	*	*	*					
Methyl acetylene and propadiene mixtures, stabilized.	2.1	UN1060		2.1	N88, T50	306	304	314, 315	Forbidden	150 kg	B	40
*	*	*	*	*	*	*						
Methyl bromide	2.3	UN1062		2.3	3, B14, N86, T50.	None	193	314, 315	Forbidden	Forbidden	D	40
*	*	*	*	*	*	*						
Methyl chloride or Refrigerant gas R 40.	2.1	UN1063		2.1	N86, T50	306	304	314, 315	5 kg	100 kg	D	40
*	*	*	*	*	*	*						
Methyl chloride and methylene chloride mixtures.	2.1	UN1912		2.1	N86, T50	306	304	314, 315	Forbidden	150 kg	D	40
*	*	*	*	*	*	*						
Methyl mercaptan	2.3	UN1064		2.3, 2.1	3, B7, B9, B14, N89, T50.	None	304	314, 315	Forbidden	Forbidden	D	40
*	*	*	*	*	*	*						
Methylamine, anhydrous	2.1	UN1061		2.1	N87, T50	306	304	314, 315	Forbidden	150 kg	B	40
*	*	*	*	*	*	*						
Oxygen difluoride, compressed	2.3	UN2190		2.3, 5.1, 8	1, N86	None	304	None	Forbidden	Forbidden	B	40
*	*	*	*	*	*	*						
Phosphine	2.3	UN2199		2.3, 2.1	1	None	192	245	Forbidden	Forbidden	D	40
*	*	*	*	*	*	*						
Silane	2.1	UN2203		2.1		None	302	None	Forbidden	Forbidden	E	40, 57, 104
*	*	*	*	*	*	*						
Trimethylamine, anhydrous	2.1	UN1083		2.1	N87, T50	306	304	314, 315	Forbidden	150 kg	B	40
*	*	*	*	*	*	*						
Tungsten hexafluoride	2.3	UN2196		2.3, 8	2, N86	None	338	None	Forbidden	Forbidden	D	40
*	*	*	*	*	*	*						
Vinyl bromide, stabilized	2.1	UN1085		2.1	N86, T50	306	304	314, 315	Forbidden	150 kg	B	40
*	*	*	*	*	*	*						
Vinyl chloride, stabilized	2.1	UN1086		2.1	21, B44, N86, T50.	306	304	314, 315	Forbidden	150 kg	B	40
*	*	*	*	*	*	*						
Vinyl fluoride, stabilized	2.1	UN1860		2.1	N86	306	304	314, 315	Forbidden	150 kg	E	40
*	*	*	*	*	*	*						
[ADDED]												
Acetylene, solvent free	*Forbidden.*											
*	*	*	*	*	*	*						

■ 14. In § 172.102(c)(5), Special Provisions ''N86'', ''N87'', ''N88'' and ''N89'' are added to read as follows:

§ 172.102 Special Provisions.

* * * * *

(c) * * *

(5) * * *

Code/Special Provisions

N86 UN pressure receptacles made of aluminum alloy are not authorized.

N87 The use of copper valves on UN pressure receptacles is prohibited.

N88 Any metal part of a UN pressure receptacle in contact with the contents may not contain more than 65% copper, with a tolerance of 1%.

N89 When steel UN pressure receptacles are used, only those bearing the ''H'' mark are authorized.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 15. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45, 1.53.

■ 16. In § 173.40, paragraphs (a)(1), (a)(2), and (b), (d) and (e) are revised and paragraphs (a)(3) and (a)(4) are added to read as follows:

§ 173.40 General packaging requirements for toxic materials packaged in cylinders.

(a) * * *

(1) A cylinder must conform to a DOT specification or a UN standard prescribed in subpart C of part 178 of this subchapter, except that acetylene cylinders and non-refillable cylinders are not authorized. The use of UN tubes and MEGCs is prohibited for Hazard Zone A materials.

(2) The use of a specification 3AL cylinder made of aluminum alloy 6351–T6 is prohibited for a Division 2.3 Hazard Zone A material or a Division 6.1 Hazard Zone A material.

(3) A UN composite cylinder certified to ISO–11119–3 is not authorized for a Division 2.3 Hazard Zone A or B material.

(4) For UN seamless cylinders used for Hazard Zone A materials, the maximum water capacity is 85 L.

* * * * *

(b) *Outage and pressure requirements.* For DOT specification cylinders, the pressure at 55 °C (131 °F) of Hazard Zone A and Hazard Zone B materials may not exceed the service pressure of the cylinder. Sufficient outage must be provided so that the cylinder will not be liquid full at 55 °C (131 °F).

* * * * *

(d) *Additional handling protection.* Each cylinder or cylinder overpack combination offered for transportation containing a Division 2.3 or 6.1 Hazard Zone A or B material must conform to the valve damage protection performance requirements of this section. In addition to the requirements of this section, overpacks must conform to the overpack provisions of § 173.25.

(1) DOT specification cylinders must conform to the following:

(i) Each cylinder with a wall thickness at any point of less than 2.03 mm (0.08 inch) and each cylinder that does not have fitted valve protection must be overpacked in a box. The box must conform to overpack provisions in § 173.25. Box and valve protection must be of sufficient strength to protect all parts of the cylinder and valve, if any, from deformation and breakage resulting from a drop of 2.0 m (7 ft) or more onto a non-yielding surface, such as concrete or steel, impacting at an orientation most likely to cause damage. ''Deformation''means a cylinder or valve that is bent, distorted, mangled, misshapen, twisted, warped, or in a similar condition.

(ii) Each cylinder with a valve must be equipped with a protective metal cap, other valve protection device, or an overpack which is sufficient to protect the valve from breakage or leakage resulting from a drop of 2.0 m (7 ft) onto a non-yielding surface, such as concrete or steel. Impact must be at an orientation most likely to cause damage.

(2) Each UN cylinder containing a Hazard Zone A or Hazard Zone B material must have a minimum test pressure in accordance with P200 of the UN Recommendations (IBR, see § 171.7 of this subchapter). For Hazard Zone A gases, the cylinder must have a minimum wall thickness of 3.5 mm if made of aluminum alloy or 2 mm if made of steel or, alternatively, cylinders may be packed in a rigid outer packaging that meets the Packing Group I performance level when tested as prepared for transport, and that is designed and constructed to protect the cylinder and valve from puncture or damage that may result in release of the gas.

(e) *Interconnection.* Cylinders may not be manifolded or connected. This provision does not apply to MEGCs containing Hazard Zone B materials in accordance with § 173.312.

■ 17. Section 173.163 is revised to read as follows:

§ 173.163 Hydrogen fluoride.

(a) Hydrogen fluoride (hydrofluoric acid, anhydrous) must be packaged as follows:

(1) In specification 3, 3A, 3AA, 3B, 3BN, or 3E cylinders; or in specification 4B, 4BA, or 4BW cylinders except that brazed 4B, 4BA, and 4BW cylinders are not authorized. The filling density may not exceed 85 percent of the cylinder's water weight capacity. In place of the periodic volumetric expansion test, cylinders used in exclusive service may be given a complete external visual inspection in conformance with part 180, subpart C, of this subchapter, at the time such requalification becomes due.

(2) In a UN cylinder, as specified in part 178 of this subchapter, having a minimum test pressure of 10 bar and a maximum filling ratio of 0.84.

(b) A cylinder removed from hydrogen fluoride service must be condemned in accordance with § 180.205 of this subchapter. Alternatively, at the direction of the owner, the requalifier may render the cylinder incapable of holding pressure.

■ 18. In § 173.192, the introductory text and paragraph (a) introductory text are revised to read as follows:

§ 173.192 Packaging for certain toxic gases in Hazard Zone A.

When § 172.101 of this subchapter specifies a toxic material must be packaged under this section, only the following cylinders are authorized:

(a) Specification 3A1800, 3AA1800, 3AL1800, 3E1800, or seamless UN cylinders with a minimum test pressure in accordance with P200 of the UN Recommendations (IBR, see § 171.7 of this subchapter).

* * * * *

■ 19. In § 173.195, paragraph (a) is revised to read as follows:

§ 173.195 Hydrogen cyanide, anhydrous, stabilized (hydrocyanic acid, aqueous solution).

(a) Hydrogen cyanide, anhydrous, stabilized, must be packed in specification cylinders or UN pressure receptacles as follows:

(1) As prescribed in § 173.192;

(2) Specification 3A480, 3A480X, 3AA480, or 3A1800 metal cylinders of not over 126 kg (278 pounds) water capacity (nominal);

(3) Shipments in 3AL cylinders are authorized only when transported by highway and rail; or

(4) UN cylinders, as specified in part 178, with a minimum test pressure of 100 bar and a maximum filling ratio of 0.55. The use of UN tubes and MEGCs is not authorized.

* * * * *

■ 20. In § 173.201, the last entry in paragraph (c) is revised to read as follows:

§ 173.201 Non-bulk packagings for liquid hazardous materials in Packing Group I.

(c) * * *

Cylinders, specification or UN standard, as prescribed for any compressed gas, except 3HT and those prescribed for acetylene.

■ 21. Section 173.205 is revised to read as follows:

§ 173.205 Specification cylinders for liquid hazardous materials.

When § 172.101 of this subchapter specifies that a hazardous material must be packaged under this section, the use of any specification or UN cylinder, except those specified for acetylene, is authorized. Cylinders used for toxic materials in Division 6.1 or 2.3 must conform to the requirements of § 173.40.

■ 22. In § 173.226, paragraph (a) is revised to read as follows:

§ 173.226 Materials poisonous by inhalation, Division 6.1, Packing Group I, Hazard Zone A.

* * * * *

(a) In seamless specification or UN cylinders conforming to the requirements of § 173.40.

* * * * *

■ 23. In § 173.227, paragraph (a) is revised to read as follows:

§ 173.227 Materials poisonous by inhalation, Division 6.1, Packing Group I, Hazard Zone B.

(a) In packagings as authorized in § 173.226 and seamless and welded specification cylinders or UN seamless cylinders conforming to the requirements of § 173.40.

* * * * *

■ 24. In § 173.228, the introductory text is removed and paragraph (a) is revised to read as follows:

§ 173.228 Bromine pentafluoride or bromine trifluoride.

(a) Bromine pentafluoride and bromine trifluoride are authorized in packagings as follows:

(1) Specification 3A150, 3AA150, 3B240, 3BN150, 4B240, 4BA240, 4BW240, and 3E1800 cylinders.

(2) UN cylinders as specified in part 178 of this subchapter, except acetylene cylinders and non-refillable cylinders, with a minimum test pressure of 10 bar and a minimum outage of 8 percent by volume. The use of UN tubes and MEGCs is not authorized.

(3) The use of a pressure relief device is not authorized.

* * * * *

■ 25. In § 173.301, paragraphs (a)(10) and (f)(5)(iv) are added; the section heading, paragraph (f)(1), the introductory text to paragraphs (a), (a)(1), (h), (h)(1), and (i), and paragraphs (c), (d), (j), (k) and (l) are revised to read as follows:

§ 173.301 General requirements for shipment of compressed gases and other hazardous materials in cylinders, UN pressure receptacles and spherical pressure vessels.

(a) *General qualifications for use of cylinders.* Unless otherwise stated, as used in this section, the term ''cylinder'' includes a UN pressure receptacle. As used in this subpart, filled or charged means an introduction or presence of a hazardous material in a cylinder. A cylinder filled with a Class 2 hazardous material (gas) and offered for transportation must meet the requirements in this section and §§ 173.301a through 173.305, as applicable.

(1) Compressed gases must be in UN pressure receptacles built in accordance with the UN standards or in metal cylinders and containers built in accordance with the DOT and ICC specifications and part 178 of this subchapter in effect at the time of manufacture, and requalified and marked as prescribed in subpart C in part 180 of this subchapter, if applicable. The DOT and ICC specifications authorized for use are as follows:

* * * * *

(10) Any person who installs a valve into an aluminum cylinder in oxygen service must verify the valve and the cylinder have the same thread type.

* * * * *

(c) *Toxic gases and mixtures.* Cylinders containing toxic gases and toxic gas mixtures meeting the criteria of Division 2.3 Hazard Zone A or B must conform to the requirements of § 173.40 and CGA S–1.1 and S–7 (IBR; see § 171.7 of this subchapter). The CGA S–1.1, 2001 edition should be used for DOT specification cylinders and the CGA S–1.1 2003 edition should be used for UN pressure receptacles (compliance with paragraph 9.1.1.1 of CGA S–1.1 is not required). A DOT 39 cylinder, UN non-refillable cylinder, or a UN composite cylinder certified to ISO–11119–3 may not be used for a toxic gas or toxic gas mixture meeting the criteria for Division 2.3, Hazard Zone A or B.

(d) *Gases capable of combining chemically.* A cylinder may not contain any gas or material capable of combining chemically with the cylinder's contents or with the cylinder's material construction, so as to endanger the cylinder's serviceability. DOT 3AL cylinders made of aluminum alloy 6351–T6 may not be filled and offered for transportation with pyrophoric gases. The use of UN cylinders made of aluminum alloy 6351–T6 is prohibited.

* * * * *

(f) * * *

(1) Except as provided in paragraphs (f)(5), (f)(6), and (l)(2) of this section, a cylinder filled with a gas and offered for transportation must be equipped with one or more pressure relief devices sized and selected as to type, location, and quantity, and tested in accordance with CGA S–1.1 and S–7. The CGA S–1.1, 2001 edition should be used for DOT specification cylinders and the CGA S–1.1 2003 edition should be used for UN pressure receptacles (compliance with paragraph 9.1.1.1 of CGA S–1.1 is not required). The pressure relief device must be capable of preventing rupture of the normally filled cylinder when subjected to a fire test conducted in accordance with CGA C–14 (IBR, see § 171.7 of this subchapter), or, in the case of an acetylene cylinder, CGA C–12 (IBR, see § 171.7 of this subchapter).

* * * * *

(5) * * *

(iv) A UN pressure receptacle transported in accordance with paragraph (k) or (l) or this section.

* * * * *

(h) *Cylinder valve protection.* UN pressure receptacles must meet the valve protection requirements in § 173.301b(f). A DOT specification cylinder used to transport a hazardous material must meet the requirements specified in this paragraph (h).

(1) The following specification cylinders are not subject to the cylinder valve protection requirements in this paragraph (h):

* * * * *

(i) *Cylinders mounted on motor vehicles or in frames.* MEGCs must conform to the requirements in § 173.313. DOT specification cylinders mounted on motor vehicles or in frames must conform to the requirements specified in this paragraph (i). Seamless DOT specification cylinders longer than 2 m (6.5 feet) are authorized for transportation only when horizontally mounted on a motor vehicle or in an ISO framework or other framework of equivalent structural integrity. Cylinders may not be transported by rail in container on freight car (COFC) or trailer on flat car (TOFC) service except under conditions approved by the Associate Administrator for Safety, Federal Railroad Administration. The cylinder must be configured as follows:

* * * * *

(j) *Non-specification cylinders in domestic use.* Except as provided in paragraphs (k) and (l) of this section, a

filled cylinder manufactured to other than a DOT specification or a UN standard in accordance with part 178 of this subchapter, or a DOT exemption or special permit cylinder or a cylinder used as a fire extinguisher in conformance with § 173.309(a), may not be transported to, from, or within the United States.

(k) *Importation of cylinders for discharge within a single port area.* A cylinder manufactured to other than a DOT specification or UN standard in accordance with part 178 of this subchapter and certified as being in conformance with the transportation regulations of another country may be authorized, upon written request to and approval by the Associate Administrator, for transportation within a single port area, provided–

(1) The cylinder is transported in a closed freight container;

(2) The cylinder is certified by the importer to provide a level of safety at least equivalent to that required by the regulations in this subchapter for a comparable DOT specification or UN cylinder; and

(3) The cylinder is not refilled for export unless in compliance with paragraph (l) of this section.

(l) *Filling of cylinders for export.* (1) A cylinder not manufactured, inspected, tested and marked in accordance with part 178 of this subchapter, or a cylinder manufactured to other than a UN standard, DOT specification, exemption or special permit, may be filled with a gas in the United States and offered for transportation and transported for export or alternatively, for use on board a vessel, if the following conditions are met:

(i) The cylinder has been requalified and marked with the month and year of requalification in accordance with subpart C of part 180 of this subchapter, or has been requalified as authorized by the Associate Administrator;

(ii) In addition to other requirements of this subchapter, the maximum filling density, service pressure, and pressure relief device for each cylinder conform to the requirements of this part for the gas involved; and

(iii) The bill of lading or other shipping paper identifies the cylinder and includes the following certification: ''This cylinder has (These cylinders have) been qualified, as required, and filled in accordance with the DOT requirements for export.''

(2) A DOT specification or a UN cylinder manufactured, inspected, tested and marked in accordance with part 178 of this subchapter and otherwise conforms to the requirements of this part for the gas involved, except that the cylinder is not equipped with a pressure relief device may be filled with a gas and offered for transportation and transported for export if the following conditions are met:

(i) Each DOT specification cylinder or UN pressure receptacle must be plainly and durably marked ''For Export Only'';

(ii) The shipping paper must carry the following certification: ''This cylinder has (These cylinders have) been retested and refilled in accordance with the DOT requirements for export.''; and

(iii) The emergency response information provided with the shipment and available from the emergency response telephone contact person must indicate that the pressure receptacles are not fitted with pressure relief devices and provide appropriate guidance for exposure to fire.

* * * * *

■ 26. Section 173.301b is added to read as follows:

§ 173.301b Additional general requirements for shipment of UN pressure receptacles.

(a) *General.* The requirements of this section are in addition to the requirements in § 173.301 and apply to the shipment of gases in UN pressure receptacles. A UN pressure receptacle, including closures, must conform to the design, construction, inspection and testing requirements specified in parts 178 and 180 of this subchapter, as applicable. Bundles of cylinders must conform to the requirements in § 178.70(e) of this subchapter.

(1) A UN pressure receptacle may not be filled and offered for transportation when damaged to such an extent that the integrity of the UN pressure receptacle or its service equipment may be affected. Prior to filling, the service equipment must be examined and found to be in good working condition (see § 178.70(d) of this subchapter). In addition, the required markings must be legible on the pressure receptacle.

(2) The gases or gas mixtures must be compatible with the UN pressure receptacle and valve materials as prescribed for metallic materials in ISO 11114–1 (IBR, see § 171.7 of this subchapter) and for non-metallic materials in ISO 11114–2 (IBR, see § 171.7 of this subchapter).

(3) A refillable UN pressure receptacle may not be filled with a gas or gas mixture different from that previously contained in the UN pressure receptacle unless the necessary operations for change of gas service have been performed in accordance with ISO 11621 (IBR, see § 171.7 of this subchapter).

(4) When a strong outer packaging is prescribed, for example as provided by paragraph (a)(6) or (g)(1) of this section, the UN pressure receptacles must be protected to prevent movement. Unless otherwise specified in this part, more than one UN pressure receptacle may be enclosed in the strong outer packaging.

(b) *Individual shut-off valves and pressure relief devices.* Except for Division 2.2 permanent gases, each UN pressure receptacle must be equipped with an individual shutoff valve that must be tightly closed while in transit. Each UN pressure receptacle must be individually equipped with a pressure relief device as prescribed by § 173.301(f), except that pressure relief devices on bundles of cylinders or manifolded horizontal cylinders must have a set-to-discharge pressure that is based on the lowest marked pressure of any cylinder in the bundle or manifolded unit.

(c) *Pressure receptacle valve requirements.* (1) When the use of a valve is prescribed, the valve must conform to the requirements in ISO 10297 (IBR, see § 171.7 of this subchapter).

(2) A UN pressure receptacle must have its valves protected from damage that could cause inadvertent release of the contents of the UN pressure receptacle by one of the following methods:

(i) By constructing the pressure receptacle so that the valves are recessed inside the neck of the UN pressure receptacle and protected by a threaded plug or cap;

(ii) By equipping the UN pressure receptacle with a valve cap conforming to the requirements in ISO 11117 (IBR, see § 171.7 of this subchapter). The cap must have vent-holes of sufficient cross-sectional area to evacuate the gas if leakage occurs at the valve;

(iii) By protecting the valves by shrouds or guards conforming to the requirements in ISO 11117;

(iv) By using valves designed and constructed with sufficient inherent strength to withstand damage in accordance with Annex B of ISO 10297;

(v) By enclosing the UN pressure receptacles in frames, e.g., bundles of cylinders; or

(vi) By packing the UN pressure receptacles in a strong outer package, such as a box or crate, capable of meeting the drop test specified in § 178.603 of this subchapter at the Packing Group I performance level.

(d) *Non-refillable UN pressure receptacles.* Non-refillable UN pressure receptacles must conform to the following requirements:

(1) The receptacles must be transported as an inner package of a combination package;

(2) The receptacle must have a water capacity not exceeding 1.25 L when used for a flammable or toxic gas; and

(3) The receptacle is prohibited for Hazard Zone A material.

(e) *Pyrophoric gases.* A UN pressure receptacle must have valves equipped with gas-tight plugs or caps when used for pyrophoric or flammable mixtures of gases containing more than 1% pyrophoric compounds.

(f) *Hydrogen bearing gases.* A steel UN pressure receptacle bearing an ''H'' mark must be used for hydrogen bearing gases or other embrittling gases that have the potential of causing hydrogen embrittlement.

(g) *Composite cylinders in underwater use.* A composite cylinder certified to ISO–11119–2 or ISO–11119–3 may not be used for underwater applications unless the cylinder is manufactured in accordance with the requirements for underwater use and is marked ''UW'' as prescribed in § 178.71(o)(17) of this subchapter.

■ 27. In § 173.302, the introductory text to paragraph (a) and paragraph (b)(2) and (b)(3) are revised to read as follows:

§ 173.302 Filling of cylinders with non-liquefied (permanent) compressed gases.

(a) *General requirements.* A cylinder filled with a non-liquefied compressed gas (except gas in solution) must be offered for transportation in accordance with the requirements of this section and § 173.301. In addition, a DOT specification cylinder must meet the requirements in §§ 173.301a, 173.302a and 173.305, as applicable. UN pressure receptacles must meet the requirements in §§ 173.301b and 173.302b, as applicable. Where more than one section applies to a cylinder, the most restrictive requirements must be followed.

* * * * *

(b) * * *

(2) Except for UN cylinders, each cylinder opening must be configured with straight threads only.

(3) Each UN pressure receptacle must be cleaned in accordance with the requirements of ISO 11621 (IBR, see § 171.7 or this subchapter). Each DOT cylinder must be cleaned in accordance with the requirements of GSA Federal Specification RR–C–901D, paragraphs 3.3.1 and 3.3.2 (IBR, see § 171.7 of this subchapter). Cleaning agents equivalent to those specified in Federal Specification RR–C–901D may be used provided they do not react with oxygen. One cylinder selected at random from a group of 200 or fewer and cleaned at the same time must be tested for oil contamination in accordance with Federal Specification RR–C–901D, paragraph 4.3.2, and meet the specified standard of cleanliness.

* * * * *

■ 28. Section 173.302b is added to read as follows:

§ 173.302b Additional requirements for shipment of non-liquefied (permanent) compressed gases in UN pressure receptacles.

(a) *General.* A cylinder filled with a non-liquefied gas must be offered for transportation in UN pressure receptacles subject to the requirements in this section and § 173.302. In addition, the requirements in §§ 173.301 and 173.301b must be met.

(b) *UN pressure receptacles filling limits.* A UN pressure receptacle is authorized for the transportation of non-liquefied compressed gases as specified in this section. Except where filling limits are specifically prescribed in this section, the working pressure of a UN pressure receptacle may not exceed ⅔ of the test pressure of the receptacle. Alternatively, the filling limits specified for non-liquefied gases in Table 1 of P200 of the UN Recommendations (IBR, see § 171.7 of this subchapter) are authorized. In no case may the internal pressure at 65 °C (149 °F) exceed the test pressure.

(c) *Fluorine, compressed, UN 1045 and Oxygen diflouride, compressed, UN 2190.* Fluorine, compressed and Oxygen difluoride, compressed must be packaged in a UN pressure receptacle with a minimum test pressure of 200 bar and a maximum working pressure not to exceed 30 bar. A UN pressure receptacle made of aluminum alloy is not authorized. The maximum quantity of gas authorized in each UN pressure receptacle is 5 kg.

(d) *Diborane and diborane mixtures, UN 1911.* Diborane and diborane mixtures must be packaged in a UN pressure receptacle with a minimum test pressure of 250 bar and a maximum filling ratio dependent on the test pressure not to exceed 0.07. Filling should be further limited so that if complete decomposition of diborane occurs, the pressure of diborane or diborane mixtures will not exceed the working pressure of the cylinder. The use of UN tubes and MEGCs is not authorized.

(e) *Carbon monoxide, compressed UN 1016.* Carbon monoxide, compressed is authorized in UN pressure receptacles. The settled pressure in a steel pressure receptacle containing carbon monoxide may not exceed ⅓ of the pressure receptacle's test pressure at 65 °C (149 °F) except, if the gas is dry and sulfur-free, the settled pressure may not exceed ½ of the marked test pressure.

■ 29. In § 173.303, paragraph (b) is revised and (f) is added to read as follows:

§ 173.303 Filling of cylinders with compressed gas in solution (acetylene).

* * * * *

(b) *Filling limits.* For DOT specification cylinders, the pressure in the cylinder containing acetylene gas may not exceed 250 psig at 70 °F. If cylinders are marked for a lower allowable charging pressure at 70 °F., that pressure must not be exceeded. For UN cylinders, the pressure in the cylinder may not exceed the limits specified in § 173.304b(b)(2).

* * * * *

(f) *UN cylinders.* (1) UN cylinders and bundles of cylinders are authorized for the transport of acetylene gas as specified in this section. Each UN acetylene cylinder must conform to ISO 3807–2 (IBR, see § 171.7 of this subchapter), have a homogeneous monolithic porous mass filler and be charged with acetone or a suitable solvent as specified in the standard. UN acetylene cylinders must have a minimum test pressure of 52 bar and may be filled up to the pressure limits specified in ISO 3807–2. The use of UN tubes and MEGCs is not authorized.

(2) UN cylinders equipped with pressure relief devices or that are manifolded together must be transported upright.

■ 30. In § 173.304, the introductory text in paragraph (a) is revised to read as follows:

§ 173.304 Filling of cylinders with liquefied compressed gases.

(a) *General requirements.* A cylinder filled with a liquefied compressed gas (except gas in solution) must be offered for transportation in accordance with the requirements of this section and the general requirements in § 173.301. In addition, a DOT specification cylinder must meet the requirement in §§ 173.301a, 173.304a, and 173.305, as applicable. UN pressure receptacles must be shipped in accordance with the requirements in 173.301b and 173.304b, as applicable.

* * * * *

■ 31. Section 173.304b is added to read as follows:

§ 173.304b Additional requirements for shipment of liquefied compressed gases in UN pressure receptacles.

(a) *General.* Liquefied gases and gas mixtures must be offered for transportation in UN pressure

receptacles subject to the requirements in this section and § 173.304. In addition, the general requirements applicable to UN pressure receptacles in §§ 173.301 and 173.301b must be met.

(b) *UN pressure receptacle filling limits.* A UN pressure receptacle is authorized for the transportation of liquefied compressed gases and gas mixtures as specified in this section. When a liquefied compressed gas or gas mixture is transported in a UN pressure receptacle, the filling ratio may not exceed the maximum filling ratio (FR) prescribed in this section and the applicable ISO standard. Compliance with the filling limits may be determined by referencing the numerical values and data in Table 2 of P200 of the UN Recommendations (IBR, see § 171.7 of this subchapter). Alternatively, the maximum allowable filling limits may be determined as follows:

(1) For high pressure liquefied gases, in no case may the filling ratio of the settled pressure at 65 °C (149 °F) exceed the test pressure of the UN pressure receptacle.

(2) For low pressure liquefied gases, the filling factor (maximum mass of contents per liter of water capacity) must be less than or equal to 95 percent of the liquid phase at 50 °C. In addition, the UN pressure receptacle may not be liquid full at 60 °C. The test pressure of the pressure receptacle must be equal to or greater than the vapor pressure of the liquid at 65 °C.

(3) For high pressure liquefied gases or gas mixtures, the maximum filling ratio may be determined using the formulas in (3)(b) of P200 of the UN Recommendations.

(4) For low pressure liquefied gases or gas mixtures, the maximum filling ratio may be determined using the formulas in (3)(c) of P200 of the UN Recommendations.

(c) *Special filling limits.* Notwithstanding the numerical values shown in Table 2 of P200, the maximum allowable filling limits authorized for the following gases in UN pressure receptacles must be in accordance with the following table:

Identification No.	Proper shipping name	P–200 filling limit	HMR filling limit
UN1020 ...	Chloropentafluoroethane *or* Refrigerant gas R 115	1.08	1.05
UN1048 ...	Hydrogen bromide	1.54	1.51
UN1973 ...	Chlorodifluoromethane and chloropentafluoroethane mixture *or* Refrigerant gas R 502	1.05	1.01
UN1976 ...	Octafluorocyclobutane, *or* Refrigerant gas RC 318	1.34	1.32
UN1982 ...	Tetrafluoromethane *or* Refrigerant gas R 14	0.94	0.90
UN2035 ...	1,1,1-Trifluoroethane, *or* Refrigerant gas R 143a	0.75	0.73
UN2192 ...	Germane	1.02	1.00
UN2198 ...	Phosphorous Pentafluoride	1.34	1.25
UN2424 ...	Octafluoropropane or Refrigerant gas R 218	1.09	1.04
UN2599 ...	Chlorotrifluoromethane and trifuoromethane azeotropic mixture or Refrigerant gas R 503	0.20, 0.66	0.17, 0.64

(d) *Tetraflouroethylene, stabilized, UN1081* must be packaged in a pressure receptacle with a minimum test pressure of 200 bar and a working pressure not exceeding 5 bar.

(e) *Fertilizer ammoniating solution with free ammonia, UN1043* is not authorized in UN tubes or MEGCs.

■ 32. Section 173.312 is added to read as follows:

§ 173.312 Requirements for shipment of MEGCs.

(a) *General requirements.* (1) Unless otherwise specified, a MEGC is authorized for the shipment of liquefied and non-liquefied compressed gases. Each pressure receptacle contained in a MEGC must meet the requirements in §§ 173.301, 173.301b, 173.302b and 173.304b, as applicable.

(2) The MEGC must conform to the design, construction, inspection and testing requirements prescribed in § 178.75 of this subchapter.

(3) No person may offer or accept a hazardous material for transportation in a MEGC that is damaged to such an extent that the integrity of the pressure receptacles or the MEGC's structural or service equipment may be affected.

(4) No person may fill or offer for transportation a pressure receptacle in a MEGC if the pressure receptacle or the MEGC is due for periodic requalification, as prescribed in subpart C to part 180 of this subchapter. However, this restriction does not preclude transportation of pressure receptacles filled and offered for transportation prior to the requalification due date.

(5) Prior to filling and offering a MEGC for transportation, the MEGC's structural and service equipment must be visually inspected. Any unsafe condition must be corrected before the MEGC is offered for transportation. All required markings must be legible.

(6) Except for Division 2.2 permanent gases, each pressure receptacle must be equipped with an individual shutoff valve that must be tightly closed while in transit. For Division 2.1, Division 2.2 liquefied gases and 2.3 gases, the manifold must be designed so that each pressure receptacle can be filled separately and be kept isolated by a valve capable of being closed during transit. For Division 2.1 gases, the pressure receptacles must be isolated by a valve into assemblies of not more than 3,000 L.

(b) *Filling.* (1) A MEGC may not be filled to a pressure greater than the lowest marked working pressure of any pressure receptacle. A MEGC may not be filled above its marked maximum permissible gross mass.

(2) After each filling, the shipper must verify the leakproofness of the closures and equipment. Each fill opening must be closed by a cap or plug.

(c) *Damage protection.* During transportation, a MEGC must be protected against damage to the pressure receptacles and service equipment resulting from lateral and longitudinal impact and overturning as prescribed in § 178.75 of this subchapter.

■ 33. In § 173.323, the first sentence in paragraph (b)(2) is revised to read as follows:

§ 173.323 Ethylene oxide.

* * * * *

(b) * * *

(2) In specification cylinders or UN pressure receptacles, as authorized for any compressed gas except acetylene.* * *

* * * * *

■ 34. In § 173.334, the introductory text to paragraph (a) is revised to read as follows:

§ 173.334 Organic phosphates mixed with compressed gas.

* * * * *

(a) Hexaethyl tetraphosphate, parathion, tetraethyl dithio pyrophosphate, tetraethyl pyrophosphate, or other Division 6.1 organic phosphates (including a

compound or mixture), may be mixed with a non-flammable compressed gas. This mixture may not contain more than 20 percent by weight of an organic phosphate and must be packaged in DOT 3A240, 3AA240, 3B240, 4A240, 4B240, 4BA240, 4BW240 or UN cylinders meeting all of the following requirements:

* * * * *

■ 35. Section 173.336 is revised to read as follows:

§ 173.336 Nitrogen dioxide, liquefied, or dinitrogen tetroxide, liquefied.

(a) Nitrogen dioxide, liquefied, or dinitrogen tetroxide, liquefied, must be packaged in specification or UN cylinders as prescribed in § 173.192, except valves are not authorized. UN tubes and MEGCs are not authorized for use. Cylinders must be equipped with a stainless steel valve and valve seat that will not deteriorate in contact with nitrogen dioxide. Each valve opening must be closed by a solid metal plug with tapered thread properly luted to prevent leakage. Transportation in DOT 3AL cylinders is authorized only by highway and rail.

(b) Each UN pressure receptacle must be cleaned in accordance with the requirements of ISO 11621 (IBR, see § 171.7 of this subchapter). Each DOT specification cylinder must be cleaned according to the requirements of GSA Federal Specification RR–C–901D, paragraphs 3.3.1 and 3.3.2 (IBR, see § 171.7 of this subchapter). Cleaning agents equivalent to those specified in RR–C–901D may be used; however, any cleaning agent must not be capable of reacting with oxygen. One cylinder selected at random from a group of 200 or fewer and cleaned at the same time must be tested for oil contamination in accordance with Specification RR–C–901D, paragraph 4.3.2 (IBR, see § 171.7 of this subchapter) and meet the standard of cleanliness specified therein.

■ 36. Section 173.337 is revised to read as follows:

§ 173.337 Nitric oxide.

(a) Nitric oxide must be packaged in cylinders conforming to the requirements of § 173.40 and as follows:

(1) *DOT specification cylinder.* In a DOT 3A1800, 3AA1800, 3E1800, or 3AL1800 cylinder. A DOT specification cylinder must be charged to a pressure of not more than 5,170 kPa (750 psi) at 21 °C (70 °F). Transportation of nitric oxide in a DOT 3AL is cylinder is authorized only by highway and rail.

(2) *UN cylinder.* In a UN cylinder with a minimum test pressure of 200 bar. The maximum working pressure of the cylinder must not exceed 50 bar. The pressure in the cylinder at 65 °C (149 °F) may not exceed the test pressure. The use of UN tubes and MEGCs is not authorized.

(3) *Valves.* Cylinders must be equipped with a stainless steel valve and valve seat that will not deteriorate in contact with nitric oxide. Cylinders or valves may not be equipped with pressure relief devices of any type.

(b) Each UN cylinder must be cleaned in accordance with the requirements of ISO 11621 (IBR, see § 171.7 of this subchapter). Each DOT specification cylinder must be cleaned in compliance with the requirements of GSA Federal Specification RR–C–901D, paragraphs 3.3.1 and 3.3.2 (IBR, see § 171.7 of this subchapter). Cleaning agents equivalent to those specified in Federal Specification RR–C–901D may be used; however, any cleaning agent must not be capable of reacting with oxygen. One cylinder selected at random from a group of 200 or fewer and cleaned at the same time must be tested for oil contamination in accordance with Federal Specification RR–C–901D paragraph 4.3.2 and meet the standard of cleanliness specified therein.

PART 178—SPECIFICATIONS FOR PACKAGINGS

■ 37. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 38. Section 178.69 is added to read as follows:

§ 178.69 Responsibilities and requirements for manufacturers of UN pressure receptacles.

(a) Each manufacturer of a UN pressure receptacle marked with ''USA'' as a country of approval must comply with the requirements in this section. The manufacturer must maintain a quality system, obtain an approval for each initial pressure receptacle design type, and ensure that all production of UN pressure receptacles meets the applicable requirements.

(1) *Quality system.* The manufacturer of a UN pressure receptacle must have its quality system approved by the Associate Administrator. The quality system will initially be assessed through an audit by the Associate Administrator or his or her representative to determine whether it meets the requirements of this section. The Associate Administrator will notify the manufacturer in writing of the results of the audit. The notification will contain the conclusions of the audit and any corrective action required. The Associate Administrator may perform periodic audits to ensure that the manufacturer operates in accordance with the quality system. Reports of periodic audits will be provided to the manufacturer. The manufacturer must bear the cost of audits.

(2) *Quality system documentation.* The manufacturer must be able to demonstrate a documented quality system. Management must review the adequacy of the quality system to assure that it is effective and conforms to the requirements in § 178.70. The quality system records must be in English and must include detailed descriptions of the following:

(i) The organizational structure and responsibilities of personnel with regard to design and product quality;

(ii) The design control and design verification techniques, processes, and procedures used when designing the pressure receptacles;

(iii) The relevant procedures for pressure receptacle manufacturing, quality control, quality assurance, and process operation instructions;

(iv) Inspection and testing methodologies, measuring and testing equipment, and calibration data;

(v) The process for meeting customer requirements;

(vi) The process for document control and document revision;

(vii) The system for controlling non-conforming material and records, including procedures for identification, segregation, and disposition;

(viii) Production, processing and fabrication, including purchased components, in-process and final materials; and

(ix) Training programs for relevant personnel.

(3) *Maintenance of quality system.* The manufacturer must maintain the quality system as approved by the Associate Administrator. The manufacturer shall notify the Associate Administrator of any intended changes to the approved quality system prior to making the change. The Associate Administrator will evaluate the proposed change to determine whether the amended quality system will satisfy the requirements. The Associate Administrator will notify the manufacturer of the findings.

(b) *Design type approvals.* The manufacturer must have each pressure receptacle design type reviewed by an IIA and approved by the Associate Administrator in accordance with § 178.70. A cylinder is considered to be of a new design, compared with an existing approved design, as stated in the applicable ISO design, construction and testing standard.

(c) *Production inspection and certification.* The manufacturer must ensure that each UN pressure receptacle is inspected and certified in accordance with § 178.71.

■ 39. Section 178.70 is added to read as follows:

§ 178.70 Approval of UN pressure receptacles.

(a) *Initial design-type approval.* The manufacturer of a UN pressure receptacle must obtain an initial design type approval from the Associate Administrator. The initial design type approval must be of the pressure receptacle design as it is intended to be produced. The manufacturer must arrange for an IIA, approved by the Associate Administrator in accordance with subpart I of part 107 of this chapter, to perform a pre-audit of its pressure receptacle manufacturing operation prior to having an audit conducted by the Associate Administrator or his designee.

(b) *IIA pre-audit.* The manufacturer must submit an application for initial design type approval to the IIA for review. The IIA will examine the manufacturer's application for initial design type approval for completeness. An incomplete application will be returned to the manufacturer with an explanation. If an application is complete, the IIA will review all technical documentation, including drawings and calculations, to verify that the design meets all requirements of the applicable UN pressure receptacle standard and specification requirements. If the technical documentation shows that the pressure receptacle prototype design conforms to the applicable standards and requirements in § 178.70, the manufacturer will fabricate a prototype lot of pressure receptacles in conformance with the technical documentation representative of the design. The IIA will verify that the prototype lot conforms to the applicable requirements by selecting pressure receptacles and witnessing their testing. After prototype testing has been satisfactorily completed, showing the pressure receptacles fully conform to all applicable specification requirements, the certifying IIA must prepare a letter of recommendation and a design type approval certificate. The design type approval certificate must contain the name and address of the manufacturer and the IIA certifying the design type, the test results, chemical analyses, lot identification, and all other supporting data specified in the applicable ISO design, construction and testing standard. The IIA must provide the certificate and documentation to the manufacturer.

(c) *Application for initial design type approval.* If the pre-audit is found satisfactory by the IIA, the manufacturer will submit the letter of recommendation from the IIA and an application for design type approval to the Associate Administrator. An application for initial design type approval must be submitted for each manufacturing facility. The application must be in English and, at a minimum, contain the following information:

(1) The name and address of the manufacturing facility. If the application is submitted by an authorized representative on behalf of the manufacturer, the application must include the representative's name and address.

(2) The name and title of the individual responsible for the manufacturer's quality system, as required by § 178.69.

(3) The designation of the pressure receptacle and the relevant pressure receptacle standard.

(4) Details of any refusal of approval of a similar application by a designated approval agency of another country.

(5) The name and address of the production IIA that will perform the functions prescribed in paragraph (e) of this section. The IIA must be approved in writing by the Associate Administrator in accordance with subpart I of part 107 of this chapter.

(6) Documentation on the manufacturing facility as specified in § 178.69.

(7) Design specifications and manufacturing drawings, showing components and subassemblies if relevant, design calculations, and material specifications necessary to verify compliance with the applicable pressure receptacle design standard.

(8) Manufacturing procedures and any applicable standards that describe in detail the manufacturing processes and control.

(9) Design type approval test reports detailing the results of examinations and tests conducted in accordance with the relevant pressure receptacle standard, to include any additional data, such as suitability for underwater applications or compatibility with hydrogen embrittlement gases.

(d) *Modification of approved pressure receptacle design type.* Modification of an approved UN pressure receptacle design type is not authorized without the approval of the Associate Administrator. A manufacturer seeking modification of an approved UN pressure receptacle design type may be required to submit design qualification test data to the Associate Administrator before production. An audit may be required as part of the process to modify an approval.

(e) *Responsibilities of the production IIA.* The production IIA is responsible for ensuring that each pressure receptacle conforms to the design type approval. The production IIA must perform the following functions:

(1) Witness all inspections and tests specified in the UN pressure receptacle standard to ensure compliance with the standard and that the procedures adopted by the manufacturer meet the requirements of the standard;

(2) Verify that the production inspections were performed in accordance with this section;

(3) Select UN pressure receptacles from a prototype production lot and witness testing as required for the design type approval;

(4) Ensure that the various type approval examinations and tests are performed accurately;

(5) Verify that each pressure receptacle is marked in accordance with the applicable requirements in § 178.72; and

(6) Furnish complete test reports to the manufacturer and upon request to the purchaser. The test reports and certificate of compliance must be retained by the IIA for at least 20 years from the original test date of the pressure receptacles.

(f) *Production inspection audit and certification.* (1) If the application, design drawing and quality control documents are found satisfactory, PHMSA will schedule an on-site audit of the pressure receptacle manufacturer's quality system, manufacturing processes, inspections, and test procedures.

(2) During the audit, the manufacturer will be required to produce pressure receptacles to the technical standards for which approval is sought.

(3) The production IIA must witness the required inspections and verifications on the pressure receptacles during the production run. The IIA selected by the manufacturer for production inspection and testing may be different from the IIA who performed the design type approval verifications.

(4) If the procedures and controls are deemed acceptable, test sample pressure receptacles will be selected at random from the production lot and sent to a laboratory designated by the Associate Administrator for verification testing.

(5) If the pressure receptacle test samples are found to conform to all the applicable requirements, the Associate Administrator will issue approvals to the manufacturer and the production

IIA to authorize the manufacture of the pressure receptacles. The approved design type approval certificate will be returned to the manufacturer.

(6) Upon the receipt of the approved design type approval certificate from the Associate Administrator, the pressure receptacle manufacturer must sign the certificate.

(g) *Recordkeeping.* The production IIA and the manufacturer must retain a copy of the design type approval certificate and certificate of compliance records for at least 20 years.

(h) *Denial of design type application.* If the design type application is denied, the Associate Administrator will notify the applicant in writing and provide the reason for the denial. The manufacturer may request that the Associate Administrator reconsider the decision. The application request must—

(1) Be written in English and filed within 60 days of receipt of the decision;

(2) State in detail any alleged errors of fact and law; and

(3) Enclose any additional information needed to support the request to reconsider.

(i) *Appeal.* (1) A manufacturer whose reconsideration request is denied may appeal to the PHMSA Administrator. The appeal must—

(i) Be written in English and filed within 60 days of receipt of the Associate Administrator's decision on reconsideration;

(ii) State in detail any alleged errors of fact and law;

(iii) Enclose any additional information needed to support the appeal; and

(iv) State in detail the modification of the final decision sought.

(2) The PHMSA Administrator will grant or deny the relief and inform the appellant in writing of the decision. PHMSA Administrator's decision is the final administrative action.

(j) *Termination of a design type approval certificate.* (1) The Associate Administrator may terminate an approval certificate issue under this section if it is determined that, because of a change in circumstances, the approval no longer is needed or no longer would be granted if applied for; information upon which the approval was based is fraudulent or substantially erroneous; or termination of the approval is necessary to adequately protect against risks to life and property.

(2) Before an approval is terminated, the Associate Administrator will provide the manufacturer and the approval agency—

(i) Written notice of the facts or conduct believed to warrant the withdrawal;

(ii) Opportunity to submit oral and written evidence, and

(iii) Opportunity to demonstrate or achieve compliance with the application requirement.

(3) If the Associate Administrator determines that a certificate of approval must be withdrawn to preclude a significant and imminent adverse affect on public safety, the procedures in paragraph (j)(2)(ii) and (iii) of this section need not be provided prior to withdrawal of the approval, but shall be provided as soon as practicable thereafter.

■ 40. Section 178.71 is added to read as follows:

§ 178.71. Specifications for UN pressure receptacles.

(a) *General.* Each UN pressure receptacle must meet the requirements of this section. Requirements for approval, qualification, maintenance, and testing are contained in § 178.70, and subpart C of part 180 of this subchapter.

(b) *Definitions.* The following definitions apply for the purposes of design and construction of UN pressure receptacles under this subpart:

Alternative arrangement means an approval granted by the Associate Administrator for a MEGC that has been designed, constructed or tested to the technical requirements or testing methods other than those specified for UN pressure receptacles in part 178 or part 180 of this subchapter.

Bundle of cylinders. See § 171.8 of this subchapter.

Design type means a pressure receptacle design as specified by a particular pressure receptacle standard.

Design type approval means an overall approval of the manufacturer's quality system and design type of each pressure receptacle to be produced within the manufacturer's facility.

UN tube. See § 171.8 of this subchapter.

(c) *General design and construction.* UN pressure receptacles and their closures must be designed, manufactured, tested and equipped in accordance with the requirements contained in this section.

(1) Following the final heat treatment, all cylinders, except those selected for batch testing must be subjected to a hydraulic volumetric expansion test.

(2) The standard requirements applicable to UN pressure receptacles may be varied only if approved in writing by the Associate Administrator.

(3) The test pressure of UN cylinders, tubes, and bundles of cylinders must conform to the requirements in part 178 of this subchapter.

(d) *Service equipment.* (1) Except for pressure relief devices, UN pressure receptacle equipment, including valves, piping, fittings, and other equipment subjected to pressure must be designed and constructed to withstand at least 1.5 times the test pressure of the pressure receptacle.

(2) Service equipment must be configured or designed to prevent damage that could result in the release of the pressure receptacle contents during normal conditions of handling and transport. Manifold piping leading to shut-off valves must be sufficiently flexible to protect the valves and the piping from shearing or releasing the pressure receptacle contents. The filling and discharge valves and any protective caps must be secured against unintended opening. The valves must conform to ISO 10297 (IBR, see § 171.7 of this subchapter) and be protected as specified in § 173.301b(f) of this subchapter.

(3) UN pressure receptacles that cannot be handled manually or rolled, must be equipped with devices (*e.g.* skids, rings, straps) ensuring that they can be safely handled by mechanical means and so arranged as not to impair the strength of, nor cause undue stresses, in the pressure receptacle.

(4) Pressure receptacles filled by volume must be equipped with a level indicator.

(e) *Bundles of cylinders.* UN pressure receptacles assembled in bundles must be structurally supported and held together as a unit and secured in a manner that prevents movement in relation to the structural assembly and movement that would result in the concentration of harmful local stresses. The frame design must ensure stability under normal operating conditions.

(1) The frame must securely retain all the components of the bundle and must protect them from damage during conditions normally incident to transportation. The method of cylinder restraint must prevent any vertical or horizontal movement or rotation of the cylinder that could cause undue strain on the manifold. The total assembly must be able to withstand rough handling, including being dropped or overturned.

(2) The frame must include features designed for the handling and transportation of the bundle. The lifting rings must be designed to withstand a design load of 2 times the maximum gross weight. Bundles with more than one lifting ring must be designed such that a minimum sling angle of 45 degrees to the horizontal can be

achieved during lifting using the lifting rings. If four lifting rings are used, their design must be strong enough to allow the bundle to be lifted by two rings. Where two or four lifting rings are used, diametrically opposite lifting rings must be aligned with each other to allow for correct lifting using shackle pins. If the bundle is filled with forklift pockets, it must contain two forklift pockets on each side from which it is to be lifted. The forklift pockets must be positioned symmetrically consistent with the bundle center of gravity.

(3) The frame structural members must be designed for a vertical load of 2 times the maximum gross weight of the bundle. Design stress levels may not exceed 0.9 times the yield strength of the material.

(4) The frame may not contain any protrusions from the exterior frame structure that could cause a hazardous condition.

(5) The frame design must prevent collection of water or other debris that would increase the tare weight of bundles filled by weight.

(6) The floor of the bundle frame must not buckle during normal operating conditions and must allow for the drainage of water and debris from around the base of the cylinders.

(7) If the frame design includes movable doors or covers, they must be capable of being secured with latches or other means that will not become dislodged by operational impact loads. Valves that need to be operated in normal service or in an emergency must be accessible.

(g) *Design and construction requirements for UN refillable seamless steel cylinders.* In addition to the general requirements of this section, UN refillable seamless steel cylinders must conform to the following ISO standards, as applicable:

(1) ISO 9809–1: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 1: Quenched and tempered steel cylinders with tensile strength less than 1 100 MPa. (IBR, see § 171.7 of this subchapter).

(2) ISO 9809–2: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 2: Quenched and tempered steel cylinders with tensile strength greater than or equal to 1 100 MPa. (IBR, see § 171.7 of this subchapter).

(3) ISO 9809–3: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 3: Normalized steel cylinders. (IBR, see § 171.7 of this subchapter).

(h) *Design and construction requirements for UN refillable seamless aluminum alloy cylinders.* In addition to the general requirements of this section, UN refillable seamless aluminum cylinders must conform to ISO 7866: Gas cylinders—Refillable seamless aluminum alloy gas cylinders—Design, construction and testing. (IBR, see § 171.7 of this subchapter). The use of Aluminum alloy 6351-T6 or equivalent is prohibited.

(i) *Design and construction requirements for UN non-refillable metal cylinders.* In addition to the general requirements of this section, UN non-refillable metal cylinders must conform to ISO 11118: Gas cylinders—Non-refillable metallic gas cylinders—Specification and test methods. (IBR, see § 171.7 of this subchapter.)

(j) *Design and construction requirements for UN refillable seamless steel tubes.* In addition to the general requirements of this section, UN refillable seamless steel tubes must conform to ISO 11120: Gas cylinders—Refillable seamless steel tubes of water capacity between 150 L and 3000 L—Design, construction and testing. (IBR, see § 171.7 of this subchapter).

(k) *Design and construction requirements for UN acetylene cylinders.* In addition to the general requirements of this section, UN acetylene cylinders must conform to the following ISO standards, as applicable:

(1) For the cylinder shell:

(i) ISO 9809–1: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 1: Quenched and tempered steel cylinders with tensile strength less than 1 100 MPa.

(ii) ISO 9809–3: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 3: Normalized steel cylinders.

(2) The porous mass in an acetylene cylinder must conform to ISO 3807–2: Cylinders for acetylene—Basic requirements—Part 2: Cylinders with fusible plugs. (IBR, see § 171.7 of this subchapter).

(l) *Design and construction requirements for UN composite cylinders.* (1) In addition to the general requirements of this section, UN composite cylinders must be designed for unlimited service life and conform to the following ISO standards, as applicable:

(i) ISO 11119–1: Gas cylinders of composite construction—Specification and test methods—Part 1: Hoop-wrapped composite gas cylinders. (IBR, see § 171.7 of this subchapter).

(ii) ISO 11119–2: Gas cylinders of composite construction—Specification and test methods—Part 2: Fully-wrapped fibre reinforced composite gas cylinders with load-sharing metal liners. (IBR, see § 171.7 of this subchapter).

(iii) ISO 11119–3: Gas cylinders of composite construction—Specification and test methods—Part 3: Fully wrapped fibre reinforced composite gas cylinders with non-load sharing metallic or non-metallic liners. (IBR, see § 171.7 of this subchapter).

(2) ISO 11119–2 and ISO 11119–3 gas cylinders of composite construction manufactured in accordance with the requirements for underwater breathing applications must bear the ''UW'' mark.

(m) *Material compatibility.* In addition to the material requirements specified in the UN pressure receptacle design and construction ISO standards, and any restrictions specified in part 173 for the gases to be transported, the requirements of the following standards must be applied with respect to material compatibility:

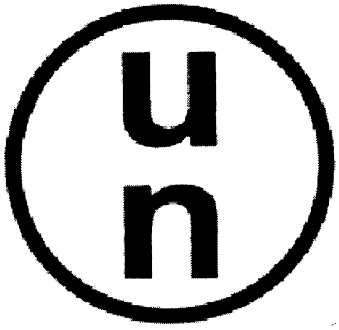
(1) ISO 11114–1: Transportable gas cylinders—Compatibility of cylinder and valve materials with gas contents—Part 1: Metallic materials. (IBR, see § 171.7 of this subchapter).

(2) ISO 11114–2: Transportable gas cylinders—Compatibility of cylinder and valve materials with gas contents—Part 2: Non-metallic materials. (IBR, see § 171.7 of this subchapter).

(n) *Protection of closures.* Closures and their protection must conform to the requirements in § 173.301(f) of this subchapter.

(o) *Marking of UN refillable pressure receptacles.* UN refillable pressure receptacles must be marked clearly and legibly. The required markings must be permanently affixed by stamping, engraving, or other equivalent method, on the shoulder, top end or neck of the pressure receptacle or on a permanently affixed component of the pressure receptacle, such as a welded collar. Except for the ''UN'' mark, the minimum size of the marks must be 5 mm for pressure receptacles with a diameter greater than or equal to 140 mm and 2.5 mm for pressure receptacles with a diameter less than 140 mm. The minimum size of the ''UN'' mark must be 5 mm for pressure receptacles with a diameter less than 140 mm and 10 mm for pressure receptacles with a diameter of greater than or equal to 140 mm. The depth of the markings must not create harmful stress concentrations. A refillable pressure receptacle conforming to the UN standard must be marked as follows:

(1) The UN packaging symbol.



(2) The ISO standard, for example ISO 9809–1, used for design, construction and testing. Acetylene cylinders must be marked to indicate the porous mass and the steel shell, for example: ''ISO 3807–2/ISO 9809–1.''

(3) The mark of the country where the approval is granted. The letters ''USA'' must be marked on UN pressure receptacles approved by the United States. The manufacturer must obtain an approval number from the Associate Administrator. The manufacturer approval number must follow the country of approval mark, separated by a slash (for example, USA/MXXXX). Pressure receptacles approved by more than one national authority may contain the mark of each country of approval, separated by a comma.

(4) The identity mark or stamp of the IIA.

(5) The date of the initial inspection, the year (four digits) followed by the month (two digits) separated by a slash, for example ''2006/04''.

(6) The test pressure in bar, preceded by the letters ''PH'' and followed by the letters ''BAR''. The test pressure must be obtained from the results of a hydraulic volumetric expansion test.

(7) The empty or tare weight. Except for acetylene cylinders, empty weight is the mass of the pressure receptacle in kilograms, including all integral parts (*e.g.,* collar, neck ring, foot ring, etc.), followed by the letters ''KG''. The empty weight does not include the mass of the valve, valve cap or valve guard or any coating. The empty weight must be expressed to three significant figures rounded up to the last digit. For cylinders of less than 1 kg, the empty weight must be expressed to two significant figures rounded down to the last digit. For acetylene cylinders, the tare weight must be marked on the cylinders in kilograms (KG). The tare weight is the sum of the empty weight, mass of the valve, any coating and all permanently attached parts (e.g. fittings and accessories) that are not removed during filling. The tare weight must be expressed to two significant figures rounded down to the last digit. The tare weight does not include the cylinder cap or any outlet cap or plug not permanently attached to the cylinder.

(8) The minimum wall thickness of the pressure receptacle in millimeters followed by the letters ''MM''. This mark is not required for pressure receptacles with a water capacity less than or equal to 1.0 L or for composite cylinders.

(9) For pressure receptacles intended for the transport of compressed gases and UN 1001 acetylene, dissolved, the working pressure in bar, proceeded by the letters ''PW''.

(10) For liquefied gases, the water capacity in liters expressed to three significant digits rounded down to the last digit, followed by the letter ''L''. If the value of the minimum or nominal water capacity is an integer, the digits after the decimal point may be omitted.

(11) Identification of the cylinder thread type (e.g., 25E).

(12) The country of manufacture. The letters ''USA'' must be marked on cylinders manufactured in the United States.

(13) The serial number assigned by the manufacturer.

(14) For steel pressure receptacles, the letter ''H'' showing compatibility of the steel, as specified in 1SO 11114–1.

(15) Identification of aluminum alloy, if applicable.

(16) Stamp for nondestructive testing, if applicable.

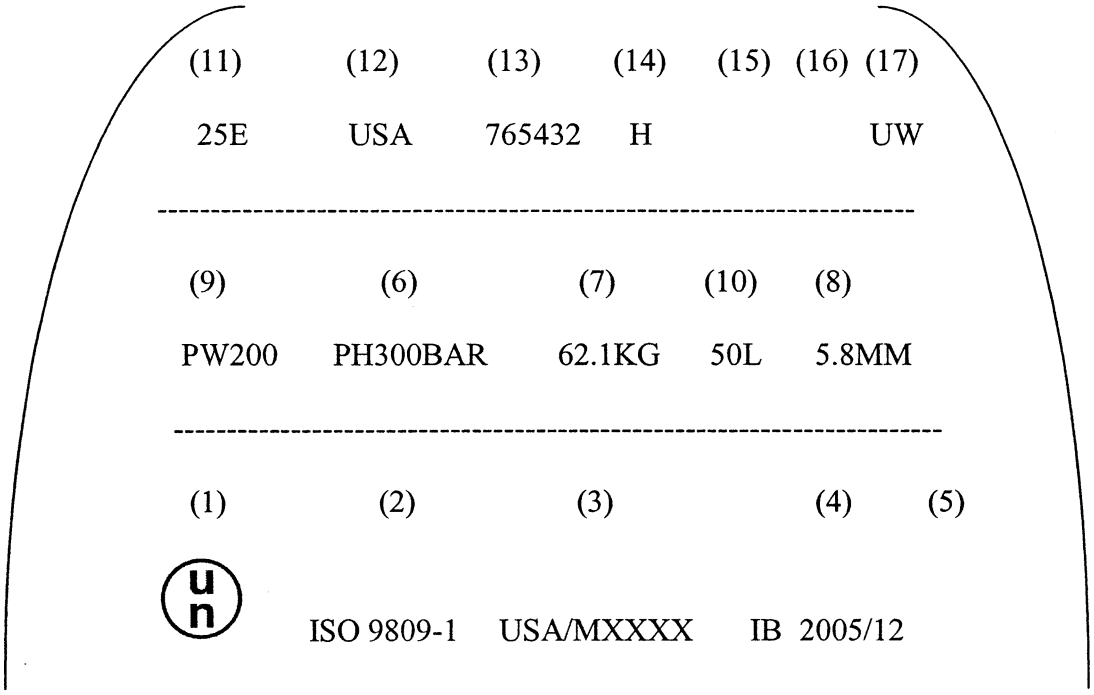
(17) Stamp for underwater use of composite cylinders, if applicable.

(p) *Marking sequence.* The marking required by paragraph (o) of this section must be placed in three groups as shown in the example below:

(1) The top grouping contains manufacturing marks and must appear consecutively in the sequence given in paragraphs (o)(11) through (16) of this section.

(2) The middle grouping contains operational marks described in paragraphs (o)(11) through (15) of this section.

(3) The bottom grouping contains certification marks and must appear consecutively in the sequence given in paragraph (o)(1) through (5) of this section.



(q) *Other markings.* Other markings are allowed in areas other than the side wall, provided they are made in low stress areas and are not of a size and depth that will create harmful stress concentrations. Such marks must not conflict with required marks.

(r) *Marking of UN non-refillable pressure receptacles.* Unless otherwise specified in this paragraph, each UN non-refillable pressure receptacle must be clearly and legibly marked as prescribed in paragraph (o) of this section. In addition, permanent stenciling is authorized. Except when stenciled, the marks must be on the shoulder, top end or neck of the pressure receptacle or on a permanently affixed component of the pressure receptacle, for example a welded collar.

(1) The marking requirements and sequence listed in paragraphs (o)(1) through (16) of this section are required, except the markings in paragraphs (o)(7), (8), and (11) are not applicable. The required serial number marking in paragraph (o)(13) may be replaced by the batch number.

(2) Each receptacle must be marked with the words ''DO NOT REFILL'' in letters of at least 5 mm in height.

(3) A non-refillable pressure receptacle, because of its size, may substitute the marking required by this paragraph with a label. Reduction in marking size is authorized only as prescribed in ISO 7225, Gas cylinders—Precautionary labels. (IBR, see § 171.7 of this subchapter).

(4) Each non-refillable pressure receptacle must also be legibly marked by stenciling the following statement: ''Federal law forbids transportation if refilled-penalty up to $500,000 fine and 5 years in imprisonment (49 U.S.C. 5124).''

(5) No person may mark a non-refillable pressure receptacle as meeting the requirements of this section unless it was manufactured in conformance with this section.

■ 41. Section 178.74 is added to read as follows:

§ 178.74 Approval of MEGCs.

(a) *Application for design type approval.* (1) Each new MEGC design type must have a design approval certificate. An owner or manufacturer must apply to an approval agency that is approved by the Associate Administrator in accordance with subpart E of part 107 of this chapter +to obtain approval of a new design. When a series of MEGCs is manufactured without change in the design, the certificate is valid for the entire series. The design approval certificate must refer to the prototype test report, the materials of construction of the manifold, the standards to which the pressure receptacles are made and an approval number. The compliance requirements or test methods applicable to MEGCs as specified in this subpart may be varied when the level of safety is determined to be equivalent to or exceed the requirements of this subchapter and is approved in writing by the Associate Administrator. A design approval may serve for the approval of smaller MEGCs made of materials of the same type and thickness, by the same fabrication techniques and with identical supports, equivalent closures and other appurtenances.

(2) Each application for design approval must be in English and contain the following information:

(i) Two complete copies of all engineering drawings, calculations, and test data necessary to ensure that the design meets the relevant specification.

(ii) The manufacturer's serial number that will be assigned to each MEGC.

(iii) A statement as to whether the design type has been examined by any approval agency previously and judged unacceptable. Affirmative statements must be documented with the name of the approval agency, reason for non-acceptance, and the nature of modifications made to the design type.

(b) *Actions by the approval agency.* The approval agency must review the application for design type approval, including all drawings and calculations, to ensure that the design of the MEGC meets all requirements of the relevant specification and to determine whether it is complete and conforms to the requirements of this section. An incomplete application will be returned to the applicant with the reasons why the application was returned. If the application is complete and all applicable requirements of this section are met, the approval agency must prepare a MEGC design approval certificate containing the manufacturer's name and address, results and conclusions of the examination and

necessary data for identification of the design type. If the Associate Administrator approves the Design Type Approval Certificate application, the approval agency and the manufacturer must each maintain a copy of the approved drawings, calculations, and test data for at least 20 years.

(c) *Approval agency's responsibilities.* The approval agency is responsible for ensuring that the MEGC conforms to the design type approval. The approval agency must:

(1) Witness all tests required for the approval of the MEGC specified in this section and § 178.75.

(2) Ensure, through appropriate inspection, that each MEGC is fabricated in all respects in conformance with the approved drawings, calculations, and test data.

(3) Determine and ensure that the MEGC is suitable for its intended use and that it conforms to the requirements of this subchapter.

(4) Apply its name, identifying mark or identifying number, and the date the approval was issued, to the metal identification marking plate attached to the MEGC upon successful completion of all requirements of this subpart. Any approvals by the Associate Administrator authorizing design or construction alternatives (Alternate Arrangements) of the MEGC (see paragraph (a) of this section) must be indicated on the metal identification plate as specified in § 178.75(j).

(5) Prepare an approval certificate for each MEGC or, in the case of a series of identical MEGCs manufactured to a single design type, for each series of MEGCs. The approval certificate must include all of the following information:

(i) The information displayed on the metal identification plate required by § 178.75(j);

(ii) The results of the applicable framework test specified in ISO 1496–3 (IBR, see § 171.7 of this subchapter);

(iii) The results of the initial inspection and test specified in paragraph (h) of this section;

(iv) The results of the impact test specified in § 178.75(i)(4);

(v) Certification documents verifying that the cylinders and tubes conform to the applicable standards; and

(vi) A statement that the approval agency certifies the MEGC in accordance with the procedures in this section and that the MEGC is suitable for its intended purpose and meets the requirements of this subchapter. When a series of MEGCs is manufactured without change in the design type, the certificate may be valid for the entire series of MEGCs representing a single design type. The approval number must consist of the distinguishing sign or mark of the country (''USA'' for the United States of America) where the approval was granted and a registration number.

(6) Retain on file a copy of each approval certificate for at least 20 years.

(d) *Manufacturers' responsibilities.* The manufacturer is responsible for compliance with the applicable specifications for the design and construction of MEGCs. The manufacturer of a MEGC must:

(1) Comply with all the requirements of the applicable ISO standard specified in § 178.71;

(2) Obtain and use an approval agency to review the design, construction and certification of the MEGC;

(3) Provide a statement in the manufacturers' data report certifying that each MEGC manufactured complies with the relevant specification and all the applicable requirements of this subchapter; and

(4) Retain records for the MEGCs for at least 20 years. When required by the specification, the manufacturer must provide copies of the records to the approval agency, the owner or lessee of the MEGC, and to a representative of DOT, upon request.

(e) *Denial of application for approval.* If the Associate Administrator finds that the MEGC will not be approved for any reason, the Associate Administrator will notify the applicant in writing and provide the reason for the denial. The manufacturer may request that the Associate Administrator reconsider the decision. The application request must—

(1) Be written in English and filed within 90 days of receipt of the decision;

(2) State in detail any alleged errors of fact and law; and

(3) Enclose any additional information needed to support the request to reconsider.

(f) *Appeal.* (1) A manufacturer whose reconsideration request is denied may appeal to the PHMSA Administrator. The appeal must—

(i) Be in writing and filed within 90 days of receipt of the Associate Administrator s decision on reconsideration;

(ii) State in detail any alleged errors of fact and law;

(iii) Enclose any additional information needed to support the appeal; and

(iv) State in detail the modification of the final decision sought.

(2) The Administrator will grant or deny the relief and inform the appellant in writing of the decision. The Administrator's decision is the final administrative action.

(g) *Modifications to approved MEGCs.* (1) Prior to modification of any approved MEGC that may affect conformance and safe use, and that may involve a change to the design type or affect its ability to retain the hazardous material in transportation, the MEGC's owner must inform the approval agency that prepared the initial approval certificate for the MEGC or, if the initial approval agency is unavailable, another approval agency, of the nature of the modification and request certification of the modification. The owner must supply the approval agency with all revised drawings, calculations, and test data relative to the intended modification. The MEGC's owner must also provide a statement as to whether the intended modification has been examined and determined to be unacceptable by any approval agency. The written statement must include the name of the approval agency, the reason for non-acceptance, and the nature of changes made to the modification since its original rejection.

(2) The approval agency must review the request for modification. If the approval agency determines that the proposed modification does not conform to the relevant specification, the approval agency must reject the request in accordance with paragraph (d) of this section. If the approval agency determines that the proposed modification conforms fully with the relevant specification, the request is accepted. If modification to an approved MEGC alters any information on the approval certificate, the approval agency must prepare a new approval certificate for the modified MEGC and submit the certificate to the Associate Administrator for approval. After receiving approval from the Associate Administrator, the approval agency must ensure that any necessary changes are made to the metal identification plate. A copy of each newly issued approval certificate must be retained by the approval agency and the MEGC's owner for at least 20 years. The approval agency must perform the following activities:

(i) Retain a set of the approved revised drawings, calculations, and data as specified in § 178.69(b)(4) for at least 20 years;

(ii) Ensure through appropriate inspection that all modifications conform to the revised drawings, calculations, and test data; and

(iii) Determine the extent to which retesting of the modified MEGC is necessary based on the nature of the proposed modification, and ensure that all required retests are satisfactorily performed.

(h) *Termination of Approval Certificate.* (1) The Associate Administrator may terminate an approval issued under this section if he or she determines that—

(i) Because of a change in circumstances, the approval no longer is needed or no longer would be granted if applied for;

(ii) Information upon which the approval was based is fraudulent or substantially erroneous;

(iii) Termination of the approval is necessary to adequately protect against risks to life and property; or

(iv) The MEGC does not meet the specification.

(2) Before an approval is terminated, the Associate Administrator will provide the person—

(i) Written notice of the facts or conduct believed to warrant the termination;

(ii) An opportunity to submit oral and written evidence; and

(3) An opportunity to demonstrate or achieve compliance with the applicable requirements.

(i) *Imminent Danger.* If the Associate Administrator determines that a certificate of approval must be terminated to preclude a significant and imminent adverse effect on public safety, the Associate Administrator may terminate the certificate immediately. In such circumstances, the opportunities of paragraphs (h)(2) and (3) of this section need not be provided prior to termination of the approval, but must be provided as soon as practicable thereafter.

■ 42. Section 178.75 is added to read as follows:

§ 178.75 Specifications for MEGCs.

(a) *General.* Each MEGC must meet the requirements of this section. In a MEGC that meets the definition of a ''container'' within the terms of the International Convention for Safe Containers (CSC) must meet the requirements of the CSC as amended and 49 CFR parts 450 through 453, and must have a CSC approval plate.

(b) *Alternate Arrangements.* The technical requirements applicable to MEGCs may be varied when the level of safety is determined to be equivalent to or exceed the requirements of this subchapter. Such an alternate arrangement must be approved in writing by the Associate Administrator. MEGCs approved to an Alternate Arrangement must be marked as required by paragraph (j) of this section.

(c) *Definitions.* The following definitions apply:

Leakproofness test means a test using gas subjecting the pressure receptacles and the service equipment of the MEGC to an effective internal pressure of not less than 20% of the test pressure.

Manifold means an assembly of piping and valves connecting the filling and/or discharge openings of the pressure receptacles.

Maximum permissible gross mass or MPGM means the heaviest load authorized for transport (sum of the tare mass of the MEGC, service equipment and pressure receptacle).

Service equipment means manifold system (measuring instruments, piping and safety devices).

Shut-off valve means a valve that stops the flow of gas.

Structural equipment means the reinforcing, fastening, protective and stabilizing members external to the pressure receptacles.

(d) *General design and construction requirements.* (1) The MEGC must be capable of being loaded and discharged without the removal of its structural equipment. It must possess stabilizing members external to the pressure receptacles to provide structural integrity for handling and transport. MEGCs must be designed and constructed with supports to provide a secure base during transport and with lifting and tie-down attachments that are adequate for lifting the MEGC including when loaded to its maximum permissible gross mass. The MEGC must be designed to be loaded onto a transport vehicle or vessel and equipped with skids, mountings or accessories to facilitate mechanical handling.

(2) MEGCs must be designed, manufactured and equipped to withstand, without loss of contents, all normal handling and transportation conditions. The design must take into account the effects of dynamic loading and fatigue.

(3) Each pressure receptacle of a MEGC must be of the same design type, seamless steel, and constructed and tested according to one of the following ISO standards:

(i) ISO 9809–1: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 1: Quenched and tempered steel cylinders with tensile strength less than 1 100 MPa. (IBR, see § 171.7 of this subchapter);

(ii) ISO 9809–2: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 2: Quenched and tempered steel cylinders with tensile strength greater than or equal to 1 100 MPa. (IBR, see § 171.7 of this subchapter);

(iii) ISO 9809–3: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 3: Normalized steel cylinders. (IBR, see § 171.7 of this subchapter); or

(iv) ISO 11120: Gas cylinders—Refillable seamless steel tubes of water capacity between 150 L and 3000 L—Design, construction and testing. (IBR, see § 171.7 of this subchapter).

(4) Pressure receptacles of MEGCs, fittings, and pipework must be constructed of a material that is compatible with the hazardous materials intended to be transported, as specified in this subchapter.

(5) Contact between dissimilar metals that could result in damage by galvanic action must be prevented by appropriate means.

(6) The materials of the MEGC, including any devices, gaskets, and accessories, must have no adverse effect on the gases intended for transport in the MEGC.

(7) MEGCs must be designed to withstand, without loss of contents, at least the internal pressure due to the contents, and the static, dynamic and thermal loads during normal conditions of handling and transport. The design must take into account the effects of fatigue, caused by repeated application of these loads through the expected life of the MEGC.

(8) MEGCs and their fastenings must, under the maximum permissible load, be capable of withstanding the following separately applied static forces (for calculation purposes, acceleration due to gravity (g) = 9.81 m/s^2):

(i) In the direction of travel: 2g (twice the MPGM multiplied by the acceleration due to gravity);

(ii) Horizontally at right angles to the direction of travel: 1g (the MPGM multiplied by the acceleration due to gravity. When the direction of travel is not clearly determined, the forces must be equal to twice the MPGM);

(iii) Vertically upwards: 1g (the MPGM multiplied by the acceleration due to gravity); and

(iv) Vertically downwards: 2g (twice the MPGM (total loading including the effect of gravity) multiplied by the acceleration due to gravity.

(9) Under each of the forces specified in paragraph (d)(8) of this section, the stress at the most severely stressed point of the pressure receptacles must not exceed the values given in the applicable design specifications (*e.g.*, ISO 11120).

(10) Under each of the forces specified in paragraph (d)(8) of this section, the safety factor for the framework and fastenings must be as follows:

(i) For steels having a clearly defined yield point, a safety factor of 1.5 in

relation to the guaranteed yield strength; or

(ii) For steels with no clearly defined yield point, a safety factor of 1.5 in relation to the guaranteed 0.2 percent proof strength and, for austenitic steels, the 1 percent proof strength.

(11) MEGCs must be capable of being electrically grounded to prevent electrostatic discharge when intended for flammable gases.

(12) The pressure receptacles of a MEGC must be secured in a manner to prevent movement that could result in damage to the structure and concentration of harmful localized stresses.

(e) *Service equipment.* (1) Service equipment must be arranged so that it is protected from mechanical damage by external forces during handling and transportation. When the connections between the frame and the pressure receptacles allow relative movement between the subassemblies, the equipment must be fastened to allow movement to prevent damage to any working part. The manifolds, discharge fittings (pipe sockets, shut-off devices), and shut-off valves must be protected from damage by external forces. Manifold piping leading to shut-off valves must be sufficiently flexible to protect the valves and the piping from shearing, or releasing the pressure receptacle contents. The filling and discharge devices, including flanges or threaded plugs, and any protective caps must be capable of being secured against unintended opening.

(2) Each pressure receptacle intended for the transport of Division 2.3 gases must be equipped with an individual shut-off valve. The manifold for Division 2.3 liquefied gases must be designed so that each pressure receptacle can be filled separately and be kept isolated by a valve capable of being closed during transit. For Division 2.1 gases, the pressure receptacles must be isolated by an individual shut-off valve into assemblies of not more than 3,000 L.

(3) For MEGC filling and discharge openings:

(i) Two valves in series must be placed in an accessible position on each discharge and filling pipe. One of the valves may be a backflow prevention valve. (ii) The filling and discharge devices may be equipped to a manifold.

(iii) For sections of piping which can be closed at both ends and where a liquid product can be trapped, a pressure-relief valve must be provided to prevent excessive pressure build-up.

(iv) The main isolation valves on a MEGC must be clearly marked to indicate their directions of closure. All shutoff valves must close by a clockwise motion of the handwheel.

(v) Each shut-off valve or other means of closure must be designed and constructed to withstand a pressure equal to or greater than 1.5 times the test pressure of the MEGC.

(vi) All shut-off valves with screwed spindles must close by a clockwise motion of the handwheel. For other shut-off valves, the open and closed positions and the direction of closure must be clearly shown.

(vii) All shut-off valves must be designed and positioned to prevent unintentional opening.

(viii) Ductile metals must be used in the construction of valves or accessories.

(4) The piping must be designed, constructed and installed to avoid damage due to expansion and contraction, mechanical shock and vibration. Joints in tubing must be brazed or have an equally strong metal union. The melting point of brazing materials must be no lower than 525 °C (977 °F). The rated pressure of the service equipment and of the manifold must be not less than two-thirds of the test pressure of the pressure receptacles.

(f) *Pressure relief devices.* Each pressure receptacle must be equipped with one or more pressure relief devices as specified in § 173.301(f) of this subchapter. When pressure relief devices are installed, each pressure receptacle or group of pressure receptacles of a MEGC that can be isolated must be equipped with one or more pressure relief devices. Pressure relief devices must be of a type that will resist dynamic forces including liquid surge and must be designed to prevent the entry of foreign matter, the leakage of gas and the development of any dangerous excess pressure.

(1) The size of the pressure relief devices: CGA S–1.1, 2003 edition (IBR, see § 171.7 of this subchapter) must be used to determine the relief capacity of individual pressure receptacles.

(2) Connections to pressure-relief devices: Connections to pressure relief devices must be of sufficient size to enable the required discharge to pass unrestricted to the pressure relief device. A shut-off valve installed between the pressure receptacle and the pressure relief device is prohibited, except where duplicate devices are provided for maintenance or other reasons, and the shut-off valves serving the devices actually in use are locked open, or the shut-off valves are interlocked so that at least one of the duplicate devices is always operable and capable of meeting the requirements of paragraph (f)(1) of this section. No obstruction is permitted in an opening leading to or leaving from a vent or pressure-relief device that might restrict or cut-off the flow from the pressure receptacle to that device. The opening through all piping and fittings must have at least the same flow area as the inlet of the pressure relief device to which it is connected. The nominal size of the discharge piping must be at least as large as that of the pressure relief device.

(3) Location of pressure-relief devices: For liquefied gases, each pressure relief device must, under maximum filling conditions, be in communication with the vapor space of the pressure receptacles. The devices, when installed, must be arranged to ensure the escaping vapor is discharged upwards and unrestrictedly to prevent impingement of escaping gas or liquid upon the MEGC, its pressure receptacles or personnel. For flammable, pyrophoric and oxidizing gases, the escaping gas must be directed away from the pressure receptacle in such a manner that it cannot impinge upon the other pressure receptacles. Heat resistant protective devices that deflect the flow of gas are permissible provided the required pressure relief device capacity is not reduced. Arrangements must be made to prevent access to the pressure relief devices by unauthorized persons and to protect the devices from damage caused by rollover.

(g) *Gauging devices.* When a MEGC is intended to be filled by mass, it must be equipped with one or more gauging devices. Glass level-gauges and gauges made of other fragile material are prohibited.

(h) *MEGC supports, frameworks, lifting and tie-down attachments.* (1) MEGCs must be designed and constructed with a support structure to provide a secure base during transport. MEGCs must be protected against damage to the pressure receptacles and service equipment resulting from lateral and longitudinal impact and overturning. The forces specified in paragraph (d)(8) of this section, and the safety factor specified in paragraph (d)(10) of this section must be considered in this aspect of the design. Skids, frameworks, cradles or other similar structures are acceptable. If the pressure receptacles and service equipment are so constructed as to withstand impact and overturning, additional protective support structure is not required (see paragraph (h)(4) of this section).

(2) The combined stresses caused by pressure receptacle mountings (e.g. cradles, frameworks, etc.) and MEGC lifting and tie-down attachments must

not cause excessive stress in any pressure receptacle. Permanent lifting and tie-down attachments must be equipped to all MEGCs. Any welding of mountings or attachments onto the pressure receptacles is prohibited.

(3) The effects of environmental corrosion must be taken into account in the design of supports and frameworks.

(4) When MEGCs are not protected during transport as specified in paragraph (h)(1) of this section, the pressure receptacles and service equipment must be protected against damage resulting from lateral or longitudinal impact or overturning. External fittings must be protected against release of the pressure receptacles' contents upon impact or overturning of the MEGC on its fittings. Particular attention must be paid to the protection of the manifold. Examples of protection include:

(i) Protection against lateral impact, which may consist of longitudinal bars;

(ii) Protection against overturning, which may consist of reinforcement rings or bars fixed across the frame;

(iii) Protection against rear impact, which may consist of a bumper or frame;

(iv) Protection of the pressure receptacles and service equipment against damage from impact or overturning by use of an ISO frame according to the relevant provisions of ISO 1496–3. (IBR, see § 171.7 of this subchapter).

(i) *Initial inspection and test.* The pressure receptacles and items of equipment of each MEGC must be inspected and tested before being put into service for the first time (initial inspection and test). This initial inspection and test of an MEGC must include the following:

(1) A check of the design characteristics.

(2) An external examination of the MEGC and its fittings, taking into account the hazardous materials to be transported.

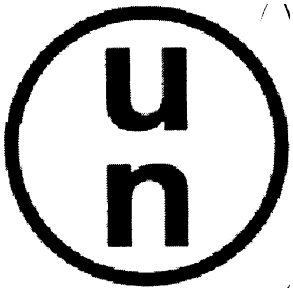
(3) A pressure test performed at the test pressures specified in § 173.304b(b)(1) and (2) of this subchapter. The pressure test of the manifold may be performed as a hydraulic test or by using another liquid or gas. A leakproofness test and a test of the satisfactory operation of all service equipment must also be performed before the MEGC is placed into service. When the pressure receptacles and their fittings have been pressure-tested separately, they must be subjected to a leakproof test after assembly.

(4) An MEGC that meets the definition of ''container'' in the CSC (see 49 CFR 450.3(a)(2)) must be subjected to an impact test using a prototype representing each design type. The prototype MEGC must be shown to be capable of absorbing the forces resulting from an impact not less than 4 times (4 g) the MPGM of the fully loaded MEGC, at a duration typical of the mechanical shocks experienced in rail transport. A listing of acceptable methods for performing the impact test is provided in the UN Recommendations (IBR, see § 171.7 of this subchapter).

(j) *Marking.* (1) Each MEGC must be equipped with a corrosion resistant metal plate permanently attached to the MEGC in a conspicuous place readily accessible for inspection. The pressure receptacles must be marked according to this section. Affixing the metal plate to a pressure receptacle is prohibited. At a minimum, the following information must be marked on the plate by stamping or by any other equivalent method:

Country of manufacture

UN



Approval Country

Approval Number

Alternate Arrangements (see § 178.75(b))

MEGC Manufacturer's name or mark

MEGC's serial number

Approval agency (Authorized body for the design approval)

Year of manufacture

Test pressure: _____ bar gauge

Design temperature range _____ °C to _____ °C

Number of pressure receptacles _____

Total water capacity _____ liters

Initial pressure test date and identification of the Approval Agency

Date and type of most recent periodic tests

Year _____ Month_____ Type _____ (e.g. 2004–05, AE/UE, where ''AE'' represents acoustic emission and ''UE'' represents ultrasonic examination)

Stamp of the approval agency who performed or witnessed the most recent test

(2) The following information must be marked on a metal plate firmly secured to the MEGC:

Name of the operator

Maximum permissible load mass _____ kg

Working pressure at 15°C: _____ bar gauge

Maximum permissible gross mass (MPGM) _____ kg

Unladen (tare) mass _____ kg

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

■ 43. The authority citation for part 180 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 44. Section 180.201 is revised to read as follows:

§ 180.201 Applicability.

This subpart prescribes requirements, in addition to those contained in parts 107, 171, 172, 173, and 178 of this chapter, for the continuing qualification, maintenance, or periodic requalification of DOT specification and exemption cylinders and UN pressure receptacles.

■ 45. In § 180.203, the introductory paragraph is revised to read as follows:

§ 180.203 Definitions.

As used in this section, the word ''cylinder'' includes UN pressure receptacles. In addition to the definitions contained in § 171.8 of this subchapter, the following definitions apply to this subpart:

* * * * *

■ 46. In § 180.205, the section heading is revised to read as set forth below:

§ 180.205 General requirements for requalification of specification cylinders.

* * * * *

■ 47. Section 180.207 is added to read as follows:

§ 180.207 Requirements for requalification of UN pressure receptacles.

(a) *General.* (1) Each UN pressure receptacle used for the transportation of hazardous materials must conform to the requirements prescribed in paragraphs (a), (b) and (d) in § 180.205.

(2) No pressure receptacle due for requalification may be filled with a hazardous material and offered for transportation in commerce unless that pressure receptacle has been successfully requalified and marked in accordance with this subpart. A pressure receptacle may be requalified at any time during or before the month and year that the requalification is due. However, a pressure receptacle filled before the requalification becomes due

may remain in service until it is emptied.

(3) No person may requalify a UN composite pressure receptacle for continued use beyond its 15-years authorized service life. A pressure receptacle with a specified service life may not be refilled and offered for transportation after its authorized service life has expired unless approval has been obtained in writing from the Associate Administrator.

(b) *Periodic requalification of UN pressure receptacles.* (1) Each pressure receptacle that is successfully requalified in accordance with the requirements specified in this section must be marked in accordance with § 180.213. The requalification results must be recorded in accordance § 180.215.

(2) Each pressure receptacle that fails requalification must be rejected or condemned in accordance with the applicable ISO requalification standard.

(c) *Requalification interval.* Each UN pressure receptacle that becomes due for periodic requalification must be requalified at the interval specified in the following table:

TABLE 1.—REQUALIFICATION INTERVALS OF UN PRESSURE RECEPTACLES

Interval (years)	UN pressure receptacles/hazardous materials
10	Pressure receptacles for all hazardous materials except as noted below (also for dissolved acetylene, see paragraph (d)(3) of this section):
5	Composite pressure receptacles.
5	Pressure receptacles used for:
	All Division 2.3 materials.
	UN1013, Carbon dioxide.
	UN1043, Fertilizer ammoniating solution with free ammonia.
	UN1051, Hydrogen cyanide, stabilized containing less than 3% water.
	UN1052, Hydrogen fluoride, anhydrous.
	UN1745, Bromine pentafluoride.
	UN1746, Bromine trifluoride.
	UN2073, Ammonia solution.
	UN2495, Iodine pentafluoride.
	UN2983, Ethylene Oxide and Propylene oxide mixture, not more than 30% ethylene oxide.

(d) *Requalification procedures.* Each UN pressure receptacle that becomes due for requalification must be requalified at the interval prescribed in paragraph (c) of this section and in accordance with the procedures contained in the following standard, as applicable. When a pressure test is performed on a UN pressure receptacle, the test must be a water jacket volumetric expansion test suitable for the determination of the cylinder expansion or a hydraulic proof pressure test. The test equipment must be calibrated daily in accordance with § 180.205(g). An alternative method (e.g. acoustic emission) may be performed if prior approval has been obtained in writing from the Associate Administrator.

(1) Seamless steel: Each seamless steel UN pressure receptacle, including MEGC's pressure receptacles, must be requalified in accordance with ISO 6406 (IBR, see § 171.7 of this subchapter), or in accordance with requalification procedures approved by the Associate Administrator.

(2) Seamless UN aluminum: Each seamless aluminum UN pressure receptacle must be requalified in accordance with ISO 10461 (IBR, see § 171.7 of this subchapter).

(3) Dissolved acetylene UN cylinders: Each dissolved acetylene cylinder must be requalified in accordance with ISO 10462 (IBR, see § 171.7 of this subchapter). The porous mass and the shell must be requalified no sooner than 3 years, 6 months, from the date of manufacture. Thereafter, subsequent requalifications of the porous mass and shell must be performed at least once every ten years.

(4) Composite UN cylinders: Each composite cylinder must be inspected and tested in accordance with ISO 11623 (IBR, see § 171.7 of this subchapter).

■ 48. Section 180.212 is revised to read as follows:

§ 180.212 Repair of seamless DOT 3-series specification cylinders and seamless UN pressure receptacles.

(a) *General requirements for repair of DOT 3-series cylinders and UN pressure receptacles.* (1) No person may repair a DOT 3-series cylinder or a seamless UN pressure receptacle unless—

(i) The repair facility holds an approval issued under the provisions in § 107.805 of this subchapter; and

(ii) Except as provided in paragraph (b) of this section, the repair and the inspection is performed under the provisions of an approval issued under subpart H of Part 107 of this subchapter and conform to the applicable cylinder specification or ISO standard contained in part 178 of this subchapter.

(2) The person performing the repair must prepare a report containing, at a minimum, the results prescribed in § 180.215.

(b) *Repairs not requiring prior approval.* Approval is not required for the following specific repairs:

(1) The removal and replacement of a neck ring or foot ring on a DOT 3A, 3AA or 3B cylinder or a UN pressure receptacle that does not affect a pressure part of the cylinder when the repair is performed by a repair facility or a cylinder manufacturer of these types of cylinders. The repair may be made by welding or brazing in conformance with the original specification. After removal and before replacement, the cylinder must be visually inspected and any defective cylinder must be rejected. The heat treatment, testing and inspection of the repair must be performed under the supervision of an inspector and must be performed in accordance with the original specification.

(2) External re-threading of DOT 3AX, 3AAX or 3T specification cylinders or a UN pressure receptacle mounted in a MEGC; or the internal re-threading of a DOT–3 series cylinder or a seamless UN pressure receptacle when performed by the original manufacturer of the cylinder. The repair work must be performed under the supervision of an independent inspection agency. Upon completion of the re-threading, the threads must be gauged in accordance with Federal Standard H–28 or an equivalent standard containing the same specification limits. The re-threaded cylinder must be stamped clearly and

legibly with the words ''RETHREAD'' on the shoulder, top head, or neck. No DOT specification cylinder or UN cylinder may be re-threaded more than one time without approval of the Associate Administrator.

■ 49. In § 180.213, paragraphs (a), (f)(1), and (f)(7) are revised, and paragraphs (c)(3) and (f)(8) are added, to read as follows:

§ 180.213 Requalification markings.

(a) *General.* Each cylinder or UN pressure receptacle requalified in accordance with this subpart with acceptable results must be marked as specified in this section. Required specification markings may not be altered or removed.

* * * * *

(c) * * *

(3) For a composite cylinder, the requalification markings must be applied on a pressure sensitive label, securely affixed in a manner prescribed by the cylinder manufacturer, near the original manufacturer's label. Stamping of the composite surface is not authorized.

* * * * *

(f) * * *

(1) For designation of the 5-year volumetric expansion test, 10-year volumetric expansion test for UN cylinders and cylinders conforming to § 180.209(f) and (h), or 12-year volumetric expansion test for fire extinguishers conforming to § 173.309(b) of this subchapter and cylinders conforming to § 180.209(e) and 180.209(g), the marking is as illustrated in paragraph (d) of this section.

* * * * *

(7) For designation of DOT 8 series and UN cylinder shell and porous filler requalification, the marking is as illustrated in paragraph (d) of this section, except that the ''X'' is replaced with the letters ''FS.''

(8) For designation of a nondestructive examination combined with a visual inspection, the marking is as illustrated in paragraph (d) of this section, except that the ''X'' is replaced with the type of test performed, for example the letters ''AE'' for acoustic emission or ''UE'' for ultrasonic examination.

■ 50. Section 180.217 is added to read as follows:

§ 180.217 Requalification requirements for MEGCs.

(a) *Periodic inspections.* Each MEGC must be given an initial visual inspection and test in accordance with § 178.75(i) of this subchapter before being put into service for the first time. After the initial inspection, a MEGC must be inspected at least once every five years.

(1) The 5-year periodic inspection must include an external examination of the structure, the pressure receptacles and the service equipment, as follows:

(i) The pressure receptacles are inspected externally for pitting, corrosion, abrasions, dents, distortions, defects in welds or any other conditions, including leakage, that might render the MEGC unsafe for transport.

(ii) The piping, valves, and gaskets are inspected for corroded areas, defects, and other conditions, including leakage, that might render the MEGC unsafe for filling, discharge or transport.

(iii) Missing or loose bolts or nuts on any flanged connection or blank flange are replaced or tightened.

(iv) All emergency devices and valves are free from corrosion, distortion and any damage or defect that could prevent their normal operation. Remote closure devices and self-closing stop valves must be operated to demonstrate proper operation.

(v) Required markings on the MEGC are legible in accordance with the applicable requirements.

(vi) The framework, the supports and the arrangements for lifting the MEGC are in satisfactory condition.

(2) The MEGC's pressure receptacles and piping must be periodically requalified as prescribed in § 180.207(c), at the interval specified in Table 1 in § 180.207.

(b) *Exceptional inspection and test.* If a MEGC shows evidence of damaged or corroded areas, leakage, or other conditions that indicate a deficiency that could affect the integrity of the MEGC, an exceptional inspection and test must be performed, regardless of the last periodic inspection and test. The extent of the exceptional inspection and test will depend on the amount of damage or deterioration of the MEGC. As a minimum, an exceptional inspection of a MEGC must include inspection as specified in paragraph (a)(1) of this section.

(c) *Correction of unsafe condition.* When evidence of any unsafe condition is discovered, the MEGC may not be returned to service until the unsafe condition has been corrected and the MEGC has been requalified in accordance with the applicable tests and inspection.

(d) *Repairs and modifications to MEGCs.* No person may perform a modification to an approved MEGC that may affect conformance to the applicable ISO standard or safe use, and that involve a change to the design type or affect its ability to retain the hazardous material in transportation. Before making any modification changes to an approved MEGC, the owner must obtain approval from the Associate Administrator as prescribed in § 178.74 of this subchapter. The repair of a MEGC's structural equipment is authorized provided such repairs are made in accordance with the requirements prescribed for its approved design and construction. Any repair to the pressure receptacles of a MEGC must meet the requirements of § 180.212.

(e) *Requalification markings.* Each MEGC must be durably and legibly marked in English, with the year and month, and the type of the most recent periodic requalification performed (*e.g.*, 2004–05 AE/UE, where ''AE'' represents acoustic emission and ''UE'' represents ultrasonic examination) followed by the stamp of the approval agency who performed or witnessed the most recent test.

(f) *Records.* The owner of each MEGC or the owner's authorized agent must retain a written record of the date and results of all repairs and required inspections and tests. The report must contain the name and address of the person performing the inspection or test. The periodic test and inspection records must be retained until the next inspection or test is completed. Repair records and the initial exceptional inspection and test records must be retained during the period the MEGC is in service and for one year thereafter. These records must be made available for inspection by a representative of the Department on request.

Issued in Washington, DC on May 30, 2006, under authority delegated in 49 CFR part 1.

Brigham A. McCown,

Acting Administrator.

[FR Doc. 06–5182 Filed 6–9–06; 8:45 am]

BILLING CODE 4910–60–P

Federal Register

Monday,
June 12, 2006

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

Availability of Grant Funds for Fiscal Year 2007; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030602141-6143-38; I.D. 051906D]

RIN 0648–ZB55

Availability of Grant Funds for Fiscal Year 2007

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: The National Oceanic and Atmospheric Administration publishes this notice to provide the general public with a consolidated source of program and application information related its competitive grant and cooperative agreement (CA) award offerings for fiscal year (FY) 2007. This Omnibus notice is designed to replace the multiple **Federal Register** notices that traditionally advertised the availability of NOAA's discretionary funds for its various programs. It should be noted that additional program initiatives unanticipated at the time of the publication of this notice may be announced through subsequent **Federal Register** notices. All announcements will also be available through the Grants.gov website.

In addition, this notice announces information related to a non-competitive financial assistance project to be administered by NOAA. This project will award federal financial assistance to the National Undersea Research Center at the University of Hawaii to administer competitive coral reef research grant programs for the Caribbean, Southeastern United States, Florida, the Gulf of Mexico, Hawaii and the Western Pacific.

DATES: Proposals must be received by the date and time indicated under each program listing in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: Proposals must be submitted to the addresses listed in the **SUPPLEMENTARY INFORMATION** section of this notice for each program. The FR and Full Funding Opportunity (FFO) notices may be found on the Grants.gov Web site. The URL for Grants.gov is *http://www.grants.gov*.

FOR FURTHER INFORMATION CONTACT: Please contact the person listed within this notice as the information contact under each program.

SUPPLEMENTARY INFORMATION: Applicants must comply with all requirements contained in the FFO announcements for each of the programs listed in this omnibus notice. These FFOs are available at *http://www.grants.gov*.

The list of entries below describe the basic information and requirements for competitive grant/cooperative agreement programs offered by NOAA. These programs are open to any applicant who meets the eligibility criteria provided in each entry. To be considered for an award in a competitive grant/cooperative agreement program, an eligible applicant must submit a complete and responsive application to the appropriate program office. An award is made upon conclusion of the evaluation and selection process for the respective program.

NOAA Project Competitions

This omnibus notice describes funding opportunities for the following NOAA discretionary grant programs:

National Environmental Satellite, Data and Information Service

1. Research in Satellite Data Assimilation for Numerical Weather, Climate, and Environmental Forecast Systems.

National Marine Fisheries Service

1. Atlantic Sea Scallop Research Set-Aside Program FY 2007
2. Chesapeake Bay Watershed Education & Training (B-WET) Program
3. Community-based Habitat Restoration National and Regional Partnerships
4. Community-based Habitat Restoration Project Grants
5. Community-based Marine Debris Prevention and Removal Project Grants
6. Cooperative Research Program FY 2007
7. NOAA Coral Reef Conservation Grant Program - General Coral Reef Conservation Grants
8. Implementation of Marine Protected Areas, Southern California Coast
9. John H. Prescott Marine Mammal Rescue Assistance Grant Program
10. MARFIN Fisheries Initiative Program (MARFIN) FY 2007
11. Monkfish Research Set-Aside Program
12. Montrose Settlements Restoration Program Outreach and Education Mini-grants
13. National Estuarine Research Reserves System FY 2007 Land Acquisition and Construction Competitive Program
14. Projects to Improve or Amend Coral Reef Fishery Management Plans Grant Program
15. Protected Species Cooperative Conservation
16. Restoration of Full Tidal Exchange Wetlands, Southern California Coast

National Ocean Service

1. California Bay Watershed Education and Training (B-WET) Program- Meaningful Watershed Experiences for San Francisco, Monterey, and Santa Barbara
2. Bay Watershed Education and Training-B-WET Hawaii
3. FY 2007 Climate and Weather Impacts on Society and the Environment (CWISE), FY 2007
4. Coastal Hypoxia Research Program (CHRP)
5. Reef Ecosystem Studies (CRES)
6. Cumulative Impacts of Multiple Stressors (MultiStress)
7. Information Resource Supporting the Resiliency of Coastal Areas in the US Portion of the Gulf of Mexico
8. Monitoring and Event Response for Harmful Algal Blooms (MERHAB)
9. NOAA Coral Reef Conservation Grant Program - International Coral Reef Conservation Grants
10. NOAA Coral Reef Conservation Grant Program - State and Territory Coral Reef Ecosystem Monitoring Grant
11. NOAA Coral Reef Conservation Grant Program - State and Territory Coral Reef Management Grants

National Weather Service

1. Automated Flood Warning Systems (AFWS) Program
2. Collaborative Science, Technology, and Applied Research (CSTAR) Program
3. Hydrologic Research

Oceans and Atmospheric Research

1. Administration of NOAA's Graduate Sciences Program
2. Administration of NOAA's Undergraduate Scholarship Program
3. Ballast Water Technology Demonstration Program Competitive Funding Announcement (Research, Development, Testing and Evaluation Facility)
4. Ballast Water Technology Demonstration Program Competitive Funding Announcement (Treatment Technology Demonstration Projects)
5. Joint Hurricane Testbed
6. National Sea Grant College Program Aquatic Invasive Species Research and Outreach
7. NOAA Office of Ocean Exploration Announcement of Opportunity, FY 2007
8. Sea Grant - The Gulf of Mexico Oyster Industry Program (GOIP)
9. Sea Grant - Oyster Disease Research Program (ODRP)

NOAA Fellowship, Scholarship and Internship Programs

National Ocean Service

1. Dr. Nancy Foster Scholarship Program; Financial Assistance for Graduate Students
2. National Estuarine Research Reserve (NERR) Graduate Research Fellowship Program (GRF)

Ocean and Atmospheric Research

1. GradFell 2008 Dean John A. Knauss Marine Policy Fellowship (Knauss Fellowship Program)
2. GradFell 2007 NMFS - Sea Grant Joint Graduate Fellowship Program in Marine Resource Economics
3. Gradfell 2007 NMFS - Sea Grant Joint Graduate Fellowship Program in Population Dynamics

Non-Competitive Projects Announcement

The entry below provides information for a non-competitive project administered by NOAA. To receive an award for this project, an eligible applicant must submit a complete and responsive application to the appropriate program office. An award is made upon conclusion of the evaluation and selection process for the respective project.

Oceans and Atmospheric Research

1. NOAA Coral Reef Conservation Grant Program - Coral Reef Ecosystem Research Grants

NOAA Mission Goals

The mission of the agency is to understand and predict changes in the Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs. Below is a listing of the program solicitations that generally fall under one or more areas of NOAA's strategic plan, i.e., mission goals. It is imperative that potential applicants tie their proposals to one of the mission goals. Program solicitations are provided from each of the five operating units within NOAA.

NOAA Project Competitions listed by NOAA Mission Goals

1. Protect, restore and manage the use of coastal and ocean resources through ecosystem-based management.

SUMMARY DESCRIPTION: Coastal areas are among the most developed in the Nation. More than half the population lives on less than one-fifth of the land in the contiguous United States. Furthermore, employment in near shore areas is growing three times faster than population. Coastal and marine waters support over 28 million jobs and provide a tourism destination for nearly 90 million Americans a year. The value of the ocean economy to the United States is over $115 billion. The value added annually to the national economy by the commercial and recreational fishing industry alone is over $48 billion. U.S. aquaculture sales total almost $1 billion annually. With its Exclusive Economic Zone of 3.4 million square miles, the United States manages the largest marine territory of any nation in the world. Funded proposals should help achieve the following outcomes:

A. Healthy and productive coastal and marine ecosystems that benefit society; and

B. A well-informed public that acts as a steward of coastal and marine ecosystems

Program Names:

1. 2007 Atlantic Sea Scallop Research Set-Aside Program
2. Community-based Habitat Restoration Project Grants
3. Community-based Habitat Restoration National and Regional Partnerships
4. Cooperative Research Program FY 2007
5. Marfin Fisheries Initiative Program (MARFIN) FY 2007
6. Monkfish Research Set-Aside Program
7. Montrose Settlements Restoration Program Outreach and Education Mini-grants
8. Projects to Improve or Amend Coral Reef Fishery Management Plans Grant Program
9. Restoration of Full Tidal Exchange Wetlands, Southern California Coast
10. Implementation of Marine Protected Areas, Southern California Coast
11. Protected Species Cooperative Conservation
12. Community-based Marine Debris Prevention and Removal Project Grants
13. NOAA Coral Reef Conservation Grant Program - General Coral Reef Conservation Grants
14. John H. Prescott Marine Mammal Rescue Assistance Grant Program
15. Chesapeake Bay Watershed Education & Training (B-WET) Program
16. Coastal Hypoxia Research Program (CHRP)
17. Coral Reef Ecosystem Studies (CRES)
18. Cumulative Impacts of Multiple Stressors (MultiStress)
19. Monitoring and Event Response for Harmful Algal Blooms (MERHAB)
20. NOAA Coral Reef Conservation Grant Program - State and Territory Coral Reef Ecosystem Monitoring Grant
21. NOAA Coral Reef Conservation Grant Program - State and Territory Coral Reef Management Grant
22. NOAA Coral Reef Conservation Grant Program - International Coral Reef Conservation Grant
23. California Bay Watershed Education and Training (B-WET) Program- Meaningful Watershed Experiences for San Francisco, Monterey, and Santa Barbara
24. Bay Watershed Education and Training-B-WET Hawaii
25. Ballast Water Technology Demonstration Program Competitive Funding Announcement (Treatment Technology Demonstration Projects)
26. National Sea Grant College Program Aquatic Invasive Species Research and Outreach
27. Grant - The Gulf of Mexico Oyster Industry Program (GOIP)
28. Sea Grant - Oyster Disease Research Program (ODRP)
29. NOAA Office of Ocean Exploration Announcement of Opportunity, FY 2007
30. National Estuarine Research Reserve (NERR) Graduate Research Fellowship Program (GRF)
31. GradFell 2008 Dean John A. Knauss Marine Policy Fellowship (Knauss Fellowship Program)
32. GradFell 2007 NMFS - Sea Grant Joint Graduate Fellowship Program in Marine Resource Economics
33. Gradfell 2007 NMFS - Sea Grant Joint Graduate Fellowship Program in Population Dynamics
34. National Estuarine Research Reserves System FY 2007 Land Acquisition and Construction Competitive Program

2. Understand climate variability and change to enhance society's ability to plan and respond.

SUMMARY DESCRIPTION: Climate shapes the environment, natural resources, economies, and social systems that people depend upon worldwide. While humanity has learned to contend with some aspects of climate's natural variability, major climatic events, combined with the stresses of population growth, economic growth, public health concerns, and land-use practices, can impose serious consequences on society. The 1997–98 El Nino, for example, had a $25 billion impact on the U.S. economy - property losses were $2.6 billion and crop losses approached $2 billion. Long-term drought leads to increased and competing demands for fresh water with related effects on terrestrial and marine ecosystems, agricultural productivity, and even the spread of infectious diseases. Decisions about mitigating

climate change also can alter economic and social structures on a global scale. We can deliver reliable climate information in useful ways to help minimize risks and maximize opportunities for decisions in agriculture, public policy, natural resources, water and energy use, and public health. We continue to move toward developing a seamless suite of weather and climate products. The Climate Goal addresses predictions on time scales of up to decades or longer.

Funded proposals should help achieve the following outcomes:

A. A predictive understanding of the global climate system on time scales of weeks to decades with quantified uncertainties sufficient for making informed and reasoned decisions; and

B. Climate-sensitive sectors and the climate-literate public effectively incorporating NOAA's climate products into their plans and decisions.

Program Names:

1. FY 2007 Climate and Weather Impacts on Society and the Environment (CWISE)

3. Serve society's needs for weather and water information.

SUMMARY DESCRIPTION: Floods, droughts, hurricanes, tornadoes, tsunamis, wildfires, and other severe weather events cause $11 billion in damages each year in the United States. Weather is directly linked to public health and safety, and nearly one-third of the U.S. economy (about $3 trillion) is sensitive to weather and climate. With so much at stake, NOAA's role in understanding, observing, forecasting, and warning of environmental events is expanding. With our partners, we seek to provide decision makers with key observations, analyses, predictions, and warnings for a range of weather and water conditions, including those related to water supply, air quality, space weather, and wildfires. Businesses, governments, and non-governmental organizations are getting more sophisticated about how to use this weather and water information to improve operational efficiencies, to manage environmental resources, and to create a better quality of life. On average, hurricanes, tornadoes, tsunamis, and other severe weather events cause $11 billion in damages per year. Weather, including space weather, is directly linked to public safety and about one-third of the U.S. economy (about $3 trillion) is weather sensitive. With so much at stake, NOAA's role in observing, forecasting, and warning of environmental events is expanding, while economic sectors and its public are becoming increasingly sophisticated at using NOAA's weather, air quality, and water information to improve their operational efficiencies and their management of environmental resources, and quality of life.

Funded proposals should help achieve the following outcomes:

A. Reduced loss of life, injury, and damage to the economy;

B. Better, quicker, and more valuable weather and water information to support improved decisions; and

C. Increased customer satisfaction with weather and water information and services.

Program Names:

1. FY2007 Information Resource Supporting the Resiliency of Coastal Areas in the US Portion of the Gulf of Mexico

2. Automated Flood Warning Systems (AFWS) Program

3. Collaborative Science, Technology, and Applied Research (CSTAR) Program

4. Hydrologic Research

5. Joint Hurricane Testbed

4. Support the Nation's commerce with information for safe, efficient, and environmentally sound transportation.

SUMMARY DESCRIPTION: Safe and efficient transportation systems are crucial to the U.S. economy. The U.S. marine transportation system ships over 95 percent of the tonnage and more than 20 percent by value of foreign trade through U.S. ports, including 48 percent of the oil needed to meet America's energy demands. At least $4 billion is lost annually due to economic inefficiencies resulting from weather-related air-traffic delays. Improved surface weather forecasts and specific user warnings would reduce the 7,000 weather related fatalities and 800,000 injuries that occur annually from crashes on roads and highways. The injuries, loss of life, and property damage from weather-related crashes cost an average of $42 billion annually.

We provide information, services, and products for transportation safety and for increased commerce on roads, rails, and waterways. We will improve the accuracy of our information for marine, aviation, and surface weather forecasts, the availability of accurate and advanced electronic navigational charts, and the delivery of real-time oceanographic information. We seek to provide consistent, accurate, and timely positioning information that is critical for air, sea, and surface transportation. We will respond to hazardous material spills and provide search and rescue routinely to save lives and money and to protect the coastal environment. We will work with port and coastal communities and with Federal and state partners to ensure that port operations and development proceed efficiently and in an environmentally sound manner. We will work with the Federal Aviation Administration and the private sector to reduce the negative impacts of weather on aviation without compromising safety. Because of increased interest by the public and private sectors, we also will expand weather information for marine and surface transportation to enhance safety and efficiency.

Funded proposals should help achieve the following outcomes:

A. Safe, secure, efficient, and seamless movement of goods and people in the U.S. transportation system; and

B. Environmentally sound development and use of the U.S. transportation system.

Program Names:

1. Ballast Water Technology Demonstration Program Competitive Funding Announcement (Research, Development, Testing and Evaluation Facility)

2. Ballast Water Technology Demonstration Program Competitive Funding Announcement (Treatment Technology Demonstration Projects)

5. Provide critical support for NOAA's mission

SUMMARY DESCRIPTION: Strong, effective, and efficient support activities are necessary for us to achieve our Mission Goals. Our facilities, ships, aircraft, environmental satellites, data-processing systems, computing and communication systems, and our approach to management provide the foundation of support for all of our programs. This critical foundation must adapt to evolving mission needs and, therefore, is an integral part of our strategic planning. It also must support U.S. homeland security by maintaining continuity of operations and by providing NOAA services, such as civil alert relays through NOAA Weather Radio and air dispersion forecasts, in response to national emergencies.

NOAA ships, aircraft, and environmental satellites are the backbone of the global Earth observing system and provide many critical mission support services. To keep this capability strong and current with our Mission Goals, we will ensure that NOAA has adequate access to safe and efficient ships and aircraft through the use of both NOAA platforms and those of other agency, academic, and commercial partners. We will work with academia and partners in the public and private sectors to ensure that future satellite systems are designed,

developed, and operated with the latest technology.

Leadership development and program support are essential for achieving our Mission Goals. We must also commit to organizational excellence through management and leadership across a ''corporate'' NOAA. We must continue our commitment to valuing NOAA's diverse workforce, including effective workforce planning strategies designed to attract, retain and develop competencies at all levels of our workforce. Through the use of business process reengineering, we will strive for state-of-the-art, value-added financial and administrative processes. NOAA will ensure state-of-the-art and secure information technology and systems. By developing long-range, comprehensive facility planning processes NOAA will be able to ensure right-sized, cost-effective, and safe facilities.

Funded proposals should help achieve the following outcomes:

A. A dynamic workforce with competencies that support NOAA's mission today and in the future.

Program Names:

1. Administration of NOAA's Graduate Sciences Program
2. Dr. Nancy Foster Scholarship Program; Financial Assistance for Graduate Students
3. Gradfell 2007 NMFS - Sea Grants Joint Graduate Fellowship Program in Population Dynamics

Non-Competitive Projects Announcement

1. Protect, restore and manage the use of coastal and ocean resources through ecosystem-based management. See SUMMARY DESCRIPTION above.

1. NOAA Coral Reef Conservation Grant Program - Coral Reef Ecosystem Research Grants

Electronic Access

The full funding announcement for each program is available via the Grants.gov Web site: *http://www.grants.gov*. These announcements will also be available by contacting the program official identified below. You will be able to access, download and submit electronic grant applications for NOAA Programs in this announcement at *http://www.grants.gov*. The closing dates will be the same as for the paper submissions noted in this announcement. NOAA strongly recommends that you do not wait until the application deadline date to begin the application process through Grants.gov. Getting started with Grants.gov is easy! Go to *http://www.grants.gov*. There are two key features on the site: Find Grant Opportunities and Apply for Grants. Everything else on the site is designed to support these two features and your use of them. While you can begin searching for grant opportunities for which you would like to apply immediately, it is recommended that you complete the remaining Get Started steps sooner rather than later, so that when you find an opportunity for which you would like to apply, you are ready to go.

Get Started Step 1 Find Grant Opportunity for Which You Would Like to Apply

Start your search for Federal government-wide grant opportunities and register to receive automatic email notifications of new grant opportunities or any modifications to grant opportunities as they are posted to the site by clicking the Find Grant Opportunities tab at the top of the page.

Get Started Step 2 Register with Central Contractor Registry (CCR)

Your organization will also need to be registered with Central Contractor Registry. You can register with them online. This will take about 30 minutes. You should receive your CCR registration within 3 business days. Important: You must have a DUNS number from Dun & Bradstreet before you register with CCR. Many organizations already have a DUNS number. To determine if your organization already has a DUNS number or to obtain a DUNS number, contact Dun & Bradstreet at 1–866–705–5711. This will take about 10 minutes and is free of charge. Be sure to complete the Marketing Partner ID (MPIN) and Electronic Business Primary Point of Contact fields during the CCR registration process. These are mandatory fields that are required when submitting grant applications through Grants.gov.

Get Started Step 3 Register with the Credential Provider

You must register with a Credential Provider to receive a username and password. This will be required to securely submit your grant application.

Get Started Step 4 Register with Grants.gov

The final step in the Get Started process is to register with Grants.gov. This will be required to submit grant applications on behalf of your organization. After you have completed the registration process, you will receive email notification confirming that you are able to submit applications through Grants.gov.

Get Started Step 5 Log on to Grants.gov

After you have registered with Grants.gov, you can log on to Grants.gov to verify if you have registered successfully, to check application status, and to update information in your applicant profile, such as your name, telephone number, email address, and title. In the future, you will have the ability to determine if you are authorized to submit applications through Grants.gov on behalf of your organization.

Electronic Application File Format and Naming Conventions

After the initial grant application package has been submitted to NOAA (e.g., via Grants.gov), requests for additional or modified forms may be requested by NOAA. Applicants should resubmit forms in Portable Document File Format (PDF) and follow the following file naming convention to name resubmitted forms. For example: 98042__SF–424__mmddyy__v2.pdf.

(1) 98042 = Proposal ι (provided to applicant by Grants.gov &NOAA)
(2) SF–424 = Form Number
(3) mmddyy = Date
(4) v2 = Version Number

To learn how to convert documents to PDF go to: *http://www.grants.gov/assets/PDFConversion.pdf*.

Evaluation Criteria and Selection Procedures

NOAA standardized the evaluation and selection process for its competitive assistance programs. All proposals submitted in response to this notice shall be evaluated and selected in accordance with the following procedures. There are two sets of evaluation criteria and selection procedures, one for project proposals, and the other for fellowship, scholarship, and internship programs. These evaluation criteria and selection procedures apply to all of the programs included below.

Proposal Review and Selection Process for Projects

Some programs may include a pre-application process which provides an initial review and feedback to the applicants that have responded to a call for letters of intent or pre-proposals; however, not all programs will include such a process. If a pre-application process is used by a program, it shall be described in the Summary Description and the deadline shall be provided in the Application Deadline section. Upon receipt of a full application by NOAA,

an initial administrative review is conducted to determine compliance with requirements and completeness of the application. A merit review is conducted to individually evaluate, score, and rank applications using the evaluation criteria. A second merit review may be conducted on the applicants that meet the program's threshold (based on scores from the first merit review) to make selections using the selection factors provided below. Merit review is conducted by mail reviewers and/or peer panel reviewers. Each reviewer will individually evaluate and rank proposals using the evaluation criteria provided below. No consensus advice shall be provided by either merit review group if there are any non-Federal members. A minimum of three merit reviewers per proposal is required. The merit reviewer's ratings are used to produce a rank order of the proposals. The NOAA Program Officer may review the ranking of the proposals and make recommendations to the Selecting Official based on the mail and/or panel review(s) and selection factors listed below. The Selecting Official selects proposals after considering the mail and/or peer panel review(s) and recommendations of the Program Officer. In making the final selections, the Selecting Official will award in rank order unless the proposal is justified to be selected out of rank order based upon one or more of the selection factors below. The Program Officer and/or Selecting Official may negotiate the funding level of the proposal. The Selecting Official makes final recommendations for award to the Grants Officer who is authorized to obligate the funds.

Evaluation Criteria for Projects

1. Importance and/or relevance and applicability of proposed project to the program goals: This ascertains whether there is intrinsic value in the proposed work and/or relevance to NOAA, federal, regional, state, or local activities.

2. Technical/scientific merit: This assesses whether the approach is technically sound and/or innovative, if the methods are appropriate, and whether there are clear project goals and objectives.

3. Overall qualifications of applicants: This ascertains whether the applicant possesses the necessary education, experience, training, facilities, and administrative resources to accomplish the project.

4. Project costs: The Budget is evaluated to determine if it is realistic and commensurate with the project needs and time-frame.

5. Outreach and education: NOAA assesses whether this project provides a focused and effective education and outreach strategy regarding NOAA's mission to protect the Nation's natural resources.

Selection Factors for Projects

The merit review ratings shall provide a rank order to the Selecting Official for final funding recommendations. A program officer may first make recommendations to the Selecting Official applying the selection factors below. The Selecting Official shall award in the rank order unless the proposal is justified to be selected out of rank order based upon one or more of the following factors:

1. Availability of funding.
2. Balance/distribution of funds:
a. Geographically
b. By type of institutions
c. By type of partners
d. By research areas
e. By project types
3. Whether this project duplicates other projects funded or considered for funding by NOAA or other federal agencies.
4. Program priorities and policy factors.
5. Applicant's prior award performance.
6. Partnerships and/or Participation of targeted groups.
7. Adequacy of information necessary for NOAA staff to make a NEPA determination and draft necessary documentation before recommendations for funding are made to the Grants Officer.

Proposal Review and Selection Process for NOAA Fellowship, Scholarship and Internship Programs

Some programs may include a pre-application process which provides an initial review and feedback to the applicants that have responded to a call for letters of intent or pre-proposals; however, not all programs will include such a process. If a pre-application process is used by a program, it shall be described in the Summary Description and the deadline shall be provided in the Application Deadline section. An initial administrative review of full applications is conducted to determine compliance with requirements and completeness of applications. A merit review is conducted to individually evaluate, score, and rank applications using the evaluation criteria. A second merit review may be conducted on the applicants that meet the program's threshold (based on scores from the first merit review) to make selections using the selection factors provided below. The Program Officer may conduct a review of the rank order and make recommendations to the Selecting Official based on the panel ratings and the selection factors listed below. The Selecting Official considers merit reviews and recommendations. The Selecting Official will award in rank order unless the proposal is justified to be selected out of rank order based upon one or more of the selection factors below. The Selecting Official makes final recommendations for award to the Grants Officer who is authorized to obligate the funds.

Evaluation Criteria for Fellowship/Scholarships/Internships

1. Academic record and statement of career goals and objectives of student
2. Quality of project and applicability to program priorities
3. Recommendations and/or endorsements of student
4. Additional relevant experience related to diversity of education; extra-curricular activities; honors and awards; interpersonal, written, and oral communications skills
5. Financial need of student

Selection Factors for Fellowship/Scholarships/Internships

1. Balance/Distribution of funds:
a. Across academic disciplines
b. By types of institutions
c. Geographically
2. Availability of funds
3. Program-specific objectives
4. Degree in scientific area and type of degree sought

NOAA Project Competitions

National Environmental Satellite, Data, and Information Service

1. Research in Satellite Data Assimilation for Numerical Weather, Climate, and Environmental Forecast Systems.

SUMMARY DESCRIPTION: The National Environmental Satellite, Data, and Information Service (NESDIS), Office of Research and Applications (ORA) and the Joint Center for Satellite Data Assimilation (JCSDA) announces the availability of Federal assistance for research in the area of Satellite Data Assimilation in Numerical Weather, Climate, and Environmental Forecast Systems. The goal of the JCSDA is to accelerate the use of observations from earth-orbiting satellites in operational numerical prediction models for the purpose of improving weather, ocean mesoscale, and other environmental forecasts, improving seasonal to interannual climate forecasts, and increasing the physical accuracy of

climate reanalysis. The advanced instruments of current and planned NOAA, NASA, DOD, and international agency satellite missions will provide large volumes of data on atmospheric, oceanic, and land surface conditions with accuracies and spatial resolutions never before achieved. The JCSDA will strive to ensure that the Nation realizes the maximum benefit of its investment in space as part of an advanced global observing system. Funded proposals will help accelerate the use of satellite data from both operational and experimental spacecraft in operational weather, ocean mesoscale, climate, and environmental prediction environments, improve community radiative transfer models and surface emissivity models, improve characterization of the error covariances related to forecast models, radiative transfer models and satellite observations, and advance data assimilation science. The program priorities for this opportunity support NOAA's mission support goal of: Weather and Water - Serve Society's Needs for Weather and Water Information.

FUNDING AVAILABILITY: The total amount available for proposals is anticipated to be approximately $600,000 per year. Individual annual awards in the form of grants or cooperative agreements are expected to range from $50,000 per year to a maximum of $150,000 per year for no more than three years, although greater amounts may be awarded. It is anticipated that 4–6 awards will be made.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 15 U.S.C. 313, 49 U.S.C. 44720(b); 15 U.S.C. 2901 *et seq.*

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.440, Environmental Sciences, Applications, Data, and Education.

APPLICATION DEADLINE: Letters of Intent (LOI) must be received no later than 5 p.m. eastern daylight time, August 11, 2006, and full proposals must be received by NOAA/NESDIS no later than 5 p.m. eastern daylight time, October 2, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Letters of Intent should be emailed to *James.G.Yoe@noaa.gov* or may be mailed or faxed to the JSCDA. Proposals must be submitted electronically via *http://www.grants.gov*, or as hard copy (by postal mail, commercial delivery service, or hand delivery) to: ATTN: James G. Yoe, NOAA/NESDIS Joint Center for Satellite Data Assimilation, 5200 Auth Rd., Room 808, Camp Springs, MD 20746.

INFORMATION CONTACTS: Administrative questions: Ms. Patty Mayo, by phone at 301–763–8127 ext. 107, fax: 301–763–8108, or e-mail: *Patty.Mayo@noaa.gov*. Technical questions: James G. Yoe (NOAA Program Officer), by phone at 301–763–8172 ext. 186, fax to 301–763–8149, or via e-mail: *James.G.Yoe@noaa.gov*.

ELIGIBILITY: Eligible applications can be from U.S. institutions of higher education, other non-profits, commercial organizations, and state, local and Indian tribal governments. U.S. Federal agencies or institutions are eligible to receive Federal assistance under this Notice. PLEASE NOTE: Before non-NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. The only exception to this is governmental research facilities for awards issued under the authority of 49 USC 44720(b). Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 USC 1535) is not an appropriate legal basis.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

National Marine Fisheries Service (NMFS)

1. 2007 Atlantic Sea Scallop Research Set-Aside Program

SUMMARY DESCRIPTION: The National Marine Fisheries Service (NMFS) requests research proposals for the 2007 scallop fishing year (March 1, 2007 - February 28, 2008) to utilize portions of the total allowable catch (TAC) and Days-at-Sea (DAS) set-asides proposed by the New England Fishery Management Council (Council) in Framework 18 to the Sea Scallop Fishery Management Plan (Framework 18). The set-asides are to be used for sea scallop research endeavors under a research set-aside (RSA) program. The RSA Program provides a mechanism to fund research through the sale of fish harvested under the research quota. Vessels participating in an approved research project may be authorized by the Administrator, Northeast Region, NMFS (Regional Administrator), to harvest and to land species in excess of any imposed trip limit or during fishery closures. Landings from such trips would be sold to generate funds that would compensate participating vessel owners and help defray the costs associated with research projects. No Federal funds will be provided for research under this notification. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: In order to set a value on the RSAs, the value of scallops must be estimated. This Federal Funding Opportunity (FFO) uses an estimated price per pound of $7.25 based on the average 2005 (March through October) price per pound calculated from dealer reports. In addition, based on the Council's analysis in Framework 18, the daily catch rate was calculated to be 1,746 lb (792 kg) per DAS. By requiring researchers to use these values in requesting TAC and DAS, all proposals will relate scallop catch to research costs similarly.

Research proposals are sought to utilize the four set-asides proposed by Framework 18 for the 2007 fishing year. With the value for the scallops estimated as $7.25 per lb, the estimated TAC values are estimated as follows: (1) The DAS set-aside for the open fishing areas is 330 DAS with a value of $4,177,305; (2) the research TAC set-aside for the NLS Access Area is 157,454 lb (71 mt), with a value of $1,141,542; (3) the research TAC set-aside for the CAI Access Area is 86,414 lb (39 mt), with a value of $626,502; and (4) the research TAC set-aside for the ET Access Area is 544,000 lb (247 mt), with a value of $3,944,000. Thus, for fishing year 2007, the total value of the set-asides available for scallop-related research is approximately $9,889,350 (42% from the open area DAS set-aside, 12% from the NLS Access Area, 6% from the CAI Access Area and 40% from the ET Access Area). Researchers must specify the amount of set-aside (TAC or DAS, as appropriate) sought from each area.

If 2006 scallop resource surveys indicate the exploitable biomass in the Elephant Trunk Access Area is lower than current projections, Framework 18 proposes three scenarios to reduce the 2007 TAC. If an adjustment is necessary, it will be finalized on or about December 1, 2006.

ELEPHANT TRUNK ACCESS AREA ADJUSTMENT TABLE

	Less than 50.5 million lb (mlb) (22,920 mt)	50.5 to 63.1 mlb (22,920 to 28,650 mt)	63.2 to 75.7 mlb (28,651 to 34,380 mt)	Greater than 75.8 mlb (34,381 mt)
Adjusted 2007 ET RSA TAC	228,000 lb (103 mt)	346,000 lb (157 mt)	461,000 lb (209 mt)	No adjustment 544,000 lb (247 mt)

STATUTORY AUTHORITY: Issuing grants is consistent with sections 303(b)(11), 402(e), and 404(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1853(b)(11), 16 U.S.C. 1881a(e), and 16 U.S.C. 1881(c), respectively.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) Number: 11.454, Unallied Management Projects

APPLICATION DEADLINE: Full proposals must be received by 5 p.m., eastern daylight time, on August 11, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Proposals may be submitted electronically via *http://www.grants.gov*, or as hard copy (by postal mail, commercial delivery service, or hand delivery) to NMFS, Northeast Regional Office, Attention: 2007 Sea Scallop Research Proposals, One Blackburn Drive, Gloucester, MA 01930.

INFORMATION CONTACTS: For administrative questions about the research set aside program contact Ryan Silva (One Blackburn Drive, Gloucester, MA 01930), by phone (978) 281–9326, fax (978) 281–9135, or e-mail *ryan.silva@noaa.gov*. For an application kit contact Rich Maney (One Blackburn Drive, Gloucester, MA 01930), by phone (978) 281–9265, fax (978) 281–9117, or e-mail *rich.maney@noaa.gov*. For information on the Atlantic Sea Scallop Fishery Management Plan (FMP), as it relates to this funding opportunity, contact Deirdre Boelke, New England Fishery Management Council, phone (978) 465–0492, or Ryan Silva, by phone (978) 281–9326, fax (978) 281–9135, or e-mail *ryan.silva@noaa.gov*.

ELIGIBILITY: 1. Eligible applicants include institutions of higher education, hospitals, other nonprofits, commercial organizations, individuals, state, local, and Native American tribal governments. Federal agencies and institutions are not eligible to receive Federal assistance under this notice. Additionally, employees of any Federal agency or Regional Fishery Management Council (Council) are ineligible to submit an application under this program. However, Council members who are not Federal employees may submit an application.

2. DOC/NOAA supports cultural and gender diversity and encourages women and minority individuals and groups to submit applications to the RSA program. In addition, DOC/NOAA is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in underserved areas. DOC/NOAA encourages proposals involving any of the above institutions.

3. DOC/NOAA encourages applications from members of the fishing community and applications that involve fishing community cooperation and participation.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applicants will need to determine if their State participates in the intergovernmental review process. This information can be found at the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html*. This information will assist applicants in providing either a Yes or No response to Item 16 of the Application Form, SF–424, entitled ''Application for Federal Assistance.''

2. Community-based Habitat Restoration Project Grants

SUMMARY DESCRIPTION: NMFS is inviting the public to submit proposals for available funding to implement grass-roots habitat restoration projects that will benefit living marine resources, including anadromous fish, under the NOAA Community-based Restoration Program. Projects funded through the Community-based Restoration Program will be expected to have strong on-the-ground habitat restoration components that provide long-term ecological habitat improvements for NOAA trust resources as well as educational and social benefits for people and their communities. Proposals selected for funding through this solicitation will be implemented through a cooperative agreement. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Funding of up to $3,000,000 is expected to be available for Community-based Habitat Restoration Project Grants in FY 2007. The NOAA Restoration Center (RC) anticipates that typical project awards will range from $50,000 to $200,000.

STATUTORY AUTHORITY: The Secretary of Commerce is authorized under the Fish and Wildlife Coordination Act, 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970, to provide grants or cooperative agreements for fisheries habitat restoration.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.463 Habitat Conservation.

APPLICATION DEADLINE: Applications for project funding under the Community-based Restoration Program must be submitted by September 28, 2006 11:59 PM EDT if submitted via grants.gov , or if mailed, postmarked by September 28, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applicants should apply through *http://www.grants.gov*. If unable to reasonably apply through grants.gov, send paper applications to Christopher D. Doley, Chief, NOAA Restoration Center, National Marine Fisheries Service, 1315 East West Highway (F/HC3), Rm. 14727, Silver Spring, MD 20910–3282; ATTN: CRP Project Applications.

INFORMATION CONTACT(S): Cathy Bozek or Melanie Gange at (301) 713–0174, or by fax at (301) 713–0184, or by e-mail at *Cathy.Bozek@noaa.gov* or *Melanie.Gange@noaa.gov*.

ELIGIBILITY: Eligible applicants are institutions of higher education, hospitals, other non-profits, commercial (for profit) organizations, organizations under the jurisdiction of foreign governments, international organizations, state, local and Indian tribal governments whose projects have the potential to benefit NOAA trust resources. Applications from federal agencies or employees of federal agencies will not be considered.

COST SHARING REQUIREMENTS: 1:1 non-Federal match is encouraged, but applicants with less than 1:1 match will not be disqualified.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

3. Community-based Habitat Restoration National and Regional Partnerships

SUMMARY DESCRIPTION: NMFS is inviting the public to submit multi-year proposals for establishing innovative habitat restoration partnerships at the national or regional level for up to 3 years to further community-based habitat restoration that will benefit living marine resources, including anadromous fish, under the NOAA Community-based Restoration Program (CRP). Proposals for partnerships funded through the CRP will involve joint selection and co-funding of multiple community-based habitat restoration projects as sub-awards made through the partner organization. Proposals selected for funding through this solicitation will be implemented through a cooperative agreement. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - protect, restore, and manage use of coastal and ocean resources through ecosystem-based management.

FUNDING AVAILABILITY: Funding of up to $10 million is expected to be available for establishing multi-year partnerships in FY 2007; annual funding is anticipated to maintain successful partnerships for up to 3 years duration. The NOAA Restoration Center (RC) anticipates that typical partnership awards will range from $200,000 to $600,000 per year, funded annually.

STATUTORY AUTHORITY: The Secretary of Commerce is authorized under the Fish and Wildlife Coordination Act, 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970, to provide grants or cooperative agreements for fisheries habitat restoration.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.463 Habitat Conservation.

APPLICATION DEADLINE: Applications for partnership funding under the CRP must be submitted by 11:59 p.m. EDT on September 25, 2006 if submitted via Grants.gov, or if mailed, postmarked by September 25, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applicants should apply through *http://www.grants.gov*. If unable to apply through grants.gov, send paper applications to Christopher D. Doley, Chief, NOAA Restoration Center, National Marine Fisheries Service, 1315 East West Highway (F/HC3), Rm. 14701, Silver Spring, MD 20910–3282; ATTN: CRP Partnership Applications.

INFORMATION CONTACT(S): Melanie Gange or Robin Bruckner at (301)713–0174, or by fax at (301) 713–0184, or by e-mail at *Melanie.Gange@noaa.gov* or *Robin.Bruckner@noaa.gov*.

ELIGIBILITY: Eligible applicants are institutions of higher education, hospitals, other non-profits, commercial (for profit) organizations, organizations under the jurisdiction of foreign governments, international organizations, state, local and Indian tribal governments whose projects have the potential to benefit NOAA trust resources. Applications from federal agencies will not be considered.

COST SHARING REQUIREMENTS: 1:1 match non-Federal match is encouraged, but applicants with less than 1:1 match will not be disqualified.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

4. Cooperative Research Program (CRP) FY 2007

SUMMARY DESCRIPTION: The NMFS is inviting the public to submit research and development projects that seek to increase and improve the working relationship between researchers from the NMFS, state fishery agencies, universities, and fishermen. The program is a means of involving commercial and recreational fishermen in the collection of fundamental fisheries information. Collection efforts support the development and evaluation of management and regulatory options. Projects accepted for funding will need to be completed within 24 months. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Approximately $2.0 million may be available in fiscal year 2007 for projects. The NMFS Southeast Regional Office estimates awarding eight awards that will range from $25,000 to $400,000. The average award is $150,000.

STATUTORY AUTHORITY: 15 U.S.C. 713c–3(d).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.454 Unallied Management Projects.

APPLICATION DEADLINE: We must receive your application by 5 p.m. eastern daylight time on August 11, 2006. Applications received after that time will not be considered for funding.

ADDRESS FOR SUBMITTING PROPOSALS: Applications should be submitted through *http://www.grants.gov*. If an applicant does not have Internet access, hard copies should be sent to the National Marine Fisheries Service, State/Federal Liaison Branch, 263 13th Avenue South, St. Petersburg, FL 33701.

INFORMATION CONTACT: Robert Sadler, State/Federal Liaison Branch at (727) 824–5324.

ELIGIBILITY: Eligible applicants include Institutions of higher education, other nonprofits, commercial organizations, state, local and Indian tribal governments and individuals. Federal agencies or institutions are not eligible. Foreign governments, organizations under the jurisdiction of foreign governments, and international organizations are excluded for purposes of this solicitation since the objective of the CRP is to optimize research and development benefits from U.S. marine fishery resources.

OTHER INFORMATION: Applicants who are not a commercial or recreational fisherman must have commercial or recreational fisherman participating in their project. There must be a written agreement with a fisherman describing the involvement in the project activity.

All applicants must include a written agreement with a person employed by the National Marine Fisheries Service (NMFS), who will act as a partner in the proposed research project. The NMFS partner will assist the applicant to develop a design (statistical or analytical) for the project to assure that the outcome will provide suitable, scientific data and results to support needed fisheries management information.

COST SHARING REQUIREMENTS: Cost sharing is not required.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

5. Marfin Fisheries Initiative Program (MARFIN) FY 2007

SUMMARY DESCRIPTION: The NMFS is inviting the public to submit research and development projects that will optimize the use of fisheries in the Gulf of Mexico and off the South Atlantic states of North Carolina, South Carolina, Georgia, and Florida involving the U.S. fishing industry (recreational and commercial), including fishery biology, resource assessment, socioeconomic assessment, management and conservation, selected harvesting methods, and fish handling and processing. Proposals may be selected for funding for up to three years through a cooperative agreement. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and

Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Approximately $2.4 million may be available in fiscal year (FY) 2007 for projects. This amount includes possible in-house projects. The NMFS Southeast Regional Office estimates awarding ten projects that will range from $35,000 to $300,000. The average award is $100,000.

STATUTORY AUTHORITY: 15 U.S.C. 713c–3(d).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.433 Marine Fisheries Initiative.

APPLICATION DEADLINE: We must receive your application by close of business (5 p.m. eastern daylight time) on July 12, 2006. Applications received after that time will not be considered for funding.

ADDRESS FOR SUBMITTING PROPOSALS: Applications should be submitted through *http://www.grants.gov*. If an applicant does not have Internet access, hard copies should be sent to the National Marine Fisheries Service, State/Federal Liaison Branch, 263 13th Avenue South, St. Petersburg, FL 33701.

INFORMATION CONTACT: Scot Plank, State/Federal Liaison Branch at (727) 824–5324.

ELIGIBILITY: Eligible applicants include Institutions of higher education, other nonprofits, commercial organizations, state, local and Indian tribal governments. Federal agencies or institutions are not eligible. Foreign governments, organizations under the jurisdiction of foreign governments, and international organizations are excluded for purposes of this solicitation since the objective of the MARFIN program is to optimize research and development benefits from U.S. marine fishery resources.

COST SHARING REQUIREMENTS: Cost sharing is not required.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

6. Monkfish Research Set-Aside Program

SUMMARY DESCRIPTION: The National Marine Fisheries Service (NMFS) announces that the New England and Mid-Atlantic Fishery Management Councils (Councils) have set aside 500 monkfish days-at-sea (DAS) to be used for research endeavors under a research set-aside (RSA) program. NMFS is soliciting proposals to utilize the DAS for research activities concerning the monkfish fishery for fishing year 2007 (May 1, 2007–April 30, 2008). Through the allocation of research DAS, the Monkfish RSA Program provides a mechanism to reduce the cost for vessel owners to participate in cooperative monkfish research. The intent of this RSA program is for fishing vessels to utilize these research DAS to conduct monkfish related research, rather than their allocated monkfish DAS, thereby eliminating any cost to the vessel associated with using a monkfish DAS. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: No Federal funds are provided for research under this notification. Rather, projects funded under the Monkfish RSA Program would be provided with additional opportunity to harvest monkfish, and the catch sold to generate income to offset research costs. The Federal Government (i.e., NMFS) may issue an Exempted Fishing Permit (EFP), if needed, to provide special fishing privileges in response to research proposals selected under this program. For example, vessels participating in an approved research project may be authorized by the Northeast Regional Administrator, NMFS, to harvest monkfish in excess of established possession limits. Two awards were issued under the 2006 Monkfish RSA Program, and these projects are expected to commence in May 2006. Therefore, information concerning the income generated from those awards is not yet available.

Funds generated from landings harvested and sold under the Monkfish RSA Program shall be used to cover the cost of research activities, including vessel costs. For example, the funds may be used to pay for gear modifications, monitoring equipment, the salaries of research personnel, or vessel operation costs. The Federal Government shall not be liable for any costs incurred in the conduct of the project. Specifically, the Federal Government is not liable for any costs incurred by the researcher or vessel owner should the sale of catch not fully reimburse the researcher or vessel owner for his/her expenses.

STATUTORY AUTHORITY: Issuing grants is consistent with sections 303(b)(11), 402(e), and 404(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1853(b)(11), 16 U.S.C. 1881a(e), and 16 U.S.C. 1881(c), respectively.

The ability to set aside monkfish DAS for research purposes was established in the final rule implementing Amendment 2 to the Monkfish Fishery Management Plan (70 FR 21927, April 28, 2005), and codified in the regulations at 50 CFR 648.92(c).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: In the Catalog of Federal Domestic Assistance, the program number is 11.454, and the program name is Unallied Management Projects.

APPLICATION DEADLINE: Applications must be received on or before 5 p.m. eastern daylight time on August 11, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Proposals must be submitted electronically through *http://www.grants.gov*, or as hard copy (by postal mail, commercial delivery service, or hand delivery) to NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Delays may be experienced when registering with Grants On-line near the end of a solicitation period. Therefore, NOAA strongly recommends that applicants do not wait until the deadline date to begin the application process through *http://www.grants.gov*. Electronic or hard copies received after the deadline will not be considered, and hard copy applications will be returned to the sender.

INFORMATION CONTACTS: Administrative questions: Allison Ferreira, Fishery Policy Analyst, NMFS, by phone 978–281–9103, fax 978–281–9135, or e-mail at *allison.ferreira@noaa.gov*. Technical questions: Peter Burns, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, by phone 978–281–92144, fax 978–281–9117, or email at *peter.burns@noaa.gov*.

ELIGIBILITY: Eligible applicants include institutions of higher education, hospitals, other non-profits, commercial organizations, individuals, state, local, and Native American tribal governments. Federal agencies and institutions are not eligible to receive Federal assistance under this notice. Additionally, employees of any Federal agency or Regional Fishery Management Council (Council) are ineligible to submit an application under this program. However, Council members who are not Federal employees may submit an application.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under ths program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

7. Projects to Improve or Amend Coral Reef Fishery Management Plans Grant Program

SUMMARY DESCRIPTION: The NOAA Coral Reef Conservation Grant Program/ Projects to Improve or Amend Coral Reef Fishery Management Plans (CRFMPGP), provides funding to the Regional Fishery Management Councils for projects to conserve and manage coral reef fisheries, as authorized under the Coral Reef Conservation Act of 2000. Projects funded through the CRFMPGP are for activities that 1) provide better scientific information on the status of coral reef fisheries resources, critical habitats of importance to coral reef fishes, and the impacts of fishing on these species and habitats; 2) identify new management approaches that protect coral reef biodiversity and ecosystem function through regulation of fishing and other extractive uses; and 3) incorporate conservation and sustainable management measures into existing or new Federal fishery management plans for coral reef species. Proposals selected for funding will be implemented through a cooperative agreement. The role of NOAA in the CRFMPGP is to help identify potential projects that reduce impacts of fishing on coral reef ecosystems, strengthen the development and implementation of the projects, and assist in coordination and support of these efforts with Federal, state, territory or commonwealth management authorities and various coral reef user groups.

For this solicitation, all applications must fall within at least one of the 7 categories: (1) identification, mapping, characterization, monitoring and protection of critically important habitats of coral reef fishes and associated spawning populations; (2) monitoring reef fish stocks; (3) identification of the adverse impacts of fishing gear and fishing methods and implementation of actions to reduce habitat damage; (4 assessment of the adequacy of current coral reef fishing regulations and revision of regulations as needed; (5) education and outreach efforts to recreational and commercial fishers; (6) enhanced enforcement of fishery regulations and/or no-take fishery resources; and (7) ecosystem-scale studies and inclusion of ecosystem approaches into coral reef FMP's. Proposed projects should provide necessary information and contribute to the identification of specific actions to reduce overfishing of coral reef resources and mitigate habitat damage caused by destructive fishing gears or methods. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Funding up to $1,050,000 is expected to be available for Projects to Improve or Amend Coral Reef Fishery Management Plans. The NOAA Coral reef Conservation Program anticipates that typical project awards will range from about $175,000 to $525,000. Funding will be subject to the availability of federal appropriations.

STATUTORY AUTHORITY: Authority for the NOAA Coral Reef Conservation Grant Program is provided by Section 6403.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.441 - Regional Fishery Management Councils.

APPLICATION DEADLINE: Applications should be submitted via *http://www.grants.gov* and must be received no later than 11:59 PM EST on November 10, 2006. If applicants do not have access to Grants.gov, paper applications must be postmarked, or provided to a delivery service and documented with a receipt by Nov. 10, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications should be submitted via *http://www.grants.gov*. If this site cannot be reasonably used, applications can be sent to: Andrew Bruckner, NOAA Coral Reef Conservation Program, NOAA Fisheries, Office of Habitat Conservation (F/HC), 1315 East West Highway, Silver Spring, MD 20910. ATTN: CRCGP Project Applications.

INFORMATION CONTACT: Administrative questions: Andy Bruckner, 301–713–3459, extension 190 or e-mail at *andy.bruckner@noaa.gov*.

ELIGIBILITY: Eligible applicants are limited to the Western Pacific Regional Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, and the Caribbean Fishery Management Council.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

8. Montrose Settlements Restoration Program Outreach and Education Mini-grants

SUMMARY DESCRIPTION: In November 2005, the Natural Resource Trustees for the Montrose Settlements Restoration Program (MSRP) released a Restoration Plan. The plan identifies projects for restoring natural resources injured by past releases of DDTs and PCBs into the marine environment off the coast of Southern California *www.montroserestoration.gov*. These contaminants continue to injure natural resources over a wide region of the Southern California Bight.

The MSRP is funded by settlement agreements entered into by multiple defendants in the case of the United States and the State of California versus Montrose Chemical Corporation of California and other defendants. MSRP restoration priorities include the restoration of fishing opportunities lost as a result of local fish consumption advisories and catch bans now in place. The restoration plan highlights both fish habitat restoration projects and a public education project to address these losses.

MSRP has partnered with Cabrillo Marine Aquarium to create an educational comic book, geared to children at the 4th–6th grade level, which tells the story of DDT and PCB contamination off the coast of Southern California and includes information on ways to enjoy and benefit from fishing despite the presence of fishing advisories. The comic book is available online at *www.montroserestoration.gov*. The Trustees intend to provide up to $50,000 in seed money (for grants up to $15,000) to develop curricula, programs or activities to educate young people who consume locally-caught fish (and through them, their parents) on safe ways to enjoy or benefit from fishing along the Los Angeles and Orange County coasts where fish consumption advisories have impacted fishing. Projects should use the comic book and/ or concepts outlined in the comic book as a basis, and are encouraged to draw from any other educational materials available through the Fish Contamination Education Collaborative *www.pvsfish.org* as appropriate. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: This solicitation announces that a total amount of $50,000 may be awarded for grants up to $15,000. The number of awards to be made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested for initiating restoration projects by the applicants, and the merit and ranking of the proposals.

STATUTORY AUTHORITY: 16 U.S.C. 661–667e, 42 U.S.C. 9601–9626.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.463 Habitat Conservation.

APPLICATION DEADLINE: Applications must be received or postmarked by 5 p.m. eastern time on August 15, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications should either be submitted online through *http://www.grants.gov* or sent to: NOAA Restoration Center, Attn: Leah Mahan, 777 Sonoma Ave, Suite 325, Santa Rosa, California, 95404, phone (707) 575–6077.

INFORMATION CONTACTS: Leah Mahan, 777 Sonoma Ave, Suite 325, Santa Rosa, California, 95404, phone (707) 575–6077.

ELIGIBILITY: Eligible applicants include institutions of higher education; state, local and Indian tribal governments; federal government agencies; and other nonprofit and commercial organizations or individuals.

COST SHARING REQUIREMENTS: While matching funds are not required, applicants are encouraged to include matching funds using cash or in-kind contributions where possible. If cost sharing is proposed, the respondent is asked to account for both the Trustee and non-Trustee amounts

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

9. Restoration of Full Tidal Exchange Wetlands, Southern California Coast

SUMMARY DESCRIPTION: In November 2005, the Natural Resource Trustees for the Montrose Settlements Restoration Program (MSRP) released a Restoration Plan. The plan identifies projects for restoring natural resources injured by past releases of DDTs and PCBs into the marine environment off the coast of Southern California *www.montroserestoration.gov*. These contaminants continue to injure natural resources over a wide region of the Southern California Bight. The MSRP is funded by settlement agreements entered into by multiple defendants in the case of the United States and the State of California versus Montrose Chemical Corporation of California and other defendants.

As part of the MSRP Restoration Plan, funds are being made available to support coastal wetlands restoration projects in the region that promote the production of commonly caught coastal fish species. NOAA and the other Trustees seek specifically to restore coastal wetland/estuarine habitats in the region that have direct tidal links to the ocean and serve as nursery habitats for fish, especially species that are targeted by ocean anglers. Such actions restore fish and the habitats on which they depend, one of the purposes for which settlement funds may be utilized. Such projects also help restore lost fishing opportunities, to the extent that they increase production of recreationally valuable species that are lower in contamination and eventually inhabit ocean fishing sites. The program priorities for this opportunity support NOAA's mission goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: This solicitation announces that funding of up to $3,000,000 is expected to be available. NOAA and the other Trustees may award portions of available funding to several projects, or up to the full amount of available funding to a single project. There is no guarantee that sufficient funds will be available to make awards for all proposals. The number of awards to be made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested for initiating restoration projects by the applicants, and the merit and ranking of the proposals. Applicants for amounts greater than $1,000,000 may at their option consider identifying divisible components of the proposal that may be undertaken for less than the full amount of funding requested in the application.

STATUTORY AUTHORITY: 16 U.S.C. 661–667e, 42 U.S.C. 9601–9626.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.463 Habitat Conservation.

APPLICATION DEADLINE: Applications must be received or postmarked by 5 p.m. eastern time on July 27, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications should either be submitted online via *http://www.grants.gov* or sent to: NOAA Restoration Center, Attn: Leah Mahan, 777 Sonoma Ave, Suite 325, Santa Rosa, California, 95404, phone (707) 575–6077.

INFORMATION CONTACTS: Leah Mahan, 777 Sonoma Ave, Suite 325, Santa Rosa, California, 95404, phone (707) 575–6077.

ELIGIBILITY: Eligible applicants include institutions of higher education; state, local and Indian tribal governments; federal government agencies; and other nonprofit and commercial organizations or individuals.

COST SHARING REQUIREMENTS: While matching funds are not required, applicants are encouraged to include matching funds using cash or in-kind contributions where possible. If cost sharing is proposed, the respondent is asked to account for both the Trustee and non-Trustee amounts.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

10. Implementation of Marine Protected Areas, Southern California Coast

SUMMARY DESCRIPTION: In November 2005, the Natural Resource Trustees for the Montrose Settlements Restoration Program (MSRP) released a Restoration Plan. The plan identifies projects for restoring natural resources injured by past releases of DDTs and PCBs into the marine environment off the coast of Southern California *www.montroserestoration.gov*. These contaminants continue to injure natural resources over a wide region of the Southern California Bight. The MSRP is funded by settlement agreements entered into by multiple defendants in the case of the United States and the State of California versus Montrose Chemical Corporation of California and other defendants.

As part of the MSRP Restoration Plan, funds are being made available to support the Implementation of Marine Protected Areas in the region that promotes the production of commonly caught coastal fish species. NOAA and the other Trustees seek specifically to support projects directed towards evaluating the effectiveness of Marine Protected Areas (MPAs) as a management tool for promoting ecosystem health and sustainable fishing in California Marine waters. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: This solicitation announces that funding of up to $400,000 is expected to be available. NOAA and the other Trustees may award portions of available funding to several projects, or up to the full amount of available funding to a single project. There is no guarantee that sufficient funds will be available to make awards for all proposals. The number of awards to be made as a result of this solicitation will depend on the number of eligible applications

received, the amount of funds requested for initiating restoration projects by the applicants, and the merit and ranking of the proposals.

STATUTORY AUTHORITY: 16 U.S.C. 661–667e, 42 U.S.C. 9601–9626.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.463 Habitat Conservation.

APPLICATION DEADLINE: Applications must be received or postmarked by 5 p.m. Eastern Time on September 15, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications should either be submitted online via *http://www.grants.gov* or sent to: NOAA Restoration Center, Attn: Leah Mahan, 777 Sonoma Ave, Suite 325, Santa Rosa, California, 95404, phone (707) 575–6077.

INFORMATION CONTACTs: Leah Mahan, 777 Sonoma Ave, Suite 325, Santa Rosa, California, 95404, phone (707) 575–6077.

ELIGIBILITY: Eligible applicants include institutions of higher education; state, local and Indian tribal governments; federal government agencies; and other nonprofit and commercial organizations or individuals.

COST SHARING REQUIREMENTS: While matching funds are not required, applicants are encouraged to include matching funds using cash or in-kind contributions where possible. If cost sharing is proposed, the respondent is asked to account for both the Trustee and non-Trustee amounts

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

11. Protected Species Cooperative Conservation

SUMMARY DESCRIPTION: The National Marine Fisheries Service (NMFS) announces the availability of Federal assistance to support the conservation of threatened and endangered species, recently de-listed species, and candidate species under the jurisdiction of the NMFS or under the joint jurisdiction of the NMFS and the U.S. Fish and Wildlife Service (e.g. sea turtles). Any state that has entered into an agreement with the NMFS and maintains an adequate and active program for the conservation of endangered and threatened species pursuant to section 6(c) of the Endangered Species Act of 1973 (ESA) is eligible to apply. These financial assistance awards can be used to support management, monitoring, research, and outreach activities that provide direct conservation benefits to listed species, recently de-listed species, or candidate species that reside within that state. Projects involving North Atlantic right whales will not be considered for funding under this grant program; such projects may be submitted under the North Atlantic Right Whale Research Program of the NMFS Northeast Regional Office. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: A minimum of $300K to a maximum of $800K in funding may be available for grants in FY 2007. Award periods may extend up to 3 years with annual funding contingent on the availability of Federal appropriations and satisfactory performance by the grant recipient. There are no restrictions on maximum or minimum award amounts within the available funding.

STATUTORY AUTHORITY: Under section 6 of the ESA, the NMFS is authorized to provide Federal assistance to eligible states for the purpose of assisting the states in the development of programs for the conservation of listed, recently de-listed, and candidate species that reside within that state (16 U.S.C. 1535).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.472, Unallied Science Programs.

APPLICATION DEADLINE: Proposals must be received by 5 p.m. eastern daylight time on September 8, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications should be submitted electronically via *http://www.grants.gov*. If online submission is not possible, hard copy applications may be submitted (by postal mail, commercial delivery, or hand delivery) to NOAA/NMFS/Office of Protected Resources, Attn: Lisa Manning, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910.

INFORMATION CONTACTS: Lisa Manning, 1315 East-West Highway, Silver Spring, MD 20910; email: *lisa.manning@noaa.gov*; phone: 301–713–1401.

ELIGIBILITY: Eligible applicants are states that, through their respective state agencies, have entered into an agreement with the NMFS pursuant to section 6(c) of the ESA. The terms ''state'' and ''state agency'' are used as defined in section 3 of the ESA. Currently eligible state agencies are from the following states: Florida, Georgia, Maine, Maryland, Massachusetts, New Jersey, New York, North Carolina, Puerto Rico, South Carolina, and the U.S. Virgin Islands. Any state agency that enters into a section 6(c) agreement with the NMFS prior to the application deadline (September 8, 2006) is also eligible to apply.

COST SHARING REQUIREMENTS: In accordance with section 6(d) of the ESA, all proposals submitted must include a minimum non-Federal cost share of 25 percent of the total projects costs if the proposal involves a single state. If a proposal involves collaboration of two or more states, the minimum non-Federal cost share decreases to 10 percent of the total project costs.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

12. Community-based Marine Debris Prevention and Removal Project Grants

SUMMARY DESCRIPTION: NMFS is inviting the public to submit proposals for funding available through the NOAA Marine Debris Program (MDP) to implement grass-roots projects to prevent or remove marine debris that will benefit living marine resource habitats. Projects funded through the NOAA Community-based Marine Debris Prevention and Removal Project Grants competition will be expected to have strong on-the-ground marine debris prevention or removal components that provide educational and social benefits for people and their communities in addition to long-term ecological habitat improvements for NOAA trust resources. Proposals selected for funding through this solicitation will be implemented through a cooperative agreement.

Marine debris removal may include, but is not limited to:

- Detection and removal of derelict fishing gear, such as abandoned crab pots and fish nets, monofilament line, or ''casitas'' (lobster aggregating devices);
- Removal of persistent debris from coastal habitats including marshes, bays, mangroves, and coral reefs. This includes activities such as removal of abandoned vessels, their associated debris, and/or large material washed up on shorelines;
- Removal of debris from marine, estuarine or beach environments resulting from hurricanes or other natural disasters; and
- Detection and removal of derelict pilings and bulkheads that diminish habitat quality.

Marine debris prevention may include, but is not limited to:

• Prevention activities related to reception facilities at marinas and fishing ports including recycling initiatives for monofilament fishing line and other types of fishing gear, or debris;

• The development of debris reduction incentives for prevention, removal, and safe disposal of plastics and derelict fishing gear; and

• Outreach/education focused projects.

The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Funding of up to $2,000,000 is expected to be available for Community-based Marine Debris Prevention and Removal Grants Projects in FY 2007. The NOAA Restoration Center anticipates that typical project awards will range from $15,000 to $150,000.

STATUTORY AUTHORITY: The Secretary of Commerce is authorized under the Fish and Wildlife Coordination Act, 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970, to provide grants or cooperative agreements for habitat restoration.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) 11.463 Habitat Conservation

APPLICATION DEADLINE: Applications for project funding under the MDP must be submitted via grants.gov by October 30, 2006 11:59 PM EST or if mailed, postmarked by October 30, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applicants should apply through *http://www.grants.gov*. If unable to reasonably apply through grants.gov, send paper applications to Christopher D. Doley, Chief, NOAA Restoration Center (F/HC3), National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910; ATTN: MDP Project Applications.

INFORMATION CONTACT(S): For further information contact David Landsman at *David.Landsman@noaa.gov* or 301–713–0174.

ELIGIBILITY: Eligible applicants are institutions of higher education, hospitals, other non-profits, commercial (for profit) organizations, organizations under the jurisdiction of foreign governments, international organizations, state, local and Indian tribal governments whose projects have the potential to benefit NOAA trust resources. Applications from federal agencies or employees of federal agencies will not be considered.

COST SHARING REQUIREMENTS: 1:1 non-Federal match is encouraged, will be considered in the review process, but applicants with less than 1:1 match will not be disqualified.

INTERGOVERNMENTAL REVIEW: Applications submitted by state and local governments are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

13. NOAA Coral Reef Conservation Grant Program - General Coral Reef Conservation Grants

SUMMARY DESCRIPTION: The NOAA Coral Reef Conservation Program/General Coral Reef Conservation Grants (GCRCGP) provides funding to institutions of higher education, non-profit organizations, commercial organizations, Freely Associated State government agencies, and local and Indian tribal governments to support coral reef conservation projects in the United States and the Freely Associated States in the Pacific, as authorized under the Coral Reef Conservation Act of 2000. Projects funded through the GCRCGP support on-the-ground efforts that: (1) help preserve, sustain and restore the condition of coral reef ecosystems, (2) promote the wise management and sustainable use of coral reef resources, (3) increase public knowledge and awareness of coral reef ecosystems and issues regarding their conservation and (4) develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems. Projects must address one of the following 7 categories: coral reef monitoring and assessment; socio-economic assessments and resource valuation; marine protected areas and associated management activities; coral reef fisheries management and enforcement; coral reef restoration; public education and outreach; and local action strategy implementation. Projects should complement and fill gaps in state, territorial and commonwealth coral reef programs, emphasize community-based conservation, or address local action strategy priorities. Research activities are eligible only if they directly relate to management or are listed as a project within a local action strategy. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystem - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Funding up to $600,000 is expected to be available for NOAA Coral Reef Conservation Grant Program -General Coral Reef Conservation Grants. Individual awards in the form of grants can range from $15,000 to a maximum of $50,000. Applications over $50,000 will not be accepted. Funding will be subject to the availability of federal appropriations.

STATUTORY AUTHORITY: Authority for the NOAA Coral Reef Conservation Grant Program is provided by Section 6403.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.463 Habitat Conservation.

APPLICATION DEADLINE: Applications must be received no later than 11:59 PM EST on November 10, 2006. If grants.gov cannot be reasonably used, applications must be postmarked, or provided to a delivery service and documented with a receipt by Nov. 10, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications should be submitted via *http://www.grants.gov*. If grants.gov cannot be reasonably used, applications can be sent to: Andrew Bruckner, NOAA Coral Reef Conservation Program, NOAA Fisheries, Office of Habitat Conservation (F/HC), 1315 East West Highway, Silver Spring, MD 20910. ATTN: CRCGP Project Applications.

INFORMATION CONTACT: Andy Bruckner, Office of Habitat Conservation, F/HC1, Room 15836, NOAA Fisheries, 1315 East West Highway, Silver Spring, MD 20910, phone 301–713–3459 extension 190, e-mail at *andy.bruckner@noaa.gov*.

ELIGIBILITY: Eligible applicants include institutions of higher education, non-profit organizations, commercial organizations, Freely Associated State government agencies, and local and Indian tribal governments. U.S. Federal, State, Territory, and Commonwealth government agencies are not eligible under this program.

COST SHARING REQUIREMENTS: 1:1 non-federal match is required. The NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements: (1) No reasonable means are available through which an applicant can meet the matching requirement, and (2) The probable benefit of such project outweighs the public interest in such matching requirement. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

14. John H. Prescott Marine Mammal Rescue Assistance Grant Program

SUMMARY DESCRIPTION: NMFS is inviting eligible marine mammal stranding network participants to submit proposals to fund the recovery or treatment (i.e., rescue and rehabilitation) of live stranded marine mammals, data collection from living or dead stranded marine mammals for scientific research regarding marine mammal health, and facility operations directly related to the recovery or treatment of stranded marine mammals and collection of data from living or dead stranded marine mammals. The Prescott Grant Program is administered through the NMFS Marine Mammal Health and Stranding Response Program (MMHSRP). It is anticipated that awards funded through the Prescott Grant Program will facilitate achievement of MMHSRP goals and objectives by providing financial assistance to eligible stranding network participants. Proposals selected for funding through this solicitation will be implemented through either a grant or cooperative agreement. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Funding of up to $4,000,000 is expected to be available in FY 2007. The maximum Federal award for each grant cannot exceed $100,000, as stated in the statutory language (16 U.S.C.1421f–1). Applicants are hereby given notice that these funds have not yet been appropriated for this program and therefore exact dollar amounts cannot be given.

STATUTORY AUTHORITY: The Marine Mammal Rescue Assistance Act of 2000 amended the Marine Mammal Protection Act (MMPA) to establish the John H. Prescott Marine Mammal Rescue Assistance Grant Program (16 U.S.C.1421f–1).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) Number: 11.439 Marine Mammal Data Program.

APPLICATION DEADLINE: Applications for funding under the Prescott program must be received by Grants.gov or if mailed postmarked by 11:59 PM, eastern time, on Wednesday, September 27, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications should either be submitted online at *http://www.grants.gov* or sent to: NOAA/NMFS/Office of Protected Resources, Marine Mammal Health and Stranding Response Program, Attn: Michelle Ordono, 1315 East-West Highway, Room 3501, Silver Spring, MD 20910–3283, phone 301–713–2322 ext 177.

INFORMATION CONTACTS: Technical questions: Sarah Wilkin or Janet Whaley, by phone at 301–713–2322 ext. 104, or fax to 301–427–2525 or via email: *sarah.wilkin@noaa.gov* or *janet.whaley@noaa.gov*. Administrative questions: Michelle Ordono, by phone at 301–713–2322 ext. 177, fax: 301–427–2525, or e-mail: *michelle.ordono@noaa.gov*.

ELIGIBILITY: There are 5 categories of eligible stranding network participants that may apply for funds under this Program: (1) Letter of Agreement (LOA) holders; (2) LOA designee organizations; (3) researchers; (4) official Northwest Region participants; and, (5) state, local, eligible federal government or tribal employees. For these organizations and individuals to apply for award funds under the Prescott Grant Program, they must meet eligibility criteria specific to their category of participation.

COST SHARING REQUIREMENTS: All proposals submitted must provide a minimum non-Federal cost share of 25 percent of the total budget (i.e., at least .25 x total project costs).

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

15. Chesapeake Bay Watershed Education &Training (B-WET) Program

SUMMARY DESCRIPTION: The Chesapeake B-WET grant program is a competitively based program that supports existing environmental education programs, fosters the growth of new programs, and encourages the development of partnerships among environmental education programs throughout the entire Chesapeake Bay watershed. Funded projects assist in meeting the Stewardship and Community Engagement goals of the Chesapeake 2000 Agreement. Projects support organizations that provide students ''meaningful'' Chesapeake Bay or stream outdoor experiences and teachers professional development opportunities in the area of environmental education related to the Chesapeake Bay watershed. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: This solicitation announces that approximately $3.0M may be available in FY 2007 in award amounts to be determined by the proposals and available funds. Annual funding is anticipated to maintain partnerships for up to 3 years duration, but is dependant on funding made available by Congress. Applicants are hereby given notice that funds have not yet been appropriated for this program.

1. About $1.75M will be for exemplar programs that successfully integrate teacher professional development on the Chesapeake Bay watershed with in-depth classroom study and outdoor experiences for their students.

2. About $1.0M will be for proposals that provide opportunities either for students (K through 12) to participate in ''Meaningful'' Watershed Educational Experiences related to Chesapeake Bay or Professional Development in the area of Chesapeake Bay watershed education for teachers.

3. About $250K will be for proposals that incorporate the newly designed Chesapeake Bay Interpretive Buoy System (providing real-time water quality data and web-based content) into meaningful watershed educational experiences.

The NOAA Chesapeake Bay Office anticipates that typical awards for B-WET Exemplar Programs that successfully integrate teacher professional development with in-depth classroom student and outdoor experiences for their students will range from $50,000 to $200,000. Projects that represent either meaningful watershed educational experiences for students or teacher professional development in watershed education will range from $10,000 to $75,000. Projects focusing on the Chesapeake Bay Interpretive Buoy system will range from $10,000 to $100,000.

STATUTORY AUTHORITY:16 U.S.C. 742f; 16 U.S.C. 753a.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.457; Chesapeake Bay Studies, Education.

APPLICATION DEADLINE: Proposals must be received by 5 p.m. eastern time on October 23, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Electronic submission: *http://www.grants.gov/*. Paper applications may be submitted by postal mail, commercial delivery service, or hand-delivery. Paper applications must be sent to: NOAA Chesapeake Bay Office; Education Coordinator; 410

Severn Avenue, Suite 107A; Annapolis, Maryland 21403.

INFORMATION CONTACTS: Shannon W. Sprague, NOAA Chesapeake Bay Office, 410 Severn Avenue, Suite 107A, Annapolis, MD 2140 *Shannon.Sprague@noaa.gov* or 410–267–5664.

ELIGIBILITY: Eligible applicants are K-through–12 public and independent schools and school systems, institutions of higher education, community-based and nonprofit organizations, state or local government agencies, interstate agencies, and Indian tribal governments in the Chesapeake Bay watershed.

COST SHARING REQUIREMENTS: No cost sharing is required under this program, however, the NCBO strongly encourages applicants to share as much of the costs of the award as possible. Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the review process with cash being the preferred method of contribution. Further details can be found in the full funding opportunity announcement.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

National Ocean Service

1. FY2007 Climate and Weather Impacts on Society and the Environment (CWISE)

SUMMARY DESCRIPTION: NOAA invites applications to establish a cooperative agreement with the agency under the Climate and Weather Impacts on Society and the Environment (CWISE) program. The agreement will be established between the National Climatic Data Center, the Coastal Services Center, the Climate Program Office and the award recipient to further understanding and increase the resiliency of natural, economic and social systems to weather and climate-related environmental stressors through interdisciplinary research, information and services delivery, education and outreach. The program priorities for this opportunity support NOAA's mission support goal of: Climate - Understand Climate Variability and Change to Enhance Society's Ability to Plan and Respond

FUNDING AVAILABILITY: The total amount available for a proposal is anticipated to be approximately $600,000 per year for the term of the cooperative agreement which is expected to be four years in length. Project funding is contingent upon availability of appropriations and is at the sole discretion of NOAA. No more than one award is anticipated from this announcement.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 49 U.S.C. 44720; 33 U.S.C. 883d; 15 U.S.C. 2907; 16 U.S.C. 1451 *et seq.*; the Global Change Research Act, 15 U.S.C. 2921–2961; and the National Climate Program Act, 15 U.S.C. 2901–2908

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.473, Coastal Services Center.

APPLICATION DEADLINE: Proposals must be received no later than 4 p.m. eastern daylight time on August 28, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Proposals must be submitted electronically via *http://www.grants.gov*, or in hard copy (by postal mail, commercial delivery service, or hand delivery) to the Coastal Services Center office. Hard copy proposals must be submitted to: Attn: Shauna Harris, DOC/NOAA/NOS/Coastal Services Center, 2234 South Hobson Avenue, Charleston, SC 29405; (843) 740–1149; email: *Shauna.Harris@noaa.gov*.

INFORMATION CONTACT: Administrative questions should be directed to Shauna Harris by telephone (843) 740–1149, by fax (843) 740–1315, or by e-mail *Shauna.Harris@noaa.gov*. Technical questions on the CWISE announcement should be directed to Stephanie Fauver, by telephone (843) 740–1287, by fax (843) 740–1329, or by e-mail *Stephanie.Fauver@noaa.gov*.

ELIGIBILITY: Eligible Applicants are U.S. institutions of higher education, other non-profits, commercial organizations, and state, local and Indian tribal governments.

COST SHARING REQUIREMENTS: Applicant will be required to contribute at least 5 percent (from non-Federal funds) of the total amount contributed by NOAA each year if the application is approved.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

2. FY2007 Information Resource Supporting the Resiliency of Coastal Areas in the US Portion of the Gulf of Mexico

SUMMARY DESCRIPTION: The Coastal Services Center (the Center) seeks proposals for a two-year cooperative agreement under which the cooperator and the Center will jointly develop a regional framework for a Community Resilience Index (CRI) to increase the capacity of coastal communities to survive, mitigate the effects of, and recover from the effects of natural and other hazards. The purpose of the CRI is to define quantifiable indicators of community resilience; develop methodologies, tools, and information resources for the assessment of community resilience; and enhance the resilience of coastal communities. The design of the CRI will facilitate community self-assessment and adaptation.

Proposals should focus on developing pilot applications focusing on the U.S. portion of the northern Gulf of Mexico, addressing all or part of two main activities:

Activity 1. Developing an information resource that integrates spatial and non-spatial data to identify scientifically defensible indicators for community resilience (ecological, economic, socio-cultural and physical). This activity will also include identifying indicators and sources of information for measuring indicators, establishing baseline measurements and developing performance metrics for local, state, and/or regional agencies within the focus region. This activity will also evaluate and recommend potential options for integrating this information into locally-relevant geospatial decision support tools.

Activity 2. Developing a strategy for implementing the use of the CRI to enhance the resilience of coastal communities. Through a series of workshops engaging appropriate agencies, researchers, practitioners and end users, collaboratively develop recommendations concerning the implementation of the use of the CRI. The plan should address communications strategies for developing and sustaining a networked community of practitioners engaged in measuring and enhancing community resilience. The plan should also identify the training needs and recommended approaches for meeting the needs of practitioners related to community resilience concepts, performance measurement, and implementation practices.

The program priorities for this opportunity support NOAA's mission support goal of: Weather and Water - Serve Society's Needs for Weather and Water Information.

FUNDING AVAILABILITY: Total anticipated funding available for all awards is $700,000 and is subject to the availability of FY 2007 appropriations. Two to five awards are anticipated from

this announcement. Awards will range from $50,000 to $350,000.

STATUTORY AUTHORITY: Statutory authority for this program is provided under the Coastal Zone Management Act, 16 U.S.C. 1456c (Technical Assistance).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.473, Coastal Services Center.

APPLICATION DEADLINE: Letters of Intent must be received by the Coastal Services Center by 5 p.m. EDT on June 30, 2006. Full applications must be submitted through Grants.gov no later than 5 p.m. EDT, August 15, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Proposals must be submitted electronically via *http://www.grants.gov*, or hard copy (by postal mail, commercial delivery service, or hand delivery) to the NOAA Coastal Services Center. Hard copy proposals must be submitted to: Attn: Jeffery Adkins, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, South Carolina, 29405–2413

INFORMATION CONTACTS: For administrative issues, contact James Lewis Free at 843–740–1185 (phone) or 843–740–1315 (fax) or email him at *James.L.Free@noaa.gov*. For technical questions, contact Jeffery Adkins by telephone at 843–740–1244 or by email at *Jeffery.Adkins@noaa.gov*.

ELIGIBILITY: Eligible applicants are institutions of higher education, hospitals, other non-profits, commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, international organizations, and state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this announcement, but may be project partners. Note: Federal agencies or institutions who are project partners must demonstrate that they have legal authority to receive funds from outside sources in excess of their appropriations.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 121372, ''Intergovernmental Review of Federal Programs.''

3. Coastal Hypoxia Research Program (CHRP)

SUMMARY DESCRIPTION: NOAA, National Ocean Service (NOS), National Centers for Coastal Ocean Science(NCCOS), Center for Sponsored Coastal Oceans Research (CSCOR) is soliciting proposals for projects of 2 to 5 years in duration that advance understanding, predicting, and managing the causes and ecological and economic impacts of hypoxia in representative coastal ecosystems. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: This solicitation announces that award amounts will be determined by the proposals and available funds will typically not exceed $500,000 per project per year with project durations from 2 to 5 years. It is anticipated that 3 to 6 total projects will be funded. Support in out years after FY 2007 is contingent upon the availability of funds.

STATUTORY AUTHORITY: 33 U.S.C. 1442 and Pub. L. 108–456.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.478 Center for Sponsored Coastal Ocean Research, Coastal Ocean Program.

APPLICATION DEADLINE: The deadline for receipt of proposals at the NCCOS/CSCOR office is 3 p.m., EST, September 11, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications submitted in response to this announcement are strongly encouraged to be submitted via *http://www.grants.gov*. The full funding announcement for this program is also available at this site. Non-electronic submissions should be sent to Laurie Golden, NOAA National Ocean Service, NCCOS/CSCOR Grants Administrator, SSMC IV, 1305 East West Highway, Silver Spring, MD 20910.

INFORMATION CONTACTS: Technical Information. Alan Lewitus, CHRP 2007 Program Manager, NCCOS/CSCOR, 301–713–3338/ext 178, Email: *Alan.Lewitus@noaa.gov*. Business Management Information. Laurie Golden, NCCOS/CSCOR Grants Administrator, 301–713–3338/ext 151, Email: *Laurie.Golden@noaa.gov*.

ELIGIBILITY: Eligible applicants are institutions of higher education, other non-profits, state, local, Indian Tribal Governments, commercial organizations and agencies that possess the statutory authority to receive financial assistance. NCCOS/CSCOR will not fund any Federal FTE salaries, but will fund travel, equipment, supplies, and contractual personnel costs associated with the proposed work.

(1) Researchers must be employees of an eligible entity listed above; and proposals must be submitted through that entity. Non-Federal researchers should comply with their institutional requirements for proposal submission.

(2) Non-NOAA Federal applicants will be required to submit certifications or documentation showing that they have specific legal authority to receive funds from the Department of Commerce (DOC) for this research.

(3) NCCOS/CSCOR will accept proposals that include foreign Researchers as collaborators with a researcher who has met the above stated eligibility requirements.

(4) Non-Federal researchers affiliated with NOAA-University Joint Institutes should comply with joint institutional requirements; they will be funded through grants either to their institutions or to joint institutes.

COST SHARING REQUIREMENTS: None

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

4. Coral Reef Ecosystem Studies (CRES)

SUMMARY DESCRIPTION: NOAA, National Ocean Service (NOS), National Centers for Coastal Ocean Science(NCCOS), Center for Sponsored Coastal Oceans Research (CSCOR) is soliciting proposals for projects of 3–5 years in duration for the Coral Reef Ecosystem Studies Program (CRES), and 1–3 years in duration for the Deep Coral Reef Ecosystem Studies Program (Deep-CRES). The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Funding is contingent upon availability of Federal appropriations. NOAA is committed to continual improvement of the grants process and accelerating the award of financial assistance to qualified recipients in accordance with the recommendations of the Business Process Reengineering Team. In order to fulfill these responsibilities, this solicitation announces that award amounts to be determined by the proposals and available funds are typically not to exceed $1,000,000 per year with project duration from 3–5 years for the West Florida Shelf study; and $500,000 per year with a project duration of up to 3 years for the deep hermatypic coral reef study. It is anticipated that one project will be funded for the West Florida Shelf study, and one project will be funded for the deep hermatypic coral reef study. Support in out years after FY 2007 is contingent upon the availability of funds.

STATUTORY AUTHORITY: 16 U.S.C. 6403.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER:

11.478 Center for Sponsored Coastal Ocean Research, Coastal Ocean Program.

APPLICATION DEADLINE: The deadline for receipt of proposals at the NCCOS/CSCOR office is 3 p.m., EST, November 13, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications submitted in response to this announcement are strongly encouraged to be submitted via *http://www.grants.gov*. The full funding announcement for this program is also available at this site. Non-electronic submissions should be sent to Laurie Golden, NOAA National Ocean Service, NCCOS/CSCOR Grants Administrator, SSMC IV, 1305 East West Highway, Silver Spring, MD 20910.

INFORMATION CONTACTS: Technical Information. Michael Dowgiallo, NCCOS/CSCOR Program Manager, 301–713–3338/ext 161, Email: *Michael.Dowgiallo@noaa.gov*. Business Management Information. Laurie Golden, NCCOS/CSCOR Grants Administrator, 301–713–3338/ext 151, Email: *Laurie.Golden@noaa.gov*.

ELIGIBILITY: Eligible applicants are institutions of higher education, other non-profits, state, local, Indian Tribal Governments, commercial organizations and Federal agencies that possess the statutory authority to receive financial assistance. NCCOS/CSCOR will not fund any Federal FTE salaries, but will fund travel, equipment, supplies, and contractual personnel costs associated with the proposed work.

(1) Researchers must be employees of an eligible entity listed above; and proposals must be submitted through that entity. Non-Federal researchers should comply with their institutional requirements for proposal submission.

(2) Non-NOAA Federal applicants will be required to submit certifications or documentation showing that they have specific legal authority to receive funds from the Department of Commerce (DOC) for this research.

(3) NCCOS/CSCOR will accept proposals that include foreign researchers as collaborators with a researcher who has met the above stated eligibility requirements.

(4) Non-Federal researchers affiliated with NOAA-University Joint Institutes should comply with joint institutional requirements; they will be funded through grants either to their institutions or to joint institutes.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs''.

5. Cumulative Impacts of Multiple Stressors (MultiStress)

SUMMARY DESCRIPTION: NOAA/NOS/NCCOS/CSCOR is soliciting proposals for projects of up to 5 years in duration to investigate the impacts of multiple stressors in coastal ocean ecosystems, including estuaries and the Great Lakes. These projects should be interdisciplinary, multiple investigator, and well-integrated studies designed to develop capabilities for understanding, predicting, and managing the effects of multiple stressors (both anthropogenic and natural) in coastal ecosystems. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: This solicitation announces that award amounts will be determined by the proposals and available funds typically not to exceed $1.0 million per project per year, exclusive of ship costs, with project durations from 3 to 5 years. It is anticipated that 1 to 2 total projects will be funded. Support in out years after FY 2007 is contingent upon the availability of funds.

STATUTORY AUTHORITY: 16 U.S.C. 1456c

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER:

11.478 Center for Sponsored Coastal Ocean Research, Coastal Ocean Program.

APPLICATION DEADLINE: The deadline for receipt of proposals at the Chesapeake Bay Watershed NCCOS/CSCOR office is 3 p.m., EST October 23, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications submitted in response to this announcement are strongly encouraged to be submitted via *http://www.grants.gov*. The full funding announcement for this program is also available at this site. Non-electronic submissions should be sent to Laurie Golden, NOAA National Ocean Service, NCCOS/CSCOR Grants Administrator, SSMC IV, 1305 East West Highway, Silver Spring, MD 20910.

INFORMATION CONTACTS: Technical Information. Susan Banahan, MultiStress 2007 Program Manager, NCCOS/CSCOR, 301–713–3338/ext 148, Email: *Susan.Banahan@noaa.gov*. Business Management Information. Laurie Golden, NCCOS/CSCOR Grants Administrator, 301–713–3338/ext 151, Email: *Laurie.Golden@noaa.gov*.

ELIGIBILITY: Eligible applicants are institutions of higher education, other non-profits, state, local, Indian Tribal Governments, commercial organizations and Federal agencies that possess the statutory authority to receive financial assistance. NCCOS/CSCOR will not fund any Federal FTE salaries, but will fund travel, equipment, supplies, and contractual personnel costs associated with the proposed work.

(1) Researchers must be employees of an eligible entity listed above; and proposals must be submitted through that entity. Non-Federal researchers should comply with their institutional requirements for proposal submission.

(2) Non-NOAA Federal applicants will be required to submit certifications or documentation showing that they have specific legal authority to receive funds from the Department of Commerce (DOC) for this research.

(3) NCCOS/CSCOR/COP will accept proposals that include foreign researchers as collaborators with a researcher who has met the above stated eligibility requirements.

(4) Non-Federal researchers affiliated with NOAA-University Joint Institutes should comply with joint institutional requirements; they will be funded through grants either to their institutions or to joint institutes.

COST SHARING REQUIREMENTS: None

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

6. Monitoring and Event Response for Harmful Algal Blooms (MERHAB)

SUMMARY DESCRIPTION: National Centers for Coastal Ocean Science(NCCOS), Center for Sponsored Coastal Oceans Research (CSCOR) is soliciting proposals for two types of research projects MERHAB-targeted and MERHAB-regional. MERHAB-targeted proposals will incorporate tools, approaches and technologies from HAB research programs into existing harmful algal bloom (HAB) monitoring programs. MERHAB regional proposals will create partnerships to enhance and sustain routine HAB monitoring capabilities and provide managers with timely information needed to mitigate HAB impacts on coastal communities. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: This solicitation announces that award amounts to be determined by the proposals and available funds typically not to exceed $100,000 per project per year with project durations from 1–3 years for targeted research projects and $600,000 per project per year with projects duration from 3–5 years for regional research projects. It is anticipated that 5 to 15 total projects will be funded with no more than two being regional intensive projects.

STATUTORY AUTHORITY: 16 U.S.C. 1442 and Pub.L. 108–456.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER:

11.478 Center for Sponsored Coastal Ocean Research, Coastal Ocean Program.

APPLICATION DEADLINE: The deadline for receipt of proposals at the NCCOS/CSCOR office is 3 p.m., EST October 2, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications submitted in response to this announcement are strongly encouraged to be submitted via *http://www.grants.gov*. The full funding announcement for this program is also available at this site. Non-electronic submissions should be sent to Laurie Golden, NCCOS/CSCOR Grants Administrator, 301–713–3338/ext 151, Internet: *Laurie.Golden@noaa.gov*.

INFORMATION CONTACTS: Technical Information. Marc Suddleson, NCCOS/CSCOR Program Manager, 301–713–3338/ext 163, Email: *marc.suddleson@noaa.gov*. Business Management Information. Laurie Golden, NCCOS/CSCOR Grants Administrator, 301–713–3338/ext 151, Email: *Laurie.Golden@noaa.gov*.

ELIGIBILITY: Eligible applicants are institutions of higher education, other non-profits, state, local, Indian Tribal Governments, commercial organizations and Federal agencies that possess the statutory authority to receive financial assistance. NCCOS/CSCOR will not fund any Federal FTE salaries, but will fund travel, equipment, supplies, and contractual personnel costs associated with the proposed work.

(1) Researchers must be employees of an eligible entity listed above; and proposals must be submitted through that entity. Non-Federal researchers should comply with their institutional requirements for proposal submission.

(2) Non-NOAA Federal applicants will be required to submit certifications or documentation showing that they have specific legal authority to receive funds from the Department of Commerce (DOC) for this research.

(3) NCCOS/CSCOR will accept proposals that include foreign researchers as collaborators with a researcher who has met the above stated eligibility requirements.

(4) Non-Federal researchers affiliated with NOAA-University Joint Institutes should comply with joint institutional requirements; they will be funded through grants either to their institutions or to joint institutes.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

7. NOAA Coral Reef Conservation Grant Program - State and Territory Coral Reef Ecosystem Monitoring Grant

SUMMARY DESCRIPTION: This program is soliciting proposals to support implementation of a nationally coordinated, comprehensive, long term monitoring program to assess the condition of U.S. coral reef ecosystems, and to evaluate the efficacy of coral ecosystem management. This program is part of the NOAA Coral Reef Conservation Grant Program under the Coral Reef Conservation Act of 2000 which provides matching grants of financial assistance for coral reef monitoring projects. NOS will accept initial applications for peer review. Selected applicants may be asked to revise award objectives, work plans or budgets prior to submittal of a final application, including required Federal financial assistance forms, to NOS. The program priorities for this opportunity support NOAA's mission support goals of Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Approximately $1,100,000 may be available in FY 2007 to support awards under this program. Each eligible jurisdiction can apply for a maximum $130,000, with the exception of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands who can apply for a maximum of $30,000. The amount of funding awarded to each jurisdiction will be subject to the eligibility and evaluation requirements described in this announcement.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 16 U.S.C. 6403.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.426, Coastal Zone Management Program.

APPLICATION DEADLINE: Initial applications are due to NOAA by 11:59 p.m. eastern time on Monday, November 13, 2006. Final applications are due to NOAA by 11:59 p.m. eastern time on Friday March 2, 2007.

ADDRESS FOR SUBMITTING PROPOSALS: David Kennedy, NOAA Coral Reef Conservation Program, Office of Response and Restoration, NOAA National Ocean Service, N/ORR, Room 10102, 1305 East West Highway, Silver Spring, MD 20910 or *coral.grants@noaa.gov*. Submissions by e-mail are preferred.

Address for submitting final applications: *http://www.grants.gov*, the Federal grants portal. If internet access is unavailable, hard copies can be submitted to David Kennedy, at the address above. Applicants are required to include one original and two copies of the signed, hard/paper of the Federal financial assistance forms for each final application package that is not submitted through *http://www.grants.gov*.

INFORMATION CONTACTS: John Christensen, 1305 East West Highway, 9th Floor, N/SCI1, Silver Spring, MD 20910, phone 301–713–3028 extension 153, e-mail at *john.christensen@noaa.gov*.

ELIGIBILITY: Eligible applicants are the governor-appointed point of contact agencies for coral reef coordination in each of the jurisdictions of American Samoa, Florida, the Commonwealth of the Northern Mariana Islands, Guam, Hawaii, the Republic of Palau, the Federated States of Micronesia (including Kosrae, Pohnpei, Yap, and Chuuk), the Republic of the Marshall Islands, Puerto Rico, and U.S. Virgin Islands.

COST SHARING REQUIREMENTS: Any coral conservation project funded under this program requires a 1:1 match. Matching funds must be from non-Federal sources and can include in-kind contributions and other non-cash support. The NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements: (1) No reasonable means are available through which an applicant can meet the matching requirement, and (2) The probable benefit of such project outweighs the public interest in such matching requirement. The Program shall waive any requirement for local matching funds for any project under $200,000 (including in-kind contribution) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs''.

8. NOAA Coral Reef Conservation Grant Program - State and Territory Coral Reef Management Grants

SUMMARY DESCRIPTION: This program is soliciting proposals to support comprehensive projects for the conservation and management of coral reefs and associated fisheries in the jurisdictions of Puerto Rico, the U.S. Virgin Islands, Florida, Hawaii, Guam, the Commonwealth of the Northern Mariana Islands and American Samoa. Funding will also support jurisdictional participation in national coral reef planning activities, such as U.S. Coral Reef Task Force meetings. This program is part of the NOAA Coral Reef Conservation Grant Program under the Coral Reef Conservation Act of 2000 which provides matching grants of financial assistance for coral reef conservation projects. NOS will accept initial applications for peer review. Selected applicants may be asked to revise award objectives, work plans or budgets prior to submittal of a final application, including required Federal financial assistance forms, to NOS. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Approximately $4,000,000 may be available in FY 2007 to support awards under this program. Each eligible jurisdiction can apply for a maximum $685,000. A minimum of 40% of the final award amount must be dedicated to the implementation and support of the Local Action Strategy initiative in each Funding is subject to the availability of federal appropriations. The amount of funding awarded to each jurisdiction will be subject to the eligibility and evaluation requirements described in this announcement.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 16 U.S.C. 6403.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.419, Coastal Zone Management Program.

APPLICATION DEADLINE: Pre-applications must be received no later than 11:59 p.m. eastern standard time on Monday, November 13, 2006. Final applications must be received no later than 11:59 p.m. eastern standard time on Friday, March 2, 2007.

ADDRESS FOR SUBMITTING PROPOSALS: Pre-applications must be submitted electronically via e-mail to *coral.grants@noaa.gov* or as hard copy (by postal mail, commercial delivery service, or hand delivery) to David Kennedy, NOAA Coral Reef Conservation Program, Office of Response and Restoration, NOAA National Ocean Service, N/ORR, Room 10102, 1305 East West Highway, Silver Spring, MD 20910. Pre-application submissions by e-mail are preferred.

Final applications must be submitted electronically via *http://www.grants.gov* or, if internet access is not available, as hard copy (by postal mail, commercial delivery service, or hand delivery) to David Kennedy, NOAA Coral Reef Conservation Program, Office of Response and Restoration, NOAA National Ocean Service, N/ORR, Room 10102, 1305 East West Highway, Silver Spring, MD 20910. Submissions by grants.gov are preferred.

INFORMATION CONTACT: Dana Wusinich-Mendez, 1305 East West Highway, 11th Floor, N/ORM3, Silver Spring, MD 20910, phone 301–713–3155 extension 159, e-mail at *dana.wusinich-mendez@noaa.gov*.

ELIGIBILITY: Eligible applicants are the governor-appointed point of contact agencies for coral reef coordination in each of the jurisdictions of American Samoa, Florida, the Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Puerto Rico, and U.S. Virgin Islands.

COST SHARING REQUIREMENTS: Any coral conservation project funded under this program requires a 1:1 match. Matching funds must be from non-Federal sources and can include in-kind contributions and other non-cash support. The NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements: (1) No reasonable means are available through which an applicant can meet the matching requirement, and (2) The probable benefit of such project outweighs the public interest in such matching requirement. The Program shall waive any requirement for local matching funds for any project under $200,000 (including in-kind contribution) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

9. NOAA Coral Reef Conservation Grant Program - International Coral Reef Conservation Grants

SUMMARY DESCRIPTION: This Program solicits proposals under four funding categories: 1) Promote Watershed Management in the Wider Caribbean, Brazil, and Bermuda; 2) Regional Enhancement of Marine Protected Area Management Effectiveness; 3) Encourage the Development of National Networks of Marine Protected Areas in the Wider Caribbean, Bermuda, Brazil, Southeast Asia, and the South Pacific; and 4) Promote Regional Socio-Economic Training and Monitoring in Coral Reef Management in the Wider Caribbean, Brazil, Bermuda, the Western Indian Ocean, the Red Sea, the South Pacific, and Southeast Asia. Each funding category has specific applicant and project eligibility criteria. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Approximately $500,000 may be available in FY 2007 to support awards under this program. Each eligible applicant can apply for the following maximum amounts: Watershed Management $40,000; Management Effectiveness: Regional capacity building projects $80,000; MPA National Networks: $50,000; Socio-economic Monitoring Regional projects $35,000. The amount of funding awarded to each applicant will be subject to the eligibility and evaluation requirements described in this announcement.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 16 U.S.C. 6403.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.463 - Habitat Conservation.

PRE-APPLICATION AND FINAL APPLICATION DEADLINES: Pre-applications are due to NOAA by 11:59 p.m. eastern time on Monday, November 13, 2006. Final applications by invitation only are due to NOAA by 11:59 p.m. eastern time on Friday, March 2, 2007.

ADDRESS FOR SUBMITTING PRE-APPLICATION: Preferred address for submitting pre-applications: *coral.grants@noaa.gov*. Paper pre-applications may be sent to: David Kennedy, NOAA Coral Reef Conservation Program, Office of

Response and Restoration, NOAA National Ocean Service, N/ORR, Room 10102, 1305 East West Highway, Silver Spring, MD 20910, or to faxed to 301–713–4389.

ADDRESS FOR SUBMITTING FINAL APPLICATION BY INVITATION ONLY: 1) *http://www.grants.gov*, the Federal grants portal and the preferred method; 2) By electronic mail to *scot.frew@noaa.gov* including signed and scanned copies of all pages requiring original signatures and signed and scanned copies of original support letters; 3) If internet access is unavailable, one hard copy can be submitted David Kennedy, NOAA Coral Reef Conservation Program, Office of Response and Restoration, N/ORR, Room 10102, NOAA National Ocean Service, 1305 East West Highway, Silver Spring, MD 20910. Applicants are required to include one signed original copy of the signed, paper Federal financial assistance forms.

INFORMATION CONTACT: Scot Frew, NOAA/NOS International Program Office, 1315 East West Highway, 5th Floor, N/IP, Room 5735, Silver Spring, MD 20910. Phone: 301–713–3078, extension 220; e-mail: *Scot.Frew@noaa.gov*.

ELIGIBILITY: Eligible applicants include all international, governmental (except U.S. federal agencies), and non-governmental organizations. For specific country eligibility per category, please refer to individual category descriptions in Section V. The proposed work must be conducted at a non-U.S. site. Eligible countries are defined as follows: The Wider Caribbean includes the 37 States and territories that border the marine environment of the Gulf of Mexico, the Caribbean Sea, and the areas of the Atlantic Ocean adjacent thereto, and Brazil and Bermuda, but excluding areas under U.S. jurisdiction. The South Pacific Region includes South Pacific Regional Environment Program's 19 Pacific island countries and territories, including the Federated States of Micronesia, Republic of Palau, and the Republic of the Marshall Islands, but excluding U.S. territories and four developed country members. Southeast Asia Region includes Brunei, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam. The Western Indian Ocean Region includes Comoros, France (La Reunion), Kenya, Madagascar, Mauritius, Mozambique, Seychelles, the United Republic of Tanzania, and South Africa. The Red Sea Region includes five member countries of the Regional Organization for the Conservation of the Environment of the Red Sea and Gulf of Aden (PERSGA): Djibouti, Egypt, Jordan, the Kingdom of Saudi Arabia, and Yemen.

COST SHARING REQUIREMENTS: Any coral conservation project funded under this program requires a 1:1 match. Matching funds must be from non-Federal sources and can include in-kind contributions and other non-cash support. The NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements: (1) No reasonable means are available through which an applicant can meet the matching requirement, and (2) The probable benefit of such project outweighs the public interest in such matching requirement. The Program shall waive any requirement for local matching funds for any project under $200,000 (including in-kind contribution) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs''.

10. California Bay Watershed Education and Training (B-WET) Program-Meaningful Watershed Experiences for San Francisco, Monterey, and Santa Barbara

SUMMARY DESCRIPTION: The California B-WET grant program, is a competitively based program that supports existing environmental education programs, fosters the growth of new programs, and encourages the development of partnerships among environmental education programs throughout the San Francisco Bay, Monterey Bay, and Santa Barbara Channel watersheds. Funded projects provide Meaningful Watershed Experiences to students and teachers. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management

FUNDING AVAILABILITY: This solicitation announces that approximately $1,650,000 may be available in FY 2007 in award amounts to be determined by the proposals and available funds. About $700,000 will be made available to the San Francisco Bay watershed area, $600,000 will be made available to the Monterey Bay watershed area, and about $350,000 will be made available to the Santa Barbara Channel watershed area. Individual annual awards in the form of grants or cooperative agreements are expected to range from $10,000 per year to a maximum of $55,000 per year for no more than three years.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 16 U.S.C. 1440.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.429, Marine Sanctuary Program.

APPLICATION DEADLINE: Proposals must be received by 5 p.m. Pacific standard time on October 2, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Proposals must be submitted either electronically via *http://www.grants.gov*, or as hard copy (by postal mail, commercial delivery service, or hand delivery) to the Monterey Bay National Marine Sanctuary Program. Hard copy proposals must be submitted to: ATTN: Seaberry Nachbar, 299 Foam Street, Monterey, CA 93940. Tel: 831–647–4204.

INFORMATION CONTACT: Seaberry Nachbar, Monterey Bay National Marine Sanctuary office; 299 Foam Street, Monterey, CA 93940, or by phone at 831–647–4201, or fax to 831–647–4250, or via Internet at *seaberry.nachbar@noaa.gov*.

ELIGIBILITY: Eligible applicants are K-through–12 public and independent schools and school systems, institutions of higher education, nonprofit organizations, state or local government agencies, and Indian tribal governments.

COST SHARING REQUIREMENTS: No cost sharing is required under this program; however, the National Marine Sanctuary Program strongly encourages applicants applying for either area of interest to share as much of the costs of the award as possible.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

11. Bay Watershed Education and Training-B-WET Hawaii

SUMMARY DESCRIPTION: The B-WET Hawaii Program is an annually awarded, competitively-based grant that supports existing environmental education programs, fosters the growth of new programs, and encourages the development of partnerships among environmental education programs throughout Hawaii. Funded projects provide meaningful outdoor experiences for K–12 students and professional development opportunities for teachers in the area of environmental education. Funds will be made available for only

a 12 month award period. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Total anticipated funding for all awards is approximately $1,000,000 in award amounts to be determined by the proposals and available funds. It is anticipated that approximately five to fifteen grants will be awarded and a typical project award will range from approximately $10,000 to $100,000. Funds are subject to the availability of 2007 appropriations.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 15 U.S.C. 1540; 33 U.S.C. 883d.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) Number: 11.473, Coastal Services Center.

APPLICATION DEADLINE: Proposals must be received no later than 5 p.m. eastern standard time (11 a.m. Hawaii standard time) on August 30, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Proposals must be submitted electronically via *http://www.grants.gov*, or as hard copy (by postal mail, commercial delivery service, or hand delivery) to the Pacific Services Center office. Hard copy proposals must be submitted to: Attn: Sam Thomas, NOAA Pacific Services Center; 737 Bishop Street, Mauka Tower, Suite 2250, Honolulu, HI 96813–3212. Tel: 808–532–3960.

INFORMATION CONTACT: Administrative and technical questions: Contact Sam Thomas by phone at 808–532–3960 or fax to 808–532–3224, or via e-mail: *Sam.Thomas@noaa.gov*.

ELIGIBILITY: Eligible applications are K–12 public and independent schools and school systems, institutions of higher education, commercial and nonprofit organizations, state or local government agencies, and Indian tribal governments. Applicants that are not eligible are individuals and Federal agencies. The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically Black Colleges and Universities, Hispanic-serving institutions, Tribal colleges and universities, Alaskan Native and Native Hawaiian institutions, and institutions that service undeserved areas.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

12. National Estuarine Research Reserves System FY 2007 Land Acquisition and Construction Competitive Program

SUMMARY DESCRIPTION: The Estuarine Reserves Division (ERD) of NOAA is soliciting proposals from the National Estuarine Research Reserve System (NERRS) for land acquisition and construction funding. The National Estuarine Research Reserve system consists of estuarine areas of the United States and its territories which are designated and managed for research and educational purposes. Each reserve within the system is chosen to represent different biogeographic regions and to include a variety of ecosystem types. Through the funding of designated reserve agencies and universities to undertake land acquisition and construction projects that support the NERRS purpose, NOAA will strengthen protection of key land and water areas; enhance long-term protection of the area for research and education, and provide for facility and exhibit construction. This notice sets forth funding priorities, selection criteria, and application procedures. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: The ERD of NOAA announces the availability of funding for the NERRS for land acquisition and/or construction. The ERD anticipates that approximately $7.178 million, pending availability of funds, will be competitively awarded to qualified National Estuarine Research Reserves that meet the funding priorities and selection criteria.

STATUTORY AUTHORITY: 16 U.S.C. 1461 (e)(1)(A)(i),(ii), and (iii).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.420, Coastal Zone Management Estuarine Research Reserves.

APPLICATION DEADLINE: Proposals must be received by later than 6 p.m. eastern time, December 1, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applicants are strongly encourage to submit proposals electronically through the Grants.gov Web site *http://www.grants.gov*. Paper applications should be submitted to NOAA/NOS; 1305 East West Highway, Room 10509; Silver Spring, MD 20910.

INFORMATION CONTACT(s): Doris Grimm, NOAA/NOS; 1305 East-West Highway, Room 10509; Silver Spring, Maryland 20910, or by phone at 301–713–3155 ext. 107, or fax to 301–713–4012, internet at *doris.grimm@noaa.gov*.

ELIGIBILITY: Eligible applicants are coastal states in which the NERRs are located and are directed to the Reserves' lead state agencies or universities.

COST SHARING REQUIREMENTS: Matching requirements include 50 percent match of the total grant project for land acquisition and 30 percent match of the total grant project for construction.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

National Weather Service

1. Automated Flood Warning Systems (AFWS) Program

SUMMARY DESCRIPTION: The National Weather Service (NWS) is soliciting requests to provide capital funds for the creation, renovation, or enhancement of rain and stream gage networks that are locally operated and maintained with non-NOAA resources. The expected period of performance may be up to two years with an anticipated start date of May 1, 2007. The NWS will partner with entities that can demonstrate a long-term ability to operate and maintain an AFWS and provide the data to the NWS. The program priorities for this opportunity support NOAA's mission support goal of: Weather and Water - Serve Society's Needs for Weather and Water Information.

FUNDING AVAILABILITY: Approximately $400,000 will be available each fiscal year subject to the availability of funds. NWS will only accept proposals that are less than $100,000 and one year in duration; or less than $200,000 and two years in duration. Proposals that exceed these limits will be returned without review. It is anticipated that 5 to 10 awards will be granted each year.

STATUTORY AUTHORITY: 15 U.S.C. 313 and 33 U.S.C. 883d.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.450, Automated Flood Warning System

APPLICATION DEADLINE: Proposals must be received by the NWS no later than 4 p.m., eastern daylight savings time, October 31, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applicants are strongly encouraged to submit proposals electronically through the Grants.gov Web site *http://www.grants.gov*. Hard copy applications can be submitted (by postal mail, commercial delivery

service, or hand delivery)to NOAA/NWS; 1325 East-West Highway, Room 13396; Silver Spring, MD 20910–3283.

INFORMATION CONTACT(S): John Bradley, NOAA/NWS; 1325 East-West Highway, Room 13396; Silver Spring, Maryland 20910–3283, or by phone at 301–713–0624 ext. 154, or fax to 301–713–1520, or via internet at *john.bradley@noaa.gov*.

ELIGIBILITY: Eligible applicants are non-profit organizations, state, local and Indian tribal governments.

COST SHARING REQUIREMENTS: None. However, applicant resource commitment will be considered in the competitive selection process.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, An ''Intergovernmental Review of Federal Programs''.

2. Collaborative Science, Technology, and Applied Research (CSTAR) Program

SUMMARY DESCRIPTION: The National Weather Service (NWS), Office of Science and Technology, announces the availability of Federal assistance via the CSTAR Program. The CSTAR Program represents an NOAA/NWS effort to create a cost-effective transition from basic and applied research to operations and services through collaborative research between operational forecasters and academic institutions which have expertise in the environmental sciences. These activities will engage researchers and students in applied research of interest to the operational meteorological community and will improve the accuracy of forecasts and warnings of environmental hazards by applying scientific knowledge and information to operational products and services. Program priorities focus on addressing the identified science priorities from NWS Regions and National Centers for Environmental Prediction service centers and/or incorporating solutions to science issues related to interactive forecast preparation systems and gridded data bases. The program priorities for this opportunity support NOAA's mission support goal of: Weather and Water - Serve Society's Needs for Weather and Water Information.

FUNDING AVAILABILITY: The total funding amount available for proposals is anticipated to be approximately $500,000 per year. However, there is no appropriation of funds at this time and no guarantee that there will be. Individual annual awards in the form of cooperative agreements are limited to a maximum of $125,000 per year for no more than three years. We anticipate making 4 awards.

STATUTORY AUTHORITY: Authority for the CSTAR program is provided by the following: 15 U.S.C. 313; 49 U.S.C. 44720 (b); 33 U.S.C. 883d; 15 U.S.C. 2904; 15 U.S.C. 2934.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.468, Applied Meteorological Research.

APPLICATION DEADLINE: Proposals must be received no later than 5 p.m. eastern daylight time, October 20, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Proposals must be submitted electronically via *http://www.grants.gov*, or as hard copy (by postal mail, commercial delivery service, or hand delivery) to NWS/OST only if the applicant has no internet access. Hard copy proposals must be submitted to: Sam Contorno, NOAA/NWS, 1325 East-West Highway, Silver Spring, MD 20910. Tel: 301–713–3557 X150.

INFORMATION CONTACT: Sam Contorno (NOAA Program Officer), by phone at 301–713–3557 ext. 150, or fax to 301 713–1253, or via email: *Samuel.Contorno@noaa.gov*.

ELIGIBILITY: Eligible applicants are institutions of higher education and federally funded educational institutions such as the Naval Postgraduate School. At least two of the principal investigators (PIs) within this program must be full, assistant, or associate college or university professors with substantial documented involvement in the proposal. Proposals must be submitted by at least two PIs from the same college or university.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

3. Hydrologic Research

SUMMARY DESCRIPTION: This program announcement is for projects to be conducted by research investigators for a 1-year, 2-year, or 3-year period. June 1, 2007, should be used as the proposed start date on proposals. This program represents an NOAA/NWS effort to create a cost-effective continuum of basic and applied research through collaborative research between the Hydrology Laboratory of the NWS Office of Hydrologic Development and academic communities or other private or public agencies which have expertise in the hydrometerologic, hydrologic, and hydraulic routing sciences. These activities will engage researchers and students in basic and applied research to improve the scientific understanding of river forecasting. Ultimately these efforts will improve the accuracy of forecasts and warnings of rivers and flash floods by applying scientific knowledge and information to NWS research methods and techniques, resulting in a benefit to the public. NOAA's program is designed to complement other agency contributions to that national effort. The program priorities for this opportunity support NOAA's mission support goal of: Weather and Water - Serve Society's Needs for Weather and Water Information.

FUNDING AVAILABILITY: Because of funding uncertainty, the Office of Hydrologic Development requests that interested organizations prepare eight-page (maximum) pre-proposals. Once funding availability is confirmed, (or earlier if the likelihood of funding is considered high), the Office of Hydrologic Development will invite the authors of the best pre-proposals to submit full proposals. Proposals should be prepared assuming an annual budget of no more than $125,000. It is expected that approximately four awards will be made, depending on availability of funds.

STATUTORY AUTHORITY: 15 U.S.C. 313.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.462, Hydrologic Research.

APPLICATION DEADLINE: Pre-proposals are due no later 3 pm eastern daylight time on September 15, 2006. Invitation for full-proposal submittal will be sent on October 13, 2006 Full-proposals are due no later than 3 p.m. eastern standard time on November 15th, 2006. Pre-proposals should be submitted by email to *Pedro.Restrepo@noaa.gov*. For applicants without internet access, they should be sent to NOAA/NWS; 1325 East-West Highway, Room 8346; Silver Spring, Maryland 20910–3283. Full proposals should be submitted through *http://www.grants.gov*. For applicants without internet access, they may be sent to NOAA/NWS; 1325 East-West Highway, Room 8346; Silver Spring, Maryland 20910–3283.

INFORMATION CONTACT(S): Dr. Pedro Restrepo by phone at 301–713–0640 ext. 210, or fax to 301 713–0963, or via internet at *Pedro.Restrepo@noaa.gov*.

ELIGIBILITY: Eligible applicants are Federal agencies, institutions of higher education, other nonprofits, commercial organizations, foreign governments, organizations under the jurisdiction of

foreign governments, and international organizations, state, local and Indian tribal governments.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

PLEASE NOTE: Before non NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 USC 1535) is not an appropriate legal basis.

Oceans and Atmospheric Research

1. Ballast Water Technology Demonstration Program Competitive Funding Announcement (Research, Development, Testing and Evaluation Facility)

SUMMARY DESCRIPTION: NOAA and the U.S. Fish and Wildlife Service (FWS) expect to entertain proposals to develop a Cooperative Agreement to establish Research, Development, Testing and Evaluation (RDTE) facilities in US Coastal Regions other than the Great Lakes. The mission of any funded RDTE facility will be to support progress in the development of commercially viable ballast water treatment technologies. NOAA and FWS will also entertain proposals to support planning activities which could lead to additional ballast water RDTE facilities in the future.

The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management and NOAA's Commerce and Transportation mission support goal of: Support the Nation's Commerce with Information for Safe, Efficient and Environmentally Sound Transportation.

FUNDING AVAILABILITY: Depending on 2007 appropriations and the quality of proposals received, the National Oceanic and Atmospheric Administration (NOAA), and the U.S. Fish and Wildlife Service (FWS) expect to make available up to about $1 million in funds in FY 2007 for four-year cooperative agreements involving federal, state, nongovernmental and private entities to create and operate ballast water research, development, testing and evaluation (RDTE) facilities. We anticipate making 1 or 2 awards in FY2007. Depending on funding available in future years, a total of up to $1,250,000 is anticipated to be awarded over the four years of the cooperative agreement.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 16 U.S.C. 4701 *et seq.*; 33 U.S.C. 1121–1131; 46 U.S.C. App 1211 (2000); 50 U.S.C. App 1744 (2000).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.417, Sea Grant Support.

APPLICATION DEADLINE: Preliminary proposals must be received by the National Sea Grant Office by 5 p.m. EDT on Thursday, September 14, 2006. Full proposals must be received by 5 p.m. EST on Tuesday, December 19, 2007.

ADDRESS FOR SUBMITTING APPLICATIONS: Preliminary proposals must be submitted to the National Sea Grant Office, Attn: Mrs. Geraldine Taylor, SG-Ballast Water, 1315 East-West Highway, R/SG, Rm 11732, Silver Spring, MD 20910. Telephone number for express mail applications is 301–713–2445. Full proposals should be submitted through Grants.gov *http://www.grants.gov* or those applicants without internet access, hard copy proposals may be sent to the above address.

INFORMATION CONTACT(S): Competition Coordinator: Melissa Pearson, NOAA National Sea Grant Office, 301–713–2451 x190, *ballast.water@noaa.gov*. Agency Program Managers: Dorn Carlson, NOAA National Sea Grant Office, 301-713–2435, *ballast.water@noaa.gov*; or Pamela Thibodeaux, U.S. Fish and Wildlife Service, 703–358–2493, *Pamela__Thibodeaux@fws.gov*.

ELIGIBILITY: Individuals, institutions of higher education, nonprofit organizations, commercial organizations, Federal, State, local and Indian tribal governments, foreign governments, organizations under the jurisdiction of foreign governments, and international organizations are eligible. Only those who submit preliminary proposals by the deadline are eligible to submit full proposals.

COST SHARING REQUIREMENTS: Applications for RDTE facility cooperative agreements must include additional matching funds equal to at least 20% of the NOAA funds requested. In-kind services are eligible to satisfy the match requirement. Applications for startup grants have no cost sharing requirement.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

2. Ballast Water Technology Demonstration Program Competitive Funding Announcement (Treatment Technology Demonstration Projects)

SUMMARY DESCRIPTION: NOAA, the U.S. Fish and Wildlife Service, and the U.S. Maritime Administration expect to entertain proposals to conduct ballast water treatment technology testing and demonstration projects. The Ballast Water Technology Demonstration Program supports projects to develop, test, and demonstrate technologies that treat ships' ballast water in order to reduce the threat of introduction of aquatic invasive species to U.S. waters through the discharge of ballast water.

The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management and NOAA's Commerce and Transportation mission support goal of: Support the Nation's Commerce with Information for Safe, Efficient and Environmentally Sound Transportation.

FUNDING AVAILABILITY: Depending on 2007 appropriations, NOAA and the U.S. Fish and Wildlife Service (FWS) expect to make available up to about $1.5 Million in FY 2007, and the U.S. Maritime Administration (MARAD) expects to make available several vessels for use as test platforms, to support ballast water treatment technology demonstration projects. The maximum amount of award will vary with the scale of the proposed project. Depending on the funding available and the number and quality of proposals received, approximately 5 grants with a median value of about $200,000 are anticipated to be awarded.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 16 U.S.C. 4701 *et seq.*; 33 U.S.C. 1121–1131; 46 U.S.C. App 1211 (2000); 50 U.S.C. App 1744 (2000).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.417, Sea Grant Support; 15.FFA Fish and Wildlife Management Assistance.

APPLICATION DEADLINE: Letters of Intent to apply must be received by the National Sea Grant Office by 5 p.m. EDT on Thursday, September 14, 2006. Full-proposals must be received by 5 p.m. EST on Wednesday, January 10, 2007.

ADDRESS FOR SUBMITTING APPLICATIONS: Letters of intent must be submitted to the National Sea Grant Office, Attn: Mrs. Geraldine Taylor, SG-Ballast Water, 1315 East-West Highway,

R/SG, Rm 11732, Silver Spring, MD 20910. Telephone number for express mail applications is 301–713–2445. Full proposals should be submitted through Grants.gov at *http://www.grants.gov* or those applicants without internet access, hard copy proposals (1 unbound original and 1 copy) may be sent to the above address.

INFORMATION CONTACT(S): Competition Coordinator: Melissa Pearson, NOAA National Sea Grant Office, 301–713–2451 x190, *ballast.water@noaa.gov*. Agency Program Managers: Dorn Carlson, NOAA National Sea Grant Office, 301-713–2435, *ballast.water@noaa.gov*; Pamela Thibodeaux, U.S. Fish and Wildlife Service, 703–358–2493, *Pamela__Thibodeaux@fws.gov*; or Carolyn Junemann, U.S. Maritime Administration, 202–366–1920, *Carolyn.Junemann@marad.dot.gov*.

ELIGIBILITY: Individuals, institutions of higher education, nonprofit organizations, commercial organizations, Federal, State, local and Indian tribal governments, foreign governments, organizations under the jurisdiction of foreign governments, and international organizations are eligible. Only those who submit letters of intent by the deadline are eligible to submit full proposals.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

3. National Sea Grant College Program Aquatic Invasive Species Research and Outreach

SUMMARY DESCRIPTION: The National Sea Grant College Program seeks to fund research and outreach projects addressing the introduction and spread of aquatic invasive species. The goal of the program is to discover and develop information and tools that can lead to the prevention, monitoring and control of aquatic invasive species threatening United States coastal, oceanic and Great Lakes communities, resources and ecosystems.

The program seeks especially to support NOAA-relevant regional research and outreach priorities identified by the Regional Panels of the Aquatic Nuisance Species Task Force. Consult the full Federal Funding Opportunity for these priorities.

Appropriate areas of research may include: biology and life history research, population dynamics, genetics, physiology, behavior, and parasites and diseases of invasive species, ecological and environmental tolerances of invasive species, impacts of invasive species at each stage of their life history on the environment, resources, and human health, research into invasive species control measures (engineering, physical, chemical, biological, physicochemical, administrative, and educational), and economic impact analysis of invasive species on marine and coastal resources, sport, commercial and tribal fisheries, the recreation and tourism industry, the shipping and navigation industry, and municipal and industrial water users.

Other appropriate areas of endeavor may include: use of research results to provide a scientific basis for developing sound policy and environmental law, public education and technology transfer, research and outreach into identifying vectors of aquatic invasive species introduction, and education and outreach activities that will transfer this information to the appropriate users.

The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Depending on the 2007 funding appropriation, about $250,000 is anticipated to be available to support invasive species research and outreach projects, in FY 2007. Federal funding will be limited to $100,000 per project. Projects may be for up to two years duration. It is anticipated that no more than five projects will be funded in 2007. Depending on 2008 appropriations, additional projects may be funded in 2008 without further competition.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 33 U.S.C. 1121–1131.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.417, Sea Grant Support.

APPLICATION DEADLINE: Preliminary proposal/Full Proposal: All applicants have the same application deadlines, regardless of where they are sending the application. Applications must be received by 4 p.m. EDT on August 17, 2006 for preliminary proposals and by 4 p.m. EST on December 19, 2006 for full proposals. Forwarding of application materials: Applications received by state Sea Grant Programs must be forwarded by August 24, 2006 for preliminary proposals and by 4 p.m. EST January 18, 2007 for full proposals.

ADDRESSES FOR SUBMITTING PROPOSALS: APPLICANTS IN SEA GRANT STATES: Applicants from Sea Grant states must submit preliminary and full proposals to their state Sea Grant Program, to the addresses and following the submission procedures provided by that Program. Consult your state Sea Grant Program or the full Federal Funding Opportunity for information on addresses and submission procedures. (A list of Sea Grant states is in SUPPLEMENTARY INFORMATION, below). APPLICANTS NOT IN SEA GRANT STATES: Preliminary and full proposals from applicants not in Sea Grant states may be submitted to the nearest state Sea Grant Program, in which case they must comply with the submission procedures set by that Program. Alternatively, they may be sent directly to the NSGO. If they are sent directly to NSGO, preliminary proposals must be submitted in paper hardcopy, to National Sea Grant Office, Attn: Mrs. Geraldine Taylor, Invasive Species, 1315 East-West Highway, R/SG, Rm 11732, Silver Spring, MD 20910, telephone 301 713 2445. Full proposals must be submitted electronically via *http://www.grants.gov*. Consult the Full Funding Opportunity for information on how applicants without internet access may submit full proposals.

INFORMATION CONTACT(S): Dorn Carlson, NOAA National Sea Grant Office, 301–713–2435; via internet at *invasive.species@noaa.gov*. Contact information for state Sea Grant Programs can be found at *http://www.seagrant.noaa.gov/other/programsdirectors.html*.

ELIGIBILITY: Individuals, institutions of higher education, nonprofit organizations, commercial organizations, State, local and Indian tribal governments, foreign governments, and international organizations are eligible. Only those who submit pre-proposals by the deadline are eligible to submit full proposals.

COST SHARING REQUIREMENTS: Applicants are required to provide one dollar non-Federal funds for every two dollars of Federal funds requested.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

OTHER INFORMATION: Sea Grant states are: Alabama; Alaska; California; Connecticut; Delaware; Florida; Georgia; Hawaii; Illinois, Indiana, Louisiana; Maine; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; New York; New Hampshire; New Jersey; North Carolina; Ohio; Oregon; Pennsylvania; Puerto Rico; Rhode Island; South Carolina; Texas; Vermont;

Virginia; Washington; and Wisconsin. Information and internet links to state Sea Grant Programs can be found at: *http://www.seagrant.noaa.gov/colleges/colleges.html*.

4. Sea Grant - The Gulf of Mexico Oyster Industry Program (GOIP)

SUMMARY DESCRIPTION: The National Sea Grant College Program (Sea Grant) within OAR is seeking proposals to participate in innovative research, outreach and demonstration to continue the Gulf of Mexico Oyster Industry Program. The goal of the Gulf Oyster Industry Program is to encourage multi-disciplinary research and extension projects that contribute directly to the recovery, efficiency, and profitability of oyster-related businesses and to the safety of oyster products. Oyster businesses seek innovative solutions at all producing and processing levels, including: habitat restoration, planting and production (landings), oyster disease diagnostics, harvesting, post-harvest treatment, processing, distribution, marketing, consumer education, and food safety. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Approximately $2 million is available for the GOIP in FY 2007 and a similar amount is expected, but not assured for FY 2008. Therefore, two-year proposals are being accepted. Funding will be on an annual basis, with renewal dependent upon satisfactory demonstration of progress and availability of funds. There is no limit on the budget for the proposals so that multiple partners can come together to address the significant issues that are identified under the Program Priorities for this competition. We anticipate making six to ten awards per year with an anticipated start date of June 1, 2007.

STATUTORY AUTHORITY: Statutory authority for this program is provided under: 33 U.S.C. 1121–1131.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.417, Sea Grant Support.

APPLICATION DEADLINE: Preliminary proposal/Full Proposal: All applicants have the same application deadlines, regardless of where they are sending the application. Applications must be received by 4 p.m. EDT on August 17, 2006 for preliminary proposals and by 4 p.m. EST on December 19, 2006 for full proposals. Forwarding of application materials: Applications received by state Sea Grant Programs must be forwarded by August 24, 2006 for preliminary proposals and by 4 p.m. EST January 18, 2007 for full proposals.

ADDRESSES FOR SUBMITTING PROPOSALS: SEA GRANT PROGRAMS: Sea Grant Programs must consult with the National Sea Grant Office on procedures and addresses for submitting preliminary proposals. Full proposals must be submitted electronically via *http://www.grants.gov*. ALL OTHER APPLICANTS IN SEA GRANT STATES: Applicants from Sea Grant states must submit preliminary and full proposals to their state Sea Grant Program, to the addresses and following the submission procedures provided by that Program. Consult your state Sea Grant Program or the full Federal Funding Opportunity for information on addresses and submission procedures. (A list of Sea Grant states is in SUPPLEMENTARY INFORMATION, below). APPLICANTS NOT IN SEA GRANT STATES: Preliminary and full proposals from applicants not in Sea Grant states may be submitted to the nearest state Sea Grant Program, in which case they must comply with the submission procedures set by that Program. Alternatively, they may be sent directly to the NSGO. If they are sent directly to NSGO, preliminary proposals must be submitted in paper hardcopy, to National Sea Grant Office, Attn: Mrs. Geraldine Taylor, Invasive Species, 1315 East-West Highway, R/SG, Rm 11732, Silver Spring, MD 20910, telephone 301 713 2445. Full proposals must be submitted electronically via *http://www.grants.gov*. Consult the Full Funding Opportunity for information on how applicants without internet access may submit full proposals.

INFORMATION CONTACT(S): Dr. Jacques L. Oliver, 301–713–2431,e-mail: *jacques.oliver@noaa.gov*, or any state Sea Grant Program. Contact information for state Sea Grant Programs can be found at *http://www.seagrant.noaa.gov/other/programsdirectors.html*.

ELIGIBILITY: Individuals, institutions of higher education, nonprofit organizations, commercial organizations, Federal, State, local and Indian tribal governments, foreign governments, and international organizations are eligible. Only those who submit preliminary proposals by the preliminary proposal deadline are eligible to submit full proposals. Those applicants who submitted preliminary proposals by the preliminary proposal deadline, but who are not recommended by the pre-proposal review process would still be eligible to submit full proposals.

COST SHARING REQUIREMENTS: Applicants are required to provide one dollar for every two of Federal funds.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

OTHER INFORMATION: Sea Grant states are: Alabama; Alaska; California; Connecticut; Delaware; Florida; Georgia; Hawaii; Illinois, Indiana, Louisiana; Maine; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; New York; New Hampshire; New Jersey; North Carolina; Ohio; Oregon; Pennsylvania; Puerto Rico; Rhode Island; South Carolina; Texas; Vermont; Virginia; Washington; and Wisconsin. Information and internet links to state Sea Grant Programs can be found at: *http://www.seagrant.noaa.gov/colleges/colleges.html*.

5. Sea Grant - Oyster Disease Research Program (ODRP)

SUMMARY DESCRIPTION: The National Sea Grant College Program within OAR is seeking proposals to participate in innovative research that provides technology and management strategies to combat oyster disease and bring about the restoration of oysters and the oyster industry in U.S. coastal areas. The goal of the Oyster Disease Research Program (ODRP) is to improve the survivability of oysters in U.S. coastal waters and to improve technology for disease management and control. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Approximately $2 million is available for the ODRP in FY 2007 and a similar amount is expected, but not assured for FY 2008. Therefore, two-year proposals are being accepted. Funding will be on an annual basis, with renewal dependent upon satisfactory demonstration of progress and availability of funds. There is no limit on the budget for the proposals so that multiple partners can come together to address the significant issues that are identified under the Program Priorities for this competition. We anticipate making six to ten awards per year with an anticipated start date of June 1, 2007.

STATUTORY AUTHORITY: Statutory authority for this program is provided under: 33 U.S.C. 1121–1131.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.417, Sea Grant Support.

APPLICATION DEADLINE: Preliminary proposal/Full Proposal: All applicants have the same application deadlines, regardless of where they are sending the application. Applications must be received by 4 p.m. EDT on August 17, 2006 for preliminary proposals and by 4 p.m. EST on December 19, 2006 for full proposals. Forwarding of application materials: Applications received by state Sea Grant Programs must be forwarded by August 24, 2006 for preliminary proposals and by 4 p.m. EST January 18, 2007 for full proposals.

ADDRESSES FOR SUBMITTING PROPOSALS: SEA GRANT PROGRAMS: Sea Grant Programs must consult with the National Sea Grant Office on procedures and addresses for submitting preliminary proposals. Full proposals must be submitted electronically via *http://www.grants.gov*. ALL OTHER APPLICANTS IN SEA GRANT STATES: Applicants from Sea Grant states must submit preliminary and full proposals to their state Sea Grant Program, to the addresses and following the submission procedures provided by that Program. Consult your state Sea Grant Program or the full Federal Funding Opportunity for information on addresses and submission procedures. (A list of Sea Grant states is in OTHER INFORMATION, below). APPLICANTS NOT IN SEA GRANT STATES: Preliminary and full proposals from applicants not in Sea Grant states may be submitted to the nearest state Sea Grant Program, in which case they must comply with the submission procedures set by that Program. Alternatively, they may be sent directly to the NSGO. If they are sent directly to NSGO, preliminary proposals must be submitted in paper hardcopy, to National Sea Grant Office, Attn: Mrs. Geraldine Taylor, Invasive Species, 1315 East-West Highway, R/SG, Rm 11732, Silver Spring, MD 20910, telephone 301 713 2445. Full proposals must be submitted electronically via *http://www.grants.gov*. Consult the Full Funding Opportunity for information on how applicants without internet access may submit full proposals.

INFORMATION CONTACT(S): Dr. Jacques L. Oliver, 301–713–2431, e-mail: *jacques.oliver@noaa.gov*, or any state Sea Grant Program. Contact information for state Sea Grant Programs can be found at *http://www.seagrant.noaa.gov/other/programsdirectors.html*.

ELIGIBILITY: Individuals, institutions of higher education, nonprofit organizations, commercial organizations, Federal, State, local and Indian tribal governments, foreign governments, and international organizations are eligible. Only those who submit preliminary proposals by the preliminary proposal deadline are eligible to submit full proposals. Those applicants who submitted preliminary proposals by the preliminary proposal deadline, but who are not recommended by the pre-proposal review process would still be eligible to submit full proposals.

COST SHARING REQUIREMENTS: Applicants are required to provide one dollar for every two of Federal funds.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

OTHER INFORMATION: Sea Grant states are: Alabama; Alaska; California; Connecticut; Delaware; Florida; Georgia; Hawaii; Illinois, Indiana, Louisiana; Maine; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; New York; New Hampshire; New Jersey; North Carolina; Ohio; Oregon; Pennsylvania; Puerto Rico; Rhode Island; South Carolina; Texas; Vermont; Virginia; Washington; and Wisconsin. Information and internet links to state Sea Grant Programs can be found at: *http://www.seagrant.noaa.gov/colleges/colleges.html*.

6. Joint Hurricane Testbed

SUMMARY DESCRIPTION: The Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), is soliciting letters of intent under the United States Weather Research Program (USWRP), as administrated by the USWRP Joint Hurricane Testbed (JHT). This notice also provides guidelines for the submission of full proposals and describes the application procedures for the transfer of relevant research and technology advances into tropical cyclone analysis and forecast operations. This notice calls for researchers to submit proposals to test and evaluate, and modify if necessary, in a quasi operational environment, their own scientific and technological research applications. Projects satisfying metrics for success and operational constraints may be selected for operational implementation by the operational center(s) after the completion of the JHT funded work. The program priorities for this opportunity support NOAA's mission support goal of: Weather and Water - Serve Society's Needs for Weather and Water Information.

FUNDING AVAILABILITY: The total amount available for proposals is anticipated to be approximately $1,500,000 per year. Approximately 10 to 15 new projects are expected to be funded in the form of cooperative agreements with individual awards expected to mostly range between $50,000 per year and $200,000 per year for no more than two years.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 33 U.S.C. 883d and 49 U.S.C. 44720(b).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) Number: 11.431, Climate and Atmospheric Research

APPLICATION DEADLINE: Letters of intent must be received no later than 5 p.m. eastern daylight time, July 31, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Full proposals must be submitted electronically via *http://www.grants.gov*, or as hard copy (by postal mail, commercial delivery service, or hand delivery) to the Tropical Prediction Center/National Hurricane Center of the National Weather Service. Letters of intent and hard copy full proposals must be submitted to: ATTN: Dr. Jiann Gwo Jiing, Director, Joint Hurricane Testbed, Tropical Prediction Center, 11691 SW 17th Street, Miami, FL 33165, phone (305) 229–4443.

INFORMATION CONTACT: Dorothy Fryar, DOC/NOAA, Office of Weather &Air Quality Research, Routing Code R/WA, 1315 East West Highway, Room 11445, Silver Spring, MD 20910, phone (301) 713 0460 ext. 168, e-mail *Dorothy.Fryar@noaa.gov*.

ELIGIBILITY: Eligible applications can be from institutions of higher education, other non-profits, commercial organizations, and state, local and Indian tribal governments, and Federal agencies.

COST SHARING REQUIREMENTS: None

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

7. NOAA Office of Ocean Exploration Announcement of Opportunity, FY 2007

SUMMARY DESCRIPTION: The NOAA Office of Ocean Exploration (OE) is seeking pre-proposals and full proposals to support its mission to search, investigate, and document unknown and poorly known areas of the ocean and Great Lakes through interdisciplinary exploration, and to advance and disseminate knowledge of the ocean environment and its physical, chemical, biological, and historical resources. Successful OE proposals will

be, innovative, and broad-based in terms of their approach and objectives. OE is soliciting proposals whose objectives fall within one of the following categories: Ocean Exploration, Marine Archaeology, and Education. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Through this announcement, NOAA OE anticipates awarding 14 projects totaling approximately $2,100,000, including ship and submersible costs. Submissions focusing solely on technology development will not be accepted. Total funding estimates are: Ocean Exploration $1,400,000; Archaeology $400,000; and Education $300,000.

STATUTORY AUTHORITY: 33 U.S.C. 883d.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 11.460, Special Oceanic and Atmospheric Projects.

APPLICATION DEADLINE: Pre-proposals must be received by 5 p.m. (EDT) on July 10, 2006. Full proposal submissions must be received by 5 p.m. (Eastern) on September 8, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Pre-proposals must be sent to: ATTN: Proposal Manager, NOAA Office of Ocean Exploration, 1315 East-West Highway, SSMC3, 10th Floor, Silver Spring, MD, 20910. Tel: 301–713–9444. Full proposals should be submitted to *http://www.grants.gov*. For applicants without internet access and federal applicants, full proposals should be sent to ATTN: Proposal Manager, NOAA Office of Ocean Exploration, 1315 East-West Highway, SSMC3, 10th Floor, Silver Spring, MD, 20910. Tel: 301–713–9444. No e-mail or facsimile pre-proposals will be accepted.

INFORMATION CONTACT(S): For further information contact the NOAA Office of Ocean Exploration at 301–713–9444 x130 or submit inquiries via e-mail to the Frequently Asked Questions address: *oar.oe.FAQ@noaa.gov*. E-mail inquiries should include the Principal Investigator's name in the subject heading.

Eligibility: Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, organizations under the jurisdiction of foreign governments, international organizations, state, local and Indian tribal governments. Applications from Federal agencies will be considered. Please Note: Before non-NOAA federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another federal agency in excess of their appropriation. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

COST SHARING REQUIREMENTS: Cost-sharing is not required.

INTERGOVERNMENTAL REVIEW: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Applicants must contact their State's Single Point of Contact (SPOC) to find out about and comply with the State's process under EO 12372. The names and addresses of the SPOCs are listed in the Office of Management and Budget's Web site: *http://www/whitehouse.gov/omb/grants/spoc.html*.

8. Administration of NOAA's Graduate Sciences Program

SUMMARY DESCRIPTION: NOAA's Office of Education, Educational Partnership Program announces the availability of Federal assistance to a not-for-profit organization for the administration of its EPP Graduate Sciences Program. The goal of the Graduate Sciences Program is to provide college graduates who have received at least a Bachelor's degree in mathematics, science, economics, law, and engineering, entry-level employment and hands-on research and work experience at NOAA. The program's objective is to increase the number of students who undertake course work and graduate with degrees in the targeted areas integral to NOAA's mission.

The goal of the NOAA, Office of Education, EPP/MSI Graduate Sciences Program (GSP) is aimed primarily at increasing opportunities and available programs for students in NOAA related fields to pursue research and educational training in atmospheric, environmental, and oceanic sciences at Minority Serving Institutions (MSI) when possible. All students are competitively selected for positions in NOAA offices and facilities.

This program provides for formal periods of work, study, and structured classroom training programs in meteorology, hydrology, cartography, oceanography, ecology, remote sensing technology, environmental science and planning, marine science, fisheries biology, computer science, and environmental law. GSP pays for tuition, books, lab fees, campus housing allowance, and travel expenses for an orientation program at NOAA Headquarters in Silver Spring, Maryland, at the beginning of their appointment. NOAA scientists are assigned as mentors to graduate scientists during the training period.

The progress of the students is monitored throughout the academic year and during the intermittent career work experiences. Under the program, graduate students are required to present their research at conferences, scientific meetings and workshops, education and science forums, etc.

The program priorities for this opportunity support NOAA's mission support goal of: Critical Support - Facilities, ships, aircraft, environmental satellites, data-processing systems, computing and communications systems.

FUNDING AVAILABILITY: Subject to appropriations, this solicitation announces that funding at a maximum of $700,000 will be available for program administration of the Graduate Sciences Program over a four year period. The proposal is limited to one award. Funds will be provided incrementally on an annual basis in the amount of $175,000 for four years. Up to 18% is allowed for administrative overhead and at least 82% is for student support. Funding for each year's activity is contingent upon the availability of funds from Congress, satisfactory performance, submission and approval of a progress report, and is at the sole discretion of the agency. It is anticipated that the funding instrument will be a cooperative agreement since NOAA will be substantially involved in coordinating the student's career work experiences, and with collaboration, participation, or intervention in project performance.

STATUTORY AUTHORITIES: 15 U.S.C. 1540, 49 U.S.C. 44720, 33 U.S.C. 883d, 33 U.S.C. 1442, 16 U.S.C. 1854(e), 16 U.S.C. 661, 16 U.S.C. 753(a), 16 U.S.C 1451 *et seq.*, 16 U.S.C. 1431, 33 U.S.C. 883a and Executive Orders 12876, 12900, 13021, 13336, and 13339.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA)NUMBER: 11.481 - Educational Partnership Program with Minority Serving Institutions.

APPLICATION DEADLINE: Applications must be received by NOAA Office of Education, Educational Partnership Program (EPP) no later than 5 p.m. (eastern standard time), on December 1, 2006.

ADDRESS FOR SUBMITTING PROPOSALS: Applications submitted in response to this announcement are strongly encouraged to submit via *http://www.grants.gov*. Electronic access to the full funding announcement for this program is also available at this site.

The announcement will also be available at the NOAA EPP web site *http://epp.noaa.gov* or by contacting the program official identified below. If internet access is unavailable, paper applications (a signed original and two copies) may also be submitted to the NOAA, Office of Education, Educational Partnership Program at the following address: NOAA/EPP, 1315 East West Highway, Room 10703, Silver Spring, Maryland 20910. No facsimile applications will be accepted. Institutions are encouraged to submit Letters of Intent to NOAA/EPP within 30 days of this announcement to aid in planning the review processes.

Letters of Intent may be submitted via e-mail to *Chantell.Haskins@noaa.gov*. Information should include a general description of the program administration proposal.

INFORMATION CONTACTS: Chantell Haskins, Program Manager at (301) 713–9437 ext. 125 or *Chantell.Haskins@noaa.gov*.

ELIGIBILITY: Proposals will only be accepted from non-profit organizations.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

9. Administration of NOAA's Undergraduate Scholarship Program

SUMMARY DESCRIPTION: The purpose of this document is to advise the public that NOAA's Office of Education (OEd), Educational Partnership Program is announcing the availability of Federal assistance for a not-for-profit organization to administer its Undergraduate Scholarship Program. The goal of the Undergraduate Scholarship Program is to increase the number of students who undertake course work and graduate with degrees in the targeted areas integral to NOAA's mission. This program targets students who have completed their sophomore year; attend Minority Serving Institutions; major in mathematics, science, or engineering; and have recently declared, or about to declare a major in atmospheric, oceanic, remote sensing technology, or environmental science disciplines.

The Undergraduate Scholarship participants must be U.S. citizens and attend an MSI including Hispanic Serving Institutions, Historically Black Colleges and Universities, Tribal College and Universities, Alaska-Native Serving Institutions, and Native Hawaiian Serving Institutions full-time, be pursuing studies in atmospheric science, biology, cartography, chemistry, computer science, engineering, environmental science, geodesy, geography, marine science, mathematics, meteorology, physical science, oceanography, marine biology, photogrammetry, or physics. Participants must have, and maintain, a 3.0 grade point average.

This program provides travel to students to approved NOAA offices and facilities; have students participate in current research and development activities; and provides financial assistance for tuition and fee costs to students for two academic years and two summers. Progress of the students is monitored throughout the academic years and during the summer internships. The program requires that the first summer internship be spent at a NOAA facility in the Washington, DC metropolitan area. The program requires that each student attend a roundtable discussion and give oral presentations on their research at NOAA Headquarters in Silver Spring, Maryland, at the conclusion of summer internships. The program requires that each second year student travel during their winter semester break to an approved NOAA site for the second summer internship.

The program priorities for this opportunity support NOAA's mission support goal of Critical Support - Facilities, ships, aircraft, environmental satellites, data-processing systems, computing and communications systems.

FUNDING AVAILABILITY: Subject to appropriations, this solicitation announces that funding at a maximum of $1,000,000 will be available for program administration of the Undergraduate Scholarship Program over a four-year period. The proposal is limited to a total of $500,000 for a maximum for a two year period and one proposal will be funded. Up to 18% of $500,000 is allowed for administrative overhead and at least 82% of $500,000 is for student support. It is anticipated that the funding instrument will be a cooperative agreement since NOAA will be substantially involved in identifying NOAA facilities to place students during the two summer internships.

STATUTORY AUTHORITIES: 15 U.S.C. 1540, 49 U.S.C. 44720, 33 U.S.C. 883d, 33 U.S.C. 1442, 16 U.S.C. 1854(e), 16 U.S.C. 661, 16 U.S.C 753(a), 16 U.S.C. 1451 *et seq.*, 16 U.S.C. 1431, 33 U.S.C. 883a and Executive Orders 12876, 12900, 13021, 13336, and 13339.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.481 - Educational Partnership Program with Minority Serving Institutions.

APPLICATION DEADLINE: Applications must be received by NOAA Educational Partnership Program (EPP) by November 1, 2006, no later than 5 p.m. (eastern daylight time).

ADDRESS FOR SUBMITTING PROPOSALS: Applications submitted in response to this announcement should be submitted via *http://www.grants.gov*. Electronic access to the full funding announcement for this program is available via this site. The announcement will also be available at the NOAA EPP web site *http://epp.noaa.gov* or by contacting the program official identified below. Paper applications (a signed original and two copies) may also be submitted to the Educational Partnership Program at the following address: NOAA/EPP, 1315 East West Highway, Room 10703, Silver Spring, Maryland 20910. No facsimile applications will be accepted. Organizations are encouraged to submit Letters of Intent to NOAA/EPP within 30 days of this announcement to aid in planning the review processes. Letters of Intent may be submitted via e-mail to *Chantell.Haskins@noaa.gov*. Information should include a general description of the program administration proposal.

INFORMATION CONTACT: Chantell Haskins, Program Manager at (301) 713–9437 ext. 125 or *Chantell.Haskins@noaa.gov*.

ELIGIBILITY: Proposals will only be accepted from non-profit organizations.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

NOAA Fellowship, Scholarship and Internship Programs

National Ocean Service (NOS)

1. Dr. Nancy Foster Scholarship Program; Financial Assistance for Graduate Students

SUMMARY DESCRIPTION: The Dr. Nancy Foster Scholarship Program is announcing funding availability for graduate students pursuing masters or doctoral level degrees in oceanography, marine biology, or maritime archaeology. Approximately $160,000 will be available through this announcement for fiscal year 2007. It is expected that approximately five awards will be made, depending on the availability of funds. The intent of this program is to recognize outstanding scholarship and encourage independent graduate level research in the above mentioned fields. The program

priorities for this opportunity support NOAA's mission support goal of: Critical Support - Facilities, ships, aircraft, environmental satellites, data-processing systems, computing and communications systems.

STATUTORY AUTHORITY: 16 U.S.C. 1445c–1.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.429 National Marine Sanctuary Program

APPLICATION DEADLINE: Applications must be received between December 1, 2006, and February 9, 2007, no later than 5 p.m. eastern standard time.

ADDRESS FOR SUBMITTING PROPOSALS: Applications should be sent via *http://www.grants.gov*. If it is necessary to submit a hard copy application or any part thereof, it should be sent to the Dr. Nancy Foster Scholarship Program, Attention: Chantell Haskins, Office of Education, 1315 East-West Highway, Room 10703, Silver Spring, MD 20910.

INFORMATION CONTACT(S): Send your request for information to the Program Manager, Chantell Haskins, at the address shown above, by telephone (301) 713–9437 x125, or via e-mail to *fosterscholars@noaa.gov*.

ELIGIBILITY: Only individuals who are United States citizens currently pursuing or accepted to pursue a masters or doctoral level degree in oceanography, marine biology, or maritime archaeology, including the curation, preservation, and display of maritime artifacts, are eligible for an award under this scholarship program. Universities or other organizations may not apply on behalf of an individual. Prospective scholars do not need to be enrolled, but must be admitted to a graduate level program in order to apply for this scholarship. Eligibility must be maintained for each succeeding year of support and semi-annual reporting requirements, to be specified at a later date, will apply.

COST SHARING REQUIREMENTS: None.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs''.

2. National Estuarine Research Reserve (NERR) Graduate Research Fellowship Program (GRF)

SUMMARY DESCRIPTION: The Estuarine Reserves Division of NOAA is soliciting applications for graduate fellowship funding within the National Estuarine Research Reserve System. The Estuarine Reserves Division anticipates that 31 Graduate Research Fellowships will be competitively awarded to qualified graduate students whose research occurs within the boundaries of at least one reserve. The National Estuarine Research Reserve Graduate Research Fellowship program is designed to fund high quality research focused on enhancing coastal zone management while providing students with an opportunity to contribute to the research or monitoring program at a particular reserve site. Students are required to work with the research coordinator or reserve manager to develop a plan to participate in the research or monitoring program for up to 15 hours per week. These management-related research projects will enhance scientific understanding of the Reserve ecosystem, provide information needed by Reserve management and coastal management decision-makers, and improve public awareness and understanding of estuarine ecosystems and estuarine management issues. Research projects must address one of the following scientific areas of support: non-point source pollution, biodiversity, invasive species, habitat restoration, sustaining resources in estuarine ecosystems, and socioeconomic research applicable to estuarine ecosystem management. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: The amount of the fellowship is anticipated to be $20,000; at least 30% of total project cost match is required by the applicant (i.e. $8,572 match for $20,000 in federal funds for a total project cost of $28,572). Applicants may apply for one to three years of funding.

STATUTORY AUTHORITY: 16 U.S.C. 1461 (e)(1)(B).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.420 Coastal Zone Management.

APPLICATION DEADLINE: Applications must be postmarked or received by November 1, 2006 no later than 11 p.m.(EST).

ADDRESS FOR SUBMITTING PROPOSALS: Applicants are strongly encouraged to submit applications through *http://www.grants.gov*. However, if internet access is unavailable, paper applications should be submitted to Susan White, Program Coordinator at NOAA/Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, SSMC4, Station 10500, Silver Spring, MD 20910.

INFORMATION CONTACT: Susan White, NOAA's Estuarine Reserves Division; 1305 East-West Highway; SSMC4, Station 10500, N/ORM5; Silver Spring, MD 20910, or by phone at 301–713–3155 extension 124, or fax to 301–713–4363, email at *susan.white@noaa.gov* or *http://www.nerrs.noaa.gov/fellowship*. If Dr. White is unavailable, please contact Erica Seiden at 301–713–3155 ext. 172 or via email at *erica.seiden@noaa.gov*.

ELIGIBILITY: Institutions eligible to receive awards include institutions of higher education, other non-profits, commercial organizations, state, and local governments. Minority students are encouraged to apply to eligible institutions.

COST SHARING REQUIREMENTS: Requested federal funds must be matched by at least 30 percent of the TOTAL cost of the project, not a portion of only the federal share, (e.g. $8,572 match for $20,000 in federal funds for a total project cost of $28,572).

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Ocean and Atmospheric Research (OAR)

1. GradFell 2008 Dean John A. Knauss Marine Policy Fellowship (Knauss Fellowship Program)

SUMMARY DESCRIPTION: The Dean John A. Knauss Marine Policy Fellowship matches graduate students who have an interest in ocean, coastal and Great Lakes resources, and in the national policy and management decisions affecting these resources, with hosts in the Legislative and Executive branches of the Federal government for a one year paid fellowship. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: No less than 30 applicants will be selected. Up to 11 selected applicants will be assigned to the Congress. The overall cooperative agreement is $41,500 per student.

STATUTORY AUTHORITY: 33 U.S.C. 1127(b).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.417, Sea Grant Support.

APPLICATION DEADLINE: Eligible graduate students must submit applications to state Sea Grant college programs. State Sea Grant program deadlines vary. Contact the individual state Sea Grant program for due dates.

SEA GRANT PROGRAMS: Selected applications from the sponsoring Sea Grant program are to be received in the National Sea Grant Office (NSGO) no later than 5 p.m. eastern standard time (EST) on April 5, 2007 through *http://www.grants.gov*. If an applicant is not from a state that has a Sea Grant program, the applicant can apply through the nearest Sea Grant program. Applicants should consult the Sea Grant program before submitting an application to it. Facsimile transmissions and electronic mail submission of applications will not be accepted. Hard copy applications will only be accepted if a Sea Grant program can justify in writing that internet access is not available to them at the time of submission. Hard copy applications must be received by the NSGO by 5 pm EST on April 5, 2007. Applications received after the deadline will not be reviewed.

ADDRESS FOR SUBMITTING APPLICATIONS: Applications from Sea Grant programs should be submitted through *http://www.grants.gov*. Hard copy justification and applications should be submitted to: Dr. Jacques L. Oliver, Program Manager, Knauss Fellowship Program, National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910.

INFORMATION CONTACT(S): Dr. Jacques L. Oliver, Program Manager, Knauss Fellowship Program, National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910; tel: (301) 713–2431 ext. 124. Inquiries can also be made to any state Sea Grant Program. Contact information for state Sea Grant Programs can be found at: *http://www.seagrant.noaa.gov/other/programsdirectors.html*.

ELIGIBILITY: Any student, regardless of citizenship, who, on April 5, 2007, is in a graduate or professional program in a marine or aquatic-related field at a United States-accredited institution of higher education in the United States or U.S. Territories may apply.

COST SHARING REQUIREMENTS: There will be one-third required cost share for those applicants selected as legislative fellows.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

SUPPLEMENTARY INFORMATION: Sea Grant states are: Alabama; Alaska; California; Connecticut; Delaware; Florida; Georgia; Hawaii; Illinois, Indiana, Louisiana; Maine; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; New York; New Hampshire; New Jersey; North Carolina; Ohio; Oregon; Pennsylvania; Puerto Rico; Rhode Island; South Carolina; Texas; Vermont; Virginia; Washington; and Wisconsin. Information and internet links to state Sea Grant Programs can be found at: *http://www.seagrant.noaa.gov/colleges/colleges.html*.

2. GradFell 2007 NMFS - Sea Grant Joint Graduate Fellowship Program in Marine Resource Economics

SUMMARY DESCRIPTION: NOAA's mission is to understand and predict changes in Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs. One of NOAA's mission-supporting goals is to protect, restore, and manage the use of coastal and ocean resources through an ecosystem approach to management. In that context, the National Sea Grant College Program (Sea Grant) is seeking applications for one of its fellowship programs to fulfill its broad educational responsibilities and to strengthen the collaboration between Sea Grant and NMFS. Fellows will work on thesis problems of public interest and relevance to NMFS and work with NMFS mentors at participating NMFS Science Centers or Laboratories. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: The NMFS Sea Grant Joint Graduate Fellowship Program in Marine Resource Economics expects to support two new Fellows for 2 years beginning in FY 2007. The award for each fellowship will be a cooperative agreement of $40,000 per year, with an anticipated start date of June 1, 2007.

STATUTORY AUTHORITY: 33 U.S.C. 1127(a).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 11.417, Sea Grant Support.

APPLICATION DEADLINE: Applications should be submitted electronically through the Federal grants portal - *http://www.grants.gov* - by the sponsoring Sea Grant program. Applications must be received by the National Sea Grant Office (NSGO) by 4 p.m. EST on February 16, 2007. Local Sea Grant programs may wish to set an internal deadline one week prior to the National Sea Grant Office receipt date deadline to facilitate the entry of non-electronic applications into Grants.gov.

ADDRESS FOR SUBMITTING APPLICATIONS: Applications from Sea Grant programs should be submitted through *http://www.grants.gov*. Facsimile transmissions and electronic mail submission of applications will not be accepted.

INFORMATION CONTACT: Dr. Terry Smith, National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910; tel: (301) 713–2435 ext. 144; e-mail: *Terry.Smith@noaa.gov*; any state Sea Grant Program; or any participating NMFS facility.

ELIGIBILITY: Prospective Fellows must be United States citizens. At the time of application, prospective Marine Resource Economics Fellows must be admitted to a PhD degree program in natural resource economics or a related field at an institution of higher education in the United States or its territories, or submit a signed letter from the institution indicating provisional acceptance to a PhD degree program conditional on obtaining financial support such as this fellowship. Applications must be submitted through the local Sea Grant program and approved by the institution of higher education.

COST SHARING REQUIREMENTS: Required 50 percent match of the NSGO funds by the academic institution (i.e., $6,667/year).

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

3. Gradfell 2007 NMFS - Sea Grant Joint Graduate Fellowship Program in Population Dynamics

SUMMARY DESCRIPTION: NOAA's mission is to understand and predict changes in Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs. One of NOAA's mission-supporting goals is to protect, restore, and manage the use of coastal and ocean resources through an ecosystem approach to management. In that context, the National Sea Grant College Program (Sea Grant) is seeking applications for one of its fellowship programs to fulfill its broad educational responsibilities and to strengthen the collaboration between Sea Grant and the NOAA Fisheries Service (NMFS). Fellows will work on thesis problems of public interest and relevance to NMFS and work with NMFS mentors at participating NMFS Science Centers or Laboratories.

The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect,

Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: The NMFS Sea Grant Joint Graduate Fellowship Program in Population Dynamics expects to support at least two new Fellows for 3 years beginning in FY 2007. The award for each fellowship will be a cooperative agreement of $40,000 per year, with an anticipated start date of June 1, 2007.

STATUTORY AUTHORITY: 33 U.S.C. 1127(a).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 11.417, Sea Grant Support.

APPLICATION DEADLINE: Applications should be submitted electronically through the Federal grants portal - *http://www.grants.gov* - by the sponsoring Sea Grant program. Applications must be received by the National Sea Grant Office (NSGO) by 4 p.m. EST on February 16, 2007. Local Sea Grant programs may wish to set an internal deadline one week prior to the National Sea Grant Office receipt date deadline to facilitate the entry of non-electronic applications into Grants.gov.

ADDRESS FOR SUBMITTING APPLICATIONS: Applications from Sea Grant programs should be submitted through *http://www.grants.gov*. Facsimile transmissions and electronic mail submission of applications will not be accepted.

INFORMATION CONTACT: Dr. Terry Smith, National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910; tel: (301) 713–2435 ext. 144; e-mail: *Terry.Smith@noaa.gov*; any state Sea Grant Program; or any participating NMFS facility.

ELIGIBILITY: Prospective Fellows must be United States citizens. At the time of application, prospective Population Dynamics Fellows must be admitted to a PhD degree program in population dynamics or a related field such as applied mathematics, statistics, or quantitative ecology at an institution of higher education in the United States or its territories, or submit a signed letter from the institution indicating provisional acceptance to a PhD degree program conditional on obtaining financial support such as this fellowship. Applications must be submitted through the local Sea Grant program and approved by the institution of higher education.

COST SHARING REQUIREMENTS: Required 50 percent match of the NSGO funds by the academic institution (i.e., $6,667/year).

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs''.

Non-Competitive Project

The following entry provides the description and requirements of NOAA's noncompetitive project.

NOAA Coral Reef Conservation Grant Program - Coral Reef Ecosystem Research Grants

SUMMARY DESCRIPTION: The NOAA Coral Reef Conservation Grant Program announces that it is providing funding to the NOAA Undersea Research Program (NURP) Centers for: the Caribbean Region, the Caribbean Marine Research Center; the Southeastern U.S., Florida, and Gulf of Mexico Region, the Southeast U.S. and Gulf of Mexico Center; and the Hawaii and Western Pacific Region, the Hawaii Undersea Research Laboratory to administer three external, competitive coral reef ecosystem research grants programs. Research supported through these programs will address priority information needs identified by coral reef ecosystem managers and scientists. Broad coral reef research priorities supported through these programs may include research on coral disease and bleaching, fisheries population dynamics and ecology, coral reef restoration and mitigation approaches, effects of anthropogenic stressors on benthic invertebrates, impacts and spread of invasive species, and evaluation of management actions and strategies. Specific priorities within these broad areas, and geographic preferences, will be indicated in each NURP Center's request for proposals. The NURP Center external coral reef research grants programs are part of the NOAA Coral Reef Conservation Grants Program under the Coral Reef Conservation Act of 2000. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems - Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

FUNDING AVAILABILITY: Approximately $600,000 may be available in FY 2007 to support awards under this program.

STATUTORY AUTHORITY: Statutory authority for this program is provided under 16 U.S.C. 6403.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) Number: 11.430, National Undersea Research Program.

INFORMATION CONTACT: Kimberly Puglise, 301–713–2427, extension 199 or e-mail at *kimberly.puglise@noaa.gov*. Announcements requesting proposals will be announced on: *http://www.uncw.edu/nurc*, for the NURP Center for the Southeastern U.S. and the Gulf of Mexico; *http://www.perryinstitute.org*, for the NURP Center for the Caribbean, the Caribbean Marine Research Center; and *http://www.soest.hawaii.edu/HURL/*, for the NURP Center for Hawaii and the Western Pacific, the Hawaii Undersea Research Laboratory.

COST SHARING REQUIREMENTS: The awards require a 1:1 federal to non-federal match.

INTERGOVERNMENTAL REVIEW: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Limitation of Liability

Funding for programs listed in this notice is contingent upon the availability of Fiscal Year 2007 appropriations. Applicants are hereby given notice that funds have not yet been appropriated for the programs listed in this notice. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

Universal Identifier

Applicants should be aware that, they are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number during the application process. See the October 30, 2002 **Federal Register**, (67 FR 66177) for additional information. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711 or via the internet *http://www.dunandbradstreet.com*.

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *http://www.nepa.noaa.gov/*, including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216_--6_--TOC.pdf*, and the Council on Environmental Quality implementation regulations, *http://*

ceq.eh.doe.gov/nepa/regs/ceq/toc__ceq.htm.

Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for the denial ofnot selecting an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

Compliance with Department of Commerce Bureau of Industry and Security Export Administration Regulations

(a) This clause applies to the extent that this financial assistance award involves access to export-controlled information or technology.

(b) In performing this financial assistance award, the recipient may gain access to export-controlled information or technology. The recipient is responsible for compliance with all applicable laws and regulations regarding export-controlled information and technology, including deemed exports. The recipient shall establish and maintain throughout performance of the financial assistance award effective export compliance procedures at non-NOAA facilities. At a minimum, these export compliance procedures must include adequate controls of physical, verbal, visual, and electronic access to export-controlled information and technology.

(c) Definitions

(1) *Deemed export.* The Export Administration Regulations (EAR) define a deemed export as any release of technology or source code subject to the EAR to a foreign national, both in the United States and abroad. Such release is ''deemed'' to be an export to the home country of the foreign national. 15 CFR 734.2(b)(2)(ii).

(2) *Export-controlled information and technology.* Export-controlled information and technology is information and technology subject to the EAR (15 CFR parts 730 et seq.), implemented by the DOC Bureau of Industry and Security, or the International Traffic I Arms Regulations (ITAR) (22 CFR parts 120–130), implemented by the Department of State, respectively. This includes, but is not limited to, dual-us items, defense articles and any related assistance, services, software or technical data as defined in the EAR and ITAR.

(d) The recipient shall control access to all export-controlled information and technology that it possesses or that comes into its possession in performance of this financial assistance award, to ensure that access is restricted, or licensed, as required by applicable Federal laws, Executive Orders, and/or regulations.

(e) Nothing in the terms of this financial assistance award is intended to change, supersede, or waive and of the requirements of applicable Federal laws, Executive Orders or regulations.

(f) The recipient shall include this clause, including this paragraph (f), in all lower tier transactions (subawards, contracts, and subcontracts) under this financial assistance award that may involve access to export-controlled information technology.

NOAA implementation of Homeland Security Presidential Directive - 12

If the performance of a financial assistance award, if approved by NOAA, requires recipients to have physical access to Federal premises for more than 180 days or access to a Federal information system. Any items or services delivered under a financial assistance award shall comply with the Department of Commerce personal identity verification procedures that implement Homeland Security Presidential Directive -12, FIPS PUB 201, and the Office of Management and Budget Memorandum M–05–24. The recipient shall insert this clause in all subawards or contracts when the subaward recipient or contractor is required to have physical access to a Federally controlled facility or access to a Federal information system.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements. The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389) are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424 and 424A, 424B, SF LLL, CD–346, SF 424 Research and Related Family, SF 424 Short Organizational Family, SF 424 Individual Form family has been approved by the Office of Management and Budget (OMB) under the respective control numbers 4040–0004, 0348–0044, 0348–0040, 0348–0046, 0605–0001, 4040–0001, 4040–0003, and 4040–0005. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

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

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: June 1, 2006.

Daniel L. Clever,

Deputy Director Acquisition and Grants Office, National Oceanic and Atmospheric Administration.

[FR Doc. 06–5225 Filed 6–9–06; 8:45 am]

BILLING CODE 3510–12–S

Federal Register

Monday,
June 12, 2006

Part V

Department of Commerce

International Trade Administration

Notice of Preliminary Results and Extension of Final Result of Countervailing Duty Administrative Review: Certain Softwood Lumber Products From Canada; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–839]

Notice of Preliminary Results and Extension of Final Result of Countervailing Duty Administrative Review: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on certain softwood lumber products from Canada for the period April 1, 2004, through March 31, 2005. If the final results remain the same as these preliminary results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties as detailed in the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (*See* ''Public Comment'' section of this notice.)

DATES: *Effective Date:* June 12, 2006.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore at (202) 482–3692, or Robert Copyak at (202) 482–2209, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 22, 2002, the Department published in the **Federal Register** (67 FR 36070) the amended final affirmative countervailing duty (CVD) determination and CVD order on certain softwood lumber products from Canada (67 FR 37775, May 30, 2002). On May 2, 2005, the Department published a notice of opportunity to request an administrative review of this CVD order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 22631 (May 2, 2005).[1] The Department received requests that it conduct an aggregate review from, among others, the Coalition for Fair Lumber Imports Executive Committee (petitioners) and the Government of Canada (GOC), as well as requests for review covering an estimated 256 individual companies.[2] On June 30, 2005, we initiated the review covering the period April 1, 2004, through March 31, 2005. *See* 70 FR 37749.

On July 8, 2005, we determined to conduct this administrative review on an aggregate basis, consistent with section 777A(e)(2)(B) of the Tariff Act of 1930, as amended (the Act). *See* the memorandum to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, entitled, ''Methodology for Conducting the Review,'' dated July 8, 2005, which is a public document on file in the Central Records Unit (CRU) in room B–099 of the main Commerce building. The Department further determined that it was not practicable to conduct any form of company-specific review. *Id.*

On July 11, 2005, we issued our initial questionnaire to the GOC as well as to the Provincial Governments of Alberta (GOA), British Columbia (GOBC), Manitoba (GOM), New Brunswick (GONB), Newfoundland (GON), Nova Scotia (GONS), Ontario (GOO), Prince Edward Island (GOPEI), Quebec (GOQ), and Saskatchewan (GOS).

On August 31, 2005, we extended the period for completion of these preliminary results until May 31, 2006, pursuant to section 751(a)(3)(A) of the Act. *See Notice of Extension of Time Limit for Final Results of Countervailing Duty Administrative Review: Certain Softwood Lumber from Canada*, 70 FR 51751 (August 31, 2005).

On October 3, 2005, the GOC, GOA, GOBC, GOM, GONB, GON, GONS, GOO, GOPEI, GOQ, and GOS submitted their initial questionnaire responses. From January through May 2006, we issued a series of supplemental questionnaires to the Federal and Provincial Governments of Canada.

Pursuant to 19 CFR 351.301, the deadline for interested parties to submit factual information is 140 days after the last day of the anniversary month. However, both petitioners and the Canadian parties requested that the Department extend this due date. After a series of extensions, we established that the deadline for interested parties to submit factual information would be December 6, 2005, and that the due date for submitting rebuttal and/or clarifying information would be extended to December 22, 2005. Both petitioners and the Canadian parties submitted factual information by the established deadlines.

Extension of Final Results

Extension of Time Limit for Final Results of Review Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue final results within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the final results of review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend that 120-day period to 180 days. We determine that completion of the final results of the instant review within the 120-day period is not practicable as there are a large number of programs to be considered and analyzed by the Department. In order to complete our analysis, the Department required additional and/or clarifying information after the publication of the preliminary results, and now needs time to review the responses to these requests as well. Given the complexity of these issues, and in accordance with section 751(a)(3)(A) of the Act, we are extending the time period for issuing the preliminary results of reviews by 60 days to 180 days. Thus, the final results of review are due on or about December 4, 2006, which is the next business day after 180 days from the publication date of the preliminary results.

Period of Review

The period of review (POR) for which we are measuring subsidies is April 1, 2004, through March 31, 2005.

Scope of the Review

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under sub-headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or

[1] In the notice of opportunity to request an administrative review of this CVD order, we inadvertently listed an incorrect period of review. We corrected this error in a subsequent notice of opportunity to request an administrative review. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 31422 (June 1, 2005).

[2] Of these 256 company-specific requests, 145 were for zero/*de minimis* rate reviews under 19 CFR 351.213(k)(1).

the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and U.S. customs purposes, the written description of the merchandise subject to this order is dispositive.

As specifically stated in the Issues and Decision Memorandum accompanying the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada*, 67 FR 15539 (April 2, 2002) (*see* comment 53, item D, page 116, and comment 57, item B–7, page 126), available at *http://www.ia.ita.doc.gov*, drilled and notched lumber and angle cut lumber are covered by the scope of this order.

The following softwood lumber products are excluded from the scope of this order provided they meet the specified requirements detailed below:

(1) *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.98.40.

(2) *Box-spring frame kits:* if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1″ in actual thickness or 83″ in length.

(3) *Radius-cut box-spring-frame components*, not exceeding 1″ in actual thickness or 83″ in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.

(4) *Fence pickets* requiring no further processing and properly classified under HTSUS 4421.90.70, 1″ or less in actual thickness, up to 8″ wide, 6′ or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring ¾ inch or more.

(5) *U.S. origin lumber* shipped to Canada for minor processing and imported into the United States, is excluded from the scope of this order if the following conditions are met: (1) The processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and (2) if the importer establishes to the satisfaction of CBP that the lumber is of U.S. origin.

(6) *Softwood lumber products contained in single family home packages or kits*,[3] regardless of tariff classification, are excluded from the scope of this order if the importer certifies to items 6 A, B, C, D, and requirement 6 E is met:

A. The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint;

B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, sub floor, sheathing, beams, posts, connectors, and if included in the purchase contract, decking, trim, drywall and roof shingles specified in the plan, design or blueprint.

C. Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;

D. Softwood lumber products entered as part of a single family home package or kit, whether in a single entry or multiple entries on multiple days, will be used solely for the construction of the single family home specified by the home design matching the entry.

E. For each entry, the following documentation must be retained by the importer and made available to CBP upon request:

i. A copy of the appropriate home design, plan, or blueprint matching the entry;

ii. A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;

iii. A listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered;

iv. In the case of multiple shipments on the same contract, all items listed in E(iii) which are included in the present shipment shall be identified as well.

Lumber products that CBP may classify as stringers, radius cut box-spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this order and may be classified under HTSUS subheadings 4418.90.45.90, 4421.90.70.40, and 4421.90.97.40.

Finally, as clarified throughout the course of the investigation, the following products, previously identified as Group A, remain outside the scope of this order. They are:

1. Trusses and truss kits, properly classified under HTSUS 4418.90;

2. I-joist beams;

3. Assembled box spring frames;

4. Pallets and pallet kits, properly classified under HTSUS 4415.20;

5. Garage doors;

6. Edge-glued wood, properly classified under HTSUS item 4421.90.98.40;

7. Properly classified complete door frames;

8. Properly classified complete window frames;

9. Properly classified furniture.

In addition, this scope language has been further clarified to now specify that all softwood lumber products entered from Canada claiming non-subject status based on U.S. country of origin will be treated as non-subject U.S.-origin merchandise under the CVD order, provided that these softwood lumber products meet the following condition: Upon entry, the importer, exporter, Canadian processor and/or original U.S. producer establish to CBP's satisfaction that the softwood lumber entered and documented as U.S.-origin softwood lumber was first produced in the United States as a lumber product satisfying the physical parameters of the

[3] To ensure administrability, we clarified the language of exclusion number 6 to require an importer certification and to permit single or multiple entries on multiple days as well as instructing importers to retain and make available for inspection specific documentation in support of each entry.

softwood lumber scope.[4] The presumption of non-subject status can, however, be rebutted by evidence demonstrating that the merchandise was substantially transformed in Canada.

On March 3, 2006, the Department issued a scope ruling that any product entering under HTSUS 4409.10.05 which is continually shaped along its end and/or side edges which otherwise conforms to the written definition of the scope is within the scope of the order.[5]

Subsidies Valuation Information

Allocation Period

In the underlying investigation and pursuant to 19 CFR 351.524(d)(2), the Department allocated, where applicable, all of the non-recurring subsidies provided to the producers/exporters of subject merchandise over a 10-year average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. *See Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Determination: Certain Softwood Lumber Products From Canada*, 66 FR 43186 (August 30, 2001) (*Preliminary Determination*); *see also Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products From Canada*, 67 FR 15545 (April 2, 2002) (*Final Determination*). No interested party challenged the 10-year AUL derived from the IRS tables. Thus, in this review, we have allocated, where applicable, all of the non-recurring subsidies provided to the producers/exporters of subject merchandise over a 10-year AUL.

Recurring and Non-Recurring Benefits

The Department has previously determined that the sale of Crown timber by Canadian provinces confers countervailable benefits on the production and exportation of the subject merchandise under 771(5)(E)(iv) of the Act because the stumpage fees at which the timber is sold are for less than adequate remuneration. *See, e.g.*, ''Recurring and Non-Recurring Benefits'' section of the March 21, 2002, Issues and Decision Memorandum that accompanied the *Final Determination* (*Final Determination Decision Memorandum*); *see also* ''Recurring and Non-Recurring Benefits'' section of the December 5, 2005, Issues and Decision Memorandum (*Final Results of 2nd Review Decision Memorandum*) that accompanied the *Notice of Final Results of Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada, 70 FR 73448*, (December 12, 2005) (*Final Results of 2nd Review*). For the reasons described in the program sections, below, the Department continues to find that Canadian provinces sell Crown timber for less than adequate remuneration to softwood lumber producers in Canada. Pursuant to 19 CFR 351.524(c)(1), subsidies conferred by the government provision of a good or service normally involve recurring benefits. Therefore, consistent with our regulations and past practice, benefits conferred by the provinces' administered Crown stumpage programs have, for purposes of these preliminary results, been expensed in the year of receipt.

In this review the Department is also examining non-stumpage programs that involve the provision of grants to producers and exporters of subject merchandise. Under 19 CFR 351.524, benefits from grants can either be classified as providing recurring or non-recurring benefits. Recurring benefits are expensed in the year of receipt, while grants providing non-recurring benefits are allocated over time corresponding to the AUL of the industry under review. However, under 19 CFR 351.524(b)(2), grants which provide non-recurring benefits will also be expensed in the year of receipt if the amount of the grant under the program is less than 0.5 percent of the relevant sales during the year in which the grant was approved (referred to as the 0.5 percent test).

Benchmarks for Loans and Discount Rate

In selecting benchmark interest rates for use in calculating the benefits conferred by the various loan programs under review, the Department's normal practice is to compare the amount paid by the borrower on the government-provided loans with the amount the firm would pay on a comparable commercial loan actually obtained on the market. *See* section 771(5)(E)(ii) of the Act; 19 CFR 351.505(a)(1) and (3)(i). However, because we are conducting this review on an aggregate basis and we are not examining individual companies, for those programs requiring a Canadian dollar-denominated, long-term benchmark interest rate, we used for these preliminary results the national average interest rates on commercial long-term Canadian dollar-denominated loans as reported by the GOC.

The information submitted by the GOC was for fixed-rate long-term debt. For long-term debt, the GOC provided quarterly rates using data from Statistics Canada's (STATCAN) Quarterly Survey of Financial Statistics for Enterprises. We used the information from this survey as the basis for our long-term loan benchmark.

Some of the reviewed programs provided long-term loans to the softwood lumber industry with variable interest rates instead of fixed interest rates. Because we were unable to gather information on variable interest rates charged on commercial loans in Canada, we have used as our benchmark for those variable loans the rate applicable to long-term fixed interest rate loans for the POR as reported by the GOC.

As stated above, the Department is examining non-stumpage programs that confer non-recurring benefits. For those non-stumpage programs that require the allocation of the benefit over time, we have employed the allocation methodology described under 19 CFR 351.524(d). As our discount rate, we have used the rate applicable to long-term fixed interest rate loans for the POR, as reported by the GOC.

Aggregate Subsidy Rate Calculation

As noted above, this administrative review is being conducted on an aggregate basis. We have used the same methodology to calculate the country-wide rate for the programs subject to this review that we used in the *Final Determination*, the *Notice of Final Results of Countervailing Duty Administrative Review and Rescission of Certain Company-Specific Reviews: Certain Softwood Lumber Products from Canada*, 69 FR 75917 (December 20, 2004) (*Final Results of 1st Review*), and the *Final Results of 2nd Review.*

Provincial Crown Stumpage Programs

For stumpage programs administered by the Canadian provinces subject to this review, we first calculated a provincial subsidy rate by dividing the aggregate benefit conferred under each specific provincial stumpage program by the total stumpage denominator calculated for that province. For further information regarding the stumpage denominator, *see* ''Numerator and Denominator Used for Calculating the

[4] *See* the scope clarification message (# 3034202), dated February 3, 2003, to CBP, regarding treatment of U.S.-origin lumber on file in the CRU.

[5] *See* Memorandum from Constance Handley, Program Manager to Stephen J. Claeys, Deputy Assistant Secretary regarding Scope Request by the Petitioner Regarding Entries Made Under HTSUS 4409.10.05, dated March 3, 2006.

Stumpage Programs' Net Subsidy Rates'' section, below. As required by section 777A(e)(2)(B) of the Act, we next calculated a single country-wide subsidy rate. To calculate the country-wide subsidy rate conferred on the subject merchandise from all stumpage programs, we weight-averaged the subsidy rate from each provincial stumpage program by the respective provinces' relative shares of total exports to the United States during the POR. As in *Final Determination* and subsequent reviews, these weighted-averages of the subject merchandise do not include exports from the Maritime Provinces or sales of companies excluded from the CVD order.[6] We then summed these weighted-average subsidy rates to determine the country-wide rate for all provincial Crown stumpage programs.

Other Programs

We also examined a number of non-stumpage programs administered by the Canadian Federal Government and certain Provincial Governments in Canada. To calculate the country-wide rate for these programs, we used the same methodology employed in the first and second administrative reviews. For Federal programs that were found to be specific because they were limited to certain regions, we calculated the countervailable subsidy rate by dividing the benefit by the relevant denominator (*i.e.*, total production of softwood lumber in the region or total exports of softwood lumber to the United States from that region), and then multiplying that result by the relative share of total softwood exports to the United States from that region. For Federal programs that were not regionally specific, we divided the benefit by the relevant country-wide sales (*i.e.*, total sales of softwood lumber, total sales of the wood products manufacturing industry (which includes softwood lumber), or total sales of the wood products manufacturing and paper industries).

For provincial programs, we calculated the countervailable subsidy rate by dividing the benefit by the relevant sales amount for that province (*i.e.*, total exports of softwood lumber from that province to the United States, total sales of softwood lumber in that province, or total sales of the wood products manufacturing and paper industries in that province). That result was then multiplied by the relative share of total softwood exports to the United States from that province.

Where the countervailable subsidy rate for a program was less than 0.005 percent, the program was not included in calculating the country-wide CVD rate.

Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates [7]

1. Aggregate Numerator and Denominator

As noted above, the Department is determining the stumpage subsidies to the production of softwood lumber in Canada on an aggregate basis. The methodology employed to calculate the *ad valorem* subsidy rate requires the use of a compatible numerator and denominator. In the second administrative review, the Department explained that in the numerator of the net subsidy rate calculation, the Department included only the benefit from those softwood Crown logs that entered and were processed by sawmills during the POR (*i.e.*, logs used in the lumber production process). *See* ''Aggregate Numerator and Denominator'' section and Comment 9 of the *Final Results of 2nd Review Decision Memorandum.* Accordingly, the denominator used for the final calculation included only those products that result from the softwood lumber manufacturing process. *Id.* For purposes of these preliminary results, we continue to calculate the numerator and denominator using the approach adopted in the final results of the second review.[8]

Consistent with the Department's previously established methodology, we included the following in the denominator: Softwood lumber, including softwood lumber that undergoes some further processing (so-called ''remanufactured'' lumber), softwood co-products (*e.g.*, wood chips and sawdust) that resulted from softwood lumber production at sawmills, and residual products produced by sawmills that were the result of the softwood lumber manufacturing process, specifically, softwood fuelwood and untreated softwood ties.

We would have included in the denominator those softwood co-products produced by lumber remanufacturers that resulted from the softwood lumber manufacturing process. However, the GOC failed to separate softwood co-products that resulted from the softwood lumber manufacturing process of lumber remanufacturers from those resulting from the myriad of other production processes performed by producers in the remanufacturing category that have nothing to do with the production of subject merchandise. Lacking the information necessary to determine the value of softwood co-products that resulted from the softwood lumber manufacturing process of lumber remanufacturers during the softwood lumber manufacturing process, we have preliminarily determined not to include any softwood co-product values from the non-sawmill category. *See, e.g.*, Comment 16 of the December 13, 2004, Issues and Decision Memorandum that accompanied the *Final Results of 1st Review* (*Final Results of 1st Review Decision Memorandum*). *See also* Comment 9 of the *Final Results of 2nd Review Decision Memorandum.*

2. Adjustments to Account for Companies Excluded From the CVD Order

In the investigation, we deducted from the denominator sales by companies that were excluded from the CVD order. The Department has since also concluded expedited reviews for a number of companies, pursuant to which a number of additional companies have been excluded from the CVD order. *See Final Results of Countervailing Duty Expedited Reviews: Certain Softwood Lumber Products from Canada: Notice of Final Results of Countervailing Duty Expedited Reviews,* 68 FR 24436, (May 7, 2003); *see also Notice of Final Results of Countervailing Duty Expedited Reviews of the Order on Certain Softwood Lumber from Canada,* 69 FR 10982 (March 9, 2004).

In the second review, the GOC, GOO, and GOQ indicated that the excluded companies in their respective provinces did not harvest Crown timber during the POR. The GOC stated the same with respect to the excluded companies in the Yukon Territories. The GOC, GOO, and GOQ further claimed they did not have any information regarding the volume of lumber and/or Crown logs purchased by the excluded companies during the POR. The respective governments were also unable to provide POR sales data of the excluded companies. *See, e.g.*, ''Adjustments to Account for Companies Excluded from the CVD Order'' section of the *Final Results of 2nd Review Decision*

[6] The Maritime provinces are Nova Scotia, New Brunswick, Newfoundland, and Prince Edward Island.

[7] The denominators used for non-stumpage programs are discussed below in the individual program write-ups.

[8] In the case of Alberta and British Columbia, it was necessary to derive the volume of softwood Crown logs that entered and were processed by sawmills during the POR (*i.e.*, logs used in the lumber production process). Our methodology for deriving those volumes is described in the ''Calculation of Provincial Benefits'' section of these preliminary results.

Memorandum. Thus, pursuant to our prior practice, in the second review, we deducted the sales of all companies excluded from the countervailing duty order from the relevant sales denominators used to calculate the country-wide subsidy rates. Further, consistent with our approach in the first review, because we lacked POR sales data, we indexed the excluded companies' sales data to the POR using province-specific lumber price indices obtained from STATCAN. We then subtracted the indexed sales data of the excluded companies from the corresponding provincial denominators. *Id.* In addition, because Canadian parties stated that the excluded companies did not acquire Crown timber during the POR and because they did not provide any other additional benefit data from the companies, in the second review we did not adjust the aggregate numerator data from the relevant provinces. *Id.*

In keeping with our prior findings, we have continued the approach adopted in the second review. Thus, we have indexed the sales of the excluded companies to the POR using province-specific lumber price indices obtained from STATCAN. We then subtracted the sales of the excluded companies from the corresponding provincial denominators. As in the prior review, we have not made any adjustments to the aggregate numerator data from the relevant provinces.

3. Pass-Through

In the second administrative review, the Canadian parties claimed that a portion of the Crown timber processed by sawmills was purchased by the mills in arm's-length transactions with independent harvesters. The Canadian parties further claimed that such transactions must not be included in the subsidy calculation unless the Department determines that the benefit to the independent harvester passed through to the lumber producers. The GOO, GOBC, British Columbia Lumber Trade Council (BCLTC), GOM, GOS, and GOA based their claims on aggregate data which they argued indicate that subsidy benefits on specified volumes of Crown timber did not pass through to the purchasing sawmills. In the second administrative review, the Ontario Lumber Manufacturing Association and the Ontario Forest Industries Association (OLMA/OFIA) separately submitted company-specific data for several companies in Ontario and Manitoba. The information provided by the OLMA/OFIA included transaction-specific data, statements and certification of non-affiliation, and additional supporting documentation.

In the second administrative review, we employed a two-part test to evaluate the Canadian parties' pass-through claims. First, we examined whether the claims involved log transactions between mills and independent harvesters that were conducted at arm's length between unrelated parties. *See* Comment 5 of *Final Results of 2nd Review Decision Memorandum.* We further specified that the identity of the party that pays the stumpage fee is crucial in determining whether the second part of the analysis is warranted. *Id.* at Comment 4. The identity of the party paying the stumpage is important because, in instances in which the sawmill pays the stumpage fee to the Crown, the subsidy benefits accrue directly to the sawmill just as if it were drawing from its own tenure and contracting out for harvesting and hauling services. *Id.*

In the second administrative review, we further explained that the second part of the pass-through test examines whether the sawmill received a competitive benefit from the purchase of the subsidized logs. *Id.* at Comment 5. The competitive benefit analysis is guided by the provisions of the Department's regulations on upstream subsidies. *See* 19 CFR 351.523. Under this analysis, a competitive benefit exists when the price for the input is lower than the price for a benchmark input price. To conduct the competitive benefit test, we require specific information on each transaction for which parties request a pass-through analysis, which necessitates that they provide more than just aggregate data and more than self-selected sample data. This approach follows from the very nature of the competitive benefit test, an analysis in which the price of subsidized logs sold in individual transactions are compared to a market-determined benchmark price. Specifically, we require the volume and the unit price, by species, for each of the log sales for which Canadian parties sought a pass-through analysis—so that we can compare these sales to our benchmark price. Furthermore, to ensure that the competitive benefit test is accurate and meaningful, we require specific data (*e.g.*, species, size, grade, quality, discount, delivery terms, and payment terms) on the logs sold in the transactions under analysis. These data are necessary in order to further ensure that we conduct our competitive benefit test on an ''apples-to-apples'' basis relative to our benchmark prices. *Id.*

In the second administrative review, we determined that, based on the criteria described above, the GOO, GOBC, BCLTC, GOM, GOS, and GOA each failed to substantiate their respective ''aggregate'' claims. *See* ''Pass-Through'' section and Comments 3 through 5 of the *Final Results of 2nd Review Decision Memorandum.* However, based on our analysis of the company-specific data submitted by the OLMA/OFIA, we determined that a reduction in the Ontario subsidy benefits was warranted. *See* ''Pass-Through'' section and Comments 6 through 7 of the *Final Results of 2nd Review Decision Memorandum.*

In anticipation of a similar claim in this administrative review, we explained in the initial questionnaire that if the Canadian provinces wished to claim that any portion of the reported volume of Crown harvest was sold in arm's-length transactions and that subsidies provided for that portion of the Crown harvest did not pass through to the purchasing sawmill, they must provide such information as (1) a breakdown, by species, of the total volume and value that purportedly did not pass through, excluding sales of logs for which sawmills paid the stumpage fees directly to the Crown and (2) documentation regarding the corporate affiliation of each of the parties involved in their pass-through claim, including the identities of affiliated parties of the purchasing sawmills, the harvesters, and the tenure holders of the tenures from which the logs were harvested. *See, e.g.*, pages III–18 and III–19 of the Department's July 11, 2005, initial questionnaire. In response to the Department's original questionnaire, the Canadian parties provided various sets of information for analysis.

In their October 3, 2005, initial questionnaire response, the GOA and the GOBC/BCLTC each provided an aggregate pass-through claim (with accompanying information) of the amount of Crown timber in the respective provinces that was obtained by sawmills through arm's-length transactions.[9] The GOBC/BCLTC provided company-specific data based on a survey conducted by PriceWaterhouseCoopers (PWC) that contained the total volume and value of logs purchased by 42 sawmills

[9] The GOQ, GOM, and GOS did not make any pass-through claims in this segment of the proceeding. However, the OLMA/OFIA submitted a pass-through claim on behalf of a company with operations in Manitoba. *See* TEM(Manitoba) Volume I, Pass-through questionnaire response of the GOO's October 3, 2005 submission and the May 12, 2006 OFIA/OLMA Supplemental Questionnaire Response. For this particular mill, we analyzed its pass-through claim pursuant to the pass-through analysis described in this section of the preliminary results.

throughout the B.C. interior. *See* Exhibits 3 and 4 of the BCLTC's December 6, 2005, factual submission for the results of the PWC survey. The GOBC/BCLTC submitted revised PWC survey data in Exhibits A and B of the GOBC's March 30, 2006, supplemental questionnaire response. The GOO and the OLMA/OFIA submitted company-specific/transaction-specific data and supporting information for us to analyze with respect to certain sawmills in Ontario and Manitoba. *See* OFIA/OLMA Volume I, Exhibits OFIA/OLMA 1 to OFIA/OLMA 11 of the GOO's October 3, 2005, questionnaire response. On March 2, 2006, we issued a supplemental questionnaire to the GOC and the provincial governments in which we requested that they respond to the pass-through appendix included in the Department's July 11, 2005, initial questionnaire. In their March 30 and April 3, 2006, supplemental questionnaire responses, Canadian parties reiterated their arguments that the pass-through claims made in their initial questionnaire response were sufficient for the Department to find that alleged subsidy benefits on certain volumes of Crown-origin logs did not pass through to the purchasing sawmill and, thus, any such benefits should not be included in the numerators of the provincial benefit calculations. On May 2, 2006, we issued a supplemental questionnaire to the OLMA/OFIA, in which we requested clarification of the data provided. The OLMA/OFIA provided a response on May 12, 2006. *See* OFIA/OLMA's Supplemental Questionnaire Response.

We have reviewed and considered all of the information provided on the record of this administrative review. We find that the GOA and GOBC/BCLTC each failed to provide the information necessary for us to examine whether the claims were with respect to log transactions conducted at arm's length, and whether a competitive benefit was received by the alleged buyer. Regarding the data submitted by the GOO, while the GOO submitted information for each company, it did not provide price data on a transaction-specific basis as requested by the Department and, thus, we lack the information required for the competitive benefit test that is the second part of our pass-through analysis. However, for purposes of these preliminary results, we determine that, based on our analysis of the company-specific/transaction-specific data and information provided by the OLMA/OFIA, a reduction in the Ontario subsidy benefit is warranted. Our analysis and preliminary findings with respect to these claims are detailed, by province, below.

a. Alberta

The GOA claims that the numerator of Alberta's provincial subsidy rate calculation should be reduced to account for fair-market, arm's-length sales of Crown logs between unrelated parties.[10] The GOA asserts that, on the basis of its pass-through claim, at least 1.5 million m^3 of softwood logs should be removed from the numerator of the provincial subsidy rate calculation. *See* page XII–1 of the GOA's October 3, 2005, questionnaire response. The GOA bases its claim on a survey of Timber Damage Assessment (TDA) data that was conducted by a private consulting firm hired by the GOA. The survey is an updated version of the TDA survey upon which the GOA based its pass-through claim in the second administrative review. As explained in the second administrative review, the TDA survey lacks the company-specific and transaction-specific data we require to perform the two steps of our pass-through analysis (*i.e.*, the arm's-length test and the competitive benefit test). *See* Comment 5 of the *Final Results of 2nd Review Decision Memorandum.*

As explained above, on March 2, 2006, we provided the GOA with an opportunity to respond to the pass-through appendix, which was included in the Department's July 11, 2005, initial questionnaire. In its response, the GOA argued that, while it had stated its willingness in the initial questionnaire to provide any additional useful information that it could regarding its pass-through claim, ''the Department is now asking for a massive expenditure of time, resources, and effort that is not feasible, and, in fact is not necessary, in light of reliable information already provided.'' *See* the GOA's March 30, 2006, supplemental questionnaire response. It further argued that the Department should instead conduct its pass-through analysis using the data in the TDA survey. *Id.*[11]

Based on the GOA's questionnaire responses and in keeping with the approach employed in the second administrative review, we preliminarily determine that we are unable to rely on the TDA survey as a basis for the GOA's pass-through claim because it lacks the information we require to perform the two steps of our pass-through analysis. Accordingly, we preliminarily determine that the GOA has failed to substantiate its pass-through claim and, therefore, we have not reduced the numerator of Alberta's provincial subsidy rate calculation, as requested by the GOA.

b. British Columbia

The GOBC claims that the numerator of British Columbia's provincial subsidy rate calculation should be reduced to account for fair-market, arm's-length sales of Crown logs between unrelated parties. Using aggregate data from Interior and Coastal British Columbia, the GOBC estimates that at least 15.6 million m^3 of softwood logs were acquired by sawmills in arm's-length transactions and, thus, the volume of these logs should be removed from the numerator of the provincial subsidy rate calculation. *See* page BC–XIV–2 of the GOBC's October 3, 2005, and page 3 of the GOBC's March 30, 2006, supplemental questionnaire response. In support of this aggregate claim the GOBC provided data from a survey commissioned by the BCLTC and conducted by PWC on what were purported to be arm's-length log purchases by B.C. sawmills. *See* Exhibits 3 and 4 of the BCLTC's December 6, 2005, factual submission for the results of the PWC survey. The GOBC submitted a revised PWC survey in Exhibits A and B of the GOBC's March 30, 2006, supplemental questionnaire response. This survey covered 42 sawmills and, according to the GOBC, accounted for 78 percent of the logs consumed in the B.C. interior. *See* page 3 of the GOBC's March 30, 2006, supplemental questionnaire response. According to the GOBC and BCLTC, the survey provides company- and species-specific data concerning the volume of Crown-origin logs purchased by sawmills from unaffiliated sawmills and log sellers. They further claim the survey separately lists the volume of Crown-origin logs acquired from private lands and affiliated parties by each of the surveyed sawmills. To the extent the Department does not accept their aggregate pass-through claim, the GOBC and BCLTC argue that the Department should, at the very least, conduct its pass-through analysis using the data from the PWC survey. The GOBC and BCLTC contend that the data in the PWC survey demonstrate that a substantial portion of the alleged subsidy benefit attributable to the Crown-origin logs harvested during the

[10] As explained in the ''Calculation of Provincial Benefits'' section of these preliminary results, the numerator of the provincial subsidy rate calculation is the product of the adjusted unit benefit and the total volume of softwood Crown logs that entered and were processed by sawmills during the POR.

[11] The GOA made the same argument concerning the Department's request for a response to its pass-through appendix in the second administrative review. *See,* Comment 5 of the *Final Results of 2nd Review Decision Memorandum.*

POR did not pass through to the purchasing sawmills.

Regarding the GOBC's aggregate estimation and PWC survey, we note that they fail to identify those transactions in which the sawmill pays the stumpage fee directly to the Crown as specified in our July 11, 2005, initial questionnaire. As explained above, we have previously determined that the identity of the party paying the stumpage is important because, in instances in which the sawmill pays the stumpage fee to the Crown, the subsidy benefits accrue directly to the sawmill just as if it were drawing from its own tenure and contracting out for harvesting and hauling services. *See* Comment 5 of the *Final Results of 2nd Review Decision Memorandum.* In addition, the data in the GOBC's aggregate pass-through claim as well as those of the PWC survey fail to document, as instructed by the Department in its initial questionnaire, the corporate relationships of each of the parties involved in the transactions associated with the GOBC's pass-through claim. Furthermore, the GOBC's aggregate estimation and the PWC survey do not contain the transaction-specific data we require in order to perform the competitive benefit test. For example, while the PWC survey provides company-specific log purchase data for 42 sawmills operating in the B.C. interior, these data are consolidated by supplier category (*i.e.*, purchases from sawmills, purchases from sellers without sawmills, purchases from private land); they are not presented on a transaction-specific basis. As explained in the second administrative review, transaction-specific data are required in order for the Department to conduct the competitive benefit component of the pass-through analysis. *See* Comment 5 of the *Final Results of 2nd Review Decision Memorandum.*

In our March 2, 2006, supplemental questionnaire, we provided the GOBC an opportunity to respond to the pass-through appendix included in the Department's initial questionnaire. The GOBC refused to respond to the pass-through appendix, arguing that it was unduly burdensome and that the Department did not need the information solicited in the appendix for it to conduct a pass-through analysis. *See* page 1 of the GOBC's March 30, 2006, response. Instead, the GOBC submitted revised PWC survey data and reiterated its claim that the data it submitted were sufficient for purposes of the Department's pass-through analysis.

Based on our approach in the prior administrative review and in light of the deficiencies in the data submitted by the GOBC and BCLTC, we preliminarily determine that we are unable to rely on the aggregate data submitted by the GOBC or on the PWC survey. On this basis, we preliminarily determine that the GOBC and BCLTC have failed to substantiate their respective pass-through claims and, therefore, we have not reduced the numerator of British Columbia's provincial subsidy rate calculation.

c. Ontario

The GOO claims that the numerator of Ontario's provincial subsidy rate calculation should be reduced to account for fair-market, arm's-length sales of Crown logs between unrelated parties. Specifically, the GOO claims that at least 2,501,472 m^3 of softwood logs were acquired by sawmills in arm's-length transactions and, thus, the volume of logs should be removed from the numerator of the provincial subsidy rate calculation. *See* page ON–267 GOO's October 3, 2005, questionnaire response. In support of its claim, the GOO provided information on log purchases between the 25 largest sawmills in Ontario and tenure holders that do not own a sawmill. *See* Volume 20 of Exhibit ON–PASS–1 of the GOO's October 3, 2005, questionnaire response. In this exhibit, the GOO provided company-specific data indicating, by species, the volume and value of logs that sawmills acquired from each of their respective suppliers. The GOO also identified those sawmills that paid the stumpage fees on behalf of the harvester.[12] *See* Exhibit ON–PASS–2 of the GOO's October 3, 2005, questionnaire response. The OLMA/OFIA separately submitted company-specific information for 11 companies covering numerous sawmills. *See* Volume I of the OFIA/OLMA's October 3, 2005 questionnaire response and the OFIA/OLMA's May 12, 2006 response. The information from the OLMA/OFIA included transaction-specific data regarding sales between sawmills and harvesters, statements and certification of non-affiliation, and additional supporting documentation. The information from the OLMA/OFIA also identified those transactions in which the sawmill paid the stumpage fee to the Crown. *See* the OFIA/OLMA's May 12, 2006 questionnaire response.

As explained above, based on our approach in the second administrative review, we find that a competitive benefit analysis is not warranted in instances in which the sawmill purchasing the log pays the stumpage fee directly to the Crown. In addition, based on the methodology employed in the second administrative review, we find a competitive benefit analysis is not warranted where the Department lacks transaction-specific data. As a result, we have not utilized the data provided by the GOO for our pass-through analysis. However, with respect to the company-specific/transaction-specific information and data provided by the OLMA/OFIA, we accept the certifications by the companies that the transactions they reported were between unaffiliated parties and preliminarily determine that they are sufficient for purposes of conducting a competitive benefit analysis.

For these transactions, we then performed the next step of our pass-through analysis by examining whether the sawmill received a competitive benefit from the purchase of the subsidized logs. Pursuant to 19 CFR 351.523(c), we sought actual or average prices for unsubsidized input products, including imports, or an appropriate surrogate as the benchmark input price. We previously determined in the first and second administrative reviews that there were no private prices in Ontario that were suitable for use as benchmarks to measure the adequacy of remuneration of stumpage fees charged for Crown-origin trees. *See* ''Private Provincial Market Prices'' section and Comments 20 and 21 of the *Final Results of 1st Review Decision Memorandum; see also Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada,* 70 FR 33088 at 33102 (June 7, 2005) (*Preliminary Results of 2nd Review*), and Comment 17 of the *Final Results of 2nd Review Decision Memorandum.* As explained in the ''Provincial Stumpage Programs'' section below, we have reached the same conclusion based on the record in this proceeding.

We also explained in the second review that in Ontario Crown-origin timber supplies a dominant portion of the log market and, as a result, the unit cost of this supply effectively determines the market prices of logs in the province. *See Preliminary Results of 2nd Review,* 70 FR at 33096; *see also* Comment 6 and 17 of the *Final Results of 2nd Review Decision Memorandum.* As demonstrated in this review, as well as in the prior reviews, the prices harvesters charge for logs are effectively determined by the prices they pay for stumpage plus harvesting costs. Because

[12] The GOO refers to sawmills as an ''agent for the Crown'' for transactions between a harvester and a sawmill in which the sawmill pays the stumpage fee to the Provincial Government.

of the relationship between timber (stumpage) and log prices, prices for logs in Ontario would be suppressed by the subsidized prices in the timber markets. As such, log prices in Ontario are unsuitable for purposes of measuring whether a competitive benefit has passed-through in transactions involving sales of Crown logs. *Id.*

Instead, we have turned to private stumpage prices in the Maritimes, which we have found are market-determined, in-country prices. However, because we are measuring the competitive benefit for the sale of subsidized logs, we have derived species-specific benchmark log prices by combining the unsubsidized Maritimes stumpage prices with the various harvest, haul, road, and management costs reported by the GOO.

We then compared the per-unit prices listed for each transaction reported by the OLMA/OFIA that we determined were eligible for a competitive benefit analysis based on our benchmark log prices. If the price per cubic meter was equal to or higher than the benchmark price, we determined that no competitive benefit passed through and the corresponding volume was excluded from the numerator of our calculations. Where the per-unit price was lower than the benchmark price, and where the difference between the benchmark and actual log prices was greater than the province-specific per-unit stumpage benefit, we capped the amount of the subsidy considered to have ''passed through'' by the province-specific per-unit stumpage benefit. As such, the amount of the competitive benefit that was calculated to have passed though in the transaction was never greater than the subsidy granted by the Crown. This approach is consistent with the approach utilized in the second administrative review. *See Preliminary Results of 2nd Review,* 70 FR at 33095–33096; *see also,* the ''Pass-Through'' section of the *Final Results of 2nd Review Decision Memorandum.* The result of these calculations is that only a small portion of the Crown harvest volume originally included in the numerator is excluded from the numerator of our revised subsidy calculations.[13] Accordingly, a small reduction in the Ontario subsidy benefit is warranted. The calculations are business proprietary. *See* the May 31, 2006, Preliminary Calculations Memorandum for Ontario. As noted above, if we were unable to determine that the transaction qualified as an arm's-length transaction or was subject to other conditions (*e.g.*, the stumpage fee for the log was paid directly to the provincial government by the sawmill), then we did not conduct a competitive benefit analysis and the corresponding volume associated with these transactions was not excluded from the numerator of the net subsidy calculation.

d. Quebec

There are two tenure licenses, Forest Management Contracts (FMCs) and Forest Management Agreements (FMAs), that in past reviews the Department has addressed in the context of the pass-through issue. While claiming in its initial questionnaire response that the volume of Crown timber harvested under FMCs and FMAs and subsequently sold in open market transactions are ''undoubtedly arm's length transactions,'' the GOQ did not make a formal pass-through claim with respect to log volumes harvested under these licenses. *See* page QC–144 of its October 3, 2005, questionnaire response. Our treatment of these types of tenure in these preliminary results are discussed below.

FMC Licenses

As explained in the prior review, pursuant to section 102 of the Forestry Act, the GOQ may grant an FMC license to any ''person.'' *See Preliminary Results of 2nd Review,* 70 FR at 33097. Thus, FMC license holders may include companies owning/operating sawmills. We further explained in the prior review that the GOQ often grants FMCs to municipalities in the province. *Id.; see also* page QC–144 of the GOC's October 3, 2005, questionnaire response of the current review in which the GOQ states that the majority of FMC holders are municipalities. In addition, in the second review we explained that sections 104.2 and 104.3 of the Forestry Act stipulate that the holder of an FMC license *must* supply standing timber covered by the license to timber wood processing plants in Quebec in the amount specified on the license's management permit and that this stipulation was also reflected in the standard language of the FMC contract. *See Preliminary Results of 2nd Review,* 70 FR at 33097. Based on this information, in the second review we determined that the FMC volume reported by the GOQ included FMC licenses held by sawmills as well as softwood log volumes that were sold directly by government entities in Quebec (*e.g.*, municipalities) to sawmills. *Id.*

In the current review, the GOQ claims that no sawmills held FMCs during the POR and, thus, were not in the position to purchase Crown timber directly from the Provincial Government under an FMC license. *See* page QC–144 and Exhibit 56 of the GOQ's October 3, 2005, questionnaire response. The GOQ also failed to submit a response to our March 20, 2006, pass-through questionnaire appendix in which it was provided another opportunity to provide information concerning volumes harvested under FMC licenses. As explained in the second administrative review, the volume of timber harvest sold by municipalities to sawmills does not involve an ''indirect'' subsidy and, thus, such transactions are not eligible for the arm's-length analysis because they are no different from instances in which the Provincial Government itself sells the timber to sawmills. *See Preliminary Results of 2nd Review,* 70 FR at 33097. In keeping with the precedent established in the previous review, we preliminarily determine that, with respect to Crown timber sold under FMC licenses, an arm's-length analysis is not warranted. Therefore, we have included all of the FMC harvest volume in the numerator of Quebec's net subsidy calculation.

Regarding the FMC harvest volumes included in the numerator of Quebec's net subsidy calculation, we note that certain volumes lack corresponding value amounts. In the prior review, we explained that these volumes reflected the amount sold by municipalities and that lacking price information for these volumes, as facts available, we applied the unit prices that the GOQ reported for either the remaining amount of FMC volume or for TSFMA volume as appropriate. *See* 70 FR at 33097–33098. *See also,* the May 31, 2006, Preliminary Calculations Memorandum for Quebec. For these preliminary results, we have utilized the same approach. *See* the May 31, 2006, Preliminary Calculations Memorandum for Quebec.

FMA Licenses

We are not including the timber volumes harvested under FMA licenses in the numerator of Quebec's net subsidy calculation. Under section 84.1 of the Forestry Act, an FMA licensee may not be the holder of a wood processing permit or be affiliated with the holder of a wood processing permit. Although the record does not contain the prices which the FMA holders charge their customers for Crown logs, even if the full amount of the subsidy is assumed to pass through to the

[13] We performed the same analysis for the data pertaining to the company with operations in Manitoba. *See* the May 31, 2006, Preliminary Calculations Memorandum for Manitoba.

customer, inclusion of this volume in the numerator has no impact on the portion of the country-wide rate attributable to Quebec. Therefore, we have not included any of the FMA harvest volume in our calculations. This approach is consistent with that employed in the prior review. *See, e.g., Preliminary Results of 2nd Review,* 70 FR at 33098.

Analysis of Programs

Programs Preliminarily Determined To Confer Subsidies

Provincial Stumpage Programs

In Canada, the vast majority of standing timber sold originates from lands owned by the Crown. Each of the reviewed Canadian provinces, *i.e.,* Alberta, British Columbia, Manitoba, Ontario, Quebec and Saskatchewan,[14] has established programs through which it charges certain license holders ''stumpage'' fees for standing timber harvested from these Crown lands. With the exception of British Columbia, these administered stumpage programs have remained largely unchanged. Thus, for a description of the stumpage programs administered by the GOA, GOS, GOM, GOO, and GOQ, *see* ''Description of Provincial Stumpage Programs'' section of the *Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada,* 69 FR 33204 at 33219–33227 (*Preliminary Results of 1st Review*). Changes to British Columbia administered stumpage system are discussed below.

Legal Framework

In accordance with section 771(5) of the Act, to find a countervailable subsidy, the Department must determine that a government provided a financial contribution and that a benefit was thereby conferred, and that the subsidy is specific within the meaning of section 771(5A) of the Act. As set forth below, no new information or argument on the record of this review has resulted in a change in the Department's determinations from the final results of the first and second reviews that the provincial stumpage programs constitute financial contributions provided by the provincial governments and that they are specific.

[14] In this review, we did not examine the stumpage programs with respect to the Yukon Territory, Northwest Territories, and timber sold on federal land because the amount of exports to the U.S. is insignificant and would have no measurable effect on any subsidy rate calculated in this review.

Financial Contribution and Specificity

In the underlying investigation, the Department determined, consistent with section 771(5)(D)(iii) of the Act, that the Canadian provincial stumpage programs constitute a financial contribution because the provincial governments are providing a good to lumber producers, and that good is timber. The Department further noted that the ordinary meaning of ''goods'' is broad, encompassing all ''property or possessions'' and ''saleable commodities.'' *See* ''Financial Contribution'' in the *Final Determination Decision Memorandum.* Further, the Department found that ''nothing in the definition of the term 'goods' indicates that things that occur naturally on land, such as timber, do not constitute 'goods.' '' To the contrary, the Department found that the term specifically includes ''* * * growing crops and other identified things to be severed from real property.'' *Id.* The Department further determined that an examination of the provincial stumpage systems demonstrated that the sole purpose of the tenures was to provide lumber producers with timber. Thus, the Department determined that regardless of whether the provinces are supplying timber or making it available through a right of access, they are providing timber. *Id.* No new information has been placed on the record of this review warranting a change in our finding that the provincial stumpage programs constitute a financial contribution in the form of a good, and that the provinces are providing that good, *i.e.*, timber, to lumber producers. Consistent with our findings in the underlying investigation, we preliminarily continue to find that the stumpage programs constitute a financial contribution provided to lumber producers within the meaning of section 771(5)(D)(iii) of the Act.

In the investigation, the Department determined that provincial stumpage subsidy programs were used by a ''limited number of certain enterprises'' and, thus, were specific in accordance with section 771(5A)(D)(iii)(I) of the Act. More particularly, the Department found that stumpage subsidy programs were used by a single group of industries, comprised of pulp and paper mills, and the sawmills and remanufacturers that produce the subject merchandise. *See* ''Specificity'' section of the *Final Determination Decision Memorandum.* This was true in each of the reviewed provinces. No information in the record of this review warrants a change in this determination and, thus, we preliminarily continue to find that the provincial stumpage programs are specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

Benefit

Section 771(5)(E)(iv) of the Act and 19 CFR 351.511(a) govern the determination of whether a benefit has been conferred from subsidies involving the provision of a good or service. Pursuant to section 771(5)(E)(iv) of the Act, a benefit is conferred by a government when the government provides a good or service for less than adequate remuneration. Section 771(5)(E) further states that the adequacy of remuneration: Shall be determined in relation to prevailing market conditions for the good or service being provided * * * in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of * * * sale. The hierarchy for selecting a benchmark price to determine whether a government good or service is provided for less than adequate remuneration is set forth in 19 CFR 351.511(a)(2). The hierarchy, in order of preference, is: (1) Market-determined prices from actual transactions within the country under investigation or review; (2) world market prices that would be available to purchasers in the country under investigation; or (3) an assessment of whether the government price is consistent with market principles.

Under this hierarchy, we must first determine whether there are actual market-determined prices for timber sales in Canada that can be used to measure whether the provincial stumpage programs provide timber for less than adequate remuneration. Such benchmark prices could include prices resulting from actual transactions between private parties, actual imports, or, in certain circumstances, actual sales from competitively run government auctions. *See* 19 CFR 351.511(a)(2)(i).

The Preamble to the CVD Regulations provides additional guidance on the use of market-determined prices stemming from actual transactions within the country. *See* ''Explanation of the Final Rules '' *Countervailing Duties, Final Rule*, 63 FR 65348, 65377 (November 25, 1998) (the Preamble). For example, the Preamble states that prices from a government auction would be appropriate where the government sells a significant portion of the good or service through competitive bid procedures that are open to everyone, that protect confidentiality, and that are based solely on price. The Preamble also

states that the Department normally will not adjust such competitively bid prices to account for government distortion of the market because such distortion will normally be minimal as long as the government involvement in the market is not substantial. 63 FR at 65377.

The Preamble also states that ''[w]hile we recognize that government involvement in the marketplace may have some impact on the price of the good or service in that market, such distortion will normally be minimal unless the government provider constitutes a majority or, in certain circumstances, a substantial portion of the market. Where it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government's involvement in the market, we will resort to the next alternative in the hierarchy.'' [15]

The guidance in the Preamble reflects the fact that, when the government is the predominant provider of a good or service, there is a likelihood that it can affect private prices for the good or service. Where the government effectively determines the private prices, a comparison of the government price and the private prices cannot capture the full extent of the subsidy benefit. In such a case, therefore, the private prices cannot serve as an appropriate benchmark.

In the first and second administrative reviews, the Department determined that there were no usable private market stumpage prices in the provinces whose stumpage programs are under review that could serve as benchmarks. *See* ''Private Provincial Market Prices'' section of the *Final Results of 1st Review Decision Memorandum*; *see also* ''Use of First-Tier Benchmarks in Measuring Stumpage Programs Administered by the GOA, GOBC, GOO, GOQ, GOM, and GOS'' section of the *Final Results of 2nd Review Decision Memorandum*. For the reasons discussed below, the Department continues to find that there are no private stumpage market prices in the provinces under review that can serve as first-tier benchmarks in Alberta, British Columbia, Manitoba, Ontario, Quebec, and Saskatchewan.

There Are No Useable First-Tier Benchmarks in the Subject Provinces Measuring the Benefit on Stumpage Programs Administered by the GOA, GOBC, GOO, GOQ, GOM, and GOS

In this administrative review, the GOA reported private price data and government competitive bid data as reported in Alberta's 2005 TDA update; the GOO provided an updated survey of private prices prepared by Demers Gobeil Mercier & Associes Inc. (DGM); the GOQ provided private stumpage prices charged in its province; and the GOBC provided prices from auctions the government administers under the B.C. Timber Sales (BCTS) program. As discussed below, we have preliminarily determined that pricing data reported by the GOA, GOO, GOQ, and GOBC are not suitable for use as a benchmark within the meaning of 19 CFR 351.111(a)(2)(i).

1. Province of Alberta

In response to the Department's request for private timber prices, the GOA explained that it did not have such data. *See* GOA's October 3, 2005, questionnaire response, Volume 1 at page IX–1. However, the GOA instead submitted the TDA survey as a source of data for arm's-length, cash only private log sales.[16] *Id.* at Volume 1, page IX–1 and Exhibit AB–S–79. We have examined the data in the updated TDA survey and continue to find that the TDA prices are not suitable for use as benchmarks. *See Preliminary Results of 1st Review*, 69 FR at 33214, ''Private Provincial Market Prices'' section of the *Final Results of 1st Review Decision Memorandum* and at Comment 19, *Preliminary Results of 2nd Review*, 70 FR at 33099, and *Final Results of 2nd Review Decision Memorandum* at ''Pass-Through'' section and Comment 12 in which we made similar findings.

According to the GOA, the TDA program began in the mid-1990s as a means for mediating disputes between timber operators and other industrial operators concerning the value of standing timber adversely affected by industrial operations on timber tenures. Pursuant to these efforts, a consultant collected information on log purchases made by participants in the TDA program. In describing the methodology in past reviews, they stated that ''the values on the {TDA} table are derived by consultants from a two-year average of competitive Commercial Timber Permit (CTP) sales values, as well as the value of arm's-length log purchases, adjusted to stumpage values by backing out harvesting and haul costs.'' *See Preliminary Results of 2nd Review*, 70 FR at 33099.

The GOA's response indicates that the methodology used to report the TDA private timber transaction data for this administrative review has not changed since the period covered by the prior administrative review. *See* page IX–1, Volume 1 of the GOA's October 3, 2005, initial questionnaire. In particular, the GOA states that the TDA survey continues not to differentiate between logs sold that were harvested from private lands and those sold that originated from provincial lands. *Id.* As explained in the prior review, with respect to the TDA survey, the source of the logs and additional information, such as the respective volume and value of the TDA logs sales in Alberta, are highly relevant for determining whether Crown prices affect private prices in the province. *See* Comment 12 of the *Final Results of 2nd Review Decision Memorandum*. Such information is relevant because, as stated in the underlying investigation, ''where the market for a particular good or service is so dominated by the presence of the government, the remaining private prices in the country in question cannot be considered to be independent of the government price.'' *See* the ''There Are No Market-based Internal Canadian Benchmarks'' and ''Private, Provincial, and CTP and CTL Prices as Benchmark'' sections of the *Final Determination Decision Memorandum*.

However, despite the lack of specific information regarding transactions from private lands contained in the TDA survey, the GOA has estimated that only 290,439 m^3 of standing timber were harvested from private lands during the POR. *See* page XII–1 of the GOA's October 3, 2005, questionnaire response. Therefore, even if the entire volume of private transactions were included in the TDA values, the private transactions would comprise only about two percent of the total provincial harvest volume for the POR. As a result, the private transactions are a negligible proportion of the overall harvest and, as such, are overwhelmingly dominated by the Crown-provided timber. *See* Comment 12 of the *Final Results of 2nd Review Decision Memorandum* where the Department reached the same conclusion. Although the TDA survey data have been updated for the POR, the TDA survey methodology has not changed from that which was reported in the investigation and prior administrative reviews. Based on the fact that no new information has been presented that would warrant a change in our position and for the same reasons outlined in the prior review, we preliminarily determine that the prices in the TDA survey cannot be used to determine the amount by which the Alberta stumpage program confers a benefit. *See Final Results of 2nd Review Decision Memorandum* at Comment 12.

[15] *Preamble*, 63 FR at 65377–78 (emphasis added); *see also Hot-Rolled Carbon Steel Flat Products from Thailand, 66 FR at 20259.*

[16] According to the GOA, the TDA survey covers calendar year 2004.

Therefore, based on the record evidence and consistent with the Department's prior determinations, we continue to find that the TDA survey prices cannot serve as an appropriate benchmark.

2. Province of British Columbia

British Columbia did not provide private stumpage prices for the record of this proceeding. Instead, as in the second administrative review, the Province provided prices from auctions the government administers under section 20 of the Forest Act. These auctions were formerly conducted under the Small Business Forest Enterprise Program (SBFEP). In the investigation and first administrative review, the Department determined that the auction prices under the SBFEP program were not suitable for use as benchmarks in determining whether the GOBC sold Crown timber for less than adequate remuneration because the SBFEP auctions were only open to small business forest enterprises. As such, we determined that these prices did not reflect prices from a competitively run government auction, as required by our regulations. *See* 19 CFR 351.511(a)(2)(i) and the Preamble, 63 FR at 65377; *see also* the ''Private Provincial Market Prices'' section of the *Final Results of 1st Review Decision Memorandum* and *Preliminary Results of 1st Review*, 69 FR at 33214.

On June 20, 2003, the Ministry amended the Forest Act to create a new agency called B.C. Timber Sales (BCTS). On November 4, 2003, during the second review, the SBFEP was replaced by the BCTS program. Before the amendment, section 20 sales under the SBFEP were classified under three categories. Category one was broadened to include individuals or corporations that own or lease a timber processing facility. This change effectively eliminated the restriction of section 20 auction sales to small businesses, allowing them to include all applicants in the Province. The second and third categories were subsumed into the new BCTS program largely unchanged, and continue to contain the same restrictions on participants as before the amendments to the law.

The GOBC claimed in the second review that, pursuant to the changes, category one ''unrestricted'' section 20 auction prices may serve as first-tier benchmarks to determine whether Crown timber in British Columbia was sold for less than adequate remuneration. However, in reviewing the changes to the small business program, the Department determined that record evidence did not support the use of the auction prices as benchmarks to measure the adequacy of remuneration for Crown stumpage. For example, the Department concluded that the volume sold at auction is not ''significant'' and does not meet the standard set out in 19 CFR 351.511(a)(2)(i). *See Preliminary Results*, 70 FR at 33100 and Comment 14 of the *Final Results of 2nd Review Decision Memorandum*.

In the second administrative review, the Department further found that the auction prices are effectively limited by Crown stumpage prices paid by Crown tenure-holding sawmills. Thus, the Department determined that the prices for Crown timber auctioned under section 20 of the Forest Act, as amended, are not market-determined prices, but rather reflect prices for administratively set Crown stumpage. We based this conclusion on three factors. First, participants in the auctions included Crown tenure-holding sawmills but, most often, were loggers who then sold the timber to Crown tenure-holding sawmills. Second, the price that Crown tenure-holding mills are willing to pay at auction or, more frequently, to loggers is determined by the price the sawmills pay for Crown stumpage because of the non-binding Annual Allowable Cut (AAC) in British Columbia. Third, the price loggers bid at the auctions is limited by the price they receive from their customers, the largest of whom are tenure-holding sawmills. Based on these factors, we concluded that the auction prices, represented directly or indirectly by sales to Crown tenure-holding sawmills, are effectively determined by Crown stumpage prices. We further determined that the substantial presence of valuations by Crown tenure-holding sawmills within the BCTS prices means that the BCTS auction prices are not market-determined prices as required in the Department's regulations and are not useable as benchmarks for measuring the adequacy of remuneration. *See Preliminary Results of 2nd Review*, 70 FR at 33100 and Comments 13 and 14 of the *Final Results of 2nd Review Decision Memorandum*.

In the current review, the GOBC maintains its position that category one ''unrestricted'' section 20 auction prices may serve as first-tier benchmarks to determine whether Crown timber in British Columbia was sold for less than adequate remuneration. Furthermore, according to the GOBC, effective February 29, 2004, auctions of standing timber are used to determine the stumpage price for the timber harvested under long-term tenures. During the current POR, ''unrestricted'' category one BCTS auction sales accounted for 6.5 percent of the total log harvest compared to 1.1 percent (covering five months) in the second review period. Although the GOBC granted more timber auctions under category one during the current POR than in the previous administrative review, for purposes of these preliminary results we continue to find that the volume of Crown timber sold by the GOBC through these auctions cannot be considered to represent a ''significant'' portion of the timber sold in British Columbia, and that the prices from these auctions, therefore, do not meet a key requirement for their consideration as benchmarks for measuring the adequacy of remuneration for government-provided goods as specified under 19 CFR 351.511(a)(2)(i).

Additionally, the factors noted above that led the Department in the past to conclude that section 20 BCTS auction prices were not suitable for use as benchmarks continue during the current POR. For example, we continue to find that loggers that have acquired Crown-origin timber through the BCTS auctions typically resell the logs to tenure-holding sawmills. *See, e.g., Preliminary Results of 2nd Review*, 70 FR at 33100, citing to a study commissioned by the BCLTC and prepared by Susan Athey and Peter Cramton of Market Design Inc., entitled, ''Competitive Auction Markets in British Columbia'' (BCLTC Study).[17] Furthermore, we continue to find that loggers consider the price they will receive from tenure-holding sawmills and that this price effectively determines what the loggers bid in the BCTS auctions. *See, e.g., Preliminary Results of 2nd Review*, 70 FR at 33101, citing the BCLTC Study which states that sawmills' valuations of logs are reflected in the prices loggers pay at the BCTS auctions.

Moreover, the record of the current review indicates that, as we found in prior periods, the price that Crown tenure-holding mills are willing to pay at auction or, more frequently, to loggers is effectively determined by the price they pay for Crown stumpage because of the non-binding AAC in B.C. *See, e.g., Preliminary Results of 2nd Review*, 70 FR at 33101. The record shows that these large Crown tenure-holding sawmills did not exhaust the amount of timber they could harvest from their tenures during the POR. As such, they

[17] Evidence also indicates that sawmills continue to participate in the BCTS auctions. *See* BC–IV–43 of the GOBC's October 3, 2005, questionnaire response, which indicates that three sawmills were among the 20 largest category one BCTS participants during the POR. The 20 largest BCTS participants accounted for 9 percent of the total BCTS volume billed and harvested during the POR.

were not forced to obtain timber from other sources, such as the BCTS section 20 auctions, because of a scarcity of available timber on their own tenure. Specifically, the Crown tenure-holding sawmills, which hold forest licenses and tree farm licenses, were allocated 64.5 million cubic meters of timber or 82 percent of the AAC, which is the annual rate of timber harvesting specified in each Timber Supply Area (TSA), during the POR. However, these licensees harvested only 54.8 million cubic meters or 85 percent of their AAC, a shortfall of 9.7 million cubic meters. *See* GOBC's October 3, 2005, Questionnaire Response at BC–S–156.

In the current review, the GOBC has argued that BCTS auction prices were used during the POR to determine the stumpage prices for Crown timber harvested under long-term tenures, thereby demonstrating the viability of using the auction prices as benchmarks in the Department's subsidy calculations. However, as noted above, the price loggers bid at the BCTS auctions is limited by the price they receive from their customers, most of which are tenure-holding sawmills that have access to abundant supplies of standing timber in the Crown forest. Therefore, in the absence of new information that would warrant reconsideration of the issue, we preliminarily determine that the factors that led us in earlier periods to conclude that (1) the BCTS auction sale prices are not market-determined and (2) that they reflect prices for administratively set Crown stumpage continued to exist during the POR. Thus, we preliminarily find that section 20 BCTS auction prices cannot be used as valid benchmarks to measure the adequacy of remuneration of B.C.'s administered stumpage system.

3. Province of Ontario

In the first and second administrative reviews, we determined that the prices for private standing timber in Ontario placed on the record by the GOO could not be used for benchmark purposes. Specifically, we determined that the prices reported in surveys commissioned by the GOO could not be used as benchmarks because the prices are effectively determined by the price for public timber. We also concluded that private stumpage prices in Ontario are not useable for benchmark purposes because they cannot be considered to be market-determined prices. *See Preliminary Results of 1st Review*, 69 FR at 33204, 33214–33215; *Final Results of 1st Review Decision Memorandum* at Comments 20 and 21, *Preliminary Results of 2nd Review*, 70 FR at 33088, 33095–33096; and *Final Results of 2nd Review Decision Memorandum* at Comment 16.

As new information for this administrative review, the GOO submitted estimates (based on mill return data) of the volumes of private timber delivered to the various mills during the POR. *See* the GOO's October 4, 2005, questionnaire response at Vol. I, page ON–3 and ON–4 and Vol. 2 at ON–STATS–1. The GOO also submitted a survey of prices of standing timber from private lands conducted by Bearing Point for 2004–2005 and an assessment of the survey by Charles River Associates. *See* the GOO's December 6, 2006, submission at Exhibit 1 and Exhibit 2.[18]

For the reasons described below, the new information submitted by the GOO has not led us to alter our findings from the first and second administrative reviews. In the second administrative review, we determined that information on the record shows that sawmills in Ontario rely on Crown timber for the vast majority of their timber supply needs and use private timber only in relatively small quantities. Evidence on the record of the current review leads us to the same conclusion.

According the GOO, all mills in Ontario that use more than 1000 cubic meters of timber per year are required to be licensed by the MNF, and, as of April 1, 2004, therewere 81 licenced mills which produce softwood lumber.[19] *See* ON–99 through ON–100 of the GOO's October 3, 2005, questionnaire response. The data indicate that 91 sawmills in Ontario reported utilization of softwood timber at the ''commercial'' level of 1000 cubic meters per year, for a total of 15,990,167 million cubic meters. *See* ON–TNR–3 of the GOO's October 3, 2005, questionnaire response and the May 31, 2006, Memorandum to the File from Robert Copyak, Financial Analysts, AD/CVD Operations, Office 3, entitled, ''Ontario Mill Return Data'' (Ontario Mill Return Memorandum). These data also indicate that only 11 of these ''commercial'' mills used private timber exclusively and the other 80 used either Crown timber exclusively or both Crown timber and timber from private lands. These 11 mills account for only 3.62 percent of the total private harvest. The remaining 80 mills account for 99.62 percent of the overall timber consumption by ''commercial'' mills in Ontario and consume 96.38 percent of the timber harvested from Ontario's private forest. Further, the 25 largest sawmills, which account for the large majority of timber consumed in the Province, used more than 11 million cubic meters of Crown timber and over 1 million cubic meters of private timber. Although private timber consumption by these largest 25 sawmills is small relative to their overall consumption (only 8.49 percent), it accounts for 63.28 percent of the all private timber consumed by ''commercial'' producers during the POR. In other words, although the private standing timber market is a minor source of supply for these tenure-holding sawmills, they represent the main market for sellers of private standing timber in Ontario. *See* Exhibit ON–TNR–3, Volume 11 of the GOO's October 3, 2005, questionnaire response and the Ontario Mill Return Memorandum.

The information on the record indicates that the GOO is willing to meet any amount of demand for public timber at a fixed, administratively set price. The allocation and harvest figures provided by the GOO indicate that tenure holders in Ontario are virtually unconstrained in the amount of Crown timber they can obtain from the GOO. During the POR, the GOO made available approximately 30 million cubic meters of public timber, yet loggers and mills in Ontario harvested only 70 percent of this annual allocation. *See* Exhibit ON–TNR–11 of the GOO's October 3, 2005, questionnaire response. Similarly, in each of the last four years, the harvest level never approached the amount allocated by the GOO. Rather, the harvest level ranged from as low as 56.6 percent to no more than 88.9 percent of the annual allocation. *Id.*

With no constraints on the amount of Crown timber that sawmills can obtain, the price that loggers are willing to bid on private stumpage is effectively determined by the difference of the expected sale price of the log and their harvesting costs plus profit. Loggers who sell to tenure-holding mills cannot expect to charge more for their private logs than the cost of the logs that the mills can source from their public tenure. The largest 25 softwood sawmills, producing the vast majority of the lumber in Ontario, have Crown

[18] The GOO submitted copies of price surveys and assessments that it had commissioned for the first and second administrative reviews. *See* the GOO's December 6, 2006, submission at Exhibits 4–7.

[19] In the first administrative review, the GOO further explained that it is not necessary to obtain a license if the mill consumes less than 1,000 cubic meters of timber a year, stating that anything less than 1,000 cubic meters is not considered a commercial quantity. *See* page 2 of the June 2, 2004 Memorandum from Robert Copyak, Financial Analyst, AD/CVD Operations, Office 3, to Melissa G. Skinner, Director, Office of AD/CVD Enforcement VI, entitled, ''Verification of Information Submitted In Questionnaire Responses by the Government of Ontario,'' which was submitted as Exhibit ON–VER–1, Volume 20 of the GOO's October 3, 2005, questionnaire response.

tenure for which they pay government-set stumpage prices. As we previously explained, because the AAC in Ontario is not binding, mills with public tenure can always harvest more timber from their tenure and, therefore, are not driven to the private market by demand that cannot be met from their Crown tenure-holdings. *See Final Results of 1st Review Decision Memorandum* at Comments 20 and 21; *see also Final Results of 2nd Review Decision Memorandum* at Comment 16. Their willingness to pay for logs from other sources will be limited by their costs for obtaining timber from their own tenures. Therefore, the prices loggers bid for private stumpage are effectively determined by the public stumpage prices paid by these mills.

Furthermore, at the verification conducted during the investigation, GOO officials explained that the allocation of public timber is based on elaborate five-year plans and annual forecasts.[20] They then explained that harvest levels fluctuate but the overall harvest need only remain below the five-year target:

> The yearly forecast harvest amounts differ from the yearly actual harvest amounts. The officials explained that this yearly variation is normal because companies need only harvest less than the total AHA for the five-year period. The officials explained that a tenure holder may harvest more one year and less the next year (say in an effort to take advantage of high lumber prices), so long as the overall levels set out in the five-year plan are not exceeded. If there is a drastic change in available harvest area (due to a large fire, for example), then AHAs agreed to in the five-year forest management plans may be altered, with salvage areas being swapped for areas originally slated for harvest.

See GOO Verification Report at page 10; *see also Final Results of 2nd Review Decision Memorandum at Comment 16*.

As noted above, the data indicate that the yearly ''planned'' allocation amounts far exceed the actual amounts harvested in each of the last four years. The GOO reported that the private timber harvest destined to softwood sawmills during the POR was 1,072,233 cubic meters. *See* Exhibit ON–STATS–1, Volume 2 of the GOO's October 3, 2005, questionnaire response. Thus, the amount of public timber allocated by the GOO for the POR was greater than the public and private harvest combined. In addition, the total amount of public timber harvested during the five-year planning period did not approach the amount allocated for the period. *See Id.* at ON–TNR–11.

With regard to the argument that the comparability of private prices and public prices indicates that tenure holders do not have leverage with regard to negotiating with private sellers, in the second administrative review we found that, given the fact that the public price is fixed, if anything, such comparability could indicate the opposite. The market for private standing timber in Ontario is determined by the vast supply of Crown timber because the allocation of timber by the GOO is such that tenure holders may obtain as much timber from the Crown as they choose. Because the allocation of Crown timber to tenure holders exceeds the tenure holders' demand, tenure holders would only be willing to purchase private timber at prices which result in a net outlay equivalent to the cost of public timber. Private land owners are, therefore, faced with the choice of selling at a price equivalent to the public price or foregoing a sale. Although the private land owners are ''price takers'' in one sense, this type of ''price taking'' is not the result of a functional competitive market. Rather, it is the result of a market dominated by a supplier that does not price or allocate its supply using market mechanisms. The fact that private timber from Ontario is purchased by parties in Quebec or the United States is not necessarily indicative of a functional market for timber in Ontario. It simply indicates that Ontario private prices are comparable to or lower than other available stumpage prices. *See Final Results of 2nd Review Decision Memorandum* at Comment 16.

For the above reasons, the Department finds that the transactions recorded in the Bearing Point survey are effectively determined by the Crown stumpage prices and are, hence, not suitable benchmarks for assessing adequacy of remuneration. No new information has been provided on the record to warrant reconsideration of this determination.

4. Province of Quebec

In the first and second administrative reviews, we concluded that prices for private standing timber in Quebec could not serve as benchmarks for determining whether the GOQ sells Crown timber for less than adequate remuneration because the incentives that tenure holders face vis-a-vis the private market are distorted. We based our conclusion on the following factors:

- Tenure-holding sawmills have an interest in maintaining a low value of standing trees in private forests, as this value provides the basis for calculating Crown timber prices (the Feedback Effect).
- Sawmills with access to Crown timber can avoid sourcing in the private forest because, among other things, the annual allowable cut on Crown land is not binding.
- Tenure-holding sawmills dominate the private market.
- Sawmills without access to Crown timber account for small harvest volume in the private forest.

See Preliminary Results of 1st Review, 69 FR at 33215–33217, *Final Results of 1st Review Decision Memorandum* at Comments 22 through 33, Preliminary Results of 2nd Review, 70 FR at 33102, and *Final Results of 2nd Review Decision Memorandum* at Comments 18 and 19.

A review of the information on the record of this review has not led us to alter this finding. Similar to the first and second administrative reviews, the GOQ provided the aggregate sourcing patterns of Quebec's 1,000 softwood sawmills during 2004. The mills were divided into four categories: mills sourcing exclusively from public sources (purely public mills), mills sourcing exclusively from private sources (purely private mills), mills sourcing from public and private sources, and mills sourcing from public, private, and other (*e.g.*, imports) sources (public/private/other mills).[21] Analysis of the data provided shows that the purely private mills identified by the GOQ sourced 317,040 cubic meters of softwood timber which accounted for only 0.89 percent (*i.e.*, 317,040m^3/ 35,642,392m^3) of the volume of softwood harvested in the province. *See* GOQ's stumpage response at Exhibits QC–S–47–48, and GOQ's

[20] Ontario uses the term ''available harvest area'' (AHA) rather than ''annual allowable cut'' (AAC) for harvest planning purposes. AHAs are set for five years in the five-year forest management plans. The management unit's AHA is calculated based on adjusted net area (total area in the unit minus lakes and protected areas) and the ages and species of the stands. The officials stated that sustainable forestry is the goal, so considerations such as species preservation and wildlife habitat are taken into account. The officials explained that, in general, about 0.5 percent of the area of each management unit is harvested annually.'' *See* page 9 of the February 15, 2002, Memorandum to Melissa Skinner, Director, Office of AD/CVD Enforcement VI, from Robert Copyak and David Salkeld, Case Analysts, Office of AD/CVD Enforcement VI, titled ''Countervailing Duty Investigation of Certain Softwood Lumber Products from Canada: Verification of Questionnaire Responses Submitted by the Government of Ontario'' and included in ON–VER–1 of the GOO's October 3, 2005 questionnaire response (GOO Investigation Verification Report).

[21] In this review, the GOQ claims that, due to changes to its Forestry Act, sawmills processing less than 2,000 cubic meters of timber per year no longer have to obtain permits and thus, are also not required to report log consumption information to the provincial government. As a result, there are 700 hundred small sawmills for which the GOQ claims it cannot provide any information regarding sourcing patterns. *See* GOQ's October 3, 2005, stumpage response at page QC–46.

May 8, 2006, supplemental stumpage response at Exhibit 123; *see also* the May 31, 2006, Memorandum to the File from Brian Ledgerwood, ''Quebec Internal Price Memorandum'' (Quebec Internal Price Memorandum). Further, record evidence indicates that the average consumption rate of the 120 purely private mills identified by the GOQ continues to be small, on average approximately 2,642 cubic meters, relative to the 148 dual-source mills, (*i.e.*, mills that source from public and private sources),[22] whose average consumption rate was approximately 169,422 cubic meters. *Id.*

In addition, evidence on the record of this review indicates that dual-source mills dominate the market for private standing timber. The 148 dual-source mills accounted for 90.76 percent of the private timber harvested in 2004 (*i.e.*, pub/priv = 45.82% + pub/priv/oth = 44.94%). *Id.* At the same time, dual-source mills obtained only a small percentage of their total harvest during 2004 from private lands. For instance, public/private/other mills obtained 19.34 percent of their total harvest from the private forest while public/private mills sourced just 9.20 percent of their softwood from the private forest. *Id.* Thus, the data continue to indicate that the public stumpage market is a much more important sourcing component for dual-source mills and, thus, continues to be the market on which these mills focus the majority of their interests and operations.

As in the first and second administrative reviews, record evidence indicates that the dominance of the dual-source mills is pronounced at the corporate level. In the GOQ's May 8, 2006, response at Exhibit 141, the GOQ provided actual consumption data for 185 of Quebec's softwood sawmills.[23] The data in the GOQ's May 8, 2006, response at Exhibit 141 indicate that in 2004 six corporations, whose mills source from both public and private sources, consumed approximately 55 percent of the total timber harvest, 63 percent of the public harvest, and 32 percent of the private harvest. *See* Table 2 of the Quebec Internal Price Memorandum. Further, sorting the data in Exhibit 141 by private timber consumption indicates that 20 corporations (14 of which operate dual-source mills) account for over 72 percent of the private timber harvest. *See* Table 3 of the Quebec Internal Price Memorandum. However, while these orporations consume the majority of private timber in Quebec, private-origin timber accounts, on a weighted-average basis, for 11 percent of their inputs while public timber accounts for 81 percent.

In addition, information on the record of this review indicates that there have been no changes to Quebec's Forestry Act that would lead us to alter our previous findings that feedback effects inherent in the GOQ's administered stumpage system encourage tenure holders to maintain low prices for private timber. We also continue to find that sawmills with access to Crown timber can avoid sourcing in the private forest. Therefore, for purposes of these preliminary results, we find that private prices for standing timber in Quebec cannot serve as benchmarks within the meaning of 19 CFR 351.511(a)(2)(i) when determining whether the GOQ sells Crown timber for less than adequate remuneration, because these prices are distorted by a combination of the GOQ's administered stumpage system, the relative size of public and private markets, feedback effects between the private and public markets, and a non-binding AAC.

5. Provinces of Manitoba and Saskatchewan

With respect to Manitoba and Saskatchewan, the provincial governments did not supply private market timber prices upon which to base a first-tier benchmark arising from those provinces.

Private Stumpage Prices in New Brunswick and Nova Scotia May Serve as a First-Tier Benchmarks in the Subject Provinces

As in the first and second administrative reviews, the GONB and GONS submitted on the record of this review, private stumpage prices for New Brunswick and Nova Scotia (together, the Maritimes). These prices are contained in separate price surveys prepared by AGFOR, Inc. Consulting (AGFOR) for each of the Maritime governments. *See* New Brunswick AGFOR Report at Exhibit 4 of the GONB's October 3, 2005, questionnaire response. *See* Nova Scotia AGFOR Report at Exhibit 6 of the GONS's October 3, 2005, questionnaire response. These are the same private price surveys that were on the records of the first and second administrative reviews. In its initial questionnaire response, the GONS submitted a new report on private stumpage prices collected by Innovative Resource Elements (IRE) between July 1, 2004, and December 31, 2004, and January 1, 2005, and June 30, 2005. *See* Survey Results and Prices for Standing Timber Sales from Nova Scotia Private Woodlots for the period July 1 to December 31, 2004, prepared by IRE (August 3, 2005) (''2004 IRE Report''), at Exhibit 5 of the GONS's October 3, 2005, questionnaire response and Survey Results and Prices for Standing Timber Sales from Nova Scotia Private Woodlots for the period January 1 to June 30, 2005, prepared by IRE (November 21, 2005), at Exhibit 3 of the GONS's January 31, 2006, supplemental questionnaire response. Nova Scotia Primary Forest Products Marketing Board (NSFPMB) commissioned the study. IRE claims that it conducted the stumpage price study using a survey methodology created by AGFOR in 2004. The IRE reports collected price data similar to that collected by AGFOR in its previous Nova Scotia and New Brunswick reports.

In the first and second administrative reviews, we determined that private stumpage prices in the Maritimes constituted market-determined, in-country prices consistent with the first tier of the adequate remuneration hierarchy of 19 CFR 351.511(a)(2). Therefore, we used these prices to assess the adequacy of remuneration of the Crown stumpage provided by the GOA, GOM, GOO, GOQ, and GOS. *See, e.g.*, the ''Private Stumpage Prices in New Brunswick and Nova Scotia'' section and Comments 34, 35, 37, and 38 of the *Final Results of 1st Review Decision Memorandum; see also* Comments 20 through 25 of the *Final Results of 2nd Review Decision Memorandum.* As explained in the first and second administrative reviews, record evidence indicated that in establishing their Crown stumpage rates, the Maritimes consider the prevailing prices for stumpage in the private market and the calculations for the Crown stumpage rates are thus directly linked to actual market-based transactions in the private market. *See e.g. ,Preliminary Results of 2nd Review,* 70 FR at 33103. In addition, in the first and second administrative reviews, we

[22] As explained above, the GOQ no longer collects consumption information for sawmills consuming less than 2,000 cubic meters of timber per year. Information from the first and second reviews indicates that the purely private mill category is dominated by mills with very small operations. We note that in the first and second reviews, the GOQ indicated that these small sawmills source exclusively from the private forest. *See, e.g., Preliminary Results of 2nd Review*, 70 FR at 33102. Thus, the average consumption of sawmills in the purely private category is likely even smaller than the data from the GOQ indicate.

[23] These 185 mills accounted for the vast majority (88.55 percent—*i.e.*, 29,482,951/33,294,432) of the softwood lumber processed in the Province during the POR. *See* GOQ's May 8, 2006 response at Exhibits 123 and 141). Thus, we find that the data in the GOQ's May 8, 2006 response at Exhibit 141 provide a reasonable summary of the consumption patterns of Quebec's softwood sawmills in operation during 2004.

found that the private supply of standing timber constitutes a significant portion of the overall market in the Maritimes. *See e.g., Preliminary Results of 2nd Review,* 70 FR at 33103. During the POR of this administrative review, private supply accounts for 50 percent of the total harvest in New Brunswick and over 91 percent in Nova Scotia. *See* 2003 Timber Utilization Survey (''TUS'') at Exhibit 1 of the GONB's October 3, 2005, questionnaire response and Registry of Buyers 2004 Calendar Year at Exhibit 1 of the GONS's October 3, 2005, submission.

Although interested parties have contested our use of Maritimes' private stumpage prices in this review, we find their comments do not contain any new evidence or argument that would warrant a reconsideration of our prior finding. For example, the argument that Maritimes' private stumpage prices do not reflect prevailing market conditions in the subject provinces is fully addressed in the first and second administrative reviews. *See Final Results of 1st Review Decision Memorandum* at Comment 38; *See also Final Results of 2nd Review Decision Memorandum* at Comments 20 to 25. Thus, we preliminarily determine that the Maritimes' private prices are market-determined prices in Canada, and are, therefore, usable under the first tier of our adequate remuneration hierarchy. Consistent with our approach in the first and second administrative reviews, we have used Maritimes' private prices to measure the adequacy of remuneration of the stumpage programs administered by the GOA, GOS, GOM, GOO, and GOQ.[24]

With respect to New Brunswick, we continue to rely on the private stumpage price information contained in the New Brunswick AGFOR Report. However, regarding Nova Scotia, for purposes of these preliminary results we are basing our benchmark on data from the IRE Report. Like the Nova Scotia AGFOR Report, the IRE Report is based on a survey of stumpage fees charged on sales of standing timber in Nova Scotia's private forest. Further, record evidence indicates that the IRE Report followed a survey methodology designed by the same firm that produced the Nova Scotia AGFOR Report. *See* IRE 2004 Report at p. 9. Moreover, the IRE Report reflects private price data that correspond to the POR, as opposed to the data in the Nova Scotia Report, which tracked private stumpage prices charged during 1999.

Comparability of Maritimes Standing Timber and Standing Timber in Alberta, Manitoba, Ontario, Quebec, and Saskatchewan

The IRE and New Brunswick Reports contain prices for the general timber species category of eastern SPF.[25] SPF species are also the primary and most commercially significant species reported in the species groupings for Quebec, Ontario, Manitoba, Saskatchewan and Alberta, accounting for over 97 percent of the entire timber harvest across these provinces.[26]

In the first and second administrative reviews, we found that although there is some minor variation of the relative concentration of individual species across provinces, this does not affect comparability for benchmark purposes. *See, e.g., Preliminary Results of 1st Review,* 69 FR at 33219; and ''Private Stumpage Prices in New Brunswick and Nova Scotia'' section of the *Final Results of 1st Review Decision Memorandum* and at Comment 38; *see also Preliminary Results of 2nd Review,* 70 FR at 33104 and Comments 21 and 25 of the *Final Results of 2nd Review Decision Memorandum.* We further found that the provinces themselves do not generally differentiate between these species; rather, they tend to group all SPF species into one category for data collection and pricing, *e.g.*, Quebec charges one stumpage price for ''SPF.'' *See e.g.*, Comment 25 of the *Final Results of 2nd Review Decision Memorandum.*

As in the past review, petitioners contend that it is not appropriate to measure the adequacy of the GOA's administered stumpage system using a Maritimes benchmark. In addition to reiterating arguments from the second administrative review, petitioners assert that new information concerning the regional and species make-up of Alberta's Crown harvest supports their contention that it is inappropriate to use a Maritimes benchmark to measure the adequacy of remuneration of the GOA's administered stumpage system. Using a report produced by the Alberta Forest Products Association that lists sawmill consumption in Alberta by region, petitioners estimate that nearly two-thirds of Alberta's softwood harvest comes from the southwestern region bordering the Rockies. *See e.g.*, page 14 of petitioners' May 1, 2006, pre-preliminary results filing. Petitioners argue that this new information disproves the GOA's previous claims that over 80 percent of the Alberta harvest comes from the norther portion of the province. Petitioners assert that the southwestern region of Alberta is in an eco zone that more closely resembles British Columbia and, thus, is not at all similar to the Maritimes.

Petitioners further argue that evidence submitted by the GOA indicates that lodgepole pine is the dominant species in Alberta, which is absent in any of the eastern provinces. *Id.* at page 18.[27] Petitioners argue that lodgepole pine is a Western SPF species that is inherently larger than other species growing in the province and is certainly much larger than any of the Eastern SPF species present in the Maritimes. Petitioners assert that the disparity in the size of lodgepole pine is particularly pronounced in southwestern Alberta. *Id.* at 17–18.

In the first and second administrative reviews, the Department relied on survey data obtained by KPMG in determining that the average diameter at breast height (DBH) of standing timber in Alberta was 8 inches. *See, e.g., Preliminary Results of 2nd Review,* 70 FR at 33104. In the current review, the GOA submitted an updated version of the survey in its initial questionnaire response. *See* the study conducted by Bearing Point, which was included as Exhibit AB–S–25 of the GOA's October 3, 2005, questionnaire response. This survey indicates that the average DBH of SPF species in Alberta is 8.04 inches. Petitioners contend that the DBH measurements contained in the Bearing Point survey were based on inventory data and, thus, include both mature and immature trees. As a result, petitioners argue that the average DBH reported in the study is understated due to the inclusion of young trees. Petitioners further claim that the Bearing Point study does not specify that any of the timber included in the survey was harvested for lumber production. Referencing data they submitted on the record of the second administrative review and netting out trees they claim are too small to produce lumber,

[24] In the first and second administrative reviews, we determined that Maritimes' private prices were not the most appropriate benchmark for British Columbia. *See e.g.*, ''Benchmark Prices for B.C.'' section of the *Final Results of 1st Review Decision Memorandum; See also* ''Selection of Benchmark Price Used for British Columbia'' section of the *Final Results of 2nd Review Decision Memorandum.* We have continued to adopt this approach in the current review. *See* ''Maritimes Prices are not the most appropriate Benchmark for British Columbia'' section of these preliminary results for further discussion.

[25] This category includes, among other species, white spruce, black spruce, red spruce, jack pine, and balsam fir, and represents the vast majority of the species harvested in the Maritimes.

[26] 98.5 percent for Quebec, 93.5 percent for Ontario, 99.89 percent for Saskatchewan, 99.64 percent for Manitoba, and 99.9 percent for Alberta.

[27] Petitioners argue that information from the GOA demonstrates that lodgepole pine accounts for 45 percent of Alberta's harvest.

petitioners estimate that the average DBH of SPF trees that entered Alberta's sawmills was, in fact, 9.74 inches. They argue, therefore, that trees in Alberta are too large to be compared to trees in the Maritimes, which the Department has found to average 7.8 inches DBH. *See*, *e.g.*, petitioners' presentation attached to the April 18, 2006, memorandum to the file from Eric B. Greynolds, Program Manager, Office 3, Operations titled, ''Ex Parte Meeting with Counsel to the Coalition for Fair Lumber Imports Concerning the Upcoming Preliminary Results'; see also page 18 and 19 of petitioners' May 1, 2006, filing.

On this basis, petitioners argue that the Department should measure the adequacy of remuneration of Alberta's administered stumpage program using log prices from Montana. At the very least, petitioners argue that the Department should use a Montana-based log benchmark to measure the adequacy of remuneration of lodgepole pine harvested from Alberta's Crown forest. *See* page 24 of petitioners' May 1, 2006, submission.

We disagree with petitioners' argument that differences due to forest conditions, ecosystems, climate, geography, species variations and differences in timber quality warrant refusing to use Maritimes'-based price data for measuring adequacy of remuneration with respect to the provinces located east of British Columbia. As explained in the second administrative review, in terms of species, the Maritimes benchmark consists of prices for the Eastern SPF species group, which includes jack pine, balsam fir, and black, red and white spruce. We have grouped these timber species together for benchmark purposes because the various species share similar characteristics that allow them to be commercially interchangeable in lumber applications (*i.e.*, the lodgepole pine species is considered commercially interchangeable with the pine species that comprise the Eastern SPF classification). Due to the fact that the precise mix of the species will vary in the SPF grouping, the interchangeability of the individual species that comprise the SPF species group eliminates the need to identify a species-specific benchmark for lodgepole pine in Alberta. As a result, the lack of lodgepole pine in the Maritimes does not compromise the adequacy of the Maritimes SPF benchmark for comparison to Alberta's timber in the benefit calculations. *See* Comment 21 of the *Final Results of 2nd Review Decision Memorandum.* In fact, petitioners themselves have claimed that different species within the SPF species category are interchangeable:

> Any comparisons based on log prices should be species-specific. With the exception of the BC Coast, however, the large majority of Canadian timber falls into the spruce-pine-fir (''SPF'') category, which is generally recognized as commercially interchangeable.

See Preliminary Results of 2nd Review, 70 FR at 33104.[28]

Furthermore, in these preliminary results we continue to find that record evidence demonstrates that SPF trees from the Maritimes and Alberta are comparable across their entire growing range, as evidenced by diameter.[29] As noted in the second administrative review, tree diameter is one of the most important characteristics in terms of lumber use. *Id.* In the current review, the data in the Bearing Point study and from the Maritimes continue to indicate that the average DBH in Alberta and New Brunswick is 8.04 and 7.8 inches, respectively.

We disagree with petitioners' assertion that the Bearing Point survey relies on inventory data and, therefore, understates the average DBH in Alberta. The Bearing Point study clearly indicates that it was based on ''coniferous timber *harvested* by Alberta softwood lumber producers between April 1, 2004 and March 31, 2005.'' *See e.g.*, page 1 of Exhibit AB–S–25 of the GOA's October 3, 2005, questionnaire response, emphasis added. Further, we disagree with petitioners' claim that the Bearing Point study fails to specify whether the timber covered by the survey was harvested for lumber production. Again, the Bearing Point study clearly indicates that it surveyed ten of Alberta's largest *softwood lumber* producers, which accounted for 56 percent of the softwood harvest for FMA and CTL licensees during the POR. *Id.,* emphasis added.[30]

Petitioners argue that, based on their estimation, the average DBH of softwood timber in Alberta is actually 9.74 inches. First, we note that the source of this estimation is not based on new information. Petitioners submitted this same information during the second administrative review. Regarding the source of information, the Department found it inconclusive given that it did not consistently demonstrate larger DBH measurements than those reported in the studies submitted by the GOA. *See* Comment 25 of the *Final Results of 2nd Review Decision Memorandum.* Further, as explained in the second administrative review, petitioners themselves have conceded that diameter differences do not significantly impact the price of logs for sizes up to 10 inches in diameter:

> {F}or sawlog sizes up to the 10-inch diameter class—the vast bulk of relevant logs in both the U.S. and Canada, outside of the B.C. Coast—log prices do not substantially vary on a per-unit-basis, as long as the logs are of a sufficient size and quality to be sold to sawmills for milling into lumber.

Id.

In this review, petitioners also claim that over 45 percent of tree stems in southwestern Alberta have a diameter of 10 inches or greater. *See* page 23 of petitioners' May 1, 2006, submission. However, on this point, petitioners concede that there are no data available from the GOA to conduct such a precise analysis and, thus, have based this claim on the diameter study submitted in the second administrative review. *Id.* at 22. As stated above, in the second administrative review the Department found petitioners' study ''inconclusive'' and did not rely upon its findings in reaching its determination.

Furthermore, we note that the average DBH of 7.8 inches for the Maritimes is based on merchantable timber. Merchantable timber refers to standing timber that has reached a sufficient maturity level to be harvested. However, unlike the DBH data in the Bearing Point survey that is based on timber harvested by softwood *lumber* mills, the data used to derive the average DBH for the Maritimes makes no distinction between sawlog- and pulplog-sized timber.[31] Thus, the average DBH of logs entering sawmills in the Maritimes may be even closer to that of Alberta than is

[28] In different segments of this proceeding, petitioners have also argued that ''adjustments for species within the SPF group * * * are not necessary.'' *Id.*

[29] We also continue to find that trees in the Maritimes are comparable to those in Quebec, Ontario, Manitoba, and Saskatchewan.

[30] This finding is consistent with the Department's previous determinations that Alberta's calculation of average DBH is reliable. *See, e.g.*, Comment 25 of the *Final Results of 2nd Review Decision Memorandum; see also, e.g.*, page 12 of the February 15, 2002, memorandum to Melissa G. Skinner, Director, Office of AD/CVD Enforcement VI, from Tipten Troidl and Darla Brown, Case Analysts, entitled, ''Countervailing Duty Investigation (CVD) of Certain Softwood Lumber from Canada: Verification of the Questionnaire Responses Submitted by the Government of Alberta (GOA),'' (GOA Investigation Verification Report), which states that the authors of the DBH report contacted large operators in the province who own sawmills and solicited the average DBH of the trees in Alberta ''from which logs were harvested during the POI.'' The public version of the GOA Investigation Verification Report is on file in the CRU.

[31] Pulplogs, which are used in pulpmills, are generally smaller in diameter and less valuable than sawlogs, which are used by sawmills to make lumber.

currently indicated by the average DBHs calculated for the respective provinces.

Therefore, we continue to find that the differences which may exist regarding forest conditions, climate, geography, and ecosystems do not significantly impact diameter for the provinces east of British Columbia.

In sum, we preliminarily determine that Maritimes prices for Eastern SPF are comparable to Crown stumpage prices for the SPF species groupings in Quebec, Ontario, Manitoba, Saskatchewan, and Alberta. Accordingly, consistent with 19 CFR 351.511(a)(2)(i), we have compared these market-determined, in-country prices to the Crown stumpage prices in each of the provinces to determine whether the Crown prices were for less than adequate remuneration.

Application of Maritimes Prices

Having preliminarily found that the Maritimes' prices are in-country, market-determined prices, we next consider how to apply these prices in our benefit calculations.

1. Indexing

The IRE Report contains price data for Nova Scotia that corresponds to the POR. However, the New Brunswick Report contains price data for the period July 1, 2002, to November 30, 2002. In the second review, we indexed the data in the Nova Scotia and New Brunswick Reports using a lumber-specific index reported for the Atlantic Region by STATCAN. *See e.g., Preliminary Results of 2nd Review,* 70 FR at 33104. However, new evidence on the record of this review indicates that the GONS does not rely exclusively on the STATCAN lumber index when indexing its provincial stumpage prices. *See* Appendix F of AGFOR's ''Methodology to Survey and Report Standing Timber Prices in Nova Scotia,'' which was submitted as Exhibit 1 of the GONS's January 31, 2006, supplemental questionnaire response. The response of the GONS indicates that the index is a combination of data from the STATCAN lumber index and an index derived from prices of lumber delivered in Boston, as published by Random Lengths, converted to Canadian dollars. *Id.* In light of this new information indicating that a Maritimes government is using the composite index, we preliminarily determine to use the composite index to convert the private price data in the New Brunswick Report to POR-dollars. For additional information, see the May 31, 2006, Maritimes Calculation Memorandum.

2. Costs That Must Be Paid in Order To Harvest Private Standing Timber in New Brunswick and Nova Scotia

In the first and second administrative reviews, we found that the pricing data for New Brunswick and Nova Scotia reflect the prices paid by harvesters for standing timber and include the value of the timber being purchased in addition to any landowner costs. *See e.g., Final Results of 1st Review Decision Memorandum* at Comment 39; *see also Final Results of 2nd Review Decision Memorandum* at Comments 36 through 38. We also found that harvesters in the Maritimes incur additional costs that must be paid in order to be able to acquire private timber. Specifically, we found that harvesters in New Brunswick are required to pay silviculture fees as well as administrative fees to the marketing board operating within the region. In Nova Scotia, in order to be able to acquire the standing timber, the registered buyer must either pay for or perform in-kind activities equal to C$3.00 for every cubic meter of private wood harvested. *Id.*[32] For purposes of these preliminary results, we find there have been no new information or arguments from interested parties that would warrant reconsideration of these findings. Therefore, we added these costs to the indexed stumpage prices to obtain the average stumpage price for softwood logs from New Brunswick and Nova Scotia. For additional information, see the May 31, 2006, Maritimes Calculation Memorandum.

3. Weighting of Studwood in the Nova Scotia Benchmark

The GONS does not collect harvest volume data by log type (*i.e.*, studwood log, sawlog, or treelength log). Thus, in the second administrative review, we weight-averaged the sawlog and studwood prices in Nova Scotia, as reported by AGFOR in a survey it conducted on behalf of the GONS, by using the actual harvest volumes reported by the harvesters. This approach was consistent with our use of volume data in the New Brunswick Report to derive average marketing board levies for New Brunswick. *See* Comment 34 of the *Final Results of 2nd Review Decision Memorandum.* However, in its January 31, 2006, supplemental questionnaire response at part G, the GONS provided a breakdown of studwood and sawlogs harvested in the province. Therefore, for the purposes of these preliminary results, we find it appropriate to weight studwood and sawlogs according to those percentages. For additional information, see the May 31, 2006, Maritimes Calculation Memorandum.

Benchmark Prices Used for British Columbia

Maritimes' Stumpage Prices Are Not the Most Appropriate Benchmarks for British Columbia

In the final results of the first review, we concluded that the Maritimes' private stumpage prices were not suitable as benchmarks for British Columbia because of the lack of commercial interchangeability between the species in British Columbia and the Eastern SPF species in the Maritimes. *See* ''Maritimes Benchmarks Are Not the Most Appropriate for B.C.'' section of the *Final Results of 1st Review Decision Memorandum; see also* ''Selection of Benchmark Price Used for British Columbia'' section of the *Final Results of 2nd Review Decision Memorandum.* We preliminarily determine that the record does not contain any new evidence which would warrant a reconsideration of our finding from the final results of the first review.

B.C. Log Prices Are Not an Appropriate Benchmark

In the final results of the first and second reviews, we found that stumpage and log markets in British Columbia were closely intertwined and, therefore, Crown stumpage prices affected both stumpage and log prices. *See* ''B.C. Log Prices Are Not An Appropriate Benchmark'' section of the *Final Results of 1st Review Decision Memorandum; see also Preliminary Results of 2nd Review,* 70 FR at 33106, and ''Selection of Benchmark Price Used for British Columbia'' section and Comment 15 of the *Final Results of 2nd Review Decision Memorandum.* We further found that Crown logs were, in fact, sold in substantial quantities on the log market. *See e.g., Preliminary Results of 2nd Review,* 70 FR at 33106. For example, we found that the great majority of wood sold in B.C. (apart from allocated Crown wood) was purchased by large integrated tenure-holding producers who purchase wood for their sawmills following standard purchase contracts that were structured as log or stumpage purchases. Thus, we determined that these producers were indifferent as to which form of wood, *i.e.*, either timber or logs, they purchased for use in softwood lumber production and that the decision to

[32] In the final results of the first and second administrative reviews, we also confirmed that harvesters of private standing timber in Nova Scotia and New Brunswick do not incur any other charges (*i.e.*, road building/maintenance costs, fire prevention costs, or land owner related costs).

purchase either timber or logs would instead ultimately depend on price.

In the final results of the first and second administrative reviews, we further determined that, because these companies simultaneously purchased and used both forms of wood, they must in principle view the cost of stumpage and logs as equivalent, *i.e.*, stumpage price plus the cost of harvesting should equate to the cost of a log. In addition, we explained that the fact that these producers used both timber and logs throughout the period of the first review to produce softwood lumber meant that stumpage-log price equivalence was maintained throughout that review period and that this, in turn, suggested that the timber and log prices were linked (*e.g.*, low (or high) timber prices means low (or high) log prices). *Id.* For these reasons, we determined that B.C. log prices are not market-determined prices independent from the effects of the underlying Crown stumpage prices and, therefore, cannot be used to assess the adequacy of remuneration of B.C.'s stumpage program. In addition, we noted that the log price data submitted by the GOBC did not distinguish between Crown logs and private logs and, thus, even if we found that purely private log prices were not affected by the Crown stumpage prices, it would be impossible to isolate such prices from the Crown log prices to establish a benchmark. See Comment 15 of the *Final Results of 2nd Review Decision Memorandum.* For purposes of these preliminary results, we find that the record does not contain any new evidence that would warrant a reconsideration of our finding from the final results of the first review.

U.S. Stumpage Prices Are Not the Most Appropriate Benchmark for British Columbia

In the first and second administrative reviews, we explained that we were cognizant of the fact that a NAFTA Panel, considering the B.C. benchmark employed in the underlying investigation, found that standing timber is not a good that is commonly traded across borders. See ''World Market Prices'' in *Final Results of 1st Review Decision Memorandum; see also Preliminary Results of 2nd Review,* 70 FR at 33106, and ''Selection of Benchmark Price Used for British Columbia'' section of the *Final Results of 2nd Review Decision Memorandum.* We also explained, in considering U.S. stumpage prices as a benchmark under our regulatory hierarchy, that using those prices would require complex adjustments to the available data. We therefore turned our analysis to U.S. log prices. *See e.g., Preliminary Results of 2nd Review,* 70 FR at 33106. For purposes of these preliminary results, we find that the record of this review does not contain any new evidence that would warrant a reconsideration of our finding from the final results of the first review.

U.S. Log Prices Are a More Appropriate Benchmark

In the final results of the first and second administrative reviews, we found that U.S. log prices may constitute third-tier benchmarks when determining the adequacy of remuneration of the GOBC's administered stumpage program (*i.e.*, a benchmark that is consistent with market principles under 19 CFR 351.511(a)(2)(iii)). *See* ''U.S. Log Prices Are a More Appropriate Benchmark'' in *Final Results of 1st Review Decision Memorandum; see also* Comment 28 of the Final *Results of 2nd Review Decision Memorandum.* In the final results of the first and second administrative reviews, we stated that a market principles analysis by its very nature depends on the available information concerning the market sector at issue, and must, therefore, be developed on a case-by-case basis. In this case, we found that using U.S. log prices is consistent with a market principles analysis, because (1) stumpage values are largely derived from the demand for logs produced from a given tree; (2) the timber species in the U.S. Pacific Northwest and British Columbia are very similar and, therefore, U.S. log prices, properly adjusted for market conditions in British Columbia, are representative of prices for timber in British Columbia; and (3) U.S. log prices are market determined. *See e.g.*, ''Selection of Benchmark Price Used for British Columbia'' section and Comments 28 and 29 of the *Final Results of 2nd Review Decision Memorandum.* For purposes of these preliminary results, we find that the record of the current review does not contain any new evidence that would warrant a reconsideration of our finding from the final results of the first review. We also continue to make the same adjustments employed in the first and second administrative reviews to derive the market stumpage prices for British Columbia. *See* ''Calculation of the ''Derived Market Stumpage Price'' section below.

Application of U.S. Log Prices

1. Selection of Data Sources

In the final results of the second administrative review, our U.S. log benchmark prices for the B.C. Interior consisted of prices from the Oregon Department of Forestry (covering the area east of the Cascade Mountains), Northwest Management Inc.''s Log Market Report (covering Eastern Washington, North Idaho, and Western Montana), the University of Montana's Montana Sawlog and Veneer Price Report (covering Western Montana), the Oregon Log Market Report (covering Eastern Oregon), and the Washington Log Market Report (covering Eastern Washington, Idaho, and Montana). In the final results of the second administrative review, our U.S. log benchmark prices for the B.C. Coast consisted of prices from Log Lines (covering the coastal, northwest, and southwest regions of Washington and Oregon), the Oregon Department of Forestry (covering coastal, northwest, and southwest regions of Oregon), Pacific Rim Wood Market Report (covering western Washington and Oregon), the Oregon Log Market Report (covering northwest and southwest Oregon), and the Washington Log Market Report (covering eastern Washington, Idaho, and Montana).

In the current administrative review, petitioners have reiterated arguments from the previous segment of the proceeding, asserting that the Department should limit its U.S. log benchmark to those regions that are contiguous to Coastal and Interior British Columbia. With respect to Interior British Columbia, petitioners contend that the Department should limit its U.S. log benchmark to the two data sources utilized in the first administrative review, Northwest Management Inc.'s Log Market Report (covering Eastern Washington, North Idaho, and Western Montana), the University of Montana's Montana Sawlog and Veneer Price Report (covering Western Montana). They contend that the use of other data sources results in the inclusion of logs sourced from areas whose ecosystems and species mix are drastically different from those found in the B.C. Interior. They also argue that logs harvested far from the B.C. border are less likely to be integrated with the B.C. Interior and, thus, less comparable than those logs harvested in regions contiguous to the province. *See* pages 2 through 5 of petitioners' May 1, 2006, filing.

At the very least, petitioners argue that the Department should refrain from using log price data for Eastern Oregon, as published by the Oregon Log Market Report, when measuring the adequacy of the GOBC's administered stumpage program in Interior British Columbia. Petitioners allege that the prices in the

report do not reflect actual sales, are not collected on a month-to-month basis as evidenced by the lack of price changes in certain regions during several consecutive months, are based on reports from voluntary respondents, and are based on reports from a limited number of lumber producers with a limited amount of production. See pages 5 through 11 of petitioners' May 1, 2006, filing; *see also* petitioners' presentation attached to the April 18, 2006, memorandum to the file from Eric B. Greynolds, Program Manager, Office 3, Operations, entitled, ''Ex Parte Meeting with Counsel to the Coalition for Fair Lumber Imports Concerning the Upcoming Preliminary Results.'' They further argue that harvesting activities in Eastern Oregon are less intense, as measured by harvest density, compared to both the B.C. Interior and the U.S. benchmark regions contiguous with the B.C. border. They argue the differences in harvesting density demonstrate that data from Eastern Oregon are less comparable than data from the states contiguous to B.C. border. *See* petitioners' May 11, 2006, submission. Petitioners also contend that in the second administrative review, the Department used criteria similar to that employed by petitioners in their evaluation of the Oregon Log Market Report to reject the use of a log-based price index advocated by petitioners for use in calculating the Maritimes benchmark. Petitioners contend that the application of the same rigorous assessment of the reliability and representativeness of the log-based price index would lead to the conclusion that the eastern Oregon log prices contained in the Oregon Log Market Report cannot be used in constructing a benchmark for the B.C. Interior. *Id.*

We have previously addressed petitioners' arguments about the comparability of timber from regions that are not contiguous with the B.C. border. As explained in the second administrative review, the data contained in the reports reflect species harvested in the Pacific Northwest (PNW) that are representative of the dominant species harvested in British Columbia. For example, in the B.C. Interior, the three dominant species are lodgepole pine, spruce, and douglas fir. All of the U.S. log reports relating to the B.C. Interior contain U.S. log prices for each of these dominant species. *See* Comment 47 of the *Final Results of 2nd Review Decision Memorandum*.

We disagree with petitioners' claim that the data for eastern Oregon in the Oregon Log Market Report are unreliable due to data flaws and methodological errors. On April 21, 2006, staff from the Department of Commerce contacted the editor of the Oregon Log Market Report and asked him to explain the concerns raised by petitioners during their *ex parte* meetings with the Department, as well as answer questions posed by Department staff regarding the report. *See* the May 2, 2006, Memorandum to the File from Eric B. Greynolds, Program Manager, and Tipten Troidl, Case Analyst, Office 3, Operations, entitled, ''Telephone Call to the Editor of the Oregon Log Market Report.'' As indicated in the memorandum, the editor of the report stated that all prices in the Oregon Log Market Report reflect actual transaction prices, that his survey respondents include log buyers, sawmills, wood chippers, and log sellers, and that he collects price data from his respondents on a monthly basis. *Id.*

We also disagree with petitioners' contention that the criteria employed in the second administrative review to reject the use of a log-based price index compel the Department to also discard the log price data for eastern Oregon in the Oregon Log Market Report. As noted above, evidence indicates that the data in the Oregon Log Market Report reflect transaction prices, which was not the case with respect to the source of petitioners' Maritime log-based price index in the second review. Furthermore, in the second administrative review, the Department was forced to choose between using price indices that were based on different products and data sets. As such, the Department was confronted with an either/or situation. In contrast, in calculating its U.S. log benchmark, the Department is seeking to construct the most representative and robust data set for comparable species in the PNW and, therefore, does not face an either/or situation. Petitioners' characterization of our approach in the second administrative review does not take this distinction into account.

On this basis, we preliminarily determine that it is appropriate to construct our U.S. log benchmarks for Coastal and Interior British Columbia, using the same data sources utilized in the second administrative review. For further information on data sources used, *see* the May 31, 2006, ''Preliminary Results Calculation for the Province of British Columbia Calculation Memorandum (''British Columbia Calculation Memorandum'').

2. Derivation of U.S. Log Prices on a Per-Unit Basis for Use in Comparison to Log Prices on the B.C. Coast and Interior

a. Weighting of U.S. Log Price Sources

Consistent with our approach in the second administrative review, to make the benefit calculations for Coastal and Interior B.C., we first constructed a U.S. log price benchmark for each species harvested on the B.C. Coast and Interior, respectively. To construct the U.S. log price benchmarks, we calculated an annual average price for each species. We have done this, first, by simple-averaging log prices for each species reported in each U.S. log price report for the POR and, second, by taking a simple average of those species-specific annual average prices by source to arrive at a final species-specific annual average price. *See* Comment 48 of the *Final Results of 2nd Review Decision Memorandum*.[33] For purposes of these preliminary results, we find that the record does not contain any new evidence which would warrant a reconsideration of our approach from the final results of the second administrative review.

b. Conversion of U.S. Log Prices Into Canadian Dollar (CAD)/Cubic Meter

The U.S. log price data was expressed in U.S. dollars (USD) per thousand board feet (mbf). Therefore, it was necessary to convert our benchmark data so that they were expressed in the same currency and unit of measure as the B.C. administered stumpage prices. In the final results of the first and second administrative reviews, we converted U.S. log price data for the B.C. Coast using a conversion factor of 6.76 USD/cubic meter. For the B.C. Interior, we used a conversion factor of 5.93 USD/cubic meter. We then converted the benchmark prices into Canadian currency based on the average of the daily USD/CAD daily exchange rate, as published by the Federal Reserve Bank of New York. *See e.g.*, Comment 44 of the *Final Results of 2nd Review Decision Memorandum*. For purposes of these preliminary results, we find that the record does not contain any new evidence that would warrant a reconsideration of our approach from the final results of the first review. Therefore, we continue to apply the same conversion factors and exchange approach that was employed in the final

[33] As explained in the second administrative review, this approach is necessary because we lack data regarding the volume of reported U.S. log sales that would allow us to calculate weighted-average prices. *See Preliminary Results of 2nd Review*, 70 FR at 33107; *see also* Comment 48 of the *Final Results of 2nd Review Decision Memorandum*.

results of the first and second administrative reviews.

Calculation of Provincial Benefits

Adjustment to Administrative Stumpage Unit Price

As explained in the final results of the second administrative review, we employed a methodology for adjusting the unit prices of the Crown stumpage programs administered by the GOA, GOS, GOM, GOO, and GOQ. In making our adjustments, we focused on those costs that are assumed under the timber contract (*e.g.*, the Crown tenure agreement) and those costs that are necessary to access the standing timber for harvesting (but that may differ substantially depending on the location of the timber). Where such costs are incurred by harvesters in either the Maritimes or the subject provinces, we included them in our benefit calculations. We did not, however, make adjustments for costs that might be necessary to access the standing timber for harvesting but that do not differ substantially based on the location of the timber (*e.g.*, costs for tertiary road construction and harvesting). Because the Maritimes data reflect prices at the point of harvest, we also did not include post-harvest activities such as scaling and delivering logs to mills or market. Id. In this manner, we adjusted the unit stumpage prices of the GOA, GOS, GOM, GOO, and GOQ such that they were on the same ''level'' as the private stumpage prices we obtained from the Maritimes. See the ''Calculation of Provincial Benefits'' section of the *Final Results of 2nd Review Decision Memorandum*.

For purposes of these preliminary results, we find that the record does not contain any new evidence that would warrant a reconsideration of our approach from the final results of the second review. Therefore, to calculate the unit benefit conferred under the five provinces' administered stumpage programs, we subtracted from the species-specific benchmark prices the cost-adjusted weighted-average stumpage price per species. Next, we calculated the species-specific benefit by multiplying the species-specific unit benefit by the total softwood timber harvest volume for that species during the POR. We then summed the species-specific benefits to calculate the total stumpage benefit for each province.

1. Province of Alberta

a. Derivation of Administered Stumpage Unit Prices

To derive Alberta's administratively established stumpage rate, we divided the total timber dues charged to tenure holders during the POR for each species by the total softwood stumpage billed under each tenure for each species. In this manner, we obtained a weighted-average stumpage price per species that was paid by tenure holders during the POR.

b. Adjustments to Administered Stumpage Unit Price

Pursuant to the methodology established in the final results of the first and second administrative reviews, we have added the following costs to Alberta's administered stumpage unit price: [34]

- Costs for Primary and Secondary Roads (*e.g.*, Permanent Road Costs in Road Classes 1 Through 4).
- Basic Reforestation.
- Forest Management Planning.
- Holding and Protection.
- Environmental Protection.
- Forest Inventory.
- Reforestation Levy.
- Fire, Insect, and Disease Protection.

c. Calculation of the Benefit

To calculate the unit benefit under this program, we compared the species-specific benchmark prices (the Maritimes private stumpage prices described above) to the GOA's corresponding adjusted administered stumpage prices. In this manner, we calculated a unit benefit for each species group. Next, we calculated the species-specific unit benefit by the total species-specific softwood timber billed volume in Alberta during the POR.

Regarding the softwood timber billed volume used in the benefit calculations, the GOA claims that its stumpage classification system does not allow the province to isolate the wood volumes going strictly to sawmills and used to produce lumber. Thus, it is necessary to derive the volume of softwood Crown logs that entered and were processed by Alberta's sawmills during the POR (*i.e.*, logs used in the lumber production process). We performed a similar calculation in the first administrative review. However, upon identifying additional information discussed below, we determined that it is necessary to alter our approach to the calculations for Alberta.

The GOA argues that this volume amount harvested by non-sawmill-owning tenure holders should not be included in our calculations. However, by the GOA's own admission, this volume amount includes logs that were subsequently sold to sawmills. *See*, *e.g.*, page 8 of the GOA's May 2, 2005 supplemental questionnaire response. Further, with respect to this volume amount, the GOA provided no means by which we could identify the portion of the volume that went to sawmills and the portion that was exported or went to non-sawmills. Thus, because there is no way to break out this volume amount and because the GOA has offered no information on whether any subsidies attributable to this softwood timber did or did not pass through to any sawmills, we have, as a starting point, included the entire timber volume in question when determining the volume of Crown logs to include in the numerator of Alberta's provincial subsidy rate calculation.

In order to determine the volume of Crown logs that went to sawmills (*a.k.a.*, ''net-down'' approach), we have slightly revised the methodology that was used in the first administrative review. Specifically, we have used the GOA's Section 80/81 timber data from Table 39, Exhibit AB–S–87 that has not been ''netted down'' as the basis for Alberta's benefit calculation. This data differs from the data set reported in the first review (Alberta Verification Exhibit, GOA–3, AR Table 43, Exhibit AB–S–70) because it represents the Section 80/81 basket category of timber which has not been ''netted down'' to exclude the volumes from tenure holders who do not own sawmills.

We subsequently added the volumes of certain non-lumber categories to the Crown Section 80/81 data to capture the universe of timber going to sawmills which corresponds to the provincial softwood billed volume identified in the PwC survey and reported by the GOA in Exhibit AB–S–107. The resulting aggregate Crown softwood billed volume was then ''netted down'' using the ''percentage of survey billed volume as lumber'' reported in the PwC survey results. This calculation enabled the Department to derive the Alberta's total Crown stumpage billed volume on a species-specific basis, which reflects the volume of provincial stumpage cut by tenure holders and sent to sawmills for processing into lumber and co-products. For further discussion, see the Preliminary Calculation

[34] For a description of the derivation of the unit costs added to the GOA's administered stumpage price, see the May 31, 2006, Preliminary Calculations Memorandum for Alberta. The derivations of the unit costs for the GOS, GOM, GOO, and GOQ are also described in this calculation memorandum. The categories of costs added to the administered stumpage prices of the GOA, GOS, GOM, GOO, and GOQ are the same as those used in the final results of the second review. *See* the ''Calculation of Provincial Benefits'' section of the *Final Results of 2nd Review Decision Memorandum*.

Memorandum.[35] Finally, we summed the species-specific benefits to calculate the total stumpage benefit for the province.

d. Calculation of Provincial and Country-Wide Rate

To calculate the province-specific subsidy rate, we divided the total stumpage benefit by Alberta's POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, see ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates'' in these preliminary results. As explained in ''Aggregate Subsidy Rate Calculation,'' we weight-averaged the benefit from this provincial subsidy program by Alberta's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in ''Country-Wide Rate for Stumpage.''

2. Province of Manitoba

a. Adjustments to Administered Stumpage Unit Price

The GOM reported average, per-unit stumpage prices for the POR. Thus, our next step was to adjust the per-unit stumpage prices pursuant to the methodology described above in ''Calculation of Provincial Benefits.'' Specifically, we have added the following costs to Manitoba's administered stumpage unit price:

- Forest Renewal Charge.
- Forest Management License Silviculture.
- Costs for Permanent Roads (*e.g.*, Primary and Secondary Roads).
- Forest Inventory.
- Forest Management Planning.
- Environmental Protection.
- Fire Protection.

b. Calculation of the Benefit

To calculate the unit benefit conferred under the GOM's administered stumpage program, we subtracted from the species-specific benchmark prices the cost-adjusted weighted-average stumpage price per species. Next, we calculated the species-specific benefit by multiplying the species-specific unit benefit by the total softwood timber harvest volume for that species during the POR. We then summed the species-specific benefits to calculate the total stumpage benefit for the province.

c. Calculation of Provincial and Country-Wide Rate

To calculate the province-specific subsidy rate, we divided the total stumpage benefit for Manitoba by the POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, *see* ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates.'' As explained in ''Aggregate Subsidy Rate Calculation,'' we weight-averaged the benefit from this provincial subsidy program by Manitoba's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in ''Country-Wide Rate for Stumpage.''

3. Province of Saskatchewan

a. Derivation of Administered Stumpage Unit Prices

To derive Saskatchewan's administratively established stumpage rate, we divided the total stumpage collections for each species by the corresponding volume of Crown softwood timber destined to sawmills. In this manner, we obtained a weighted-average stumpage price per species that was paid by tenure holders during the POR.

b. Adjustments to Administered Stumpage Unit Price

Next, we adjusted the administered stumpage unit prices pursuant to the methodology describe above in ''Calculation of Provincial Benefits.'' Specifically, we have added the following costs to Saskatchewan's administered stumpage unit price:

- Forest Management Fee.
- Processing Facilities License Fee.
- Forest Product Permit Application Fee.
- Forest Management Activities.
- Costs for Permanent Roads (*e.g.*, Primary and Secondary Roads).

c. Calculation of the Benefit

To calculate the unit benefit conferred under the GOS's administered stumpage program, we subtracted from the species-specific benchmark prices the cost-adjusted weighted-average stumpage price per species. Next, we calculated the species-specific benefit by multiplying the species-specific unit benefit by the total softwood timber harvest volume for that species during the POR. We then summed the species-specific benefits to calculate the total stumpage benefit for the province.

d. Calculation of Provincial and Country-Wide Rate

To calculate the province-specific subsidy rate, we divided the total stumpage benefit for Saskatchewan by the POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, *see* ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates.'' As explained in ''Aggregate Subsidy Rate Calculation,'' we weight-averaged the benefit from this provincial subsidy program by Ontario's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in ''Country-Wide Rate for Stumpage.''

4. Province of Ontario

a. Derivation of Administered Stumpage Unit Prices

To derive Ontario's administratively established stumpage rate, we divided the total stumpage collections for each species by the corresponding volume of Crown softwood timber destined to sawmills. In this manner, we obtained a weighted-average stumpage price per species that was paid by tenure holders during the POR.

b. Adjustments to Administered Stumpage Unit Price

Next, we adjusted the administered stumpage unit prices pursuant to the methodology describe above in the ''Calculation of Provincial Benefits'' section of these preliminary results. Specifically, we have added the following costs to Ontario's administered stumpage unit price:

- Forest Management Planning.
- Construction and Maintenance of Primary and Secondary Roads.
- Fire Protection.
- First Nations and Management Fees. c. Calculation of the Benefit

To calculate the unit benefit conferred under the GOO's administered stumpage program, we subtracted from the species-specific benchmark prices the cost-adjusted weighted-average stumpage prices per species. Next, we calculated the species-specific benefit by multiplying the species-specific unit benefit by the total softwood timber harvest volume for that species during the POR. We then summed the species-specific benefits to calculate the total stumpage benefit for the province.

[35] We note that this volume of timber is separate from the volume of timber included in the GOA's pass-through claim. For further information regarding the GOA's pass-through claim, see the ''Pass Through'' section of these preliminary results.

d. Calculation of Provincial and Country-Wide Rate

To calculate the province-specific subsidy rate, we divided the total stumpage benefit for Ontario by the POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, *see* ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates.'' As explained in ''Aggregate Subsidy Rate Calculation,'' we weight-averaged the benefit from this provincial subsidy program by Ontario's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in ''Country-Wide Rate for Stumpage.''

5. Province of Quebec

a. Derivation of Administered Stumpage Unit Prices

To derive Quebec's administratively established stumpage rate, we divided the total stumpage collections for each species by the corresponding volume of Crown softwood timber destined to sawmills. In this manner, we obtained a weighted-average stumpage price per species that was paid by tenure holders during the POR.

b. Adjustments to Administered Stumpage Unit Price

Next, we adjusted the administered stumpage unit prices pursuant to the methodology describe above in ''Calculation of Provincial Benefits.'' Specifically, we have added the following costs to Quebec's administered stumpage unit price:

- Forest Fund.
- Administrative Forest Planning.
- Non-Credited Silviculture.
- Construction and Maintenance of Primary and Secondary Roads.
- Fire and Insect Protection.
- Logging Camps.
- Silviculture Credits for Non-Mandatory Activities (Negative Adjustment).

c. Calculation of the Benefit

To calculate the unit benefit conferred under the GOQ's administered stumpage program, we subtracted from the species-specific benchmark prices the cost-adjusted weighted average stumpage prices per species. Next, we calculated the species-specific benefit by multiplying the species-specific unit benefit by the total softwood timber harvest volume for that species during the POR. We then summed the species-specific benefits to calculate the total stumpage benefit for the province.

d. Calculation of Provincial and Country-Wide Rate

To calculate the province-specific subsidy rate, we divided the total stumpage benefit for Quebec by the POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, *see* ''Numerator and Denominator Used for Calculating the Stumpage Programs'' Net Subsidy Rates.'' As explained in ''Aggregate Subsidy Rate Calculation,'' we weight-averaged the benefit from this provincial subsidy program by Ontario's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in ''Country-Wide Rate for Stumpage.''

6. Province of British Columbia

a. Derivation of Administered Stumpage Unit Prices

To derive British Columbia's administratively established stumpage rate, we divided the total stumpage collections for each species for the Coast and Interior by the corresponding Crown softwood sawlog volume. In this manner, we obtained a weighted-average stumpage price per species.

b. Calculation of the ''Derived Market Stumpage Price''

Consistent with our approach from the first and second administrative reviews, we calculated a ''derived market stumpage price'' for each species by using U.S. log prices as the benchmark for standing timber prices to measure the adequacy of remuneration of B.C.''s administered stumpage system. *See supra* section on use of U.S. log prices as B.C. benchmarks. Specifically, we deducted from the U.S. log prices all B.C. harvesting costs, including costs associated with Crown tenure for calendar 2004. See, October 3, 2005, questionnaire response by the Government of British Columbia at BC–S–194. As in the first and second administrative reviews, we relied on cost data from surveys of major tenure holders prepared by PwC. Specifically, PwC was engaged by the B.C. Ministry of Forests (MOF) to collect calendar year 2003 logging and forest management cost data for the Coast and Interior regions of British Columbia. The cost data presented by PwC was derived from three separate surveys—the MOF's 2004 annual Coast survey and two surveys (one for the Coast and the other for the Interior) conducted by PwC itself.

In these preliminary results, we have subtracted the following unit costs from the U.S. log price benchmarks used for the B.C. Coast:

- Tree-to-Truck.
- Hauling.
- Dump, Sort, Boom, and Rehaul.
- Crew Transportation Labor.
- Road Maintenance.
- Towing/Barging.
- Helicopter Logging.
- Camp Operations and Overhead.
- Road Construction.
- Head Office, General Administration.
- Logging Fees and Taxes.
- Forestry, Engineering, and Fire Protection.

In these preliminary results, we have subtracted the following unit costs from the U.S. log price benchmarks used for the B.C. Interior:

- Tree-to-Truck.
- Hauling.
- Dump, Sort, and Boom.
- Towing/Barging.
- On-Block Road and Bridge Maintenance.
- Mainline/Secondary Road and Bridge Maintenance.
- Post Logging Treatment.
- Administration/Overhead.
- Camp Operation.
- Depreciation, Depletion, and Amortization.
- Mainline/Secondary Road and Bridge Construction.
- Mainline/Secondary Road and Bridge Deactivation.
- On-Block Road and Bridge Construction.
- On-Block Road and Bridge Deactivation.
- Protection (Fire, Insect, and Disease Control).
- Silviculture and Reforestation.

In the second administrative review, we addressed whether to subtract a per-unit profit component from the ''derived market stumpage prices'' used in the benefit calculations for the B.C. Coast and Interior. The issue revolved around the extent to which our cost data from the PWC survey report of B.C. logging and forest management costs accounted for any profit that may have been incurred by independent harvesters.

Based on information from the GOBC that all harvesting activities are performed by contractors, we determined in the second administrative review that the cost data contained in the PWC's survey of the B.C. Interior reflect ''fee for service'' payments made by sawmills to independent harvesters and, thus already included a profit component. On this basis, we determined that no profit adjustment was appropriate for U.S. log benchmark

prices used in the benefit calculation of the B.C. Interior. *See Preliminary Results of 2nd Review,* 70 FR at 33110; *see also* ''Methodology for Adjusting the Unit Prices of the Crown Stumpage Program Administered by the GOBC'' and Comment 52 of the *Final Results of 2nd Review Decision Memorandum.*

Regarding Coastal B.C., information on the record of the second administrative review indicated that at least 50 percent of the harvesting activities on the coast must be conducted by independent contractors. Further, information from the GOBC indicated that harvesting activities by in-house, company crews were conducted on a ''limited'' basis. On this basis, in the second administrative review, we assumed that the majority of harvesting activities for Coastal B.C. were performed by independent harvesters and, thus, the majority of the harvesting costs in the PWC survey for the B.C. Coast already contained a profit component. Lacking any other information and, based on the GOBC's characterization of company crew harvesting costs as being ''limited,'' we determined that in-house company crews employed by tenure holders are used 25 percent of the time on the B.C. Coast and the remaining amount is performed by independent contractors. Accordingly, we found that 75 percent of the costs in the PWC survey did not warrant a profit adjustment. However, we applied a profit component to the remaining 25 percent of the costs contained in the PWC survey for the B.C. Coast. *Id.*

To calculate the profit amount, we relied on publically available profit data for the B.C. logging industry from ''Industry Canada,'' a department of the Canadian federal government through its business and consumer site ''strategis.gc.ca.''.[36] Specifically, we obtained a 3.7 percent profit figure for the B.C. logging industry. This profit figure is an average calculated from financial data for the year 2002 (the most recent year for which data were available) from all small businesses (incorporated and unincorporated) in the B.C. logging industry.[37] Thus, we multiplied the per-unit B.C. logging profit figure from Industry Canada by 25 percent and subtracted the resulting product from the per-unit ''derived market stumpage price'' for the B.C. Coast. *See* Comment 52 of the *Final Results of 2nd Review Decision Memorandum; see also* Tab A, Table 5A, and page 12 of the B.C. Final Results Calculation Memorandum for the second administrative review.[38]

No new information has been placed on the record of this review warranting a change in our finding from the second administrative review. Therefore, for these preliminary results we have continued not to apply a profit adjustment to the harvesting costs calculated for the B.C. Interior. For the B.C. Coast, we have applied a profit component of 25 percent to the harvesting costs, as reported by the PWC survey. Further, in these preliminary results, we have continued to use the 3.7 percent profit figure for the B.C. logging industry as the source of our profit rate, as reported by Industry Canada.

c. Calculation of the Benefit

To calculate the unit benefit per species conferred under the GOBC's administered stumpage program, we subtracted from the cost-adjusted, ''derived market stumpage prices'' the corresponding average administered stumpage prices. Consistent with our approach in the first and second administrative reviews, we reduced the total Crown harvest to capture that volume of logs destined to sawmills. *See, e.g., Preliminary Results of 2nd Review,* 70 FR at 33111; *see also,* the ''Methodology for Adjusting the Unit Prices of the Crown Stumpage Program Administered by the GOBC'' section of the *Final Results of 2nd Review Decision Memorandum.* Specifically, we multiplied the Coast and Interior Crown volumes by their respective percentage of logs entering sawmills for 2004, *i.e.,* 47.50 percent and 87.50 percent, respectively. *See* the GOBC's October 3, 2005, questionnaire response at BC–I–5–6 and BC–S–3–4 Next, we multiplied the species-specific unit benefit by the Crown volume destined to sawmills. We then summed the species-specific benefits for the Coast and the Interior to calculate the provincial benefit.

d. Calculation of Provincial and Country-Wide Rate

To calculate the province-specific subsidy rate, we divided the total stumpage benefit for British Columbia by the POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, *see* ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates' section. As explained in the ''Aggregate Subsidy Rate Calculation'' section, we weight-averaged the benefit from this provincial subsidy program by British Columbia's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in the ''Country-Wide Rate for Stumpage'' section.

Country-Wide Rate for Stumpage

The preliminary country-wide subsidy rate for the provincial stumpage programs is 10.88 percent *ad valorem.*

II. Other Programs Determined To Confer Subsidies

Non-Stumpage Programs Determined To Confer Subsidies

Programs Administered by the Government of Canada

1. Western Economic Diversification Program: Grants and Conditionally Repayable Contributions

Introduced in 1987, the Western Economic Diversification program (WDP) is administered by the GOC's Department of Western Economic Diversification headquartered in Edmonton, Alberta, whose jurisdiction encompasses the four western provinces of B.C., Alberta, Saskatchewan and Manitoba. The program supports commercial and non-commercial projects that promote economic development and diversification in the region.

In the first and second administrative reviews, we found that the provision of grants under the WDP constitutes a government financial contribution and confers a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. *See Preliminary Results of 1st Review,* 69 FR at 33228, ''Western Economic Diversification Program Grants and Conditionally Repayable Contributions'' section of the *Final Results of 1st Review Decision Memorandum,* ''Western Economic Diversification Program (WDP): Grants and Conditionally Repayable Contributions'' section and Comment 62 of the *Final Results of 2nd Review Decision Memorandum.* Further, we determined that the WDP is specific under section 771(5A)(D)(iv) of the Act because assistance under the program is

[36] Strategis (*http://www.strategis.gc.ca*) offers interactive financial applications, *e.g.,* building industry profiles for specific provinces via Performance Plus, a software tool.

[37] The Logging Industry classification is number 1133 under the North American Industry Classification System (NAICS).

[38] In the final results of the second administrative review, our methodological approach concerning the profit issue remained unchanged from our preliminary findings. However, minor changes were made to our profit calculations. *See* Comment 52 of the *Final Results of 2nd Review Decision Memorandum.* In the current review, we have continued to utilize the calculation approach employed in the final results of the second administrative review.

limited to designated regions in Canada. On this basis, we found recurring and non-recurring grants provided to softwood lumber producers under the WDP to be countervailable subsidies. *Id.* No new information has been placed on the record of this review to warrant a change in our finding that the WDP is countervailable.

During the current POR, the WDP provided grants to softwood lumber producers or associations under two ''sub-programs,'' the International Trade Personnel Program (ITPP) and WDP Projects program. Under the ITPP and WDP Projects programs, companies were reimbursed for certain salary expenses in Alberta, British Columbia, Manitoba, Saskatchewan.

Consistent with our past approach, where the employee's activities were directed towards exports of softwood lumber to all markets, we attributed the subsidy to total softwood lumber exports. Where the employee's activities were directed towards exports of softwood lumber to the United States, we attributed the subsidy to U.S. exports. Where the personnel promoted exports to non-U.S. markets, we did not attribute any of the benefit to U.S. sales. *See*, *e.g.*, ''Western Economic Diversification Program (WDP): Grants and Conditionally Repayable Contributions'' section of the *Final Results of 2nd Review Decision Memorandum.* Where personnel promoted softwood lumber production, in general, we attributed the subsidy to total softwood lumber sales. Regarding the WDP program, evidence on the record of this review indicates that benefits were limited to Alberta's softwood lumber industry. Therefore, for the WDP program, we limited the denominator of our expense test to Alberta's total softwood lumber sales. In accordance with 19 CFR 351.524(b)(2), we determine that all ITPP and ''WDP Project'' grants were less than 0.5 percent of their corresponding denominator in the year of receipt.[39] Therefore, we are expensing all grants received during the POR under this program to the year of receipt.

To calculate the countervailable subsidy rate for this program, we summed the rates for the ITPP and WDP sub-projects. Next, as explained in ''Aggregate Subsidy Rate Calculation,'' for the ITPP program, we multiplied the program rate by the four provinces' relative share of total world-wide exports of softwood lumber to the United States. We adjusted the provinces' total exports of softwood lumber to the United States to account for any excluded company sales. For the WDP program, we multiplied the program rate by Alberta's total softwood lumber sales. Using this methodology, we preliminarily determine the countervailable subsidy from this program to be less than 0.005 percent *ad valorem.*

2. Natural Resources Canada (NRCAN) Softwood Marketing Subsidies

In 2002, the GOC approved a total of C$75 million in grants to target new and existing export markets for wood products and to provide increased research and development to supplement innovation in the forest products sector. This total was allocated to three sub-programs: Canada Wood Export Program (Canada Wood), Value to Wood Program (VWP), and the National Research Institutes Initiative (NRII). The programs were placed under the administration of NRCAN, a part of the Canadian Forest Service.[40]

The VWP is a five-year research and technology transfer initiative supporting the value-added wood sector, specifically through partnerships with academic and private non-profit entities. In particular, NRCAN entered into research contribution agreements with Forintek Canada Corp. (Forintek) to do research on efficient resource use, manufacturing process improvements, product development, and product access improvement.

In the first and second administrative reviews, we found that grants provided to Forintek under the VWP constitute a government financial contribution and confer a benefit to softwood lumber producers within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. *See Preliminary Results of 1st Review*, 69 FR at 33229, the ''Natural Resources Canada (NRCAN) Softwood Marketing Subsidies'' in the *Final Results of 1st Review Decision Memorandum*, and the ''Natural Resources Canada (NRCAN) Softwood Marketing Subsidies'' section of the *Final Results of 2nd Review Decision Memorandum.* We also determined that, because VWP grants are limited to Forintek, which conducted research related to softwood lumber and manufactured wood products, the program is specific within the meaning of section 771(5A)(D)(i) of the Act. *Id.* Consequently, we found the grants under the NRCAN program to be countervailable.

The NRII is a two-year program that provides salary support to three national research institutes: the Forest Engineering Research Institute of Canada (FERIC), Forintek, and the Pulp & Paper Research Institute of Canada (PAPRICAN). In the first and second administrative reviews, we found that research undertaken by FERIC constitutes a government financial contribution to commercial users of Canada's forests within the meaning of section 771(5)(D)(i) of the Act. *Id.* Further, we found that FERIC's research covers harvesting, processing, and transportation of forest products, silviculture operations, and small-scale operations and, thus, we determined that government-funded R&D by FERIC benefits, *inter alia*, producers of softwood lumber within the meaning of section 771(5)(E) of the Act.

Similarly, we found that Forintek's NRII operations, which pertain to resource utilization, tree and wood quality, and wood physics, also constitute a government financial contribution and confer a benefit, *inter alia*, upon the softwood lumber industry within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act. *Id.*

In the first and second administrative reviews, we determined that because grants offered under the NRII are limited to Forintek and FERIC, institutions that conducted research related to the forestry and logging industry, the wood products manufacturing industry, and the paper manufacturing industry, the program is specific within the meaning of 771(5A)(D)(i) of the Act. *Id.* On this basis, we found the Forintek and FERIC grants offered under the NRII are countervailable.[41] No new information has been placed on the record of this review to warrant a change in our finding that grants under the VWP and NRII programs are countervailable.

In accordance with 19 CFR 351.524(b)(2), we first examined whether the non-recurring grants under the VWP and NRII programs should be expensed to the year of receipt. We summed the funding approved for Forintek during the POR under the VWP and NRII programs, and divided this sum by the total sales of the wood products manufacturing industry in the year of approval. We also divided the funding approved for FERIC under the NRII program during the POR by the total sales of the wood products

[39] We reduced these denominators, where appropriate, to account for any excluded company sales.

[40] We found the Canada Wood program to be not countervailable in the first administrative review. See Preliminary Results of 1st Review, 69 FR at 33229.

[41] We found NRII's support of PAPRICAN to be not countervailable in the first administrative review. *See Preliminary Results of 1st Review*, 69 FR at 33229.

manufacturing and paper industries in the year of approval. Combining these two amounts, we preliminarily determine that the benefit under the NRCAN softwood marketing subsidies program should be expensed in the year of receipt.

Consistent with our approach in the first and second administrative reviews, we then calculated the countervailable subsidy rate during the POR by dividing the amounts received by Forintek during the POR under the VWP and NRII programs by Canada's total sales of the wood products manufacturing industry during the POR. We also divided the funding received by FERIC under the NRII during the POR by Canada's total sales of the wood products manufacturing and paper industries during the POR. We adjusted these sales amounts to account for any excluded company sales. *See*, *e.g.*, ''Natural Resources Canada (NRCAN) Softwood Marketing Subsidies'' section of the *Final Results of 2nd Review Decision Memorandum.* Combining these two amounts, we preliminarily determine the net subsidy rate from the NRCAN softwood marketing subsidies program to be 0.02 percent *ad valorem.*

3. Federal Economic Development Initiative in Northern Ontario (FEDNOR)

FEDNOR is an agency of Industry Canada, a department of the GOC, which encourages investment, innovation, and trade in Northern Ontario. A considerable portion of the GOC assistance under FEDNOR is provided to Community Futures Development Corporations (CFDCs), non-profit community organizations providing small business advisory services and offering commercial loans to small and medium enterprises (SMEs). Assistance in the form of grants is also provided under the FEDNOR program.

In the underlying investigation and first and second administrative reviews, we determined that grants and loans under the FEDNOR program constitute government financial contributions to softwood lumber producers within the meaning of section 771(5)(D)(i) of the Act. *See e.g.*, *Preliminary Results of 1st Review*, 69 FR at 33228; *see also Preliminary Results of 2nd Review*, 70 FR at 33114. In addition, we found that grants under the program confer a benefit to softwood lumber producers under section 771(5)(E) of the Act and that CFDC loans confer a benefit to softwood lumber producers under section 771(5)(E)(ii) of the Act to the extent that the amount they pay on CFDC loans are less than the amount they would pay on a comparable commercial loan that they could actually obtain on the market. *Id.* Furthermore, we found that the grants and loans provided under the FEDNOR program are specific within the meaning of section 771(5A)(D)(iv) of the Act, because assistance under the program is limited to certain regions in Ontario. *Id.* On this basis, we found the program to be countervailable. No new information has been placed on the record of this review to warrant a change in our findings.

In this administrative review, the GOC provided grants during the POR as well as several long and short-term CFDC loans that were outstanding during the POR.

Consistent with our approach in the first and second administrative reviews, to determine the benefit attributable to loans offered under the FEDNOR program, we compared the long-term and short-term interest rates charged on these loans during the POR to the long-term and short-term benchmark interest rates. *Id.* Our benchmark interest rates are described in ''Benchmarks for Loans & Discount Rates.'' As the interest amounts paid on the loans under the FEDNOR program were greater than what would have been paid on a comparable commercial loan, as indicated by our benchmark interest rate, we preliminarily determine that this program did not confer a benefit upon softwood lumber producers in accordance with section 771(5)(E)(ii) of the Act during the POR.

We have treated the grant received during the POR as non-recurring. In accordance with 19 CFR 351.524(b)(2), we have determined that the approved amount of the grant is less than 0.5 percent of total sales of softwood lumber for Ontario during the POR. Therefore, we have expensed the benefit from this grant in the year of receipt.

To calculate the countervailable subsidy provided under this program, we divided the grant amounts disbursed during the POR by the value of total sales of softwood lumber for Ontario during the POR, net of excluded company sales. Next, as explained in the ''Aggregate Subsidy Rate Calculation'' section of this notice, we multiplied this amount by Ontario's relative share of total exports to the United States. Using this methodology, we preliminarily determine the countervailable subsidy from this program to be less than 0.005 percent *ad valorem.*

Programs Administered by the Government of British Columbia

1. Forestry Innovation Investment Program (FIIP)

The Forestry Innovation Investment Program came into effect on April 1, 2002. On March 31, 2003, FIIP was incorporated as Forestry Innovation Investment Ltd. (FII). FII funds are used to support the activities of universities, research and educational organizations, government ministries and industry associations producing a wide range of wood products. FII's strategic objectives are implemented through three sub-programs addressing: Research, product development and international marketing. In this review, the GOBC states that research grants provided under the FII are now provided under Forest Science Program (FSP), as of April 1, 2004. For purposes of this review, we find that the FSP is sufficiently similar to the research program previously provided under the FII program. Therefore, in these preliminary results, we have treated the FSP as a successor program to the FII program.

In the first and second administrative reviews, we determined that the FII grants provided for research as well as those to support product development and international marketing constitute a government financial contribution and confer a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. *See e.g.*, Comment 69 of the *Final Results of 2nd Review Decision Memorandum.* Further, we found that the grants are specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited to institutions and associations conducting projects related to wood products generally and softwood lumber, in particular. *Id.* No new information has been placed on the record of this review to warrant a change in our finding that grants FIIP are countervailable.

To calculate the benefit from this program, we first determined whether these non-recurring subsidies should be expensed in the year of receipt. *See* 19 CFR 351.524(b)(2). For grants given to support product development, we divided the amount approved by the total sales of woods products manufacturing industry for B.C. during the year of approval. With respect to the international marketing sub-program, for projects targeting the U.S. market, we divided the amount approved by the total exports of softwood lumber to the United States during the year of approval. For international marketing projects relating to the wood products industry in general, we divided the

amounts by the total sales of the wood products manufacturing industry, excluding co-products, during the year of approval. *See* 19 CFR 351.525(b)(4). For research grants under the FSP, the successor program to the FII research program, we divided the grants approved by total sales of the wood products manufacturing and paper industries in B.C. during the year of approval. Combining these three amounts, we have preliminarily determined that the FII benefit should be expensed in the POR.

Consistent with our approach in the second administrative review, we then calculated the countervailable subsidy rate during the POR by dividing the amounts disbursed during the POR by their corresponding sales denominator, which are described above. We combined these amounts and, as explained in ''Aggregate Subsidy Rate Calculation,'' we multiplied this total by B.C.'s relative share of total exports to the United States. On this basis, we have preliminarily determined the countervailable subsidy from the FIIP to be 0.04 percent *ad valorem.*

2. British Columbia Private Forest Property Tax Program

In the second administrative review we explained that B.C.'s property tax system has two classes of private forest land—Class 3, ''unmanaged forest land,'' and Class 7, ''managed forest land''—that incurred different tax rates in the 1990s through the POR. In the first and second administrative reviews, we found that property tax rates for Class 7 were generally lower than for Class 3 land at all levels of tax authority for most, though not all, taxes. *See* ''British Columbia Private Forest Property Tax Program'' section of *Final Results of 1st Review Decision Memorandum; see also* ''British Columbia Private Forest Property Tax Program'' and Comment 72 of the *Final Results of 2nd Review Decision Memorandum.* We further found that the various municipal and district (i.e., regional) level authorities imposed generally lower rates for Class 7 than for Class 3 land. *Id.*

The tax program is codified in several laws, of which the most salient is the 1996 Assessment Act (and subsequent amendments). Section 24(1) of the Assessment Act contains forest land classification language expressly requiring that, inter alia, Class 7 land be ''used for the production and harvesting of timber.'' Additionally, section 24(3) or 24(4) of the Assessment Act, depending on the edition of the statute, requires the assessor to declassify all or part of Class 7 land if ''the assessor is not satisfied* * *that the land meets all requirements'' for managed forest land classification. Amendments to the provision, enacted from 1996 through 2003, retained the same language stating these two conditions. Thus, the law as published during the POR required that, for private forest land to be classified and remain classified as managed forest land, it had to be ''used for the production and harvesting of timber.''

In the first and second reviews, we found that because the tax authorities impose two different tax rates on private forest land, the governments are foregoing revenue when they collect taxes at the lower rate, and we, therefore, determined that the program constitutes a government financial contribution as defined in section 771(5)(D)(ii) of the Act. *See e.g.,* ''British Columbia Private Forest Property Tax Program'' and Comment 72 of the *Final Results of 2nd Review Decision Memorandum.* We also determined that the program confers a benefit in the form of tax savings within the meaning of section 771(5)(E) of the Act. *Id.* In the second administrative review, we further determined that because the Assessment Act expressly requires that Class 7 land be ''used for the production and harvesting of timber,'' and additionally requires the assessor to declassify any Class 7 land not meeting all the Class 7 conditions (of which timber use was one), the B.C. private forest land tax program is specific as a matter of law (*i.e., de jure* specific) within the meaning of section 771(5A)(D)(i) of the Act. *See* ''British Columbia Private Forest Property Tax Program'' and Comment 72 of the *Final Results of 2nd Review Decision Memorandum.* No new information has been placed on the record of this review to warrant a change in our finding that the B.C. private forest land tax program is countervailable.

In the current review, pursuant to revisions to the Assessment Act during the POR, Class 3 tax rates on ''unmanaged land'' were repealed, effective December 31, 2004. *See, e.g.*, page BC–T–12, Volume 34 of the GOBC's October 3, 2005, questionnaire response. Since we are unable use the Class 3 tax rate as our benchmark for the portion of the POR covering 2005, we have used the next most applicable tax, which for purposes of these preliminary results, we find is the Class 5 tax rate for light industries. Because the revisions to the Assessment Act did not take effect until 2005, we have continued to use the Class 3 tax rate for unmanaged land as our benchmark the for calculating the benefit under the program during the portion of the POR covering 2004.

Consistent with our approach in the first and second reviews, and in accordance with 19 CFR 351.509(a), we find that the benefit received under this program is the sum of the tax savings enjoyed by Class 7 sawmill landowners at the provincial, regional, and sub-provincial (or local) levels of tax authority in B.C. *See* ''British Columbia Private Forest Property Tax Program'' and Comment 72 of the *Final Results of 2nd Review Decision Memorandum.* With regard to the provincial tax, the assessed value is calculated as the sum of the land value and a formulaic valuation of the timber harvested from the land in the prior year. The tax is levied by applying the tax rate to this assessed value. The GOBC did not submit data on the timber value. Accordingly, the Department calculated the tax benefit at the provincial level based solely on the tax savings conferred upon Class 7 land with sawmills.

Consistent with our approach in the second administrative review, we determined the tax benefit at the regional and local level using the data submitted by the GOBC on local tax rates, and on the value and acreage of Class 7 land held by sawmill landowners in the various jurisdictions.[42] Only those jurisdictions whose tax differential resulted in a tax savings for Class 7 sawmill landowners were included in the benefit calculation. *Id.*

The provincial, regional, and local level benefit amounts were summed to produce an overall POR benefit amount. Consistent with our approach in the first and second administrative reviews, we used the POR total value of B.C. sawmill softwood product shipments (*i.e.*, lumber, co-products, and ''residual'' products from primary sawmills) as the denominator, and, adjusting for B.C.''s share of the total exports to the United States, we preliminarily determine the countervailable subsidy under this program to be 0.10 percent *ad valorem* during the POR. *See e.g.*, ''British Columbia Private Forest Property Tax Program'' of the *Final Results of 2nd Review Decision Memorandum.*

3. Compensation for Tenure Reclamation Under the Protected Areas Forest Compensation Act (PAFCA) and Forest Revitalization Act (FRA)

The Protected Area Forests Compensation Act (PAFCA) clarifies the

[42] Unlike the second administrative review, the GOBC was able to provide the land values for Class 7 land with sawmills at the regional level.

rights of certain tenure holders whose tenures have been taken back by the GOBC. Specifically, the program provides a means through which qualifying tenure holders may seek compensation from the GOBC pursuant to negotiation or third-party arbitration. Payment of compensation under PAFCA is administered by the B.C. Ministry of Forests and Range.

Enacted on May 20, 2002, PAFCA sets forth provisions that compensate tenure holders for tenure areas reclaimed for the purpose of creating 376 identified parks, protected areas, and ecological reserves established under the GOBC's Protected Areas Strategy. PAFCA covers tenure take backs that occurred from 1995 to the end of 2001 for which compensation claims were not otherwise settled. According to the GOBC, claims for compensation are initiated when a licensee whose harvesting rights has been affected by a park subject to PAFCA contacts the B.C. Ministry of Forests and Range to undertake negotiations or commercial arbitration.

Under section 60 of the Forest Act, the Minister of Forests is authorized to take back without compensation up to five percent of a license area or AAC. However, where more than five percent of an AAC, section 60 mandates compensation for the value of the tenure for the remaining term. Moreover, section 60(5) requires the GOBC to compensate the tenure holder for any unamortized costs incurred for improvements, such as roads and bridges that become useless to the tenure holder as a result of the taking. Furthermore, under section 60.93, if the GOBC and the tenure holder cannot agree on the amount of compensation, the issue must be submitted for third-party arbitration as provided in the Commercial Arbitration Act.

During the POR there were three pending arbitration proceedings under the Commercial Arbitration Act pursuant to section 60.93 involving tenure take backs that occurred prior to the POR. One of the tenure holders received a favorable ruling in August 2004. As a result, the GOBC made a C$14 million payment to the company during the POR, pursuant to a settlement between the company and the GOBC. At the end of the POR, the arbitration for the other two tenure holders had not yet begun.

The GOBC conducts a similar take back program pursuant to the Forestry Revitalization Act (FRA). Under the FRA, which took effect on March 31, 2003, the GOBC reduced certain areas of Crown land covered by a timber license.[43] According to the GOBC, it reclaimed the tenure areas in order to reallocate Crown timber harvesting rights from long-term tenure holders to the BCTS program. In return, the GOBC compensates tenure holders for the reclamations in an amount equal to the value of the affected timber rights as well as for any tenure improvements approved by the provincial government and not otherwise paid for by the provincial government. The amount of compensation is determined by negotiation between the parties or through binding arbitration under provisions of the Commercial Arbitration Act. During the POR, five companies received compensation payments from the GOBC totaling C$ 87.5 million. The payments determined by negotiation between the parties were the first payments made under the FRA.

In the first administrative review, petitioners included the PAFCA program among their new subsidy allegations. Petitioners claimed that because tenure holders paid little or no money for the land rights, and because the government owns the land and timber, any payments made to tenure holders in exchange for a reduction in AAC rights are not on market terms. In light of the information submitted by petitioners, the Department initiated an investigation of the PAFCA program. *See* Memoranda to Melissa G. Skinner, Director, Office of AD/CVD Enforcement VI, through Eric B. Greynolds, Program Manager from Margaret Ward, Case Analyst regarding ''New Subsidy Allegations,'' dated February 6, 2004 (New Subsidy Allegation Memorandum) which is in the public file in the CRU.

Based on the record information of the current review, we preliminarily determine that the GOBC provided compensation settlements under the PAFCA and FRA in the form of cash in exchange for land rights that were provided for little or no money. We find that the compensation from the GOBC constitutes a financial contribution and confers benefits to lumber producers within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We further find that the benefits were specific to tenure holders and, therefore specific within the meaning of section 771(5A)(D) of the Act.

In accordance with 19 CFR 351.504(a) and (b), we are treating these benefits as grants approved and received during the POR. Further, we preliminarily determine that these grants are non-recurring within the meaning of 19 CFR 351.524(c)(2), because they are not addressed under 19 CFR 524(c)(1) and they confer benefits that are exceptional in the sense that the recipient cannot expect to receive additional subsidies under the same program on an on-going basis. Finally, we preliminarily determine that these grants are attributable to tenure holders and, thus we calculated the provincial rate by dividing the amount of reclamation payments to tenure holders during the POR by the sales of those products produced as part of B.C's softwood lumber manufacturing process.[44]

Because the PAFCA and FRA programs are administered under different statutes, we are treating them as separate programs in these preliminary results. Regarding the PAFCA program, because the grant amount is less than 0.5 percent of the corresponding sales denominator in the year of approval, we expensed all of the benefits to the POR, which is the year of receipt. *See* 19 CFR 351.524(b)(1). We then calculated the provincial rate under this program by dividing the benefit amount allocated to the POR by the sales of those products produced during the POR as part of B.C.'s softwood lumber manufacturing process. As explained in the ''Aggregate Subsidy Rate Calculation'' section of these preliminary results, we then multiplied the provincial rate by B.C.'s relative share of total exports of softwood lumber to the United States during the POR.

Regarding the FRA program, pursuant to 19 CFR 351.524(b)(2), because the sum of the benefit amounts under this program is larger than 0.5 percent of the corresponding sales denominator in the year of approval, we have allocated the benefit amounts pursuant to the allocation methodology described under 19 CFR 351.524(d). In accordance with 19 CFR 351.524(d)(3)(i)(B), we have used as our discount rate, the long-term benchmark rate described in the ''Benchmarks for Loans and Discount Rate'' section of these preliminary results. We then calculated the provincial rate under this program by dividing the benefit amount allocated to the POR by the sales of those products

[43] The GOBC defines a timber license as an area of Crown land that is not in a tree farm licence area, and is held by a person who is the holder of a licence in a group of licences. See the FRA, which is included as Exhibit BC–S–90 of the GOBC's October 3, 2005, questionnaire response.

[44] Specifically, the denominator consists of the following: Softwood lumber, including softwood lumber that undergoes some further processing (so-called ''remanufactured'' lumber), softwood co-products (*e.g.,* wood chips and sawdust) that resulted from softwood lumber production at sawmills, and residual products produced by sawmills that were the result of the softwood lumber manufacturing process, specifically, softwood fuelwood and untreated softwood ties.

produced as part of B.C.'s softwood lumber manufacturing process. As explained in the ''Aggregate Subsidy Rate Calculation'' section of these preliminary results, we then multiplied the provincial rate by B.C.'s relative share of total exports of softwood lumber to the United States during the POR.

On this basis, we preliminarily determine the net countervailable subsidy for the FRA and PAFCA programs to be 0.09 and 0.10 percent *ad valorem*, respectively.

Programs Administered by the Government of Quebec

Private Forest Development Program

In the first and second administrative reviews, we determined that the provision of grants to producers of softwood lumber under the Private Forest Development Program (PFDP) constitutes a government financial contribution and confers a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. *See* the ''Private Forest Development Program'' section of the *Final Results of 1st Review Decision Memorandum; see also* ''Private Forest Development Program'' section of the *Final Results of 2nd Review Decision Memorandum.* In addition, we determined that assistance provided under this program is specific under section 771(5A)(D)(i) of the Act because assistance is limited to private woodlot owners. *Id.*

Every holder of a wood processing plant operating permit must pay the fee of C$1.20 for every cubic meter of timber acquired from a private forest. These fees fund, in part, the PFDP. The recipients of payments under the PFDP are owners of private forest land. Thus, the sawmill operators that received assistance under the PFDP received assistance because they owned private forest land. Therefore, in the first and second administrative reviews, we determined that the fees paid to harvest timber from private land do not qualify as an offset to the grants received under the PFDP pursuant to section 771(6) of the Act. *Id.* Section 771(6) of the Act specifically enumerates the only adjustments that can be made to the benefit conferred by a countervailable subsidy and fees paid by processing facilities do not qualify as an offset against benefits received by private woodlot owners. *Id.* Consistent with our treatment of the PFDP in the first administrative review, we treated these payments as recurring in accordance with 19 CFR 351.524(c). *Id.* No new information has been placed on the record of this review to warrant a change in our finding that the PFDP is countervailable.

Consistent with our approach in the first and second administrative reviews, to calculate the countervailable subsidy under the PFDP, we first summed the reported amount of grants provided to sawmills that produce softwood lumber (and other products) during the POR. We then divided the net benefit amount by total sales of softwood lumber (*i.e.*, lumber from primary mills and in-scope lumber from remanufacturers), hardwood lumber, and softwood co-products. *Id.* We adjusted the sales denominator to account for sales of excluded companies from Quebec. Next, as explained in ''Aggregate Subsidy Rate Calculation,'' we multiplied this amount by Quebec's relative share of exports to the United States, adjusted for sales of excluded companies. On this basis, we preliminary determine the countervailable subsidy from this program is less than 0.005 percent *ad valorem.*

Programs Determined Not To Confer a Benefit

Government of British Columbia

Forest Renewal B.C. Program

The Forest Renewal program was enacted by the GOBC in the Forest Renewal Act in June 1994 to renew the forest economy of British Columbia by, among other things, improving forest management of Crown lands, supporting training for displaced forestry workers, and promoting enhanced community and First Nations involvement in the forestry sector. To achieve these goals, the Forest Renewal Act created Forest Renewal B.C., a Crown corporation. The corporation's strategic objectives were implemented through three business units: The Forests and Environment Business Unit, the Value-Added Business Unit, and the Communities and Workforce Business Unit.

The Forest Renewal B.C. program provides funds to community groups and independent financial institutions, which may in turn provide loans and loan guarantees to companies involved in softwood lumber production.[45] Effective March 31, 2002, the B.C. legislature terminated the Forest Renewal B.C. program. However, during the POR, there remained active Forest Renewal B.C. loans, with interest payments outstanding during the POR.

As explained in the second administrative review, Forest Renewal B.C. provided blanket guarantees with respect to all loans outstanding under the program during the POR. *See Preliminary Results*, 70 FR at 33115. Accordingly, in the second administrative review we found that the loan guarantees provided under the program constitutes a government financial contribution within the meaning of section 771(5)(D)(i) of the Act. Further, we found that because assistance under the Forest Renewal B.C. program was limited to the forest products industry, the program was specific within the meaning of section 771(5A)(D) of the Act. *Id.* No new information has been placed on the record of this review to warrant a change in our findings.

To determine whether the active Forest Renewal loans provided benefits to the softwood lumber industry, in accordance with section 771(5)(E)(ii) of the Act, we compared the interest rates charged on the Forest Renewal loans to the benchmark interest rates described in ''Benchmarks for Loans and Discount Rates.'' Using this methodology, we have preliminarily determined that no benefit was provided by the Forest Renewal loans because the interest rates charged under this program were equal to or higher than the interest rates charged on comparable commercial loans.

Government of Quebec

1. Assistance Under Article 28 of Investment Quebec

Assistance under Article 28 is administered by Investissement Quebec, a government corporation. In the underlying investigation, the Department investigated assistance from the GOQ under Article 7, which was administered by the Societe de Developpement Industriel du Quebec (SDI). Article 28 supplanted Article 7 in 1998. Under Article 7, SDI provided financial assistance in the form of loans, loan guarantees, grants, assumption of interest expenses, and equity investments to projects that would significantly promote the development of Quebec's economy. According to the GOQ's response, prior to authorizing assistance, SDI would review a project to ensure that it had strong profit potential and that the recipient business possessed the necessary financial structure, adequate technical and management personnel, and the means of production and marketing required to complete the proposed project. The Article 28 program operates fundamentally in the same manner as Article 7.

[45] Grants have also been provided directly to softwood lumber producers. However, the GOBC has reported that no such grants were provided during the POR.

During the POR, there was one outstanding loan under Article 28. There were no outstanding loans under Article 7. No other assistance was provided to softwood lumber companies under Article 7 or Article 28. Regarding the outstanding loan, it was held by a company that subsequently entered into bankruptcy during the POR. The GOQ indicates that the company paid no interest on the loan during the POR.

The Department does not automatically find reorganizations, workout programs or bankruptcy proceedings to be countervailable. Rather, the Department must find that such events transpired in a manner that is inconsistent with typical practice. *See e.g.*, *Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 69 FR 2113 (January 14, 2004), and Accompanying Issues and Decision Memorandum at Comment 4 (where the Department found that KAMCO's debt forgiveness to Sammi was not specific or preferential as it was similar to debt forgiveness to other companies in court receivership where KAMCO was the lead creditor), *Final Affirmative Countervailing Duty Determination and Negative Critical Circumstances Determination: Carbon and Certain Alloy Seel Wire Rod from Germany*, 67 FR 55808 (August 30, 2002), and Accompanying Issues and Decision Memorandum at 24–25 (where the Department found that Saarstahl and its creditors followed established procedures and that there was no evidence indicating that the German government acted in a manner that caused the terms of Saarstahl's bankruptcy/restructuring proceedings to be unduly favorable to the company), and *Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from India*, 71 FR 1512 (January 10, 2006).

For purposes of these preliminary results, we find that there is no allegation or evidence the bankruptcy in question transpired in a manner inconsistent with typical practice. Therefore, we preliminarily determine that this program did not provide any countervailing benefits during the POR.

2. Assistance From the Societe de Recuperation d'Exploitation et de Developpement Forestiers du Quebec (Rexfor)

SGF Rexfor, Inc. (Rexfor) is a corporation, all of whose shares are owned by the Societe Generale de Financement du Quebec (SGF). SGF is an industrial and financial holding company that finances economic development projects in cooperation with industrial partners. Rexfor is SGF's vehicle for investment in the forest products industry.

Rexfor receives and analyzes investment opportunities and determines whether to become an investor either through equity or participative subordinated debentures. Debentures are used as an investment vehicle when Rexfor determines that a project is worthwhile, but is not large enough to necessitate more complex equity arrangements. Consistent with our approach in the underlying investigation, we have not analyzed equity investments by Rexfor because (1) there was no allegation that Rexfor's equity investments were inconsistent with the usual investment practice of private investors, and (2) there is no evidence on the record indicating that Rexfor's equity investments conferred a benefit.

Also, consistent with our approach in the investigation and first and second reviews, we examined whether Rexfor's participative subordinated debentures, *i.e.*, loans, conferred a subsidy. Because assistance from Rexfor is limited to companies in the forest products industry, we have preliminarily determined that this program is specific under section 771(5A)(D)(i) of the Act. The long-term loans provided by Rexfor qualify as a financial contribution under section 771(5)(D)(i) of the Act. To determine whether the single loan outstanding to a softwood lumber producer during the POR provided a benefit, we compared the interest rates on the loan from Rexfor to the benchmark interest rates as described in ''Benchmarks for Loans and Discount Rates.'' *See* 771(5)(E)(ii) of the Act. *See, e.g.*, *Preliminary Results of 2nd Review*, 70 FR at 33116.

Using this methodology, we have preliminarily determined that no benefit was provided by this loan because the interest rates charged under this program were higher than the interest rates charged on comparable commercial loans. On this basis, we have preliminarily found that the debt forgiveness by Rexfor did not confer a benefit in the POR and, thus, provides no countervailable subsidy.

Preliminary Results of Review

In accordance with section 777A(e)(2)(B) of the Act, we have calculated a single country-wide subsidy rate to be applied to all producers and exporters of the subject merchandise from Canada, other than those producers that have been excluded from this order. This rate is summarized in the table below:

Producer/exporter	Net subsidy rate
All Producers/Exporters.	11.23 percent *ad valorem.*

If the final results of this review remain the same as these preliminary results, the Department intends to instruct CBP to assess countervailing duties as indicated above. The Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties of 11.23 percent of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than seven days after the time limit for filing case briefs. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Please note that an interested party may still submit case and/or rebuttal briefs even though the party is not going to participate in the hearing.

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary results. Any requested hearing will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number

of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs.

This administrative review is issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act.

Dated: May 31, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. 06–5221 Filed 6–9–06; 8:45 am]

BILLING CODE 3510–DS–P

Federal Register

Monday,
June 12, 2006

Part VI

Department of Commerce

International Trade Administration

Notice of Preliminary Results of Antidumping Duty Administrative Review; Partial Rescission and Postponement of the Final Results: Certain Softwood Lumber Products From Canada; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]

Notice of Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission and Postponement of the Final Results: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: June 12, 2006.

FOR FURTHER INFORMATION CONTACT: Constance Handley or David Layton, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0631 or (202) 482–0371, respectively.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain softwood lumber products from Canada for the period May 1, 2004, to April 30, 2005 (the POR). We preliminarily determine that sales of subject merchandise made by Blanchette & Blanchette Inc. (Blanchette), International Forest Products Ltd. (Interfor), Rene Bernard Inc. (Rene Bernard), Tembec Inc. (Tembec), Tolko Industries Ltd. (Tolko), West Fraser Mills Ltd. (West Fraser), Western Forest Products Inc. (WFP) and Weyerhaeuser Company Limited [1] (Weyerhaeuser) have been made below normal value. In addition, based on the preliminary results for these respondents selected for individual review, we have preliminarily determined a weighted-average margin for those companies for which a review was requested, but that were not selected for individual review. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on appropriate entries. Furthermore, twenty-eight companies have reported no shipments during the period of review. If we determine that the companies did not ship subject merchandise to the United States during the POR, we will rescind the review for these companies for the final results. Finally, requests for review of the antidumping order for thirty-two companies were withdrawn. Because the withdrawal requests were timely and there were no other requests for review of the companies, we are rescinding the review for these companies. See 19 CFR 351.213(d)(1). Interested parties are invited to comment on these preliminary results and partial rescission.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2005, the Department published a notice of opportunity to request an administrative review of this order. See *Notice of Opportunity to Request Administrative Review Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 70 FR 22631 (May 2, 2005). On May 31, 2005, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(b), the Coalition for Fair Lumber Imports (the Coalition), a domestic interested party in this case, requested a review of producers/exporters of certain softwood lumber products. Also, between May 3, and May 31, 2005, certain Canadian producers/exporters requested a review on their own behalf or had a review of their company requested by a U.S. importer.

On June 30, 2005, the Department published a notice of initiation of administrative review of the antidumping duty order on certain softwood lumber products from Canada, covering the POR. See *Notice of Initiation of Antidumping an Countervailing Duty Administrative Reviews*, 70 FR 37749 (June 30, 2005) (*Initiation Notice*).[2]

The Department received requests for review from more than 450 companies. Accordingly, in July 2005, in advance of issuing antidumping questionnaires, the Department issued to all companies for which an administrative review had been requested, a letter requesting total production and quantity of subject merchandise exported to the United States during the POR.[3] Companies were required to submit their responses to the Department by July 27, 2005.[4] In addition, we received comments from interested parties on the respondent selection process, which included proposed methodologies.

Upon consideration of the information received with respect to respondent selection, on November 23, 2005, the Department selected the following eight respondents using a probability-proportional-to-size (PPS) sampling methodology: Blanchette, Interfor, Rene Bernard, Tembec, Tolko, West Fraser, WFP, and Weyerhaeuser.[5] See Memorandum from David Layton, David Neubacker, and Shane Subler, International Trade Compliance Analysts to Stephen J. Claeys, Deputy Assistant Secretary, Regarding Selection of Respondents (December 15, 2005) (*Respondent Selection Memorandum*). See also *Selection of Respondents* section below.

On November 23, 2005, the Department issued sections A, B, C, D, and E of the antidumping questionnaire to the selected respondents. The respondents submitted their initial responses to the antidumping questionnaire from December 2005 through February 2006. After analyzing these responses, we issued supplemental questionnaires to the respondents to clarify or correct the initial questionnaire responses. We received timely responses to these questionnaires.

Partial Rescission and Preliminary Rescission of Administrative Review

On July 8, 2005, the Coalition withdrew its request for administrative reviews of the antidumping duty order with respect to Lawsons Lumber Company Ltd. and Pacific Lumber Company. On September 13, 2005, Millco Forest Products withdrew its request for an administrative review of Skagit Industries Ltd. On September 19, 2005, Fred Tebb & Sons, Inc. withdrew its request for an administrative review of S&R Sawmills Ltd. On August 15 and September 26, 2005, Patrick Lumber Company withdrew its request for administrative reviews of CDS Lumber Products Ltd. and Maher Forest Products Ltd. On September 27, 2005, Alexandre Cote Ltee., Clotures Rustiques L.G. Inc., Les Bois K–7 Lumber Inc., and Les Produits Forestiers Dube (Dube Forest Products) withdrew

[1] Weyerhaeuser Company is the parent of Weyerhaeuser Company Limited. The Department has used the term ''Weyerhaeuser Company'' interchangeably to refer to both entities. However, Weyerhaeuser Company Limited is the respondent in this administrative review.

[2] This notice was amended. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 61601 (October 25, 2005).

[3] See Memo from Saliha Loucif, International Trade Compliance Analyst, to the File regarding Quantity Letter Mailed to Interested Parties on July 11, 2005 (July 25, 2005) (*Quantity Request*).

[4] This deadline was subsequently extended to August 3, 2005. See Memo from David Neubacher, International Trade Compliance Analyst, to the File regarding Extension for Request for Information in Third Administrative Review of Certain Softwood Lumber Products from Canada (July 19, 2005).

[5] We note that the Department inadvertently omitted Pacific Coast Timber Inc. from the sampling database. Pacific Coast Timber Inc. submitted its information to the Department and, therefore, has been included on the list of companies receiving the review-specific rate for this review.

their requests for administrative reviews of the antidumping duty order. On September 28, 2005, Armand Duhamel & Fils Inc., Boscus Canada Inc., Byrnexco Inc., Careau Bois Inc., Fletcher Lumber, Fontaine Inc. (dba J.A. Fontaine et Fils Incorporee) and its affiliates, including Bois Fontaine Inc., Gestion Natanis Inc., and Les Placements Jean-Paul Fontaine Ltee), Les Bois Lac Frontiere Inc., Les Scieries J. Lavoie Inc., Maibec Industries, Materiaux Blanchet Inc., Max Meilleur et Fils Ltee., Optibois Inc., Precibois Inc., Preparabois Inc., Produits Forestiers Berscifor Inc., Rembos Inc., Scierie West Brome Inc., Tall Tree Lumber Co., and Usine Sartigan Inc. withdrew their requests for administrative reviews. Because the withdrawal requests were timely filed, i.e., within 90 days of publication of the Initiation Notice, and because there were no other requests for review of the above-mentioned companies, we are rescinding the review with respect these companies in accordance with 19 CFR 351.231(d)(1).

Pursuant to 19 CFR 351.231(d)(3), the Department will rescind an administrative review with respect to a particular exporter or producer if it concludes that during the period of review there were ''no entries, exports, or sales of the subject merchandise.'' Accordingly, the Department requires that there be entries during the POR upon which to assess antidumping duties, to conduct an administrative review. Barrett Lumber Company Limited, Cascadia Forest Products Ltd., Cattermole Timber, Chipman Sawmill Inc., Cooper Creek Cedar Ltd., Doman Industries Limited, Doman-Western Lumber Ltd., Eacan Timber USA Ltd., Kispiox Forest Products Ltd., Les Bois Indifor Lumber Inc., Oregon Canadian Forest Products, Rojac Cedar Products Inc.,[6] Saran Cedar, Scierie St-Elzear Inc., Vanderhoof Specialty Wood Products Inc., Western Forest Products Limited, WFP Forest Products Limited, and WFP Western Lumber Ltd. reported that they had no entries of subject merchandise during the POR. Furthermore, we confirmed with the following companies that they also had no entries of subject merchandise during the POR: Atco Lumber, Ltd., Barry Maedel Woods & Timber, Interpac Log & Lumber Ltd., Krystal Klear Marketing Inc., Lamco Forest Products, Spruce Forest Products Ltd., Suncoast Lumber & Milling, Timber Ridge Forest Products Inc., Velcan Forest Products Inc., and Westex Timber Mills, Ltd.[7]

The Department did not receive responses from T.F. Specialty Sawmill (T.F. Specialty) and Apex Forest Product, Inc. (Apex). However, both initial quantity request letters were returned to the Department with notes by the carrier that Apex was not located at the address given and T.F. Specialty was no longer in business.[8] Moreover, each company's telephone number was disconnected and the Department did not have any means to contact T.F. Specialty or Apex,[9] Therefore, the Department examined the CBP data to confirm whether these companies shipped subject merchandise during the POR. The Department confirmed that the CBP data showed no entries of subject merchandise to the United States from these companies during the POR.

Therefore, in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the administrative review with respect to all of the above companies because we preliminarily find that they had no shipments and, with respect to T.F. Specialty and Apex, we were unable to locate the companies and believe them no longer to be in business.

The Department notes that respondents' certified questionnaire responses and statements are its primary sources of information in antidumping proceedings while data from CBP may either corroborate or contradict a respondents ' reported data. We are still examining statements in regards to no shipments by the following companies. Deep Cove Forest Products, E. Tremblay et File Ltee, Newcastle Lumber Co., Inc., and Slocan Forest Products Ltd. If the CBP data confirms each company's no shipment claims, we will issue an ''intent to rescind'' notice after the preliminary review results.

Postponement of Final Results

Section 751(a)(3)(A) of the Act, requires the Department to complete the final results of an administrative review within 120 days after the data on which the preliminary results are published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to 180 days from the data of publication of the preliminary results.

We determine that it is not practicable to compete the final results of this review within the original time limit. The Department must address a number of significant and complex issues (e.g., use of adverse facts available and successor-in-interest) prior to the issuance of the final results. Therefore, the Department is extending the deadline for completion of the final results of the administrative review of the antidumping duty order on certain softwood lumber products form Canada. The final results of the review will not be due no later than 180 days from the date of publication of these preliminary results.

Scope of the Order

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under subheadings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood mouldings and wood

[6] Counsel for Rojac Cedar Products Inc. and Rojac Enterprises Inc. informed the Department that the quantity information reported for both companies was inadvertently switched. During the POR, Rojac Enterprise Inc. had shipments and Rojac Cedar Products Inc. had no shipments. Therefore, based on the updated information, we have decided to preliminarily rescind the administrative review for Rojac Cedar Products Inc. See Letter from Howrey to the Department regarding the Third Administrative Review of Softwood Lumber from Canada (March 27, 2006). Rojac Enterprises Inc. is included on the list of companies receiving the review-specific rate for this review.

[7] See Memo from Saliha Loucif, David Neubacher, and David Layton, International Trade Compliance Analysts, to the File regarding Companies claiming no shipments of subject merchandise during the period of review (POR) in response to the Department's July 11, 2005 request for information letter (August 23, 2005) and Memo from David Neubacher, International Trade Compliance Analyst, to the File regarding Phone conversation with Barry Maedel Woods & Timber regarding the Department's July 11, 2005 request for information letter (July 13, 2005).

[8] See Memo from David Neubacher, International Trade Compliance Analyst, to the File regarding Phone conversation with Apex Forest Products, Inc. and T.F. Specialty Sawmill regarding the Department's July 11, 2005 request for information letter (August 11, 2005).

[9] See id.

dowel rods) whether or not planed, sanded or finger-jointed; and

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise subject to this order is dispositive.

As specifically stated in the Issues and Decision Memorandum accompanying the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada*, 67 FR 15539 (April 2, 2002) (see comment 53, item D, page 116, and comment 57, item B–7, page 126), available at *www.ia.ita.doc.gov/frn*, drilled and notched lumber and angle cut lumber are covered by the scope of this order.

The following softwood lumber products are excluded from the scope of this order provided they meet the specified requirements detailed below:

(1) *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.97.40.

(2) *Box-spring frame kits:* if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1″ in actual thickness or 83″ in length.

(3) *Radius-cut box-spring-frame components,* not exceeding 1″ in actual thickness or 83″ in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.

(4) *Fence pickets* requiring no further processing and properly classified under HTSUS 4421.90.70, 1″ or less in actual thickness, up to 8″ wide, 6′ or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring ¾ inch or more.

(5) *U.S. origin lumber* shipped to Canada for minor processing and imported into the United States, is excluded from the scope of this order if the following conditions are met: (1) The processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and (2) if the importer establishes to the satisfaction of CBP that the lumber is of U.S. origin.

(6) *Softwood lumber products contained in single family home packages or kits,*[10] regardless of tariff classification, are excluded from the scope of this order if the importer certifies to items 6 A, B, C, D, and requirement 6 E is met:

A. The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint;

B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, sub floor, sheathing, beams, posts, connectors, and if included in the purchase contract, decking, trim, drywall and roof shingles specified in the plan, design or blueprint;

C. Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;

D. Softwood lumber products entered as part of a single family home package or kit, whether in a single entry or multiple entries on multiple days, will be used solely for the construction of the single family home specified by the home design matching the entry.

E. For each entry, the following documentation must be retained by the importer and made available to CBP upon request:

i. A copy of the appropriate home design, plan, or blueprint matching the entry;

ii. A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;

iii. A listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered;

iv. In the case of multiple shipments on the same contract, all items listed in E(iii) which are included in the present shipment shall be identified as well.

Lumber products that CBP may classify as stringers, radius cut box-spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this order and may be classified under HTSUS subheadings 4418.90.45.90, 4421.90.70.40, and 4421.90.97.40.

Finally, as clarified throughout the course of the investigation, the following products, previously identified as Group A, remain outside the scope of this order. They are:

1. Trusses and truss kits, properly classified under HTSUS 4418.90;
2. I-joist beams;
3. Assembled box spring frames;
4. Pallets and pallet kits, properly classified under HTSUS 4415.20;
5. Garage doors;
6. Edge-glued wood, properly classified under HTSUS 4421.90.97.40;
7. Properly classified complete door frames;
8. Properly classified complete window frames; and
9. Properly classified furniture.

In addition, this scope language was further clarified to specify that all softwood lumber products entered from Canada claiming non-subject status based on U.S. country or origin will be treated as non-subject U.S.-origin merchandise under the countervailing duty order, provided that these softwood lumber products meet the following condition: upon entry, the importer, exporter, Canadian processor and/or original U.S. producer establish to CBP's satisfaction that the softwood lumber entered and documented as U.S.-origin softwood lumber was first produced in the United States as a lumber product satisfying the physical parameters of the softwood lumber scope.[11] The presumption of non-subject status can, however, be rebutted by evidence demonstrating that the merchandise was substantially transformed in Canada.

On March 3, 2006, the Department issued a scope ruling that any product entering under HTSUS 4409.10.05 which is continually shaped along its end and/or side edges which otherwise

[10] To ensure administrability, we clarified the language of exclusion number 6 to require an importer certification and to permit single or multiple entries on multiple days as well as instructing importers to retain and make available for inspection specific documentation in support of each entry.

[11] See the scope clarification message (#3034202), dated February 3, 2003, to CBP, regarding treatment of U.S. origin lumber on file in Room B–099 of the Central Records Unit (CRU) of the Main Commerce Building.

conforms to the written definition of the scope is within the scope of the order.[12]

Use of Adverse Facts Available

Section 776(a) of the Act, provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use facts otherwise available in reaching the applicable determination.

Pursuant to sections 776(a)(2)(A) and (B) of the Act, we preliminarily find that Tembec withheld species-specific stumpage information specifically requested by the Department in its March 7, 2006 and April 28, 2006 supplemental section D questionnaires. Therefore, the Department is preliminarily using facts otherwise available to adjust Tembec's wood costs pursuant to section 776(a) of the Act.

Pursuant to sections 776(a)(2)(A) and (C) of the Act, we preliminarily find that Chasyn Wood Technologies, Cowichan Lumber Ltd., Forwood Forest Products Inc., Hyak Specialty Wood Products Ltd., Jasco Forest Products, Noble Custom Cut Ltd., North American Hardwoods Ltd., North of 50, Scierie A&M St-Pierre Inc., South-East Forest Products Ltd., Spruce Products, Triad Forest Products, Ltd., Westmark Products Ltd., Woodko Enterprises Ltd., and Woodtone Industries Inc. withheld information specifically requested by the Department in its *Quantity Request* letter. Additionally, by not responding to the quantity request, the companies significantly impeded the proceeding. Therefore, the Department has preliminarily determined to base the companies' dumping margins on the facts otherwise available pursuant to section 776(a) of the Act.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party ''failed to cooperate by not acting to the best of its ability to comply with a request for information.'' The Court of Appeals for the Federal Circuit (Federal Circuit) has held that the statutory mandate that a respondent act to the ''best of its ability'' requires the respondent to do the maximum it is able to do. See, e.g., *Nippon Steel Corp.* v. *United States,* 377 F.3d 1373, 1382 (Fed. Cir. 2003).

In Tembec's case, the Department's two supplemental section D questionnaires each requested that Tembec report species-specific wood costs. Tembec instead reported species-specific wood costs for only two of the provinces from which it obtains wood, Ontario and Quebec. For the remaining province, British Columbia, Tembec claimed that it could not report species-specific wood costs. However, Tembec stated in its January 27, 2006 section D response at pages D–4 and D–5, ''{t}hat harvest areas in British Columbia are identified on forest cover maps and that these maps generally identify the species mix, the age, and the height of the candidate stands. A timber survey is then conducted to ensure that the stand actually is comprised of the target species and to ensure that quality and volume needs are met. When needs are met, a formal timber cruise is completed. Using detailed measuring techniques, stands are surveyed for the purpose of determining gross and net volumes, species mix, age, height and piece size.'' Tembec continued to state that ''{t}hese surveys are then entered into a computerized information management system so that more detailed harvest planning may commence.'' Based on these statements, we preliminarily conclude that Tembec could have provided the stumpage costs by species, using the details in these surveys and the stumpage fees actually paid for each stand.

Moreover, other respondents did provide the requested information, under the same circumstances described by Tembec, for all provinces, and did so in this review, in the prior review, and in the investigation. For example, Tolko stated in its January 30, 2006 section D response at page D–24, ''{t}hat for the sawmills that processed multiple species Tolko has allocated stumpage cost to the various species processed based on relative appraisal values.'' Also, West Fraser stated in its January 27, 2006 section D response at page D–23, ''{t}hat based on an analysis of the stumpage fees assessed on each cutting permit during the POR, it has computed a species-specific adjustment to its average stumpage cost per cubic meter for each applicable sawmill.''

Both Tolko and West Fraser relied on the appraisal values and cutting permit data, which are prepared in conjunction with the timber survey that is performed before harvesting, to determine species-specific wood costs. Because Tembec prepared such surveys and uses them in conducting its business, the Department finds that Tembec had the capability to report species-specific wood costs for all provinces and that Tembec did not provide such information in the form or manner requested.

In the case of the companies not responding to the quantity request, the Department finds that those companies failed to respond to the Department's requests. The Department specifically requested in its July 11, 2005, letter to all companies named in the initiation that they report their quantity of subject merchandise entered into the United States during the POR. In the same letter, the Department stated that, absent a response, ''the Department may use information that is adverse to your interest in conducting its analysis.''[13] The Department confirmed that all of the above companies received the letter and also contacted the companies directly to request the information. However, as stated on the record, the companies failed to respond and we preliminarily find that they have withheld information that the Department specifically requested.[14]

The Department finds that all of the above companies could have responded to the Department's requests for information, but did not do so. Accordingly, the Department finds that these companies failed to cooperate to the best of their ability in complying with the Department's requests for information. Consequently, in selecting from among the facts otherwise available, the Department is making an inference that is adverse to the interests of the above companies due to their refusal to cooperate to the best of their ability. See section 776(b) of the Act.

Section 776(b) of the Act authorizes the Department to use as adverse facts available (AFA) information derived from (1) the petition, (2) a final determination in the investigation under this title, (3) any previous review under section 751 or determination under section 753, or (4) any other information on the record.

Pursuant to section 776(b)(4) of the Act, we have selected AFA for Tembec using information the company has

[12] See Memorandum from Constance Handley, Program Manager, to Stephen J. Claeys, Deputy Assistant Secretary regarding Scope Request by the Petitioner Regarding Entries Made Under HTSUS 4409.10.05, dated March 3, 2006.

[13] See Quantity Request at Attachment 1, page 3.

[14] See, e.g., Memo from Saliha Loucif, David Neubacher, and David Layton, International Trade Compliance Analysts, to the File retarding companies that did not respond to the Department's July 11, 2005 request for information letter (August 16, 2005), Memo from David Neubacher, International Trade Compliance Analyst, to the File regarding Phone conversation with Westmark Products Ltd. regarding the Department;s July 11, 2005 request for information letter (August 17, 2005), and Memo from Saliha Loucif, David Neubacher, and David Layton, International Trade Compliance Analysts, to the File regarding Companies that did not respond to the Department's July 11, 2005 request for information letter (November 21, 2005).

placed on the record. To account for all log species in British Columbia for which Tembec only reported average stumpage cost, we have increased the British Columbia wood costs by the difference between the average per-unit stumpage for the highest stumpage cost species and the average per-unit stumpage costs for all species in Ontario and Quebec.

The Department's practice, when selecting an AFA rate for companies that did not provide any usable or reliable information is to select from among the possible sources of information, a margin that is sufficiently adverse ''as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See *Statement of Administrative Action Accompanying the Uruguay Round Agreements Act*, H.R. Rep. No. 103–316, at 870 (1994) (SAA), see also *Notice of Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004); see also *D&L Supply Co.* v. *United States*, 113 F. 3d 1220, 1223 (Fed. Cir. 1997).

In order to ensure that the margin is sufficiently adverse so as to induce cooperation, we have preliminarily assigned a rate of 37.64 percent to those companies that did not provide quantity data in response to the Department's request. This is the rate alleged in the petition, as adjusted at the initiation of the LTFV investigation.[15] The Department finds that this rate is sufficiently high to effectuate the purpose of the adverse facts available rule (i.e., we find that this rate is high enough to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act).

Section 776(c) of the Act provides that, where the Department selects from among the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. Secondary information is described in the SAA as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' See SAA at 870. The SAA states that ''corroborate'' means to determine that the information used has probative value. As explained in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan: Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Review,* 61 FR 57391, 57392 (November 6, 1996) (TRBs), in order to corroborate secondary information the Department will examine, to the extent practicable, the reliability and relevance of the information used. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See 19 CFR 351.308(d) and SAA at 870.

With respect to corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department may disregard the margin and determine an appropriate margin. See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as AFA because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). Therefore, we examined whether any information on the record would discredit the selected rate as reasonable facts available.

The petition rate of 37.64 percent was based on a comparison of price to constructed value (CV) using actual market prices referenced from *Random Lengths*[16] and price quotes from Canadian producers. Because the above data used to calculate CV in the petition was derived from publicly available Canadian domestic industry data and proprietary data from the members of the Coalition adjusted for known differences, the Department believes that this information is reliable and deemed it adequate and reasonable for the purposes of initiating an investigation.

Because the companies did not submit information to the Department or participate in a previous segment of this proceeding, we do not have such information to consider in determining whether the petition rate is relevant to each of them. To determine whether the margin is reliable and relevant in this administrative review, we examined the transaction-specific rates of all respondents in this administrative review compared to the rate of 37.64 percent and found that it was reliable and relevant for use in this administrative review. For the company-specific information used to corroborate this rate, see Memorandum from Constance Handley, Program Manager, to the File regarding Research for Corroboration for the Preliminary Results in the 2004–2005 Antidumping Duty Administrative Review of Certain Softwood Lumber Products from Canada (May 31, 2006). We find the 37.64 percent margin to be probative because it does not appear to be aberrational when compared to the respondents' transaction-specific rates and no information has been presented to call into question the relevance of that information.

Therefore, we have determined that the 37.64 percent margin is appropriate as AFA and are assigning it to Chasyn Wood Technologies, Cowichan Lumber Ltd., Forwood Forest Products Inc., Hyak Specialty Wood Products Ltd., Jasco Forest Products, Noble Custom Cut Ltd., North American Hardwoods Ltd., North of 50, Scierie A&M St-Pierre Inc., South-East Forest Products Ltd., Spruce Products, Triad Forest Products, Ltd., Westmark Products Ltd., Woodko Enterprises Ltd., and Woodtone Industries Inc.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department the discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known exporters/

[15] See Notice of Initiation of Antidumping Duty Investigation: Certain Softwood Lumber Products From Canada, 66 FR 21328 (April 30, 2001) (Initiation of Certain Softwood Lumber Products).

[16] *Random Lengths* is a weekly newsletter that is received by subscribers in the United States, Canada, and 41 other countries. The publication reports prices and examines issues affecting markets for the North American softwood lumber industry.

producers of subject merchandise, this provision permits the Department to review either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

Responses to the Department's information request were received July 18 through September 29, 2005. After consideration of the data submitted, and the complexities unique to this proceeding, as well as the resources available to the Department, we determined that it was not practicable in this review to examine all known exporters/producers of subject merchandise. Accordingly, we limited the number of mandatory respondents to eight and, as explained in our *Respondent Selection Memorandum*, based our selection of mandatory respondents on a PPS sampling methodology. We received written requests from three companies to be included as voluntary respondents in this review.[17] We were not able to accommodate these requests due to resource constraints and preliminarily determine, pursuant to section 782(a)(2), that an individual review of these companies would be unduly burdensome and inhibit the timely completion of this administrative review.

Successor-in-Interest

In submissions to the Department dated December 21, 2005, and March 30, 2006, Tolko advised the Department that Tolko acquired a controlling interest in Riverside Forest Products Ltd. (Riverside) on October 26, 2004, and Tolko acquired the remaining Riverside shares by February 2, 2005.[18] On January 1, 2006, Riverside ceased to exist as a separate corporate entity. The post-acquisition Tolko assumed all softwood lumber, flooring and siding industry operations formerly held by Riverside, in addition to continuing its own operations.

In antidumping duty successor-in-interest determinations, the Department typically examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. See *Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Administrative Review*, 57 FR 20460, 20462 (May 13, 1992) (*Canada Brass).* While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor company if the resulting operations are essentially the same as those of the predecessor company. See, e.g., *Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994), and *Canada Brass*, 57 FR 20462. Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor. See, e.g., *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

Based on our review of the Questionnaire Response, we preliminarily determine that the post-acquisition Tolko is the successor-in-interest to both the pre-acquisition Tolko and Riverside. As a result of the acquisition, significant components of both pre-acquisition Tolko's and Riverside's production facilities, supplier relationships, and customer base were incorporated into the post-acquisition Tolko.

Following the acquisition, Tolko's management structure was revised to incorporate former Riverside managers. By March 2005, pre-acquisition Riverside's Executive Vice-President became the Executive Vice-President of post-acquisition Tolko.[19] A small number of senior plant and site managers with the pre-acquisition Riverside held managerial posts in the post-acquisition Tolko.[20] Thus, managers of both companies held management positions in the post-acquisition Tolko.

The transfer of Riverside's fixed assets to Tolko resulted in a dramatic increase in Tolko's production capacity. Prior to the acquisition, Tolko had five sawmills and Riverside had five sawmills. Following the acquisition, Tolko operated the combined ten sawmills.[21] Moreover, prior to the acquisition, Tolko produced only small quantities of stud grade lumber. Because three of Riverside's lumber mills specialized in stud grade lumber, the acquisition of Riverside enabled Tolko to significantly diversify and increase its production capabilities.[22] Moreover, Tolko reports that, due to the established reputation of Riverside studs, Tolko continues to sell certain stud products under the Riverside name and logo.[23] Thus, the post-acquisition Tolko produced a much larger quantity of and a wider range of products than were produced by either Tolko or Riverside before the acquisition.[24]

Further, the acquisition of Riverside allowed Tolko to significantly increase its customer base. In addition to Tolko's own customers, former Riverside customers purchase from the post-acquisition Tolko.[25] Likewise, many suppliers that previously serviced Riverside continued to supply the post-acquisition Tolko.[26] Thus, the post-acquisition Tolko9 noticeably increased the number of customers to whom it sells, and its list of suppliers became more diversified.

When as the result of a acquisition, the post-acquisition entity contains significant elements of both companies involved in the acquisition, we consider the post-acquisition entity to be a successor-in-interest to both of the pre-acquisition companies. The post-acquisition Tolko's production facilities, supplier relationships, customer base and sales facilities combine important elements of both the pre-acquisition Tolko and Riverside. Consequently, we preliminarily determine that the post-acquisition Tolko is the successor in interest to both the pre-acquisition Tolko and Riverside.

Because the post-acquisition Tolko operated for six months of the POR, we are basing the cash deposit rate for Tolko on the antidumping rate calculated for the post-acquisition Tolko.

Collapsing Determinations

The Department's regulations provide that affiliated producers will be treated as a single entity where: (1) Those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and (2) the Department concludes that there is a

[17] These companies were the Abitibi Group (November 30, 2005), Canfor Corporation (November 30, 2005) and Pope & Talbot (July 15, 2005).

[18] See Tolko's supplemental questionnaire response (Questionnaire Response) dated March 30, 2006, Securities Register at Exhibit 5.

[19] See id. at Exhibit 10.

[20] See id. at Exhibit 9.

[21] See id. at page 8.

[22] See Tolko's second supplemental questionnaire response, (Second Supplemental Questionnaire Response), dated May 8, 2006, at page 2.

[23] See id. at page 5.

[24] Id. at Exhibits 11 and 12.

[25] *Id.* at page 9.

[26] *Id.* at page 10 and Exhibits 14 and 15. See also Second Supplemental Questionnaire Response at page 5–7.

significant potential for the manipulation of price or production.[27] In identifying a significant potential for the manipulation of price or production, the Department may consider such factors as: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.[28] These factors are illustrative, and not exhaustive.

In their questionnaire responses, respondents reported the sales of certain affiliated companies. Blanchette reported the sales of its affiliate, Barrette-Chapais Ltee. Interfor reported sales from its affiliates BW Creative Wood Industries Ltd. and Sauder Industries Limited. Tembec reported the sales of Les Industries Davidson, Inc.[29] as well as Tembec affiliates Marks Lumber Ltd., Temrex Limited Partnership, and 791615 Ontario Limited (Excel Forest Products). Tolko was excused from reporting the sales of Gilbert Smith Forest Products, Ltd. (Gilbert Smith), although it continues to be collapsed with Tolko[30] West Fraser reported the sales of its affiliates West Fraser Forest Products Inc. and Seehta Forest Products Ltd. WFP reported sales by WFP Lumber Sales Ltd., its wholly-owned subsidiary that is responsible for sales of all lumber produced by WFP's sawmill divisions. Prior to July 27, 2004, WFP operated as Doman Industries Limited (Doman) and its subsidiary companies. The Department determined that WFP is the successor-in-interest to Doman.[31] Therefore, WFP also reported all POR sales by Doman prior to July 27, 2004. Weyerhaeuser reported the sales of its affiliate Weyerhaeuser Saskatchewan Ltd. Upon review of the questionnaire responses, we determined that the affiliates discussed above were properly collapsed with the respective respondent companies for the purposes of this review.

Rene Bernard reported sales of subject merchandise produced or further processed by its affiliates Irenée Grondin &Fils Ltée. (Grondin) and Les Sechoirs a Bois Rene Bernard Ltee. (Sechoirs). Rene Bernard also reported sales by two affiliated companies, Bois Bohemia Inc. (BB), and Bermorg LLC (Bermorg) which involved lumber which BB and Bermorg purchased from unaffiliated suppliers and then further processed. We have preliminarily determined that Rene Bernard, BB, and Bermorg are the producers of the lumber that they process and sell.[32] Therefore, we have also collapsed Rene Bernard, BB and Bermorg for these Preliminary Results.[33]

The Department excused individual respondents from reporting the sales of specific merchandise or sales by certain affiliates during this review. These specific reporting exemptions were granted to the companies because the sales were determined to be a relatively small percentage of total U.S. sales, burdensome to the company to report and for the Department to review, and would not materially affect the results of this review.[34]

Treatment of Sales Made on a Random-Length Basis

Most of the respondents made a portion of their sales during the POR on a random-length[35] (also referred to as a mixed-tally) basis. The industry practice is to negotiate a single per-unit price for the whole tally with the customer, but to take the composition of lengths in the tally into account when quoting this price. The price of the invoice is the blended (i.e., average) price for the tally. Therefore, the line-item price on the invoice to the customer does not reflect the value of the particular product, but rather the average value of the combination of products.

Sections 772(a) and (b) and 773(a)(1)(B)(i) of the Act direct the Department to use the price at which the product was sold in determining export price (EP), constructed export price (CEP), and normal value (NV). In this case, the price at which the products were sold is the total amount on the invoice. The respondents' choice to divide that price evenly over all products on the invoice represents an arbitrary allocation which is not reflective of the underlying value of the individual products within the tally. However, with the exception of Blanchette and West Fraser, the respondents do not keep track of any underlying single-length prices in such a way that they can ''deconstruct'' or reallocate the prices on the invoice to more properly reflect the relative differences in the market value of each unique product that were taken into account in determining the total invoice price.

For all companies except Blanchette and West Fraser, for purposes of these preliminary results, we reallocated the total invoice price of sales made on a random-lengths basis, where possible, using the average relative values of company-specific, market-specific single-length sales made within a two-week period (i.e., one week on either side) of the tally whose price is being reallocated. If no such sales were found, we used a four-week period (i.e., two weeks on either side of the sale).

We note that a single-length-sale match must be available for each line item in the tally in order to perform a reallocation based on relative price. If there were not single-length sales for all items in the tally within a four-week period, we continued to use the reported price as neutral facts available, pursuant to section 776(a)(1) of the Act. Blanchette only reported single-length sales. For West Fraser, we used the reported length-specific prices. This methodology was fully described in detail during the first administrative review and applied in the second administrative review. See *Notice of Final Results of Antidumping Duty Administrative Review and Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada*, 69 FR 75921 (December 20, 2004) and accompanying Issues and Decision Memorandum at comment 5.

Fair Value Comparisons

We compared the EP or the CEP, as applicable, to the NV, as described in the *Export Price and Constructed Export Price* and *Normal Value* sections of this notice. We first attempted to compare

[27] See 19 CFR 351.401(f)(1).

[28] See 19 CFR 351.401(f)(2).

[29] Tembec purchased the shares of Davidson on November 5, 2001, and as of December 27, 2003, Davidson became a division of Tembec. The Davidson Division's financial results have been fully incorporated in Tembec's financial statements for the entire POR. Therefore, we are no longer listing Davidson separately as part of the Tembec Group.

[30] See Memorandum from Saliha Loucif, International Trade Compliance Analyst, through Constance Handley, Program Manager, to Susan Kuhbach, Director, regarding Individual Reporting Exemption Requests of Certain Respondent Companies (January 31, 2006).

[31] See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada,* 70 FR 48673, dated August 19, 2005.

[32] See Memorandum from David Layton, International Trade Analyst, to Susan Kuhbach, Director, regarding Whether to Collapse René Bernard Inc. with Certain Affiliated Parties (April 11, 2006).

[33] See id.

[34] *See* Memorandum from Saliha Loucif, International Trade Compliance Analyst, through Constance Handley, Program Manager, to Susan Kuhbach, Director, regarding Individual Reporting Exemption Requests of Certain Respondent Companies (January 31, 2006).

[35] For the purposes of this review, we are defining a random-length sale as any sale which contains multiple lengths, for which a blended (i.e., average) price has been reported.

contemporaneous sales in the U.S. and comparison markets of products that were identical with respect to the following characteristics: product type, species, grade group, grade, dryness, thickness, width, length, surface, trim and processing type. Where we were unable to compare sales of identical merchandise, we compared products sold in the United States with the most similar merchandise sold in the comparison markets based on the characteristics of grade, dryness, thickness, width, length, surface, trim and further processing, in this order of priority. Consistent with prior segments of this proceeding, we did not match across product type, species or grade group. Where there were no appropriate comparison-market sales of comparable merchandise, we compared the merchandise sold in the United States to constructed value (CV), in accordance with section 773(a)(4) of the Act. We generally relied on the date of invoice as the date of sale. Consistent with the Department's practice, where the invoice was issued after the date of shipment, we relied on the date of shipment as the date of sale.

Export Price and Constructed Export Price

In accordance with section 772 of the Act, we calculated either an EP or a CEP, depending on the nature of each sale. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States. Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under sections 772(c) and (d) of the Act.

For all respondents, we calculated EP and CEP, as appropriate, based on prices charged to the first unaffiliated customer in the United States. We found that all of the respondents made a number of EP sales during the POR. These sales are properly classified as EP sales because they were made outside the United States by the exporter or producer to unaffiliated customers in the United States prior to the date of importation.

We also found that each respondent, except Interfor, made CEP sales during the POR. Some of these sales involved softwood lumber sold from U.S. reload centers or through vendor-managed inventory (VMI) locations. Because such sales were made by the respondent after the date of importation, the sales are properly classified as CEP sales. In addition, West Fraser, and Weyerhaeuser made sales to the United States through U.S. affiliates.

We made company-specific adjustments as follows:

(A) Blanchette

Blanchette made both EP and CEP transactions. We calculated EP for sales where the merchandise was sold directly by Blanchette to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of the record. We calculated CEP for sales made by Blanchette to the U.S. customer through a U.S. reload center after importation into the United States. EP and CEP were based on ex-mill prices, ex-reload prices, delivered prices, and prices based on customer-specific sale terms, as applicable.

In accordance with section 772(c)(2)(A) of the Act, we reduced the starting price to account for movement expenses. These reductions included the freight expenses incurred in transporting the merchandise from the mill to the U.S. customer, brokerage expenses, and warehousing expenses. We also adjusted the starting price to account for billing adjustments, rebates, and early payment discounts.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price the selling expenses incurred in selling the subject merchandise in the United States, including direct selling expenses (i.e., credit expenses), and imputed inventory carrying costs incurred in the United States. In accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act. See Memorandum from Saliha Loucif, International Trade Compliance Analyst, to the File regarding Blanchette's Analysis for the Preliminary Results (May 31, 2006) (*Blanchette's Preliminary Calculation Memorandum*).

(B) Interfor

Interfor made only EP transactions during the POR. We calculated an EP for sales where the merchandise was sold directly by Interfor to the first unaffiliated purchaser in the United States prior to importation. EP sales were based on the packed, delivered, ex-mill, and free-on-board (FOB) prices, as applicable

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include freight to the U.S. customer and brokerage and handling. We also adjusted the starting price to account for billing adjustments, rebates, and early payment discounts. See Memorandum from Salim Bhabhrawala, International Trade Compliance Analyst, to the File regarding Interfor's Analysis for the Preliminary Results (May 31, 2006) (*Interfor's Preliminary Calculation Memorandum*).

(C) Rene Bernard

Rene Bernard made both EP and CEP transactions during the POR. We calculated an EP for sales where the merchandise was sold directly by Rene Bernard to the first unaffiliated purchaser in the United States prior to importation. We calculated a CEP for sales made by Rene Bernard to the U.S. customer through intermediate inventory locations. EP and CEP were based on the packed, delivered and FOB mill prices, as applicable.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include freight incurred in transporting merchandise to Canadian transit points, loading fees and freight to the U.S. customer or intermediate inventory locations. We also deducted from the starting price any discounts and added any billing adjustments. In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (e.g., credit expenses) and indirect selling expenses. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act. See Memorandum from David Layton, International Trade Compliance Analyst, to the File, regarding Rene Bernard's Analysis for the Preliminary Results (May 31, 2006) (*Rene Bernard's Preliminary Calculation Memorandum*).

(D) Tembec

Tembec made both EP and CEP transactions during the POR. We calculated an EP for sales where the merchandise was sold directly by Tembec to the first unaffiliated purchaser in the United States prior to importation. We calculated a CEP for sales made by Tembec to the U.S.

customer through U.S. reload facilities or through VMI facilities. EP and CEP were based on the packed, delivered, FOB mill, FOB reload/VMI center and FOB destination prices, as applicable.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include freight incurred in transporting merchandise to Canadian reload centers and Canadian reload expenses (''warehousing expenses''), as well as freight to the U.S. customer or reload facility and U.S. reload expenses. We also adjusted the starting price to account for billing adjustments, rebates, and discounts. In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (e.g., credit expenses) and imputed inventory carrying costs incurred in the United States. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act. See Memorandum from David Layton and Saliha Loucif, International Trade Compliance Analysts, to the File, regarding Tembec's Analysis for the Preliminary Results (May 31, 2006) (*Tembec's Preliminary Calculation Memorandum*).

(E) Tolko

Tolko made both EP and CEP transactions. We calculated EP for sales where the merchandise was sold directly by Tolko to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of the record. We calculated CEP for sales made by Tolko to the U.S. customer through VMI or reload centers after importation into the United States. EP and CEP were based on the packed, delivered, ex-mill, FOB mill, and FOB reload center prices, as applicable.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include freight incurred in transporting merchandise to reload centers or VMI locations, as well as freight to the U.S. customer, warehousing, brokerage and handling, and miscellaneous movement charges. We also adjusted the starting price to account for billing adjustments, rebates, and discounts.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (e.g., credit expenses, warranty expenses) and imputed inventory carrying costs. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount for profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act. See Memorandum from Yasmin Bordas, International Trade Compliance Analyst, to the File, regarding Tolko's Analysis for the Preliminary Results (May 31, 2006) (*Tolko's Preliminary Calculation Memorandum*).

(F) West Fraser

West Fraser made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by West Fraser to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of the record. We calculated a CEP for sales made by West Fraser Forest Products Inc. to the U.S. customer through VMI or reload centers after importation into the United States. EP and CEP were based on the packed, delivered, ex-mill, and FOB reload center prices, as applicable.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include freight incurred in transporting merchandise to reload centers and to VMI customers, freight to the U.S. customer, warehousing, and U.S. and Canadian brokerage. We also adjusted the starting price to account for billing adjustments, rebates, and early payment discounts.

In accordance with section 772(d)(1) of the Act, for CEP sales, we also deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses, (e.g., credit expenses) and imputed inventory carrying costs. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act. See Memorandum from David Neubacher, International Trade Compliance Analyst, to the File, regarding West Fraser's Analysis for the Preliminary Results (May 31, 2006) (*West Fraser's Preliminary Calculation Memorandum*).

(G) WFP

WFP made both EP and CEP transactions. We calculated an EP for sales in which the merchandise was sold directly by WFP to the first unaffiliated purchaser in the United States prior to importation, and in which CEP was not otherwise warranted based on the facts of the record. We calculated a CEP for sales made by WFP to the U.S. customer through reload centers after importation into the United States, for sales made after importation through VMI locations, and for sales made after importation through a U.S. agent. EP and CEP were based on ex-mill prices, ex-VMI/reload prices, delivered prices, and prices based on customer-specific sale terms, as applicable.

In accordance with section 772(c)(2)(A) of the Act, we reduced the starting price to account for movement expenses. These included the freight expenses incurred in transporting merchandise to reload centers, freight to the U.S. customer, brokerage expenses, insurance expenses, warehousing expenses, and a freight variance adjustment. We also adjusted the starting price to account for billing adjustments and early payment discounts.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (i.e., warranty expenses and credit expenses), indirect selling expenses incurred in the United States, and imputed inventory carrying costs. In accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act. See Memorandum from Shane Subler, International Trade Compliance Analyst, to the File regarding WFP's Analysis for the Preliminary Results, dated May 31, 2006 (*WFP's Preliminary Results Calculation Memorandum*).

(H) Weyerhaeuser

Weyerhaeuser made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by Weyerhaeuser to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of the record. We calculated a CEP for sales made by Weyerhaeuser to the U.S. customer through reload carriers. VMIs and Weyerhaeuser's affiliated reseller Weyerhaeuser Building Materials (WBM) after importation into the United States. EP and CEP were based on the packed, delivered, or FOB prices.

From its sales locations in the United States and Canada, Weyerhaeuser made sales of merchandise which had been commingled with that of other

producers. Weyerhaeuser provided a weighting factor to determine the quantity of Weyerhaeuser-produced Canadian merchandise for these sales. We are multiplying the weighing factor by the quantity of lumber in each U.S. and home-market sale to estimate the volume of Weyerhaeuser-produced merchandise in each transaction and to eliminate the estimated non-Weyerhaeuser-produced merchandise from our margin calculation, except as described below where the other producer had knowledge that the merchandise was destined for the United States.

In some cases, the other producers knew or had reason to know that the merchandise purchased by Weyerhaeuser was destined for the United States. For example, Weyerhaeuser routinely purchased merchandise and arranged freight from the producer's mill in Canada to the customer in the United States. We did not include such sales in our margin calculations. In other situations, Weyerhaeuser purchased merchandise and shipped it to U.S. warehouses where it was commingled with lumber produced by Weyerhaeuser. While the producer had knowledge that these sales were destined for the United States, Weyerhaeuser was unable to link the purchases with the specific sale to the unaffiliated customer. To address this, Weyerhaeuser developed a second weighting factor to determine the quantity of the sales for which the third-party producer did not know, or have reason to know, that the merchandise was destined for the United States. We are multiplying the weighting factor by the quantity of lumber in each U.S. sale to estimate the volume of merchandise for which the producer did not have knowledge of destination in each transaction. We included this quantity in our margin calculation and excluded the estimated volume for which the producer did have knowledge of U.S. destination.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include freight to U.S. and Canadian warehouses or reload centers, warehousing expense in Canada and the United States, brokerage and handling, and freight to the final customer. We also deducted from the starting price any discounts, billing adjustments, and rebates.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including indirect selling expenses and direct selling expenses (e.g., credit expenses, advertising, repacking). In accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act. See Memorandum from Constance Handley, Program Manager, to the File, regarding Weyerhaeuser's Analysis for the Preliminary Results (May 31, 2006) (*Weyerhaeuser's Preliminary Calculation Memorandum*).

Normal Value

A. Selection of Comparison Markets

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home-market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP or CEP. The Act contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. We found that all eight respondents had viable home-markets for lumber.

To derive NV, we made the adjustments detailed in the *Calculation of Normal Value Based on Home-Market Prices* and *Calculation of Normal Value Based on Constructed Value*, sections below.

B. Cost of Production Analysis

In the most recently completed segment of the proceeding at the time the questionnaire was sent (i.e., the first administrative review), the Department found that four [36] of the respondents made sales in the home-market at prices below the cost of producing the merchandise and excluded such sales from the calculation of NV. Therefore, the Department determined that there were reasonable grounds to believe or suspect that softwood lumber sales were made in Canada at prices below the cost of production (COP) in this administrative review for these four respondents. See section 773(b)(2)(A)(ii) of the Act. As a result, the Department initiated a COP inquiry for these four respondents.

The Coalition made an allegation of sales below the COP with respect to Blanchette (February 1, 2006), Interfor (January 31, 2006), Rene Bernard (February 10, 2006, and WFP (February 3, 2006). We found that the Coalition's allegation provided the Department with a reasonable basis to believe or suspect that sales in the home-market have been made at prices below the COP by these companies. Accordingly, we initiated an investigation to determine whether their home-market sales of certain softwood lumber products were made at prices below the COP during the POR. See Memorandum from Salim Bhabhrawala, David Layton, Saliha Loucif, and Shane Subler, International Trade Compliance Analysts, to Susan Kuhbach, Director, Office 1, regarding Allegation of Sales Below the Cost of Production by Blanchette & Blanchette, International Forest Products Ltd., Rene Bernard Inc., and WFP (February 24, 2006).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses, selling expenses, packing expenses and interest expenses.

2. Cost Methodology

In our section D questionnaire, we solicited information from the respondents that allows for a value-based cost allocation methodology for wood and sawmill costs (i.e., those costs presumed to be joint costs), including by-product revenue. We allowed for the value allocation to cover species, grade, and dimension (i.e., thickness, width and length). For production costs that are separately identifiable to specific products (e.g., drying or planing costs), we directed parties to allocate such costs only to the associated products using an appropriate allocation basis (e.g., MBF). In allocating wood and sawmill costs (including by-products revenue) based on value, costs associated with a particular group of co-products were to be allocated only to those products (i.e., wood costs of a particular species should only be allocated to that species).

Further, we directed the parties to use weighted-average world-wide prices in deriving the net realizable values (NRV) used for the allocation. We used world-wide prices to ensure that all products common to the joint production process, not just those sold in a particular market, are allocated their fair share of the total joint costs. Finally, we directed the parties to perform the value allocation on the mill/facility level, using the company-wide weighted-average world-wide NRV for the specific products produced at the mill, along

[36] The four companies are Tembec, Tolko, West Fraser, and Weyerhaeuser.

with the mill-specific production quantities.

Consistent with our methodology in the first and second administrative reviews, we requested that the respondents break out the random-length sales separately from length-specific sales and to develop a two-tiered allocation method. First, we directed the respondents to perform the price-based cost allocation (including the random-length-tally sales) without regard to length. Second, we directed them to allocate the resulting product costs into length-specific costs. In performing the second step, we set out a hierarchy when looking for surrogate sales as allocation factors: (1) Length-specific sales of the identical product; (2) length-specific sales of products that are identical to the product except for width; and (3) length-specific sales of products identical to the product except for NLGA grade equivalent. For purposes of these preliminary results, we have used the programs and calculations provided by respondents except in the case of Blanchette and West Fraser. For Blanchette and West Fraser, this step was not necessary due to their ability to provide length-specific sales data. See *Treatment of Sales Made on a Random-Lengths Basis* section above. In addition, we excluded the price of purchased and resold lumber from our calculation of the respondent's per unit product costs.[37]

3. Individual Company Adjustments

We relied on the COP data submitted by each respondent in its cost questionnaire response except in specific instances where, based on our review of the submissions and our verification findings, we believe that an adjustment is required, as discussed below.

For the calculation of general and administrative (G&A) expenses for all companies, we did not include the legal fees which were paid directly by the company to its legal counsel and consultants associated with the AD and CVD proceedings or fees paid to associations used in the defense of the same proceedings.

In accordance with section 773(f)(1) of the Act, for companies that had inter-divisional byproduct transactions where the transfer price was significantly higher than an arm's-length market price, we adjusted the transfer price to the market price. For companies that had byproduct transactions with affiliates where the transfer price was higher than the market price, we adjusted the transfer price to the market price in accordance with section 773(f)(2) of the Act.

(A) Blanchette

(1) We adjusted the denominator of the Blanchette Group's G&A and financial expense ratio calculations to exclude certain reclassified expenses and packing expense, and to include certain by-product revenues.

See Memorandum from Margaret M. Pusey, Accountant, to Neal M. Halper, Director, Office of Accounting, regarding Blanchette's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (May 31, 2006).

(B) Interfor

(1) We increased Interfor's cost of manufacturing under section 773(f)(2) of the Act (i.e., the transactions disregarded rule) for helicopter logging services purchased from an affiliated party at less than market value.

(2) Interfor reported its G&A expense ratio based on financial statements which were prepared for tax purposes. We recalculated Interfor's G&A expense ratio based on its worksheet which ties to the audited financial statements for fiscal year 2004.

(3) Interfor used multiple NRV allocations to value certain intra-company lumber transfers. We adjusted the reported cost methodology by utilizing a single NRV approach.

See Memorandum from Joseph Welton, Accountant, to Neal M. Halper, Director, Office of Accounting, regarding Interfor's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (May 31, 2006).

(C) Rene Bernard

(1) Rene Bernard submitted two cost databases. Cost database A was on a collapsed basis, with purchased semi-finished lumber costs allocated based on the average purchase price. Cost database B was on a collapsed basis, with purchased semi-finished lumber costs allocated based on NRV. For the preliminary results, we used Rene Bernard's cost data base A to calculate the COP and CV.

(2) Because Rene Bernard reported net financing income, we included zero financing costs.

See Memorandum from Ji Young Oh, Accountant, to Neal M. Halper, Director, Office of Accounting, regarding Rene Bernard's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (May 31, 2006).

(D) Tembec

(1) We adjusted Tembec's reported wood costs to include species specific stumpage costs for its British Columbia mills.

(2) Because Tembec reported net financing income, we included zero financing costs.

See Memorandum from Trinette L. Ruffin, Accountant, to Neal M. Halper, Director, Office of Accounting, regarding Tembee's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (May 31, 2006).

(E) Tolko

(1) We value allocated Tolko's and Riverside's mill costs based on the reported six months of net realizable sales values for both companies combined.

(2) We increased the Riverside entity's reported wood costs to reflect arm's length prices of logs purchased from affiliated parties in accordance with section 773(f)(2) of the Act.

See Memorandum from Nancy M. Decker, Accountant, to Neal M. Halper, Director Office of Accounting, regarding Tolko's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (May 31, 2006).

(F) West Fraser

(1) Because West Fraser reported net financing income, we included zero financing costs.

See Memorandum from Christopher J. Zimpo, Accountant, to Neal M. Halper, Director, Office of Accounting, regarding West Fraser's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (May 31, 2006).

(G) WFP

(1) We increased WFP's reported wood costs to include certain contract arbitration expenses.

(2) We revised the value of certain purchased lumber used by re-manufacturing facilities.

(3) We increased one of WFP's re-manufacturing facility's conversion costs to include an unreconciled difference.

(4) We decreased certain sawmills' by-product revenue to reflect arm's length prices of sawdust sold to affiliated parties in accordance with section 773(f)(2) of the Act.

(5) WFP's reported G&A expense and financial expense ratios were calculated based on the five month period ending

[37] We note that the vast majority of purchased lumber was excluded from our sales analyses as the producer had knowledge that the product was for export to the United States.

December 31, 2004. This period coincided with WFP's emergence from bankruptcy. We revised the G&A expense and financial expense ratios based on the 12-month period ending December 31, 2004.

See Memorandum from Mark J. Todd, Accountant, to Neal M. Halper, Director, Office of Accounting, regarding WFP Products' Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (May 31, 2006).

(H) Weyerhaeuser

(1) We made no adjustments to Weyerhaeuser's reported information See Memorandum from J. Laurens van Houten, Accountant, to Neal Halper, Director, Office of Accounting, regarding Weyerhaeuser's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (May 31, 2006).

We compared the adjusted weighted-average COP for each respondent to its home-market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales were made at prices below the COP within an extended period of time (i.e., a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the revised COP to the home-market prices, less any applicable movement charges, export taxes, discounts and rebates.

5. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities.

Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales to have been made in substantial quantities within an extended period of time in accordance with section 773(b)(2)(B) of the Act. Because we compared prices to the POR average COP, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. For all respondents, we found that more than 20 percent of the home-market sales of certain softwood lumber products within an extended period of time were made at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded the below-cost sales and used the remaining sales as the basis for determining normal value, in accordance with section 773(b)(1) of the Act. For those U.S. sales of softwood lumber for which there were no useable home-market sales in the ordinary course of trade, we compared EPs or CEPs to the CV in accordance with section 773(a)(4) of the Act. See *Calculation of Normal Value Based on Constructed Value* section below.

C. Calculation of Normal Value Based on Home-Market Prices

We determined price-based NVs for each company as follows. For all respondents, we made adjustments for differences in packing in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses consistent with section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also made adjustments, in accordance with section 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other (the ''commission offset''). Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of (1) the amount of the commission paid in the U.S. market, or (2) the amount of indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology. Company-specific adjustments are described below.

(A) Blanchette

We based home-market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price by the amount of billing adjustments and movement expenses, including net inland freight, warehousing, brokerage, and handling expenses. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home-market sales (i.e., credit expenses and commissions) and adding U.S. direct selling expenses (i.e., credit expenses and commissions). For comparisons made to CEP sales, we deducted home-market direct selling expenses. See *Blanchette's Preliminary Calculation Memorandum*.

(B) Interfor

We based home-market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for inland freight, brokerage, discounts, rebates, and billing adjustments. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home-market sales (e.g., credit expenses) and adding U.S. direct selling expenses (e.g., credit expenses). See *Interfor's Preliminary Calculation Memorandum.*

(C) Rene Bernard

We based home-market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for billing adjustments, early payment discounts, rebates, freight from the mill to intermediate inventory locations or the final customer. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses for home-market sales (e.g., credit expenses) and adding U.S. direct selling expenses (e.g., credit expenses). For comparisons made to CEP sales, we deducted home-market direct selling expenses. See *Rene Bernard's Preliminary Calculation Memorandum*.

(D) Tembec

We based home-market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for billing adjustments, early payment discounts, rebates, freight from the mill to the reload center or VMI, reload center expenses and freight to the final customer. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses for home-market sales (e.g., credit expenses) and adding U.S. direct selling expenses (e.g., credit expenses). For comparisons made to CEP sales, we deducted home-market direct selling expenses. See *Tembec's Preliminary Calculation Memorandum*.

(E) Tolko

We based home-market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price by the amount of billing adjustments and movement expenses, including inland freight, warehousing, and miscellaneous movement charges.

For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home-market sales (e.g., credit and warranty expenses) and adding U.S. direct selling expenses (e.g., credit and warranty expenses). For comparisons made to CEP sales, we deducted home-market direct selling expenses. See *Tolko's Preliminary Calculation Memorandum*.

(F) West Fraser

We based home-market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for early payment discounts, inland freight to the warehouse, and inland freight to customers. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home-market sales and adding U.S. direct selling expenses (e.g., credit expenses). For comparisons made to CEP sales, we deducted home-market direct selling expenses. See *West Fraser's Preliminary Calculation Memorandum*.

(G) WFP

We based home-market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for billing adjustments, early payment discounts, net inland freight to the reload center, warehousing expenses, net inland freight to the final customer, and a freight variance adjustment. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home-market sales (i.e., credit expenses and warranty expenses) and adding U.S. direct selling expenses (i.e., credit expenses and warranty expenses). For comparisons made to CEP sales, we deducted home-market direct selling expenses. See *WFP's Preliminary Results Calculation Memorandum*.

(H) Weyerhaeuser

Weyerhaeuser commingled self-produced lumber with purchased lumber in home-market sales in the same manner as it did in U.S. sales, as described in the previous section. We used Weyerhaeuser's weighting factor to determine the percentage of lumber in the commingled sales that was supplied by other producers. We did not include these quantities when calculating the weight-averaged home-market prices for comparision to EP or CEP.

We based home-market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for discounts, rebates, billing adjustments, freight to the warehouse/reload center, warehousing expenses, freight to the final customer, and direct selling expenses including minor remanufacturing performed at Softwood Lumber Business (SWL) reloads and WBM locations. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home-market sales (e.g., credit expenses) and adding U.S. direct selling expenses (e.g., credit expenses). For comparisons made to CEP sales, we deducted home-market direct selling expenses. See *Weyerhaeuser's Preliminary Results Calculation Memorandum.*

D. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for those models of softwood lumber products for which we could not determine the NV based on comparison-market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on the CV.

Section 773(e) of the Act provides that the CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for SG&A expenses, profit, and U.S. packing costs. For each respondent, we calculated the cost of materials and fabrication based on the methodology described in the *Cost of Production Analysis* section, above. We based SG&A expenses and profit for each respondent on the actual amounts incurred and realized by the respondents in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act. We used U.S. packing costs as described in the *Export Price* section, above.

We made adjustments to CV for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on home-market sales from, and adding U.S. direct selling expenses to, CV. For comparisons to CEP, we made COS adjustments by deducting from CV direct selling expenses incurred on home-market sales.

E. Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparision market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

In implementing these principles in this review, we obtained information from each respondent about the marketing stages involved in the reported U.S. and comparison-market sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying LOTs for EP and comparison-market sales, we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. We expect that, if claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar.

In this review, we determined the following, with respect to the LOT and CEP offset, for each respondent.

(A) Blanchette

Blanchette reported two channels of distribution in the home-market. The

first channel of distribution (channel 1) consists of direct sales of subject merchandise shipped from the mill to the customer. The second channel (channel 4) consists of sales which a customer picked-up from the mill. After comparing the sales processes of these two channels of distribution, we found that they are similar with regard to the general sales process, which comprises customer identification and communication, negotiation with the customer, arranging of freight or customer pick up, invoicing and collection, claim processing, and inventory maintenance. Accordingly, we preliminarily determine that home-market sales in these two channels of distribution constitute a single LOT.

In the U.S. market, Blanchette reported both EP and CEP sales. Blanchette reported EP sales to U.S. customers through two channels of distribution. Similar to the home-market, the first channel (channel 1) consists of direct sales of subject merchandise shipped from the mill to the customer. The second channel (channel 3) consists of sales of subject merchandise that are shipped to Quebec by truck, loaded onto rail cars and then shipped to the customer. Because the sales processes in these two channels of distributions are similar with regard to the general sales process, which comprises customer identification and communication, negotiation with the customer, arranging freight or customer pick-up, invoicing and collection, claim processing, and inventory maintenance, we preliminarily determine that there is a single EP LOT and that this EP LOT is identical to the home-market LOT.

Blanchette reported CEP sales through one channel of distribution (channel 2) consisting of sales of subject merchandise shipped through a U.S. reload center en route to U.S. customers. Because the sales processes in this channel of distribution are similar, with regard to the general sales process, which comprises customer identification and communication, negotiating with the customer, arranging of freight and customer pick up, invoicing and collection, claim processing, and inventory maintenance, we preliminarily determine that CEP sales constitute a single LOT.

In determining whether separate LOTs exist between U.S. CEP sales and home-market sales, we examined the selling functions in the distribution chains and customer categories reported in both markets. In our analysis of the CEP LOT, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

Blanchette's Canadian-based services for its CEP sales were similar to the single home-market LOT with respect to sales process and inventory management. We are finding CEP sales to be at the same LOT as the home market sales, and, therefore, we are making no LOT adjustments or CEP offset. See section 773(a)(7)(A) of the Act.

(B) Interfor

Interfor reported a single channel of distribution in the home-market. This channel of distribution (channel 1) included direct sales made by Interfor's Canadian mills to customers. Accordingly, we preliminarily determine that home-market sales in this channel of distribution constitute a single LOT.

In the U.S. market, Interfor had only EP sales. Interfor reported EP sales to U.S. customers through one channel of distribution. Similar to the home-market, this channel included direct sales made by Interfor's Canadian mills to customers. Because the sales processes in this channel of distribution were similar, we preliminarily determine that there is a single EP LOT and it is identical to the home-market LOT. See section 773(a)(7)(A) of the Act.

(C) Rene Bernard

Rene Bernard reported two channels of distribution in the home-market. The first channel of distribution (Channel 1) included direct sales made by Rene Bernard and BB which were shipped directly to customers. The second channel of distribution (Channel 2) consisted of sales made through intermediate inventory locations. We compared the sales process in each channel of distribution and found that the selling functions were similar for each channel. Accordingly, we preliminarily determine that home-market sales in these channels of distribution constitute a single LOT.

Rene Bernard reported the same two channels of distribution in the U.S. market that it reported in the home-market. Rene Bernard reported EP sales to U.S. customers through channel 1. This channel included direct sales made by Rene Bernard Inc. and Bermorg. We determined that there was only one EP LOT. Because the sales processes in this channel of distribution were the same as those in the single home-market LOT, we preliminarily determine that the single EP LOT is identical to the home-market LOT.

With respect to CEP sales, Rene Bernard reported all of these sales through a single channel of distribution (channel 2). Channel 2 included all sales by Rene Bernard Inc. made through intermediate inventory locations. We preliminary determine that there is only one CEP LOT.

In determining whether separate LOTs exist between U.S. CEP sales and home-market sales, we examined the selling functions in the distribution chains and customer categories reported in both markets. In our analysis of the CEP LOT, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

Rene Bernard's Canadian-based services for its CEP sales were similar to the services provided in the single home-market LOT with respect to sales process and inventory management. We are finding CEP sales to be at the same LOT as the home-market sales, and, therefore, we are making no LOT adjustment or CEP offset. See section 773(a)(7)(A) of the Act.

(D) Tembec

Tembec reported four channels of distribution applicable to both markets. The first channel of distribution (channel 1) included direct sales from the mill to customers which included sales to wholesalers who took title to—but not physical possession of—the lumber and resold it to end-users. The second channel of distribution (channel 2) consisted of sales which were shipped through a reload center en route to the customer. The third channel of distribution (channel 3) consisted of sales made through VMIs located in Canada or the United States. The fourth (channel 4) consisted of sales where the customer picked-up the merchandise.

We found that the first three home-market channels of distribution were similar with respect to both the sales process and freight services. While channel 4 sales did not receive freight arrangement, channel 4 was the same as the other channels in terms of sales process. We do not consider arrangement of freight alone to rise to the level of a separate LOT. Accordingly, we preliminarily determine that home-market sales in these four channels of distribution constitute a single LOT.

In the U.S. market, Tembec had both EP and CEP sales. Tembec reported EP sales to end-users and distributors through channels 1, 2, and 4. These three channels of distribution as they apply to EP sales, do not differ from the three channels of distribution in the home-market. Because the sales process, freight services (for channels 1 and 2) and inventory maintenance were similar, we preliminarily determine that EP sales in these three channels of

distribution constitute a single LOT and that this EP LOT is identical to the home-market LOT.

With respect to CEP sales, Tembec reported that these sales were made through two channels of distribution (2 and 3), and consisted of U.S. sales that either pass through a U.S. reload center en route to the customer, or go to a VMI. The selling functions related to freight and delivery for these two channels of distribution were not significantly different and, therefore, we preliminary determine there is only one CEP LOT.

In determining whether separate LOTs exist between U.S. CEP sales and home-market sales, we examined the selling functions in the distribution chains and customer categories reported in both markets. In our analysis of the CEP LOT, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

Tembec's sales to end-users and distributors in the home-market and in the U.S. market do not involve significantly different selling functions. Tembec's Canadian-based services for CEP sales were similar to the single home-market LOT with respect to sales process and freight arrangements. We are finding CEP sales to be at the same LOT as the home market sales, and, therefore, we are making no LOT adjustment or CEP offset. See section 773(a)(7)(A) of the ACT.

(E) Tolko

Tolko reported three channels of distribution in the home-market. The first channel for distribution (channel 1) included direct sales made by Tolko's TMS North American Lumber Sales, Riverside Mill Sales, Riverside Vancouver Sales, and Tolko Brokerage divisions from Tolko's Canadian mill production and may have been shipped either directly or through a reload center to customers. The second channel of distribution (channel 2) consisted of sales made principally by Tolko Brokerage, Tolko Export Sales, and Riverside Vancouver Sales from inventory locations. The third channel of distribution (channel 3) consisted of sales made pursuant to a vendor-management inventory (VMI) agreement. We compared the sales process in each channel of distribution and found that the selling functions were similar for each channel. Accordingly, we preliminarily determine that home-market sales in these channels of distribution constitute a single LOT.

In the U.S. market, Tolko had both EP and CEP sales. Tolko reported EP sales to U.S. customers through one channel of distribution. Similar to the home-market, this distribution channel (channel 1) included direct sales made by Tolko's TMS North American Lumber Sales, Riverside Mill Sales, Riverside Vancouver Sales, and Tolko Brokerage divisions from Tolko's Canadian mill production and may have been shipped either directly or through a reload center to customers. Because the sales processes in this channel of distribution were similar, we preliminarily determine that there is a single EP LOT and it is identical to the home-market LOT.

With respect to CEP sales, Tolko reported these sales through two channels of distribution. The first (channel 2) included sales by Tolko Brokerage, Tolko Export Sales, and Riverside Vancouver Sales divisions from U.S. inventory reload centers to customers. The second (channel 3) consisted of sales made to U.S. companies pursuant to VMI contracts. The selling functions, including freight arrangements and order processing, for these two channels of distribution were not significantly different and, therefore, we preliminary determine there is only one CEP LOT.

In determining whether separate LOTs exist between U.S. DEP sales and home-market sales, we examined the selling functions in the distribution chains and customer categories reported in both markets. In our analysis of the CEP LOT, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

Tolko's Canadian-based services for its CEP sales were similar to the single home-market LOT with respect to sales process and inventory management. We are finding CEP sales to be at the same LOT as the home market sales, and, therefore, we are making no LOT adjustment or CEP offset. See section 773(a)(7)(A) of the Act.

(F) West Fraser

West Fraser reported four channels of distribution in the home-market. The first channel of distribution (channel 1) included sales made directly to customers from a mill or origin reload.[38] The second channel of distribution (channel 2) consisted of sales made to customers through VMI arrangements. The third channel of distribution (channel 3) consisted of sales made to customers from inventory stored at one of two unaffiliated reloads. The fourth channel of distribution (channel 4) consisted of sales made to customers from inventory that was intended for sale to third countries and was stored at one of two unaffiliated reloads. We compared these four channels of distribution and found that, while selling functions differed slightly with respect to the arrangement of freight and delivery for origin reload centers in channel 2 and the office handling sales in channel 3, all four channels were similar with respect to sales process, packing, freight services, inventory services, warranty services, and early payment discount services. Accordingly, we found that home-market sales in these four channels of distribution constitute a single LOT.

In the U.S. market, West Fraser had both EP and CEP sales. For EP sales, West Fraser reported two channels of distribution. One channel of distribution (channel 1) included sales made directly to customers from a mill or origin reload. The second channel of distribution (channel 3) was to customers through two unaffiliated reloads. Both channels of distribution for EP sales do not differ from the first and third channels of distribution within the home-market, except with respect to paper processing services in connection with brokerage and handling. Therefore, as both the above home and U.S. market channels of distribution are comparable in terms of selling functions, delivery and customer categories, we preliminary determine there is a single EP LOT and it is identical to the single home-market LOT.

With respect to CEP sales, West Fraser had two channels of distribution (channel 2 and 4). Both channels of distribution included sales to customers through West Fraser's U.S. subsidiary, West Fraser Forest Products Inc. The second channel of distribution (channel 2) does not differ from the second channel of distribution within the home-market, except with respect to paper processing services in connection with brokerage and handling. For the fourth channel of distribution (channel 4), sales were made from unaffiliated destination reload centers in the United States by sales people located in Canada.

In determining whether separate LOTs exist between U.S. CEP sales and home-market sales, we examined the selling functions in the distribution chains and customer categories reported in both markets. In our analysis of the CEP LOT, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

[38] Lumber shipped to an origin reload is only unloaded and transferred to another mode of transportation (e.g., truck to rail). The reload center does not inventory the lumber.

West Fraser's Canadian-based services for its CEP sales include order-taking, invoicing and inventory management. West Fraser's Canadian sales agents occasionally arrange for reload center excess storage and freight from U.S. destination reload centers to unaffiliated end users. Any services occurring in the United States are provided by the unaffiliated reload centers, which are paid a fee by West Fraser. These expenses have been deducted from the CEP starting price as movement expenses.

West Fraser's sales to customers in the and its CEP sales in the U.S. market do not involve significantly different selling functions. We are finding CEP sales to be at the same LOT as the home market sales, and, therefore, we are making no LOT adjustment or CEP offset. See section 773(a)(7)(A) of the Act.

(G) WFP

WFP reported two channels of distribution and six customer categories in the home-market. The first channel of distribution, Channel 1, consists of sales from a mill directly to distributing wholesalers, wholesalers, remanufacturers, retailers, exporters, and employees. The second channel of distribution, Channel 2, comprises sales from a Canadian inventory location to the same customers as Channel 1 except for employees sales. Although WFP provides the additional service of maintaining inventory at select locations for customers in Channel 2, we find that the two channels are similar with respect to the overall sales process, negotiations with the customer, order processing, sales support and administration, freight services, invoicing, packing, and the granting of early payment discounts. Accordingly, we preliminary determine that this is a single EP LOT and it is the same as the home market LOT.

In the U.S. market, WFP made both EP and CEP sales. WFP reported EP sales to four customer categories (distributing wholesalers, wholesalers, remanufacturers, and retailers) through a single channel of distribution—mill direct sales (Channel 1). We find that the U.S. market EP channel is similar to the single home-market LOT with respect to the overall sales process, negotiations with the customer, order processing, sales support and administration, freight services, invoicing, packing, and granting of early payment discounts. Therefore, we preliminarily determine that home-market sales and EP sales are at an identical LOT.

WFP reported CEP sales through three of its reported channels of distribution: Channels 2, 3, and 4. Channel 2 CEP sales consist of all sales made through inventory locations in the United States to distributing wholesalers, wholesalers, remanufacturers, and retailers. Channel 3 sales are CEP sales through VMI locations to distributing wholesalers. Channel 4 sales are agent sales to retailers, distributing wholesalers, and wholesalers.

In determining whether separate LOT's exist between CEP sales and home-market sales, we examined the selling functions in the distribution chains and customer categories reported in both markets. In our analysis of the CEP LOT, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

We find that WFP's CEP sales through Channels 2 and 3 are similar to the home-market LOT with respect to the overall sales process, negotiations with the customer, order processing, sales support and administration, freight services, invoicing, packing, and the granting of early payment discounts. Therefore, we preliminarily determine that CEP sales through Channels 2 and 3 constitute a single LOT that is identical to the single home-market LOT. Because all selling functions performed for CEP sales through Channels 2 and 3 are similar to the selling functions of the home-market LOT, we are making no LOT adjustment or CEP offset for CEP sales through Channels 2 or 3. See section 773(a)(7)(A) of the Act.

For CEP sales through Channel 4, however, WFP's agent solicits orders from customers, negotiates prices with the customer, makes arrangements for transportation to the customer, and provides post-sale support to the customer. WFP pays the agent a flat monthly fee in exchange for these services. For the other three CEP channels, WFP handles these selling functions internally. Therefore, we preliminarily determine that CEP sales through Channel 4 constitute a separate U.S. LOT that is separate from the home-market LOT. We also find that this U.S. LOT is at a less advanced marketing stage than the home-market LOT because it involves fewer selling functions. Because there is only one LOT in the home-market, the data do not allow for a level of trade adjustment. Therefore, we are preliminarily granting a CEP offset to WFP's Channel 4 CEP sales. See section 773(a)(7)(B) of the Act.

(H) Weyerhaeuser

Weyerhaeuser reported seven channels of distribution in the home-market, with seven customer categories. The channels of distribution are: (1) Mill-direct sales; (2) VMI sales; (3) mill-direct sales made through WBM; (4) sales made out of inventory by WBM; (5) SWL and B.C. Costal Group's (BCC) sales through Canadian reloads; (6) BCC's sales through processing facilities; and (7) WBM cross dock sales.[39] To determine whether separate LOTs exist in the home-market, we examined the selling functions, the chain of distribution, and the customer categories reported in the home-market.

For each of its channels of distribution, Weyerhaeuser's selling functions included invoicing, freight arrangement, product training, marketing and promotional activities, advanced shipping notices, and order status information. Weyerhaeuser's sales made out of inventory by WBM (channel 4) appear to involve substantially more selling functions, and to be made at a different point in the chain of distribution than mill-direct sales. WBM functions as a distributor for BCC and SWL, and operates as a reseller for unaffiliated parties. WBM operates a number of customer service centers (CSC) throughout Canada where it provides local sales offices and just-in-time inventory (JIT) service for its customers. Generally, BCC and SWL make the sale to WBM, after which the merchandise is sold to the final customer by WBM's local sales force. Freight must be arranged to the WBM inventory location and then to the final customer. CSCs will also engage in minor further manufacturing to fill a customer order, if the desired product is not in inventory.

WBM also sells on a mill-direct basis (channel 3) but does not provide the JIT service for such transactions. Therefore we so not consider mill-direct sales made through WBM to be at a separate LOT from mill-direct sales made by SWL and BCC. Additionally, we compared sales invoiced from Canadian reloads (channel 5) and sales made from BCC's processing mills (channel 6) to the mill direct sales and found that the selling activities did not differ to the degree necessary to warrant separate LOTs. Our analysis of cross dock sales (channel 7) indicates that they are most similar to WBM's warehouse sales. The specialized nature of these sales

[39] Even though there are only seven channels of distribution in the home-market, Weyerhaeuser designated cross dock sales as channel eight in the questionnaire response and accompanying database.

requires additional services that direct sales do not. Like WBM warehouse sales, cross dock merchandise is usually part of a JIT order and is shipped from a mill to an inventory location. Even though the merchandise may not be commingled or unpacked, it often enters the warehouse and requires additional services for two freight segments and loading and unloading. Therefore, we consider cross dock sales to be at the same LOT as WBM warehouse sales.

Sales made through VMI arrangements (channel 2) also appear to involve significantly more selling activities than mill-direct sales. SWL has a designated sales team responsible for VMI sales which works with the customers to develop a sales volume plan, manages the flow of products and replenishing process, and aligns the sales volume plan with Weyerhaeuser's production plans. It also offers extra services such as bar coding, cut-in-two, half packing, and precision end trimming.

We analyzed Weyerhaeuser's customer categories in relation to the channels of distribution and application of selling functions. Each channel services multiple customer categories with channels 1, 2, 3, 4, 5 and 7 serving at least six customer categories. We found that there were not significant differences in the application of selling functions by customer and instead the activities depend on the channel of distribution. Therefore, customer category is not a useful indicator of LOT for Weyerhaeuser's home-market sales.

Because VMI, WBM inventory, and WBM cross dock sales involve significantly more selling functions than the mill-direct sales, we consider them to be at a more advanced LOT for purposes of the preliminary results. While the selling activities for VMI, WBM inventory, and cross dock sales are not identical, the principal selling activity for all three is JIT inventory maintenance. Thus, we consider them to be at the same LOT. Accordingly, we find that there are two LOTs in the home-market, mill-direct (HM1) (encompassing channels 1, 3, 5, and 6) and VMI, WBM sales out of inventory, and cross dock sales (HM2) (encompassing channels 2, 4, and 7).

Weyerhaeuser reported eight channels of distribution in the U.S. market, with eight customer categories. The channels of distribution are: (1) Mill-direct sales; (2) VMI sales; (3) WMB direct sales; (4) WMB U.S. inventory sales; (5) SWL sales through U.S. reloads; (6) SWL and BCC sales through Canadian reloads; (7) sales from BCC's processing facilities; and (8) WMB cross dock sales. In determining whether separate LOTs existed between U.S. and home-market sales, we examined the selling functions, the chain of distribution, and customer categories reported in the U.S. market.

With regard to the mill-direct sales to the United States (channel 1 and 3), Weyerhaeuser has the same selling activities as it does for mill-direct sales in Canada. Likewise, we consider sales invoiced from Canadian reloads (channel 6) and sales made from BCC processing mills (channel 7) to be at the same LOT as the direct sales. Therefore, where possible, we matched the U.S. mill-direct sales (U.S.1) (encompassing channels 1, 3, 6, and 7) to the Canadian mill-direct sales (HM1). The other channels consist of CEP sales as addressed below.

Weyerhaeuser's Canadian selling functions for VMI sales to the United States (channel 2) include the similar selling functions performed for home-market VMI sales, as described above, except that the sales are managed by SWL Western in the United States. As a result, the selling functions, with the exception of arranging freight to the VMI locations, are performed in the United States. Therefore, after the deduction of U.S. expenses and profit, we find that the U.S. VMI sales (U.S.1) are made at the same LOT as home-market direct sales (HM1), and we have matched them accordingly in the margin program.

SWL's sales through U.S. reloads (channel 5) also appear to have selling functions performed in Canada and the United States. While Weyerhaeuser states that it maintains JIT inventory for its U.S. customers at these reloads, many of the selling functions are managed by SWL Western in the United States. After the deduction of U.S. expenses and profit, these sales do not appear to be at a different point in the chain of distribution than mill-direct sales in Canada. Therefore, for purposes of the preliminary results, we consider SWL's sales through U.S. reloads to be at the same LOT as its mill-direct sales (U.S.1 and HM1), and we have matched them accordingly.

With regard to WBM's U.S. inventory sales (channel 4) significant selling activities occur in the United States, such as maintaining local seals offices and JIT, and arranging freight to the final customer. The selling functions performed in Canada are the same selling functions performed for mill-direct sales. Therefore, after the deduction of U.S. expenses and profit, we find that WMB's U.S. inventory sales are at the same LOT as mill-direct sales (U.S.1 and HM1), and we have matched them accordingly. We found that cross dock sales (channel 8) were most similar to WBM warehouse sales and, as such, designated them at the same LOT (i.e., U.S.1.)

As was the case with Canadian sales, each U.S. channel of distribution services multiple customer categories. Weyerhaeuser reports that channels 1–6 and 8 have potential buyers from at least five customers categories. Channel seven has two customer categories but also realized significantly fewer sales during the POR. We found there were not significant differences in the application of selling functions by customer and instead the activities depended on the channel of distribution. Therefore, customer category is not a useful indicator of LOT for Weyerhaeuser's U.S. sales.

Because we found a pattern of consistent price differences between LOTs, where we matched across LOTs, we made an LOT adjustment under section 773(a)(7)(A) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act, based on exchange rates in effect on the date of the U.S. sale, as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average margins exist for the period May 1, 2004, through April 30, 2005:

Producer	Weighted-average margin (percentage)
Blanchette (and its affiliate Barrette-Chapais Ltee.)	1.25
Interfor	6.46
Rene Bernard (and its affiliates Irenee Grondin & Fils Ltèe., Les Sèchoirs á Bois Rene Bernard Ltèe., Bois Bohemia Inc., and Bermorg LLC)	8.62

Producer	Weighted-average margin (percentage)
Tembec (and its affiliates Tembec Industries Inc., Marks Lumber Ltd., 791615 Ontario Limited (Excel Forest Products), Produits Forestiers Temrex Limited Partnership)	1.85
Tolko (and its affiliates Tolko Marketing & Sales Ltd. and Gilbert Smith Forest Products Ltd.)	0.90
West Fraser (and its affiliates West Fraser Forest Products Inc. and Seehta Forest Products Ltd.)	1.47
WFP (and its affiliate WFP Lumber Sales Limited)	7.33
Weyerhaeuser (and its affiliate Weyerhaeuser Saskatchewan Ltd.)	2.38
Review-Specific Average Rate Applicable to the Following Companies:	
465016 BC Ltd.	
582912 BC Ltd. (dba Paragon Wood Products Lumby).	
Abitibi-Consolidated Company of Canada.	
Abitibi-Consolidated Inc.	
Abitibi-LP Engineered Wood Inc.	
AJ Forest Products Ltd.	
Alberta Spruce Industries Ltd.	
Allmac Lumber Sales Ltd.	
Allmar International.	
Alpa Lumber Mills Inc.	
Alpine Forest Trading Inc.	
American Bayridge Corporation.	
Andersen Pacific Forest Products Ltd.[40]	
Apollo Forest Products Ltd.	
Aquila Cedar Products Ltd.	
Arbec Forest Products Inc.	
Arbutus Manufacturing Limited.	
Aspen Planers Ltd.	
Atikokan Forest Products Ltd.	
Atlantic Warehousing Ltd.	
Atlas Lumber Alberta Ltd.	
AWO Forest Products.	
B&L Forest Products Ltd.	
B.B. Pallets Inc.	
Bakerview Forest Products Inc.	
Bardeaux et Cedres St-Honore Inc.	
Bathurst Lumber.	
Bathurst Lumber, Division of UPM Kymmene Miramichi.	
Beaubois Coaticook Inc.	
Bel Air Forest Products Inc.	
Bel Air Lumber Mills, Inc.	
Blackville Lumber Inc.	
Blackville Lumber Inc., Division of UPM Miramichi.	
Bois Bonsai.	
Bois Cobodex (1995) Inc.	
Bois De l'est FB Inc.	
Bois D'oeuvre Cedrico Inc. (Cedrico Lumber Inc.).	
Bois Granval G.d.s. Inc.	
Bois Kheops Inc.	
Bois Marsoui G.d.s. Inc.	
Bois Neos Inc.	
Bois Nor Que Wood Inc.	
Bois Omega Ltee.	
Boisaco Inc.	
Bonnyman & Byers Limited.	
Boucher Bros. Lumber Ltd.	
Bowater Canadian Forest Products Incorporated.	
Bowater Incorporated.	
Bridgeside Forest Industries Ltd. (Bridgeside Higa Forest Industries, Ltd.).	
Brink Forest Products Ltd.	
Brittania Lumber Company Limited.	
Brown & Rutherford Co. Ltd.	
Brunswick Valley Lumber Inc.	
Buchanan Distribution Inc.	
Buchanan Forest Products Ltd.	
Buchanan Lumber.	
Buchanan Lumber Sales Inc.	
Buchanan Northern Hardwoods, Inc.	
Busque & Laflamme Inc.	
C & C Lath Mill Ltd.	
C. Ernest Harrison & Sons Ltd.	
C.E. Harrison & Sons Limited.	
Caledonia Forest Products Ltd.	
Cambie Cedar Products Ltd.	

Producer	Weighted-average margin (percentage)
Canadian Forest Products Ltd.	
Canadian Lumber Company Ltd.	
Canadian Overseas Log & Lumber, Ltd.	
Canfor Corporation.	
Canfor Uneeda/Uneeda Wood Products.	
Canwel Building Materials Ltd.	
Canyon Lumber Company Ltd.	
Cardinal Lumber Manufacturing & Sales Inc.	
Carrier & Begin Inc.	
Carrier Forest products Ltd.[41]	
Carrier Lumber Ltd.	
Carson Lake Lumber Limited.	
Cedartone Specialties Ltd.	
Central Cedar, Ltd.	
Centurion Lumber Manufacturing (1983) Ltd.	
Chaleur Sawmills Associates.	
Cheslatta Forest Products Ltd.	
Choicewood Products Inc.	
City Lumber Sales & Services Limited.	
Clair Industrial Development Corp. Ltd.	
Clermond Hamel Ltee.	
Coast Clear Wood Ltd	
Colonial Fence Mfg. Ltd.	
Comeau Lumber Limited.	
Commonwealth Plywood Co. Ltd.	
Cottles Island Lumber Co. Ltd.	
Crystal Forest Industries Ltd.	
Cushman Lumber Company Ltd.	
Daaquam Lumber Inc. (aka Bois Daaquam Inc.).	
Dakeryn Industries Ltd.	
Davron Forest Products Ltd.	
Deep Cove Forest Products.	
Delco Forest Products Ltd.	
Delta Cedar Products.	
Deniso Lebel Inc.	
Devon Lumber Co. Ltd.	
Domexport, Inc.	
Domino Forest Products Inc.	
Domtar Inc.	
Downie Timber Ltd.	
Dubreuil Forest Products Limited.	
Dunkley Lumber Ltd.	
E. Tremblay et Fils Ltee.	
Eacan Timber Canada Ltd.	
Eacan Timber Ltd.	
East Fraser Fiber Co., Ltd.	
Eastwood Forest Products Inc.	
Ed Bobocel Lumber 1993 Ltd.	
Edwin Blaikie Lumber Ltd.	
Elmira Wood Products Limited.	
Elmsdale Lumber Co., Ltd.	
ER Probyn Export Ltd.	
Errington Cedar Products Ltd.	
F W Taylor Lumber Company.	
F.L. Bodogh Lumber Co. Ltd.	
Falcon Lumber Limited.	
Faulkener Wood Specialties.	
Fawcett Quality Lumber Products.	
Federated Co-operatives Limited.	
Fenclo Ltee.	
Finmac Lumber Limited.	
Forest Products Northwest Inc.	
Forex Log & Lumber, Ltd.	
Fort St. James Forest Products Ltd.	
Forwest Wood Specialties Inc.	
FPS Canada Inc.	
Fraser Pacific Forest Products Inc.	
Fraser Pacific Lumber Company.	
Fraser Papers Inc.	
Fraser Plaster Rock.	
Fraser Pulp Chips Ltd.	

Producer	Weighted-average margin (percentage)
Fraser Timber Limited.	
Frasierview Cedar Products Ltd.	
Fraserwood Industries Ltd.	
G.A. Grier (1991) Inc.	
G.A.G. Sales, Inc.	
G.D.S. Valoribois Inc.	
G.L. Sawmill Ltd.	
Galloway Lumber Co., Ltd.	
Gerard Crete & Fils Inc.	
Gestofor, Inc.	
Goldwood Industries Ltd.	
Goodfellow Inc.	
Gordon Buchanan Enterprises Ltd.	
Gorman Bros. Lumber Ltd.	
Great Lakes MSR Lumber Ltd.	
Great West Timber Limited.	
Greenwood Forest Products (1983) Ltd.	
H.A. Fawcett & Son Limited.	
H.J. Crabbe & Sons Ltd.	
H.S. Bartram (1984) Ltd.	
Haida Forest Products Ltd.	
Hainesville Sawmill Ltd.	
Halo Sawmill Limited Partnership.	
Halo Sawmills.	
Hanson's Sawmill.	
Harry Freeman & Son Limited.	
Hefler Forest Products Ltd.	
Herridge Trucking & Sawmilling Ltd.	
Hilmoe Forest Products, Ltd.	
Holdright Lumber Products Ltd.	
Howe Sound Forest Products (2005) Ltd.	
Hudson Mitchell & Sons Lumber Inc.	
Hughes Lumber Specialties Inc.	
Hy Mark Wood Products Inc.	
Industries G.D.S. Inc.	
Industries P.F. Inc.	
Industries Perron Inc.	
Ivor Forest Products Ltd.	
J&G Log and Lumber Ltd.	
J&G Log Works Ltd.	
J.A. Turner & Sons (1987) Limited.	
J.D. Irving, Limited.	
J.H. Huscroft Ltd.	
Jackpine Engineered Wood Products.	
Jackpine Forest Products Ltd.	
Jackpine Group of Companies.	
Jamestown Lumber Company Ltd.	
Jeffrey Hanson.	
John W. Jamer Ltd.	
JR Remanufacturing.	
Kalesnikoff Lumber Co. Ltd.	
Kebois Limited (dba Kebois Limitee).	
Kebois Ltee.	
Kenora Forest Products Ltd.	
Kenwood Lumber Ltd.	
Kitwanga Lumber Company.	
Kootenay Innovative Wood.	
KP Wood Ltd.	
Kruger, Inc.	
L&M Lumber Ltd.	
La Crete Sawmills Ltd.	
Lakeland Mills Ltd.	
Landmark Truss & Lumber Inc.	
Langevin Forest Products, Inc.	
Lattes Waska Laths Inc.	
Lecours Lumber Co. Limited.	
Ledwidge Lumber Co., Ltd.	
Leggett & Platt (B.C.) Ltd.	
Leggett & Platt Canada Co.	
Leggett & Platt Ltd.	
Leggett & Platt, Inc.	

Producer	Weighted-average margin (percentage)
Leggettwood.	
Leonard Ellen Canada (1991) Inc.	
Les Bois D'oeuvre Beaudoin & Gauthier.	
Les Bois S&P Grondin Inc. (aka Les Bois Grondin Inc.).	
Les Chantiers Chibougamau Ltee.	
Les Produits Forestiers D.G. Ltee.	
Les Produits Forestiers Fbm Inc.	
Les Produits Forestiers Miradas Inc.	
Les Scieries du Lac St-jean Inc.	
Leslie Forest Products Ltd.	
Ligni Bel Ltd.	
Lignum Ltd.	
Lindsay Lumber Ltd.	
Liskeard Lumber Limited.	
Long Lake Forest Products Inc.	
Long Lake Forest Products Inc. (Nakina Division).	
Lousiana Pacific Corporation.	
Lulumco Inc.	
Lumberplus Industries Inc.	
Lyle Forest Products Ltd.	
M & G Higgins Lumber Ltd.	
M.L. Wilkins & Son Ltd.	
Mactara Limited.	
Mainland Sawmill.	
Mainland Sawmill (Division of Terminal Forest Products).	
Manitou Forest Products Ltd.	
Manning Diversified Forest Products Ltd.	
Maple Creek Saw Mills Inc.	
Marcel Lauzon Inc.	
Marine Way Industries Inc.	
Marwood Ltd.	
Mckenzie Forest Products Inc.	
MDFP Sales.	
MF Bernard Inc.	
Mid America Lumber.	
Mid Valley Lumber Specialties Ltd.	
Midway Lumber Mills Ltd.	
Mill & Timber Products Ltd.	
Millar Western Forest Products Ltd.	
Millco Wood Products Ltd.	
Miramichi Lumber Products.	
Mirax Lumber Products Ltd.	
Mobilier Rustique (Beauce) Inc.	
Monterra Lumber Mills Limited.	
Mountain View Specialties.	
Mountain View Specialties Products Inc.	
N.F. Douglas Lumber Ltd.	
Nechako Lumber Co., Ltd.	
Newcastle Lumber Co. Inc.	
Nexfor Inc.	
Nicholson and Cates Limited.	
Nickel Lake Lumber.	
Norbord Industries Inc.	
Norsask Forest Products Inc.	
North American Forest Products Ltd.	
North Enderby Distribution Ltd.	
North Enderby Timber Ltd.	
North Mitchell Lumber Company Ltd.	
North Star Wholesale Lumber.	
North Star Wholesale Lumber Ltd.	
Northern Sawmills, Inc.	
Northland Forest Products Ltd.	
Northwest Specialty Lumber.	
Olav Haavaldsrud Timber Company Limited.	
Olympic Industries Inc.	
P. Proulx Forest Products Inc. (aka Proulx, Proulx Forest Products Inc. and Produits Forestiers P. Proulx Inc).[42]	
Pacific Coast Timber Inc.	
Pacific Lumber Remanufacturing Inc.	
Pacific Specialty Wood Products Ltd. (Clearwood Industries Ltd.).	
Pallan Timber Products (2000) Ltd.	
Pallan Timber Products Ltd.	

Producer	Weighted-average margin (percentage)
Palliser Lumber Sales Ltd.	
Parallel Wood Products, Ltd.	
Pat Power Forest Products Corporation.	
Patrick Lumber Company.	
Paul Vallee Inc.	
Peak Forest Products, Ltd.	
Pharlap Forest Products Inc.	
Phoenix Forest Products Inc.	
Pope & Talbot Inc.	
Pope & Talbot Ltd.	
Porcupine Wood Products Ltd.	
Port Moody Timber Ltd.	
Portbec Forest Products Ltd.	
Power Wood Corp.	
Pro Lumber Inc.	
Produits Forest La Tuque Inc.	
Produits Forestiers Petit Paris Inc.	
Produits Forestiers Saguenay Inc.	
Promobois G.D.S. Inc.	
Prudential Forest Products Limited.	
Quadra Wood Products Ltd.	
R. Fryer Forest Products Limited.	
Raintree Lumber Specialties Ltd.	
Ratcliff Forest Products Inc.	
Redtree Cedar Products Ltd.	
Redwood Value Added Products Inc.	
Ridge Cedar Ltd.	
Ridgetimber Trading Inc.	
Ridgewood Forest Products Limited.	
Rielly Industrial Lumber Inc.	
Riverside Forest Products Ltd.	
Riverside Marketing and Sales.	
Rojac Enterprises Inc.	
Roland Boulanger & Cie Ltee.	
Russell White Lumber Limited.	
Sauder Industries Limited.	
Sauder Industries Ltd.—Cowichan Division.	
Sawarne Lumber Co. Ltd.	
Scierie Adrien Arseneault Ltee.	
Scierie Alexandre Lemay & Fils Inc.	
Scierie Chaleur.	
Scierie Dion et Fils Inc.	
Scierie Duhamel Sawmill Inc.	
Scierie Gallichan.	
Scierie Gauthier Ltee.	
Scierie La Patrie, Inc.	
Scierie Landrienne, Inc.	
Scierie Lapointe & Roy Ltee.	
Scierie Leduc, Division of Stadaconia Inc.	
Scierie Norbois Inc.	
Scierie Nor-Sud (North-South Sawmill Inc.).	
Scierie Tech.	
Scieries du Lac St. Jean Inc.	
Seed Timber Co. Ltd.	
Selkirk Specialty Wood Ltd.	
Sexton Lumber Co. Limited.	
Seycove Forest Products Limited.	
Seymour Creek Cedar Products Ltd.	
Shawood Lumber Inc.	
Sigurdson Bros. Logging Company Ltd.[43]	
Silvermere Forest Products Inc.	
Sinclar Enterprises Ltd.	
Skana Forest Products Ltd.	
Slocan Forest Products Ltd.	
Societe En Commandite Scierie Opticiwan.	
Solid Wood Products Inc.	
South Beach Trading Inc.	
Spray Lake Sawmills Ltd.	
Spruceland Millworks (Alberta).	
Spruceland Millworks Inc.	
St. Anthony Lathing Ltd.	

Producer	Weighted-average margin (percentage)
Stuart Lake Lumber Co. Ltd.	
Stuart Lake Marketing Corporation.[44]	
Sunbury Cedar Sales.	
Sundance Forest Industries Ltd.	
Swiftwood Forest Products Limited.	
Sylvanex Lumber Products Inc.	
T.P. Downey & Sons Ltd.	
Taiga Forest Products.[45]	
Taylor Lumber Company Ltd.	
Teal Cedar Products Ltd.	
Teal-Jones Group.	
Teeda Corp.	
Terminal Forest Products Ltd.	
Terminal Forest Products (Terminal Sawmill Division).	
The Pas Lumber Co. Ltd.	
The Teal Jones Group—Stag Timber Division.[46]	
TimberWest Forest Corp.[47]	
Timberworld Forest Products Inc.	
T'loh Forest Products Limited Partnership.	
Top Quality Lumber Ltd.	
Trans-Pacific Trading Ltd.	
Treeline Wood Products Ltd.	
Twin Rivers Cedar Products Ltd.	
Tyee Timber Products Ltd.	
Uniforet Inc.[48]	
Uniforet Scierie-Pate Inc.	
Uphill Wood Supply Inc.	
UPM Miramichi.	
UPM-Kymmene Miramichi Inc.	
Vancouver Specialty Cedar Products Ltd.	
Vandermeer Forest Products (Canada) Ltd.	
Vanderwell Contractors (1971) Ltd.	
Vanport Canada, Co.	
Vernon Kiln & Millwork Ltd.	
Visscher Lumber Inc.	
W.I. Woodtone Industries Inc.	
Wakefield Cedar Products Ltd.	
Welco Lumber Corporation.	
Weldwood of Canada Ltd.	
Wentworth Lumber Ltd.	
West Bay Forest Products and Manufacturing Ltd.	
West Chilcotin Forest Products Ltd.	
Weston Forest Corp.	
Westshore Specialties Ltd.	
West-Wood Industries Ltd.	
Wilfrid Paquet & Fils Ltee.	
Williams Brothers Ltd.	
Winnipeg Forest Products, Inc.	
Winton Global Ltd.	
Woodline Forest Products Ltd.	
Woodwise Lumber Limited.	
Wynndel Box & Lumber Co., Ltd	3.47
Adverse Facts Available Rate Applicable to the Following Companies:	
Chasyn Wood Technologies.	
Cowichan Lumber Ltd.	
Forwood Forest Products Inc.	
Hyak Specialty Wood Products Ltd.	
Jasco Forest Products.	
Noble Custom Cut Ltd.	
North American Hardwoods Ltd.	
North of 50.	
Scierie A&M St-Pierre Inc.	
South-East Forest Products Ltd.	
Spruce Products.	
Triad Forest Products, Ltd.	
Westmark Products Ltd.	
Woodko Enterprises Ltd.	
Woodtone Industries Inc	37.64

Please note that the names of the companies are listed above exactly as they will be included in instructions to CBP. Any alternate names, spellings, affiliated companies or divisions will not be considered or included in any instructions to CBP unless they are brought to the attention of the Department in a case brief. There will be no exceptions.

Disclosure

The Department will disclose calculations performed in accordance with 19 CFR 351.224(b).

Public Hearing

An interested party may request a hearing within 90 days of publication of these preliminary results. See 19 CFR 351.310(c). Any hearing, if requested, will be held 114 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 90 days after the date of publication of these preliminary results. See 19 CFR 351.309(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 97 days after the date of publication. See 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, the parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 180 days of publication of these preliminary results.

Assessment

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries.

Pursuant to 19 CFR 351.212(b)(1), for all sales made by respondents for which they have reported the importer of record and the entered value of the U.S. sales, we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

For the U.S. sales that respondents have estimated the entered value, we have estimated the entered value. We have done this instead of our normal practice of calculating per unit duties, because the respondents have been excused from reporting certain U.S. sales. While not reported, these sales are subject to duties and the only basis for assessing duties is to apply an *ad valorem* rate. To determine whether the duty assessment rates were *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* ratios based on the estimated entered value. Where the assessment rate is above *de minimis,* we will instruct CBP to assess duties on all entries of subject merchandise by that importer. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (i.e., less than 0.50 percent).

For the companies requesting a review, but not selected for examination and calculation of individual rates, the Department has:

(a) calculated a simple average margin for each stratum. In the average for the first stratum (which included Interfor, Tembec, Tolko, West Fraser, WFP and Weyerhaeuser), the margins from West Fraser and Weyerhaeuser were counted twice to reflect that these two companies were selected twice.

(b) combined the averages of the two strata, weighting them by the share of exports accounted for by producers/exporters in the stratum.

The Department followed the same methodology to calculate the review-specific cash deposit rate by using each selected respondent's margin.

The Department will issue appraisement instructions directly to CBP.

Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain softwood lumber products from Canada entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate listed above for each specific company will be the rate established in the final results of this review, except if a rate is less than 0.5 percent, and there *de minimis,* the cash deposit will be zero; (2) for previously reviewed or investigated companies not participating in this review, 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 less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 11.54, the ''All Others'' rate calculated in the Department's recent determination

[40] The name was incorrectly identified as Andersen Pacific Forest Ltd. in the Initiation Notice. We have corrected the name as per the original request. See Letter from Kaye Scholer to the Department regarding Certain Softwood Lumber Products from Canada; Third Administrative Review Antidumping Order (May 27, 2005). We will also remove Andersen Pacific Forest Products from the list of companies as the address provided by Fred Tebb & Sons, Inc. for this company matched Andersen Pacific Forest Products Ltd. We believe the name to be a misspelling of Andersen. See Letter from Betts Patterson Mines to the Department regarding Request for an Administrative Review (May 26, 2005).

[41] The company provided a correction to the name as it appeared in the *Initiation Notice* (Carrier Forest Products). See Letter from Kaye Scholer to the Department regarding Certain Softwood Lumber Products from Canada; Third Administrative Review Antidumping Order (August 3, 2005).

[42] The company notified the Department that it is also known by the above names. We have amended its name since the *Initiation Notice* (P. Proulx Forest Products Inc.). See Letter from Arent Fox to the Department regarding Clarification of P. Proulx Forest Products Inc.'s Names (October 18, 2005).

[43] The company notified the Department that its correct name is Sigurdson Bros. Logging Company Ltd. We have amended its name since the *Initiation Notice* (Sigurdson Brothers Logging Co. Ltd.). See Letter from Kaye Scholer to the Department regarding Certain Softwood Lumber Products from Canada; Third Administrative Review Antidumping Order (August 3, 2005).

[44] The company notified the Department that its correct name is Stuart Lake Marketing Corporation. We have amended its name since the *Initiation Notice* (Stuart Lake Marketing Co. Ltd.). See Letter from Kaye Scholer to the Department regarding Certain Softwood Lumber Products from Canada; Third Administrative Review Antidumping Order (August 3, 2005).

[45] As per Elmira Forest Products' request, we are adding its parent company's name, Taiga Forest Products to the list of covered companies. See Letter from Constance Handley, Program Manager, to Taiga Forest Products (Elmira Wood Products) regarding the Second and Third Antidumping Administrative Reviews of Certain Softwood Lumber Products from Canada (January 12, 2006).

[46] Stag Timber was inadvertently listed twice in the *Initiation Notice.* Stag Timber was included in the Teal Jones Group quantity request submission and, therefore, Stag Timber was removed from the list of companies. See Letter from Kaye Scholer to the Department regarding Certain Softwood Lumber Products from Canada; Third Administrative Review Antidumping Order (August 3, 2005).

[47] The company notified the Department that TFL Forest Ltd. and TimberWest Forest Company should be considered variants of TimberWest Forest Corp. See Letter from Kaye Scholer to the Department regarding Certain Softwood Lumber Products from Canada; Third Administrative Review Antidumping Order (August 3, 2005).

[48] On October 13, 2005, we found that Produits Forestries Arbec Inc. (Arbec Forest Products Inc.) was the successor-in-interest to Uniforet Inc. See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada.* 70 FR 59721 (October 13, 2005).

under section 129 of the Uruguay Round Agreement Act. See *Notice of Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Softwood Lumber Products from Canada,* 70 FR 22636 (May 2, 2005). These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entities during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 31, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. 06–5222 Filed 6–9–06; 8:45 am]

BILLING CODE 3510–05–M

Reader Aids

Federal Register

Vol. 71, No. 112

Monday, June 12, 2006

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives. gov/federal__register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, JUNE

31069–31914 1
31915–32264 2
32265–32414 5
32415–32800 6
32801–33146 7
33147–33374 8
33375–33592 9
33593–33988 12

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8026 32799
8027 32801
8028 33373
8029 33589
8030 33591

Executive Orders:
13222 (See Memorandum of May 12, 2006) 31909
13404 33593

Administrative Orders:
Memorandums:
Memorandum of May 12, 2006 31909

5 CFR

211 33375

6 CFR

25 33147

7 CFR

205 32803
272 33376
273 33376
301 33168
319 33172
979 33178
1410 31915
1421 32415
1427 32415
1980 33181
4279 33181

Proposed Rules:
250 33344
3411 32479

9 CFR

93 31069
94 31069

Proposed Rules:
160 31109
161 31109
162 31109

10 CFR

170 33190
171 33190

11 CFR

109 33190

12 CFR

229 32265

Proposed Rules:
1732 31121

14 CFR

39 .....31070, 31918, 32266, 32268, 32427, 32434, 32807, 32811, 32815, 32818, 33595, 33598, 33600, 33602, 33604, 33606, 33608, 33611, 33614
71 .....31919, 31920, 32270, 32271, 32822, 32823, 32824, 32825, 32826
121 31921

Proposed Rules:
39 .....31978, 31980, 32484, 32487, 32489, 32491, 32492, 32873, 33260, 33262, 33264, 33267, 33270, 33412, 33658, 33661, 33663
71 .....31983, 32876, 33665, 33666, 33667
91 32877
121 32877
125 32877
135 32877

15 CFR

4 31073
736 .....32272, 33211
738 33614
742 33614
744 .....32272, 33211
745 33614
774 33614
902 33211

16 CFR

Proposed Rules:
Ch. II 32882
437 31124

17 CFR

200 33384

18 CFR

Proposed Rules:
35 .....32636, 33102
37 32636
366 31125
367 31125
368 31125
369 31125
375 31125

19 CFR

101 33235
141 31921
142 31921

Proposed Rules:
12 31125

20 CFR

Proposed Rules:
401 32494
402 32494

21 CFR

50 32827
73 31927
520 ....33236, 33237
522 32436
558 31073
874 32832

22 CFR

62 33237

23 CFR

Proposed Rules:
450 33510
500 33510

24 CFR

115 33138
203 33138
320 32388

Proposed Rules:
81 33144
203 32392
291 32392

25 CFR

Proposed Rules:
502 33668
546 33668

26 CFR

1 ....31074, 31268, 32437, 33239
602 31268

Proposed Rules:
1 ....31128, 31985, 32495, 33273

27 CFR

9 33239

29 CFR

458 31929
4000 31077
4006 31077
4007 31077

30 CFR

57 33387
925 33243
944 33249

Proposed Rules:
924 33273
948 31996

32 CFR

199 ....31942, 31943
216 31082

33 CFR

100 32836
165 ....31085, 31088, 31945, 32838, 32839, 33622

Proposed Rules:
117 32883
165 ....31999, 32002, 32004

34 CFR

304 32396

36 CFR

1151 33254

37 CFR

201 31089
202 31089
212 31089

Proposed Rules:
1 32285
41 32285

40 CFR

51 31092
52 ....31093, 31097, 32274, 32448, 33622, 33625
60 ....31100, 33388
61 32276
69 32450
80 31947
82 32840
93 31092
122 33628
180 ....31102, 32841, 32846, 32849
372 32464
704 33640
707 33640
717 33640
720 33640
721 33640
723 33640
761 33630
790 33640
799 33640

Proposed Rules:
52 ....31129, 32291, 33413, 33668, 33669
60 ....32885, 33804
63 33804
70 32006
71 32006
80 32015
85 33804
90 33804
122 32887
180 ....32895, 32899, 33416
1048 33804
1065 33804
1068 33804

42 CFR

Proposed Rules:
100 33420

44 CFR

64 33642
65 33644
67 ....33645, 33646

Proposed Rules:
67 ....33672, 33702

47 CFR

73 ....32853, 32854

Proposed Rules:
64 31131
73 32909

48 CFR

1532 32282
1552 32282

49 CFR

107 33858
171 ....32244, 33858
172 ....32244, 33858
173 ....32244, 33858
175 32244
178 33858
180 33858
192 33402
193 33402
195 33402
571 32855
1544 31964
1546 31964
1548 ....31964, 33254

Proposed Rules:
173 32909
604 32496
613 33510
655 32298

50 CFR

36 33255
223 31965
648 33211
660 31104
679 31105
680 32862

Proposed Rules:
17 ....31137, 32496, 32746, 33703
622 33423
648 33721
660 33432
665 32911
679 33040

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 JUNE 12, 2006

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Oranges, grapefruit, tangerines, and tangelos grown in Florida; published 5-12-06

COMMERCE DEPARTMENT

Industry and Security Bureau

Export administration regulations:

Commerce Control List—

Biological agents and toxins controls expansion; medical products containing AG-controlled toxins clarification; Chemical Weapons Convention list update; published 6-12-06

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

West Coast States and Western Pacific fisheries—

Pacific Coast groundfish; published 5-11-06

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Stratospheric ozone protection—

Aircraft fire extinguishing vessels containing halon-1301; importation reporting and recordkeeping requirements; published 4-11-06

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Alabama; published 5-12-06

Air quality implementation plans; approval and promulgation; various States:

Arizona; published 4-12-06

California; published 4-11-06

Pennsylvania; published 5-11-06

Tennessee; published 4-13-06

Organization, functions, and authority delegations:

Pollution Prevention and Toxics Office; mailing address change; technical amendments; published 6-12-06

Toxic substances:

Chemicals of interest to Occupational Safety and Health Administration; in vitro dermal absorbtion rate testing requirements; published 4-12-06

Water pollution control:

National Pollutant Discharge Elimination System—

Storm water discharges for oil and gas exploration, production, processing, or treatment operations, or transmission facilities; published 6-12-06

Ocean dumping; site designations—

Coos Bay, OR; published 5-11-06

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Grants:

National Historical Publications and Records Commission Program; published 5-12-06

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 5-8-06

Boeing; published 5-8-06

Bombardier; published 5-8-06

Bombardier; correction; published 6-12-06

Pratt & Whitney; published 12-12-05

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Power-operated window, partition, and roof panel systems; published 4-12-06

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Export programs:

Commodities procurement for foreign donation; Open for comments until further notice; published 12-16-05 [FR E5-07460]

AGRICULTURE DEPARTMENT

Cooperative State Research, Education, and Extension Service

Small Business Innovation Research Grants Program; policy directive compliance; comments due by 6-19-06; published 5-18-06 [FR 06-04649]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Certain European Union member states; sanctions removed; comments due by 6-19-06; published 4-19-06 [FR 06-03684]

Combating trafficking in persons; comments due by 6-19-06; published 4-19-06 [FR 06-03681]

Free trade agreements—

Morocco; comments due by 6-19-06; published 4-19-06 [FR 06-03685]

Personnel, military and civilian:

Regular and reserve retired military members; management and mobilization; comments due by 6-19-06; published 4-18-06 [FR 06-03658]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Consumer products; energy conservation program:

Classifying products as covered products; household definition; comments due by 6-19-06; published 5-4-06 [FR 06-04195]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Printing and publishing industry; comments due by 6-23-06; published 5-24-06 [FR 06-04822]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Kentucky; comments due by 6-23-06; published 5-24-06 [FR 06-04820]

Air quality implementation plans; approval and promulgation; various States:

Indiana; comments due by 6-22-06; published 5-23-06 [FR 06-04764]

Hazardous waste management system:

Hazardous waste manifest system; modification; comments due by 6-19-06; published 4-18-06 [FR E6-05745]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Mono- and bis-(1H, 1H, 2H, 2H- perfluoroalkyl) phosphates; comments due by 6-19-06; published 4-19-06 [FR E6-05883]

Wheat bran; comments due by 6-19-06; published 4-19-06 [FR E6-05877]

Solid wastes:

Granular mine tailings in asphalt concrete and Portland cement concrete in transportation construction projects; management criteria; comments due by 6-19-06; published 5-19-06 [FR E6-07653]

Superfund program:

National oil and hazardous substances contingency plan priorities list; comments due by 6-19-06; published 4-19-06 [FR 06-03667]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Certain European Union member states; sanctions removed; comments due by 6-19-06; published 4-19-06 [FR 06-03684]

Combating trafficking in persons; comments due by 6-19-06; published 4-19-06 [FR 06-03681]

Free trade agreements—

Morocco; comments due by 6-19-06; published 4-19-06 [FR 06-03685]

HOMELAND SECURITY DEPARTMENT

Customs and Border Protection Bureau

Merchandise, special classes:

Cement products from Mexico requiring Commerce Department import license; comments due by 6-21-06; published 6-1-06 [FR E6-08500]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

Washington; comments due by 6-23-06; published 5-24-06 [FR E6-07868]

Pollution:
Ballast water treatment technology and analysis methods; research and development status; comments due by 6-23-06; published 5-2-06 [FR E6-06628]
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Charleston, SC; Wando River, Cooper River, and Charleston Harbor; comments due by 6-19-06; published 5-18-06 [FR 06-04628]
Great Lakes, OH, MI, WI, and IL; tall ships celebration; comments due by 6-22-06; published 6-2-06 [FR E6-08610]
Mackinac Bridge and Straits of Mackinac, MI; comments due by 6-23-06; published 5-24-06 [FR E6-07862]
Regattas and marine parades:
Chesapeake Bay, Cape Charles, VA; marine events; comments due by 6-19-06; published 5-19-06 [FR E6-07618]
Sacramento River Bridge-to-Bridge Waterfront Festival, CA; comments due by 6-19-06; published 5-19-06 [FR E6-07610]

HOMELAND SECURITY DEPARTMENT

U.S. Citizenship and Immigration Services

Immigration:
Genealogy Program; genealogical and historical records service; establishment; comments due by 6-19-06; published 4-20-06 [FR E6-05947]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
Bald eagle; comments due by 6-19-06; published 5-16-06 [FR 06-04606]
Western snowy plover; Pacific Coast distinct population segment; comments due by 6-20-06; published 4-21-06 [FR 06-03793]
Endangered Species Convention:
Regulations revised; comments due by 6-19-06; published 4-19-06 [FR 06-03444]
Importation, exportation, and transportation of wildlife:
Bald eagles protection; definition; comments due by 6-19-06; published 5-16-06 [FR 06-04607]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
Mississippi; comments due by 6-23-06; published 5-24-06 [FR E6-07917]
Pennsylvania; comments due by 6-22-06; published 5-23-06 [FR E6-07815]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
Certain European Union member states; sanctions removed; comments due by 6-19-06; published 4-19-06 [FR 06-03684]
Combating trafficking in persons; comments due by 6-19-06; published 4-19-06 [FR 06-03681]
Free trade agreements—
Morocco; comments due by 6-19-06; published 4-19-06 [FR 06-03685]

NUCLEAR REGULATORY COMMISSION

Annual financial reports submission; requirement elimination; comments due by 6-21-06; published 5-22-06 [FR 06-04737]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
Airbus; comments due by 6-19-06; published 5-18-06 [FR E6-07560]
B-N Group Ltd.; comments due by 6-21-06; published 6-6-06 [FR E6-08713]
Boeing; comments due by 6-19-06; published 5-5-06 [FR E6-06795]
Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 6-20-06; published 5-26-06 [FR E6-08117]
Goodyear Aviation; comments due by 6-19-06; published 5-3-06 [FR E6-06650]
Honeywell; comments due by 6-19-06; published 5-3-06 [FR E6-06651]
Pratt & Whitney; comments due by 6-19-06; published 4-19-06 [FR E6-05843]
Pratt & Whitney Canada; comments due by 6-20-06; published 4-21-06 [FR 06-03765]
Raytheon; comments due by 6-23-06; published 5-9-06 [FR E6-07014]
Special conditions—
Avidyne Corp., Inc.; various airplane models; comments due by 6-22-06; published 5-23-06 [FR 06-04753]
Airworthiness standards:
Class E airspace; comments due by 6-19-06; published 5-4-06 [FR E6-06730]
Special conditions—
Pilatus PC-12, PC-12/45, and PC-12/47 airplanes; comments due by 6-19-06; published 5-18-06 [FR 06-04624]
Societe de Motorisation Aeronautiques Engines, Inc., Cessna Models 182Q and 182R airplanes; comments due by 6-19-06; published 2-17-06 [FR E6-02285]

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Right-of-way and environment:
Worker visibility; comments due by 6-23-06; published 4-24-06 [FR E6-06025]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:
Interior impact occupant protection; comments due by 6-23-06; published 4-24-06 [FR E6-06024]
Motorcyclist Safety Program; incentive grant criteria; comments due by 6-23-06; published 5-24-06 [FR 06-04792]

TREASURY DEPARTMENT

Merchandise, special classes:
Cement products from Mexico requiring Commerce Department import license; comments due by 6-21-06; published 6-1-06 [FR E6-08500]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

S. 1736/P.L. 109–229

To provide for the participation of employees in the judicial branch in the Federal leave transfer program for disasters and emergencies. (May 31, 2006; 120 Stat. 390)

Last List May 31, 2006

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $1195.00 domestic, $298.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1	(869–060–00001–4)	5.00	[4]Jan. 1, 2006
2	(869–060–00002–0)	5.00	Jan. 1, 2006
3 (2003 Compilation and Parts 100 and 101)	(869–056–00003–1)	35.00	[1] Jan. 1, 2005
4	(869–060–00004–6)	10.00	Jan. 1, 2006
5 Parts:			
1–699	(869–060–00005–4)	60.00	Jan. 1, 2006
700–1199	(869–060–00006–2)	50.00	Jan. 1, 2006
1200–End	(869–060–00007–1)	61.00	Jan. 1, 2006
6	(869–060–00008–9)	10.50	Jan. 1, 2006
7 Parts:			
1–26	(869–060–00009–7)	44.00	Jan. 1, 2006
27–52	(869–060–00010–1)	49.00	Jan. 1, 2006
53–209	(869–060–00011–9)	37.00	Jan. 1, 2006
210–299	(869–060–00012–7)	62.00	Jan. 1, 2006
300–399	(869–060–00013–5)	46.00	Jan. 1, 2006
400–699	(869–060–00014–3)	42.00	Jan. 1, 2006
700–899	(869–060–00015–1)	43.00	Jan. 1, 2006
900–999	(869–060–00016–0)	60.00	Jan. 1, 2006
1000–1199	(869–060–00017–8)	22.00	Jan. 1, 2006
1200–1599	(869–060–00018–6)	61.00	Jan. 1, 2006
1600–1899	(869–060–00019–4)	64.00	Jan. 1, 2006
1900–1939	(869–060–00020–8)	31.00	Jan. 1, 2006
1940–1949	(869–060–00021–6)	50.00	Jan. 1, 2006
1950–1999	(869–060–00022–4)	46.00	Jan. 1, 2006
2000–End	(869–060–00023–2)	50.00	Jan. 1, 2006
8	(869–060–00024–1)	63.00	Jan. 1, 2006
9 Parts:			
1–199	(869–060–00025–9)	61.00	Jan. 1, 2006
200–End	(869–060–00026–7)	58.00	Jan. 1, 2006
10 Parts:			
1–50	(869–060–00027–5)	61.00	Jan. 1, 2006
51–199	(869–060–00028–3)	58.00	Jan. 1, 2006
200–499	(869–060–00029–1)	46.00	Jan. 1, 2006
500–End	(869–060–00030–5)	62.00	Jan. 1, 2006
11	(869–060–00031–3)	41.00	Jan. 1, 2006
12 Parts:			
1–199	(869–060–00032–1)	34.00	Jan. 1, 2006
200–219	(869–060–00033–0)	37.00	Jan. 1, 2006
220–299	(869–060–00034–8)	61.00	Jan. 1, 2006
300–499	(869–060–00035–6)	47.00	Jan. 1, 2006
500–599	(869–060–00036–4)	39.00	Jan. 1, 2006
600–899	(869–056–00037–5)	56.00	Jan. 1, 2005
900–End	(869–060–00038–1)	50.00	Jan. 1, 2006
13	(869–060–00039–9)	55.00	Jan. 1, 2006
14 Parts:			
1–59	(869–060–00040–2)	63.00	Jan. 1, 2006
60–139	(869–060–00041–1)	61.00	Jan. 1, 2006
140–199	(869–060–00042–9)	30.00	Jan. 1, 2006
200–1199	(869–060–00043–7)	50.00	Jan. 1, 2006
1200–End	(869–060–00044–5)	45.00	Jan. 1, 2006
15 Parts:			
0–299	(869–060–00045–3)	40.00	Jan. 1, 2006
300–799	(869–060–00046–1)	60.00	Jan. 1, 2006
800–End	(869–060–00047–0)	42.00	Jan. 1, 2006
16 Parts:			
0–999	(869–060–00048–8)	50.00	Jan. 1, 2006
1000–End	(869–060–00049–6)	60.00	Jan. 1, 2006
17 Parts:			
1–199	(869–060–00051–8)	50.00	Apr. 1, 2006
200–239	(869–056–00052–9)	58.00	Apr. 1, 2005
240–End	(869–056–00053–7)	62.00	Apr. 1, 2005
18 Parts:			
1–399	(869–056–00054–5)	62.00	Apr. 1, 2005
400–End	(869–060–00055–1)	26.00	[6]Apr. 1, 2006
19 Parts:			
1–140	(869–060–00056–9)	61.00	Apr. 1, 2006
141–199	(869–056–00057–0)	58.00	Apr. 1, 2005
200–End	(869–060–00058–5)	31.00	Apr. 1, 2006
20 Parts:			
1–399	(869–060–00059–3)	50.00	Apr. 1, 2006
400–499	(869–056–00060–0)	64.00	Apr. 1, 2005
500–End	(869–056–00061–8)	63.00	Apr. 1, 2005
21 Parts:			
1–99	(869–060–00062–3)	40.00	Apr. 1, 2006
*100–169	(869–060–00063–1)	49.00	Apr. 1, 2006
*170–199	(869–060–00064–0)	50.00	Apr. 1, 2006
200–299	(869–060–00065–8)	17.00	Apr. 1, 2006
*300–499	(869–060–00066–6)	30.00	Apr. 1, 2006
*500–599	(869–060–00067–4)	47.00	Apr. 1, 2006
600–799	(869–060–00068–2)	15.00	Apr. 1, 2006
800–1299	(869–056–00069–3)	58.00	Apr. 1, 2005
*1300–End	(869–060–00070–4)	25.00	Apr. 1, 2006
22 Parts:			
1–299	(869–056–00071–5)	63.00	Apr. 1, 2005
300–End	(869–060–00072–1)	45.00	[10]Apr. 1, 2006
***23**	(869–060–00073–9)	45.00	Apr. 1, 2006
24 Parts:			
*0–199	(869–060–00074–7)	60.00	Apr. 1, 2006
*200–499	(869–060–00075–5)	50.00	Apr. 1, 2006
*500–699	(869–060–00076–3)	30.00	Apr. 1, 2006
*700–1699	(869–060–00077–1)	61.00	Apr. 1, 2006
1700–End	(869–056–00078–2)	30.00	Apr. 1, 2005
***25**	(869–060–00079–8)	64.00	Apr. 1, 2006
26 Parts:			
§§ 1.0–1–1.60	(869–056–00080–4)	49.00	Apr. 1, 2005
§§ 1.61–1.169	(869–056–00081–2)	63.00	Apr. 1, 2005
§§ 1.170–1.300	(869–056–00082–1)	60.00	Apr. 1, 2005
§§ 1.301–1.400	(869–056–00083–9)	46.00	Apr. 1, 2005
§§ 1.401–1.440	(869–056–00084–7)	62.00	Apr. 1, 2005
§§ 1.441–1.500	(869–056–00085–5)	57.00	Apr. 1, 2005
§§ 1.501–1.640	(869–056–00086–3)	49.00	Apr. 1, 2005
§§ 1.641–1.850	(869–056–00087–1)	60.00	Apr. 1, 2005
§§ 1.851–1.907	(869–056–00088–0)	61.00	Apr. 1, 2005
§§ 1.908–1.1000	(869–056–00089–8)	60.00	Apr. 1, 2005
*§§ 1.1001–1.1400	(869–060–00090–9)	61.00	Apr. 1, 2006
§§ 1.1401–1.1550	(869–056–00091–0)	55.00	Apr. 1, 2005
*§§ 1.1551–End	(869–060–00092–5)	50.00	Apr. 1, 2006
2–29	(869–056–00093–6)	60.00	Apr. 1, 2005
30–39	(869–056–00094–4)	41.00	Apr. 1, 2005
40–49	(869–056–00095–2)	28.00	Apr. 1, 2005
50–299	(869–056–00096–1)	41.00	Apr. 1, 2005

Title	Stock Number	Price	Revision Date
300–499	(869–056–00097–9)	61.00	Apr. 1, 2005
500–599	(869–060–00098–4)	12.00	[5]Apr. 1, 2006
600–End	(869–056–00099–5)	17.00	Apr. 1, 2005
27 Parts:			
1–199	(869–056–00100–2)	64.00	Apr. 1, 2005
*400–End	(869–060–00101–8)	18.00	Apr. 1, 2006
28 Parts:			
0–42	(869–056–00102–9)	61.00	July 1, 2005
43–End	(869–056–00103–7)	60.00	July 1, 2005
29 Parts:			
0–99	(869–056–00104–5)	50.00	July 1, 2005
100–499	(869–056–00105–3)	23.00	July 1, 2005
500–899	(869–056–00106–1)	61.00	July 1, 2005
900–1899	(869–056–00107–0)	36.00	[7]July 1, 2005
1900–1910 (§§ 1900 to 1910.999)	(869–056–00108–8)	61.00	July 1, 2005
1910 (§§ 1910.1000 to end)	(869–056–00109–6)	58.00	July 1, 2005
1911–1925	(869–056–00110–0)	30.00	July 1, 2005
1926	(869–056–00111–8)	50.00	July 1, 2005
1927–End	(869–056–00112–6)	62.00	July 1, 2005
30 Parts:			
1–199	(869–056–00113–4)	57.00	July 1, 2005
200–699	(869–056–00114–2)	50.00	July 1, 2005
700–End	(869–056–00115–1)	58.00	July 1, 2005
31 Parts:			
0–199	(869–056–00116–9)	41.00	July 1, 2005
200–499	(869–056–00117–7)	33.00	July 1, 2005
500–End	(869–056–00118–5)	33.00	July 1, 2005
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–056–00119–3)	61.00	July 1, 2005
191–399	(869–056–00120–7)	63.00	July 1, 2005
400–629	(869–056–00121–5)	50.00	July 1, 2005
630–699	(869–056–00122–3)	37.00	July 1, 2005
700–799	(869–056–00123–1)	46.00	July 1, 2005
800–End	(869–056–00124–0)	47.00	July 1, 2005
33 Parts:			
1–124	(869–056–00125–8)	57.00	July 1, 2005
125–199	(869–056–00126–6)	61.00	July 1, 2005
200–End	(869–056–00127–4)	57.00	July 1, 2005
34 Parts:			
1–299	(869–056–00128–2)	50.00	July 1, 2005
300–399	(869–056–00129–1)	40.00	[7]July 1, 2005
400–End & 35	(869–056–00130–4)	61.00	July 1, 2005
36 Parts:			
1–199	(869–056–00131–2)	37.00	July 1, 2005
200–299	(869–056–00132–1)	37.00	July 1, 2005
300–End	(869–056–00133–9)	61.00	July 1, 2005
37	(869–056–00134–7)	58.00	July 1, 2005
38 Parts:			
0–17	(869–056–00135–5)	60.00	July 1, 2005
18–End	(869–056–00136–3)	62.00	July 1, 2005
39	(869–056–00139–1)	42.00	July 1, 2005
40 Parts:			
1–49	(869–056–00138–0)	60.00	July 1, 2005
50–51	(869–056–00139–8)	45.00	July 1, 2005
52 (52.01–52.1018)	(869–056–00140–1)	60.00	July 1, 2005
52 (52.1019–End)	(869–056–00141–0)	61.00	July 1, 2005
53–59	(869–056–00142–8)	31.00	July 1, 2005
60 (60.1–End)	(869–056–00143–6)	58.00	July 1, 2005
60 (Apps)	(869–056–00144–4)	57.00	July 1, 2005
61–62	(869–056–00145–2)	45.00	July 1, 2005
63 (63.1–63.599)	(869–056–00146–1)	58.00	July 1, 2005
63 (63.600–63.1199)	(869–056–00147–9)	50.00	July 1, 2005
63 (63.1200–63.1439)	(869–056–00148–7)	50.00	July 1, 2005
63 (63.1440–63.6175)	(869–056–00149–5)	32.00	July 1, 2005
63 (63.6580–63.8830)	(869–056–00150–9)	32.00	July 1, 2005
63 (63.8980–End)	(869–056–00151–7)	35.00	[7]July 1, 2005
64–71	(869–056–00152–5)	29.00	July 1, 2005
72–80	(869–056–00153–5)	62.00	July 1, 2005
81–85	(869–056–00154–1)	60.00	July 1, 2005
86 (86.1–86.599–99)	(869–056–00155–0)	58.00	July 1, 2005
86 (86.600–1–End)	(869–056–00156–8)	50.00	July 1, 2005
87–99	(869–056–00157–6)	60.00	July 1, 2005
100–135	(869–056–00158–4)	45.00	July 1, 2005
136–149	(869–056–00159–2)	61.00	July 1, 2005
150–189	(869–056–00160–6)	50.00	July 1, 2005
190–259	(869–056–00161–4)	39.00	July 1, 2005
260–265	(869–056–00162–2)	50.00	July 1, 2005
266–299	(869–056–00163–1)	50.00	July 1, 2005
300–399	(869–056–00164–9)	42.00	July 1, 2005
400–424	(869–056–00165–7)	56.00	[8]July 1, 2005
425–699	(869–056–00166–5)	61.00	July 1, 2005
700–789	(869–056–00167–3)	61.00	July 1, 2005
790–End	(869–056–00168–1)	61.00	July 1, 2005
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–056–00169–0)	24.00	July 1, 2005
101	(869–056–00170–3)	21.00	July 1, 2005
102–200	(869–056–00171–1)	56.00	July 1, 2005
201–End	(869–056–00172–0)	24.00	July 1, 2005
42 Parts:			
1–399	(869–056–00173–8)	61.00	Oct. 1, 2005
400–429	(869–056–00174–6)	63.00	Oct. 1, 2005
430–End	(869–056–00175–4)	64.00	Oct. 1, 2005
43 Parts:			
1–999	(869–056–00176–2)	56.00	Oct. 1, 2005
1000–end	(869–056–00177–1)	62.00	Oct. 1, 2005
44	(869–056–00178–9)	50.00	Oct. 1, 2005
45 Parts:			
1–199	(869–056–00179–7)	60.00	Oct. 1, 2005
200–499	(869–056–00180–1)	34.00	Oct. 1, 2005
500–1199	(869–056–00171–9)	56.00	Oct. 1, 2005
1200–End	(869–056–00182–7)	61.00	Oct. 1, 2005
46 Parts:			
1–40	(869–056–00183–5)	46.00	Oct. 1, 2005
41–69	(869–056–00184–3)	39.00	[9]Oct. 1, 2005
70–89	(869–056–00185–1)	14.00	[9]Oct. 1, 2005
90–139	(869–056–00186–0)	44.00	Oct. 1, 2005
140–155	(869–056–00187–8)	25.00	Oct. 1, 2005
156–165	(869–056–00188–6)	34.00	[9]Oct. 1, 2005
166–199	(869–056–00189–4)	46.00	Oct. 1, 2005
200–499	(869–056–00190–8)	40.00	Oct. 1, 2005
500–End	(869–056–00191–6)	25.00	Oct. 1, 2005
47 Parts:			
0–19	(869–056–00192–4)	61.00	Oct. 1, 2005
20–39	(869–056–00193–2)	46.00	Oct. 1, 2005
40–69	(869–056–00194–1)	40.00	Oct. 1, 2005
70–79	(869–056–00195–9)	61.00	Oct. 1, 2005
80–End	(869–056–00196–7)	61.00	Oct. 1, 2005
48 Chapters:			
1 (Parts 1–51)	(869–056–00197–5)	63.00	Oct. 1, 2005
1 (Parts 52–99)	(869–056–00198–3)	49.00	Oct. 1, 2005
2 (Parts 201–299)	(869–056–00199–1)	50.00	Oct. 1, 2005
3–6	(869–056–00200–9)	34.00	Oct. 1, 2005
7–14	(869–056–00201–7)	56.00	Oct. 1, 2005
15–28	(869–056–00202–5)	47.00	Oct. 1, 2005

Title	Stock Number	Price	Revision Date
29–End	(869–056–00203–3)	47.00	Oct. 1, 2005
49 Parts:			
1–99	(869–056–00204–1)	60.00	Oct. 1, 2005
100–185	(869–056–00205–0)	63.00	Oct. 1, 2005
186–199	(869–056–00206–8)	23.00	Oct. 1, 2005
200–299	(869–056–00207–6)	32.00	Oct. 1, 2005
300–399	(869–056–00208–4)	32.00	Oct. 1, 2005
400–599	(869–056–00209–2)	64.00	Oct. 1, 2005
600–999	(869–056–00210–6)	19.00	Oct. 1, 2005
1000–1199	(869–056–00211–4)	28.00	Oct. 1, 2005
1200–End	(869–056–00212–2)	34.00	Oct. 1, 2005
50 Parts:			
1–16	(869–056–00213–1)	11.00	Oct. 1, 2005
17.1–17.95(b)	(869–056–00214–9)	32.00	Oct. 1, 2005
17.95(c)–end	(869–056–00215–7)	32.00	Oct. 1, 2005
17.96–17.99(h)	(869–056–00215–7)	61.00	Oct. 1, 2005
17.99(i)–end and 17.100–end	(869–056–00217–3)	47.00	Oct. 1, 2005
18–199	(869–056–00218–1)	50.00	Oct. 1, 2005
200–599	(869–056–00218–1)	45.00	Oct. 1, 2005
600–End	(869–056–00219–0)	62.00	Oct. 1, 2005
CFR Index and Findings Aids	(869–060–00050–0)	62.00	Jan. 1, 2006
Complete 2006 CFR set		1,398.00	2006
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2006
Individual copies		4.00	2006
Complete set (one-time mailing)		325.00	2005
Complete set (one-time mailing)		325.00	2004

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2004 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2003 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2004, through October 1, 2005. The CFR volume issued as of October 1, 2004 should be retained.

[10] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.