AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

6–18–04 Friday
Vol. 69 No. 117 June 18, 2004

Pages 34043–34250

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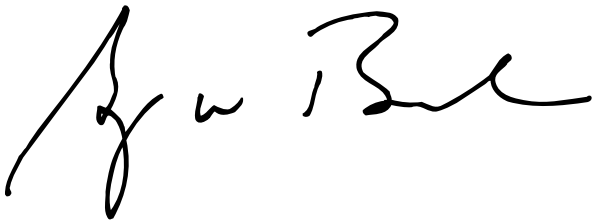
Memorandum of June 14, 2004

Certification Concerning U.S. Participation in the United Nations Stabilization Mission in Haiti Consistent with Section 2005 of the American Servicemembers' Protection Act

Memorandum for the Secretary of State

Consistent with section 2005 of the American Servicemembers' Protection Act of 2002 (Public Law 107–206; 22 U.S.C. 7421 *et seq.*), concerning the participation of members of the Armed Forces of the United States in certain U.N. peacekeeping and peace enforcement operations, I hereby certify that members of the U.S. Armed Forces participating in the United Nations Stabilization Mission in Haiti (MINUSTAH) are without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because Haiti has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country.

You are authorized and directed to submit this certification to the Congress and arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, June 14, 2004.

[FR Doc. 04–13952
Filed 6–17–04; 8:45 am]
Billing code 4710–10–P

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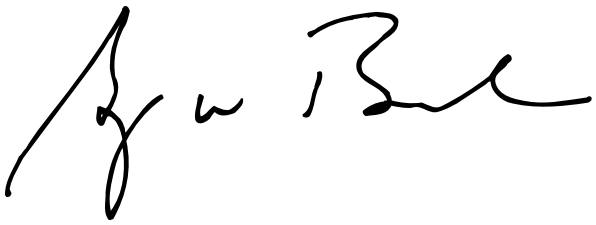
Notice of June 15, 2004

Notice of Intention To Enter Into a Free Trade Agreement With Bahrain

Consistent with section 2105(a)(1)(A) of the Trade Act of 2002, I have notified the Congress of my intention to enter into a free trade agreement with the Kingdom of Bahrain.

Consistent with section 2105(a)(1)(A) of that Act, this notice shall be published in the **Federal Register**.



THE WHITE HOUSE,
June 15, 2004.

[FR Doc. 04–13979
Filed 6–17–04; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Notice of June 16, 2004

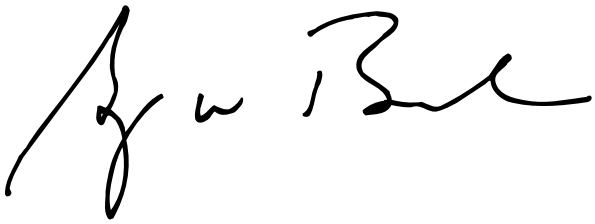
Continuation of the National Emergency With Respect to the Risk of Nuclear Proliferation Created by the Accumulation of Weapons-Usable Fissile Material in the Territory of the Russian Federation

On June 21, 2000, the President issued Executive Order 13159 (the ''Order'') blocking property and interests in property of the Government of the Russian Federation that are in the United States, that hereafter come within the United States, or that are or hereinafter come within the possession or control of United States persons that are directly related to the implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements (collectively, the ''HEU Agreements''). The HEU Agreements allow for the downblending of highly enriched uranium derived from nuclear weapons to low enriched uranium for peaceful commercial purposes. The Order invoked the authority, *inter alia*, of the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.*, and declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States posed by the risk of nuclear proliferation created by the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation.

A major national security goal of the United States is to ensure that fissile material removed from Russian nuclear weapons pursuant to various arms control and disarmament agreements is dedicated to peaceful uses (such as downblending to low enriched uranium for peaceful commercial uses), subject to transparency measures, and protected from diversion to activities of proliferation concern. Pursuant to the HEU Agreements, weapons-grade uranium extracted from Russian nuclear weapons is converted to low enriched uranium for use as fuel in commercial nuclear reactors. The Order blocks and protects from attachment, judgment, decree, lien, execution, garnishment, or other judicial process the property and interests in property of the Government of the Russian Federation that are directly related to the implementation of the HEU Agreements and that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons.

The national emergency declared on June 21, 2000, must continue beyond June 21, 2004, to provide continued protection from attachment, judgment, decree, lien, execution, garnishment, or other judicial process for the property and interests in property of the Government of the Russian Federation that are directly related to the implementation of the HEU Agreements and subject to U.S. jurisdiction. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to weapons-usable fissile material

in the territory of the Russian Federation. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
June 16, 2004.

[FR Doc. 04–13980
Filed 6–17–04; 8:45 am]
Billing code 3195–01–P

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Presidential Documents

Title 3—

The President

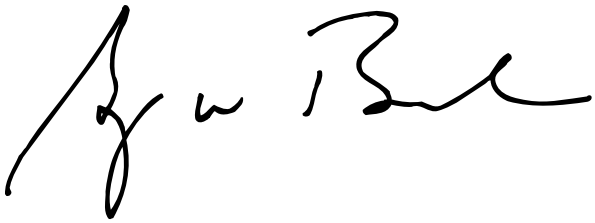
Presidential Determination No. 2004–35 of June 3, 2004

Designation of the Kingdom of Morocco as a Major Non-NATO Ally

Memorandum for the Secretary of State

Consistent with the authority vested in me by section 517 of the Foreign Assistance Act of 1961, as amended (the ''Act''), I hereby designate the Kingdom of Morocco as a Major Non-NATO Ally of the United States for the purposes of the Act and the Arms Export Control Act.

You are authorized and directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, June 3, 2004.

[FR Doc. 04–13951
Filed 6–17–04; 8:45 am]
Billing code 4710–10–P

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Federal Register
Vol. 69, No. 117
Friday, June 18, 2004

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–45–AD; Amendment 39–13667; AD 2004–12–08]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines (IAE) AG V2500–A1, V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for IAE AG V2500–A1, V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 turbofan engines. That AD currently requires revisions to the Airworthiness Limitations Section (ALS) and Maintenance Scheduling Section (MSS) of the Instructions for Continued Airworthiness (ICA), located in the Time Limits Manual (Chapter 05–10–00) of the Engine Manuals, to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure. This action would add critical life-limited parts for enhanced inspection. This action is prompted by additional focused inspection procedures that have been developed by the manufacturer. The actions specified by this AD are intended to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: This AD becomes effective July 23, 2004.

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

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7152; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–12–05, Amendment 39–11783 (65 FR 36783, June 12, 2000), which is applicable to IAE AG V2500–A1, V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 turbofan engines, was published in the **Federal Register** on June 25, 2003 (68 FR 37774). That action proposed to revise the Airworthiness Limitations Section (ALS) and Maintenance Scheduling Section (MSS) of the Instructions for Continued Airworthiness (ICA), located in the Time Limits Manual (Chapter 05–10–00) of the Engine Manuals, to add critical life-limited parts for enhanced inspection at each piece-part exposure.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

High Pressure Compressor (HPC) Rear Airseal

One commenter requests that the HPC rear airseal be removed from the list of parts requiring inspection because it is smaller and lighter than other parts requiring inspection and its failure is unlikely to cause an uncontained failure. We do not agree. Although failure of the HPC rear airseal is less likely to cause an uncontained failure than other listed parts, it has been identified as a critical part, the failure of which can lead to a hazardous condition.

Inspection of New Parts

One commenter questions the need for additional non-destructive inspections for the new high pressure compressor (HPC) and low pressure turbine (LPT) parts added to this AD, as the original AD requires fluorescent penetrant inspection (FPI) only. We agree. FPI was the only intended method of inspection. The intent of this AD is to specify all parts and all critical features of these parts requiring inspection. New parts added to the mandatory inspection list by this AD will require the same inspections as parts listed in the original AD. The Compliance Section of the final rule will reflect this change.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Analysis

The FAA estimates that 734 engines installed on airplanes of U.S. registry would be affected by this AD, that it would take approximately 24 work hours per engine to perform the enhanced inspection for HPC stage 3–8 drums, HPC stage 9–12 drum, HPC rear shaft, HPC rear rotating seal, and stages 3 through 7 LPT disks. The average labor rate is $65 per work hour. The total cost of the added inspections per engine would be approximately $1,560. Using average shop visitation rates, the annual cost of the added inspections on U.S. operators is approximately $1,145,040.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

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 removing Amendment 39–11783 (65 FR 36783, June 12, 2000) and by adding a new airworthiness directive, Amendment 39–13667, to read as follows:

2004–12–08 International Aero Engines: Amendment 39–13667. Docket No. 98–NE–45–AD. Supersedes AD 2000–12–05, Amendment 39–11783.

Applicability

This airworthiness directive (AD) is applicable to International Aero Engines AG (IAE) V2500–A1, V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 turbofan engines. These engines are installed on, but not limited to, Airbus Industrie A319, A320, and A321 series, and McDonnell Douglas MD–90 airplanes.

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

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, do the following:

Inspections

(a) Within the next 90 days after the effective date of this AD, revise the Airworthiness Limitations Section (ALS) and Maintenance Scheduling Section (MSS) of the Instructions for Continued Airworthiness (ICA) located in the Time Limits Manual (Chapter 05–10–00) of the Engine Manuals, part number (P/N) E–V2500–1IA and P/N E–V2500–3IA, and for air carrier operations revise the approved continuous airworthiness maintenance program, by

(1) Adding the following to paragraph 1, entitled ''Airworthiness Limitations:'' ''Refer to paragraph 2—Maintenance Scheduling for information that sets forth the operator's maintenance requirements for the V2500 On-Condition engine.''

(2) Adding the following paragraph 2, entitled ''Maintenance Scheduling:''

''Whenever a Group A part identified in this paragraph (see 4.0 for definition of Group A) satisfies both of the following conditions:

The part is considered completely disassembled when accomplished in accordance with the disassembly instructions in the engine manufacturer's engine manual; and

The part has accumulated more than 100 cycles in service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine; then that part is considered to be at the piece-part level and it is mandatory to perform the inspections for that part as specified in the following:

Part nomenclature	Part number (P/N)	Inspect per engine manual chapter
Fan Disk	All	Chapter 72–31–12, Subtask 72–31–12–230–054.
Stage 1 HP Turbine Hub	All	Chapter 72–45–11, Task 72–45–11–200–002.
Stage 2 HP Turbine Hub	All	Chapter 72–45–31, Task 72–45–31–200–004.
High Pressure Compressor (HPC) Stage 3–8 Drum.	All	Chapter 72–41–11, Subtask 72–41–11–230–104.
HPC Stage 9–12 Drum	All	Chapter 72–41–12, Subtask 72–41–12–230–079.
HPC Rear Shaft	All	Chapter 72–41–13, Subtask 72–41–13–230–097 & 72–41–13–230–098.
HPC Stage Rear Rotating Seal	All	Chapter 72–41–14, Subtask 72–41–14–230–064 & 72–41–14–230–065.
Stages 3 through 7 Low Pressure Turbine (LPT) Disks.	All	Chapter 72–50–31, Task 72–50–31–200–006.

(b) Except as provided in paragraph (c) of this AD, and notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections must be performed only in accordance with the ALS and MSS of the ICA in the Time Limits Manual (Chapter 05–10–00) of the Engine Manuals, P/N E–V2500–1IA and P/N E–V2500–3IA.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Continuous Airworthiness Maintenance Program

(e) FAA-certificated air carriers that have an approved continuous airworthiness maintenance program in accordance with the record keeping requirement of § 121.369(c) of the Federal Aviation Regulations (14 CFR 121.369(c)) of this chapter must maintain records of the mandatory inspections that result from revising the ALS and MSS of the ICA in the Time Limits Manual (Chapter 05–10–00) of the Engine Manuals, P/N E–V2500–1IA and P/N E–V2500–3IA, and the air carrier's continuous airworthiness program. Alternatively, certificated air carriers may establish an approved system of record retention that provides a method for preservation and retrieval of the maintenance records that include the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the air carrier's maintenance manual required by § 121.369(c) of the Federal Aviation Regulations (14 CFR 121.369(c)); however, the alternate system must be accepted by the appropriate PMI and require the maintenance records be

maintained either indefinitely or until the work is repeated. Records of the piece-part inspections are not required under § 121.380(a)(2)(vi) of the Federal Aviation Regulations (14 CFR 121.380(a)(2)(vi)). All other operators must maintain the records of mandatory inspections required by the applicable regulations governing their operations.

Note 3: The requirements of this AD have been met when the engine manual changes are made and air carriers have modified their continuous airworthiness maintenance plans to reflect the requirements in the Engine Manuals.

Effective Date

(f) This amendment becomes effective on July 23, 2004.

Issued in Burlington, Massachusetts, on June 8, 2004.

Francis A. Favara,

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

[FR Doc. 04–13698 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2004–17493; Airspace Docket 04–ANM–04]

Amendment to Class D Airspace; Ogden, Hill Air Force Base, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D airspace at Ogden, Hill Air Force Base, UT (Hill AFB) by clarifying the description of the Class D Airspace. The current airspace description could be confusing thereby making it difficult to interpret. This modification does not change the current boundaries or use of the affected airspace.

EFFECTIVE DATE: September 02, 2004.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Air Traffic Division, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

Current Class D airspace as described in Airspace Designations and Reporting Points Document 7400.9L dated September 02, 2003, and effective September 16, 2003, has been found to be confusing and is difficult to interpret. This clarifies that airspace description.

The Rule

This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by clarifying the description of the Class D airspace at Ogden, Hill AFB. The current airspace description is difficult to interpret. This modification does not change the current boundaries or the use of the affected airspace.

Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9L dated September 02, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in this 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 11013; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of Amendment

■ Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation of 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 part 71 of the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 5000 Class D Airspace Area.

ANM UT D Ogden, Hill AFB, UT [Amended]

Ogden, Hill AFB, UT
(Lat. 41°07′25″ N., long. 111°58′23″ W.)
Ogden-Hinckley Airport, UT
(Lat. 41°11′46″ N., long. 112°00′44″ W.)

That airspace extending upward from the surface to, but not including 7,800 feet MSL beginning east of the airport at the intersection of the 4.3 mile radius of the airport and the Ogden-Hinckley Airport 4.3 mile radius, extending west to the intersection of the 4.3 mile radius of the airport and the Ogden-Hinckley Airport 4.3 mile radius, thence counter clockwise to the point of beginning; excluding that airspace within the Ogden Hinckley Airport, UT, Class D airspace area when it is effective.

* * * * *

Issued in Seattle, Washington, on June 8, 2004.

John Warner,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 04–13827 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17423; Airspace Docket No. 04–ACE–24]

Modification of Class E Airspace; Gothenburg, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–502A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on May 3, 2004 (69 FR 24065). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA

believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 5, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on June 7, 2004.

Elizabeth S. Wallis,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–13822 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17432; Airspace Docket No. 04–ACE–30]

Modification of Class E Airspace; Superior, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective data of the direct final rule which revises Class E airspace at Superior, NE.

EFFECTIVE DATE: 0901 UTC, August 5, 2004.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on May 11, 2004 (69 FR 26033). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 5, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on June 8, 2004.

Elizabeth S. Wallis,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–13823 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17431; Airspace Docket No. 04–ACE–29]

Modification of Class E Airspace; Tekamah, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, August 5, 2004.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on May 11, 2004 (69 FR 26030). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 5, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on June 8, 2004.

Elizabeth S. Wallis,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–13824 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17427; Airspace Docket No. 04–ACE–27]

Modification of Class E Airspace; Oshkosh, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments; correction.

SUMMARY: This action corrects a direct final rule; request for comments that was published in the **Federal Register** on Tuesday, May 11, 2004, (69 FR 26029) [FR Doc. 04–10636] and subsequently corrected in the **Federal Register** on Tuesday, May 25, 2004, (69 FR 29653) [FR Doc. 04–11787]. It corrects an error in the legal description.

DATES: This direct final rule is effective on 0901 UTC, August 5, 2004.

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

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 04–10636, published on Tuesday, May 11, 2004, (69 FR 26029) modified the Class E airspace area at Oshkosh, NE. The modification emended discrepancies in the dimensions and legal description of controlled airspace around Garden County Airport at Oshkosh, NE. A format error in this airspace change was later corrected in Federal Register Document 04–11787, published on Tuesday, May 25, 2004, (69 FR 29653). Since the above actions two area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures (SIAPs) and one nondirectional radio beacon (NDB) SIAP have been developed to serve Garden County Airport. These SIAPs necessitate a further correction to Class E airspace area at Oshkosh, NE as published in the **Federal Register** on Tuesday, May 11, 2004.

■ Accordingly, pursuant to the authority delegated to me, the legal description of Oshkosh, NE Class E airspace, as published in the **Federal Register** on Tuesday, May 11, 2004, (69 FR 26029) [FR Doc. 04–10636] is corrected as follows:

§ 71.1 [Corrected]

■ On page 26030, Column 2, replace the third paragraph with:

ACE NE E5 Oshkosh, NE

Garden County Airport, NE
(Lat. 41°24′04″ N., long. 102°21′18″ W.)

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Garden County Airport.

Issued in Kansas City, MO, on June 8, 2004.

Elizabeth S. Wallis,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–13825 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket FAA 2003–15996; Airspace Docket 03–ANM–04]

Modification of Class E Airspace; Trinidad, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule will modify Class E airspace at Trinidad, CO. New Area Navigation (RNAV) Global Position System (GPS) Standard Instrument Approach Procedures (SIAPs) have been developed at Perry Stokes Airport, Trinidad, CO, making it necessary to increase the area of controlled airspace. This additional controlled airspace extending upward from 700 feet or more above the surface of the earth is necessary to contain Instrument Flight Rules (IFR) aircraft executing these new SIAPs.

DATES: *Effective Date:* 0901 UTC, September 2, 2004.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Air Traffic Division, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On November 6, 2003, the FAA proposed to amend Federal Aviation Regulations 14 CFR part 71 to modify Class E airspace at Trinidad, CO (68 FR 62761–62762). The proposal was to modify controlled airspace extending upward from 700 feet or more above the surface of the earth to contain IFR operations within controlled airspace during the terminal phase and when transitioning to/from the en route environments.

Interested parties were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This amendment to 14 CFR part 71 will modify Class E airspace at Trinidad, CO, to accommodate aircraft executing newly developed IFR RNAV SIAPs at Perry Stokes Airport. The new RNAV SIAPs make it necessary to increase the area of controlled airspace. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth will be established to contain IFR aircraft executing these new SIAPs.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this 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 will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 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 the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 02, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM CO E5 Trinidad, CO [Revised]

Perry Stokes Airport, Trinidad, CO
(Lat. 37°15′34″ N., long. 104°20′26″ W.)
Trinidad Non Directional Beacon (NDB)
(Lat. 37°18′22″ N., long. 104°20′00″ W.)

That airspace extending upward from 700 feet above the surface of the earth within a 8.0 mile radius of the Perry Stokes Airport and within 4.0 miles each side of the 355° bearing from the Trinidad NDB extending from the 8.0 mile radius to 11 miles north of the NDB and 4.0 miles each side of the 225° bearing from the Trinidad Airport extending from the 8.0 mile radius to 13 miles southwest of the airport; that airspace extending upward from 1,200 feet above the surface of the earth bounded by a line beginning at lat. 37°47′00″ N., long 104°00′00″ W. thence south along long. 104°00′00″ W. thence southwest along V263–378, thence north along V83–611 until lat. 37°47′00″ N., thence east along lat. 37°47′00″ N. until the point of origin; excluding that airspace within Federal airways.

* * * * *

Issued in Seattle, Washington, on June 8, 2004.

John Warner,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 04–13828 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17426; Airspace Docket No. 04–ACE–26]

Modification of Class E Airspace; Minden, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

DATES: *Effective Date:* 0901 UTC, August 5, 2004.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on May 11, 2004 (69 FR 26034), and subsequently published a correction to the direct final rule on May 27, 2004 (69 FR 30360). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 5, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on June 7, 2004.

Elizabeth S. Wallis,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–13829 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17597; Airspace Docket No. 04–AEA–07]

Amendment of Class E Airspace; Richmond, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Richmond, VA. The development of multiple area navigation (RNAV) Standard Instrument Approach Procedures (SIAP) for numerous airports within the Richmond, VA metropolitan area with approved Instrument Flight Rules (IFR) operations and the resulting overlap of designated Class E–5 airspace have made this action necessary. This action consolidates the Class E–5 descriptions through separate rulemaking action. The area will be depicted on aeronautical charts for pilot reference.

DATES: *Effective Date:* 0901 UTC August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On May 11, 2004, a notice proposing to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by consolidating existing Class E–5 airspace designations in the Richmond, VA metropolitan area and incorporating those areas into the Richmond, VA description was published in the **Federal Register** (69 FR 26056–26057). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace area designations for airspace extending upward from the surface are published in paragraph 6005 of FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be amended in the order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from 700 ft above the surface for aircraft conducting IFR operations within the Richmond, VA Class E–5 airspace description.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this 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 will only affect air traffic procedures and air navigation it is certified that this rule will 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).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 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 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 ft above the surface of the earth.

* * * * *

AEA VA E5 Richmond, VA (Revised)

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at lat. 37°03′52″ N., long. 77°47′45″ W., to lat. 37°11′51″ N., long. 77°41′25″ W., to lat. 37°27′45″ N., long. 77°41′44″ W., to lat. 37°49′25″ N., long.

77°32′39″ W., to lat. 37°49′28″ N., long. 77°19′42″ W., to lat. 37°34′38″ N., long. 76°56′19″ W., to lat. 37°26′41″ N., long. 76°55′56″ W., to lat. 36°55′48″ N., long 77°37′56″ W., to the point of beginning.

* * * * *

Issued in Jamaica, New York, on June 12, 2004.

John G. McCartney,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 04–13830 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17900; Airspace Docket No. 04–AEA–08]

Amendment of Class E Airspace; Norfolk, VA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action removes the description of the Class E airspace designated for Norfolk NAS (Chambers Field), VA; Langley AFB, Hampton, VA; Oceana NAS (Apollo Soucek Field), VA; Fentress NALF, VA; Felker AAF, Ft. Eustis, VA; Newport News/Williamsburg International Airport, Newport News, VA; Chesapeake Regional Airport, VA; Hampton Roads Executive Airport, Portsmouth, VA; Aberdeen Field Airport, VA; Hummel Field Airport, VA; Suffolk Municipal Airport, VA; Middle Peninsula Regional Airport, West Point, VA; and Williamsburg-Jamestown Airport, VA. The affected Class E–5 airspace for the airports included in these descriptions will be consolidated into the amended Norfolk, VA airspace description contained in Docket No. FAA–2004–17596, Airspace Docket No. 04–AEA–06, effective August 5, 2004.

DATES: *Effective Date:* August 5, 2004.

Comment Date: Comments must be received on or before July 15, 2004.

ADDRESSES: Send comments on the rule to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–17900; Airspace Docket No. 04–AEA–08 at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the rule, any comments received, and any final disposition in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4890.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Aviation Plaza, Jamaica, NY 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION: Although this action is a final rule, which involves the amendment of Class E airspace within Virginia, by consolidating that airspace into one description, and was not preceded by notice and public procedure, comments are invited on the rule. This rule will become effective on the date specified in the **DATES** section. However, after the review of any comments, if the FAA finds that further changes are appropriate, it will initiate rulemaking proceedings to extend the effective date or to amend the regulation.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule, and in determining whether additional rulemaking is required. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the rule which might suggest the need to modify the rule.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the description of Class E airspace in the Norfolk, VA area by removing the airspace designations for Norfolk NAS (Chambers Field), VA: Langley AFB, Hampton, VA; Oceana NAS (Apollo Soucek Field), VA; Frentess NALF, VA; Felker AAF, Ft. Eustis, VA; Newport News/Williamsburg International Airport, Newport News, VA; Chesapeake Regional Airport, VA; Hampton Roads Executive Airport, Portsmouth, VA; Aberdeen Field Airport, VA; Hummel Field Airport, VA; Suffolk Municipal Airport, VA; Middle Peninsula Regional Airport, VA; and Williamsburg-Jamestown Airport, VA. It consolidates those airspace areas into the amended Norfolk, VA description.

The proliferation of airports with Instrument Flight Rule (IFR) operations within the Norfolk, VA metropolitan area has resulted in the overlap of numerous Class E airspace areas that complicate the chart depictions. This action clarifies the airspace and diminishes the scope and complexity of charting. The IFR airports within those areas will be incorporated into the Norfolk, VA Class E airspace area. Accordingly, since this action merely consolidates these airspace areas into one airspace designation and his inconsequential impact on aircraft operations in the area, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Class E airspace designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this 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 will only affect air traffic procedures and air navigation it is certified that this rule will 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, Incorporated by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

■ 1. The authority citation for 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 the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003 and effective September 16, 2003, is amended as follows:

Paragraph 6005 Class E airspace areas extending from 700 feet or more above the surface of the earth.

* * * * *

AEA VA E5 Chesapeake, VA, [Removed]

AEA VA E5 Portsmouth, VA, [Removed]

AEA VA E5 Saluda, VA, [Removed]

AEA VA E5 Smithfield, VA, [Removed]

AEA VA E5 Suffolk, VA, [Removed]

AEA VA E5 West Point, VA, [Removed]

AEA VA E5 Williamsburg, VA, [Removed]

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Issued in Jamaica, New York on June 12, 2004.

John G. McCartney,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 04–13831 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17596; Airspace Docket No. 04–AEA–06]

Amendment of Class E Airspace; Norfolk, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Norfolk, VA. The development of multiple area navigation (RNAV) Standard Instrument Approach Procedures (SIAP), the proliferation of airports within the metropolitan Norfolk, VA metropolitan area with approved Instrument Flight Rules (IFR) operations and the resulting overlap of designated Class E–5 airspace have made this action necessary. This action consolidates the Class E–5 airspace descriptions for fourteen airports and results in the rescission of seven Class E–5 descriptions through separate rulemaking action. The area will be depicted on aeronautical charts for pilot reference.

DATES: *Effective Date:* 0901 UTC August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On May 11, 2004, a notice proposing to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by consolidating existing Class E–5 airspace designations in the Norfolk, VA metropolitan area and incorporating those areas into the Norfolk, VA description was published in the **Federal Register** (69 FR 26058–26059). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace area designations for airspace extending upward from the surface are published in paragraph 6005 of FAA Order 7400.9L, dated September 2, 2003 and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be amended in the order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from 700 ft above the surface for aircraft conducting IFR operations within the Norfolk, VA Class E–5 airspace description.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this 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 will only affect air traffic procedures and air navigation it is certified that this rule will 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).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 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 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 ft above the surface of the earth.

* * * * *

AEA VA E5 Norfolk, VA (Revised)

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at lat. 36°33′18″ N., long. 75°50′31″ W., to lat. 36°33′27″ N., long. 76°45′46″ W., to lat. 36°43′32″ N., long. 76°46′23″ W., to lat. 36°51′53″ N., long. 76°35′05″ W., to lat. 37°14′30″ N., long. 76°56′21″ W., to lat. 37°37′33″ N., long. 76°53′14″ W., to lat. 37°43′08″ N., long. 76°22′17″ W., to lat. 37°14′14″ N., long. 76°07′30″ W., to lat. 36°55′06″ N., long. 75°53′33″ W., to the point of beginning, excluding that airspace that coincides with W–50A and R–6606 when they are in effect.

* * * * *

Issued in Jamaica, New York, on June 12, 2004.

John G. McCartney,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 04–13832 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17899; Airspace Docket No. 04–AEA–09]

Amendment of Class E Airspace; Richmond, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action removes the description of the Class E airspace designated for New Kent County Airport, Quinton, VA; Chesterfield County Airport, Richmond, VA; Hanover County Municipal Airport, Richmond, VA; and Dinwiddie County Airport, Petersburg, VA. The affected Class E–5 airspace for the airports included in these descriptions will be consolidated into the amended Richmond, VA airspace description contained in Docket No. FAA–2004–17597, Airspace Docket No. 04–AEA–07, effective August 5, 2004.

DATES: *Effective date:* August 5, 2004.

Comment Date: Comments must be received on or before July 15, 2004.

ADDRESSES: Send comments on the rule to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–17899, Airspace Docket No. 04–AEA–09 at the beginning of your comments. You may also submit comments on the Internet at *http://www.dms.dot.gov.* You may review the public docket containing the rule, any comments received, and any final disposition in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4890.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Aviation Plaza, Jamaica, NY 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION: Although this action is a final rule, which involves the amendment of Class E airspace within Virginia, by consolidating that airspace into one description, and was not preceded by notice and public procedure, comments are invited on the rule. This rule will become effective on the date specified in the **DATES** section. However, after the review of any comments, if the FAA finds that further changes are appropriate, it will initiate rulemaking proceedings to extend the effective date or to amend the regulation.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule, and in determining whether additional rulemaking is required. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the rule which might suggest the need to modify the rule.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the description of Class E airspace in the Richmond, VA area by removing the airspace designations for New Kent County Airport, VA; Chesterfield County Airport, VA; Hanover County Municipal Airport, VA; and Dinwiddie County Airport, VA. It consolidates those airspace areas into the amended Richmond, VA description.

The proliferation of airports with Instrument Flight Rule (IFR) operations within the Richmond, VA metropolitan area has resulted in the overlap of numerous Class E airspace areas that complicate the chart depictions. This action clarifies the airspace and diminishes the scope and complexity of charting. The IFR airports within those areas will be incorporated into the Richmond, VA Class E airspace area. Accordingly, since this action merely consolidates these airspace areas into one airspace designation and has inconsequential impact on aircraft operations in the area, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Class E airspace designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routing amendments are necessary to keep them operationally current. Therefore, this 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 will only affect air traffic procedures and air navigation it is certified that this rule will 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, Incorporated by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

■ 1. The authority citation for 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 the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003 and effective September 16, 2003, is amended as follows:

Paragraph 6005 Class E airspace areas extending from 700 feet or more above the surface of the earth.

* * * * *

AEA VA E5 Ashland, VA, [Removed]

AEA VA E5 Chesterfield, VA, [Removed]

AEA VA E5 Petersburg, VA, [Removed]

AEA VA E5 Quinton, VA, [Removed]

* * * * *

Issued in Jamaica, New York, on June 12, 2004.

John G. McCartney,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 04–13833 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17422; Airspace Docket No. 04–ACE–23]

Modification of Class E Airspace; Cozad, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule

which revises Class E airspace at Cozad, NE.

EFFECTIVE DATE: 0901 UTC, August 5, 2004.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on April 26, 2004 (69 FR 22398). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 5, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on June 7, 2004.

Elizabeth S. Wallis,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–13834 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17425; Airspace Docket No. 04–ACE–25]

Modification of Class E Airspace; Holdrege, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

DATES: *Effective Date:* 0901 UTC, August 5, 2004.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on May 11, 2004 (69 FR 26035). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 5, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on June 7, 2004.

Elizabeth S. Wallis,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–13835 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–18010; Airspace Docket No. 04–ACE–39]

Modification of Class E Airspace; Broken Bow, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by revising Class E airspace at Broken Bow, NE. One area navigation (RNAV) global positioning system (GPS) standard instrument approach procedure (SIAP) and one very high frequency omni-directional range (VOR)/distance measuring equipment (DME) SIAP have been developed to serve Broken Bow Municipal Airport. Class E airspace extending upward from 700 feet above the surface at Broken Bow, NE does not adequately protect for diverse departures.

The intended effect of this rule is to provide controlled airspace of appropriate dimensions to protect aircraft departing and executing SIAPs to Broken Bow Municipal Airport. It enlarges the Broken Bow, NE Class E airspace area and brings the airspace area and legal description into compliance with FAA Orders.

DATES: This direct final rule is effective on 0901 UTC, September 30, 2004. Comments for inclusion in the Rules Docket must be received on or before July 29, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–18010/ Airspace Docket No. 04–ACE–39, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–502A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Broken Bow, NE. RNAV (GPS) Runway (RWY) 32, ORIGINAL SIAP and VOR/ DME RWY 32, ORIGINAL SIAP have been developed to serve Broken Bow Municipal Airport. The dimensions of the Broken Bow, NE Class E airspace area are modified to accommodate all SIAPs serving the airport and to provide adequate controlled airspace for diverse departures. The radius of the airspace area is increased from 6 to 7.9 miles. The current extension to the airspace area is reduced in width from 5.3 to 1.4 miles each side of center and the length reduced from 7.4 to 7 miles northwest of the VOR/DME. No other extensions are required. This action also corrects an error in the published Broken Bow Municipal Airport airport reference point (ARP), redefines the radial used to describe the northwest extension and brings the airspace area and its legal description into compliance with FAA Orders 7400.2E, Procedures for Handling Airspace Matters and 8260.19C, Flight Procedures and Airspace. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the

earth are published in paragraph 6005 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers 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–2004–1800/Airspace Docket No. 04–ACE–39.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS.

■ 1. The authority citation for 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 7400.9L, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Broken Bow, NE

Broken Bow Municipal Airport, NE
(Lat. 41°26′11″ N., long. 99°38′32″ W.)
Custer County VOR/DME
(Lat. 41°29′02″ N., long. 99°41′21″ W.)

That airspace extending upward from 700 feet above the surface within a 79-mile radius of Broken Bow Municipal Airport and within 1.4 miles each side of the Custer County VOR/DME 323° radial extending from the 7.9-mile radius of the airport to 7 miles northwest of the VOR/DME.

* * * * *

Issued in Kansas City, MO, on June 7, 2004.

Elizabeth S. Wallis,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–13836 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–18011; Airspace Docket No. 04–ACE–40]

Modification of Class E Airspace; Lexington, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by changing the title of ''Lexington, Lexington/Jim Kelly Field, NE'' Class E airspace area to ''Lexington, NE'' and by revising this Class E airspace area. Two area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures (SIAPs), one very high frequency omni-directional range (VOR) SIAP and one nondirectional radio beacon (NDB) SIAP have been developed to serve Jim Kelly Field. Class E airspace extending upward from 700 feet above the surface at Lexington, NE does not adequately protect for diverse departures.

The intended effect of this rule is to provide controlled airspace of appropriate dimensions to protect aircraft departing and executing SIAPs to Jim Kelly Field and to title the airspace area appropriately. It enlarges the Lexington, NE Class E airspace area, increases the width of the airspace extension and brings the airspace area and legal description into compliance with FAA Orders.

This final rule is effective on 0901 UTC, September 30, 2004.

Comments for inclusion in the Rules Docket must be received on or before July 29, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management

System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–18011/ Airspace Docket No. 04–ACE–40, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Lexington, NE. A review of the airspace area reveals it is incorrectly titled. RNAV (GPS) Runway (RWY) 32, ORIGINAL SIAP; RNAV (GPS) RWY 14, ORIGINAL SIAP; VOR RWY 14, AMENDMENT (AMDT) 4 SIAP and NDB RWY 14, AMDT 3 SIAP have been developed to serve Jim Kelly Field. The dimensions of the Lexington, NE Class E airspace area are modified to accommodate all SIAPs serving the airport and to provide adequate controlled airspace for diverse departures. The radium of the airspace area is increased from 6.6 to 8 miles. The current extension to the airspace area is increased in width from 2.6 to 3.2 miles each side of center. No other extensions are required. This action changes the title of this Class E airspace area from ''Lexington, Lexington/Jim Kelly Field, NE'' to ''Lexington, NE'' and corrects an error in the published Jim Kelly Field airport reference point (ARP). It brings the airspace area and its legal description into compliance with FAA Orders 7400.2E, Procedures for Handling Airspace Matters and 8260.19C, Flight Procedures and Airspace. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers 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–2004–18011/Airspace Docket No. 04–ACE–40.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 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 7400.9L, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Lexington, NE

Lexington, Jim Kelly Field, NE
(Lat. 40°47′28″ N., long. 99°46′38″ W.)
Darr NDB
(Lat. 40°50′40″ N., long. 99°51′22″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Jim Kelly Field and within 3.2 miles each side of the 311° bearing from the Darr NDB extending from the 8-mile radius of the airport to 7 miles northwest of the NDB.

* * * * *

Issued in Kansas City, MO, on June 7, 2004.

Elizabeth S. Wallis,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–13837 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 522

[BOP–1110–F]

RIN 1120–AB08

Admission and Orientation Program: Removal From Rules

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) removes its rules on the Admission and Orientation Program from the CFR. We intend this amendment to streamline our regulations by removing internal agency management procedures that need not be stated in regulation.

DATES: This rule is effective July 19, 2004.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons (Bureau) removes its rules on the Admission and Orientation Program by reserving 28 CFR Subpart E. Although we are removing these rules from the CFR, they will remain in Bureau policy statements on the Admission and Orientation Program. We published this rule change as an interim final rule on February 4, 2003 (68 FR 5563). We received no comments on this interim final rule, and therefore adopt the interim final rule as final without change.

Purpose of the Rule

This document streamlines our regulations by removing internal agency management procedures that need not be stated in regulation. In doing this, we will be able to adjust our Admission and Orientation program, through policy instead of rules, to allow us to provide more current information more quickly to new inmates. Bureau policy is a more appropriate vehicle through which to provide instruction and guidance to staff.

Admission and Orientation Program Rules

The three rules in 28 CFR subpart E, §§ 522.40, 522.41, and 522.43 contained descriptions of the Bureau's Admission and Orientation Program. Although we are removing these rules from the CFR, we retain the language of these rules in our Admission and Orientation policy, which is an instructional document for Bureau employees and institutional staff.

Section 522.40 required institutions and staff to ''offer each newly committed inmate an orientation to the institution'' which includes information on the inmate's rights, responsibilities, obligations, and the institution's programs and disciplinary system.

Section 522.41 delineated Warden and staff responsibility for conducting the Admission and Orientation (A&O) program. This section required staff involved in the A&O program to develop an outline of information to present during A&O and develop written orientation materials. This section also instructed staff to monitor inmates with significant emotional stress during A&O, so that the institution could provide them with appropriate assistance.

Section 522.42 contained guidelines for institutions' A&O programs, including such details as location, activities, and length of the program.

All of these rules consist of our instruction and guidance to Bureau staff. These rules relate solely to internal agency management and practice, and do not impose obligations or confer any benefits upon our regulated entities (the inmates) or the public.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, we determine that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 522

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

Under the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we adopt, as final without change, the interim final rule amending 28 CFR part 522 published on February 4, 2003 (68 FR 5563).

[FR Doc. 04–13800 Filed 6–17–04; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 164

46 CFR Parts 25 and 27

[USCG–2000–6931]

RIN 1625–AA60 [Formerly RIN 2115–AF53]

Fire-Suppression Systems and Voyage Planning for Towing Vessels

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This final rule adopts, with changes, the interim rule published on April 29, 2003, that required the installation of fire-suppression systems in the engine rooms of towing vessels and voyage planning. This rule aims at reducing the number of uncontrolled engine-room fires and other mishaps on towing vessels. It should save lives, reduce property damage, and reduce the associated threats to maritime commerce and the environment.

DATES: This final rule is effective July 19, 2004. The incorporation by reference of certain publications in this rule is approved by the Director of the Federal Register as of July 19, 2004.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of this docket and are available for inspection or copying at 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 also find this docket on the Internet at *http://dms.dot.gov/.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Randall Eberly, P. E., Project Manager, at 202–267–1861. If you have questions on viewing or submitting material to the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, at telephone 202–366–0271.

SUPPLEMENTARY INFORMATION:

Background and Purpose

In 1996, as a result of the tugboat SCANDIA's catching fire and causing the spillage of about 850,000 gallons of oil from the barge NORTH CAPE, which it was towing, Congress amended (in Public Law 104–324) section 902 of the Coast Guard Authorization Act [codified as 46 U.S.C. 3719] to direct the Secretary of Transportation to prescribe rules for fire-suppression equipment on towing vessels (See *Statutory Mandate* for a statement of current authority). Subsequently, on October 6, 1997, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** titled ''Towing Vessel Safety'' [62 FR 52057]. The NPRM proposed fire-suppression measures on towing vessels, but did not make the installation of fixed fire-suppression systems mandatory on existing vessels, because their engine rooms were typically not designed as enclosed spaces. Instead, it proposed a combination of fire-detection systems, semi-portable fire extinguishers, training of crews, and fixed or portable fire pumps. It also solicited public comments on principles of voyage planning for the development of a future Navigation and Vessel Inspection Circular (NVIC).

A number of comments submitted in response to the NPRM criticized the proposed fire-safety measures, saying they failed to meet the intent of the Authorization Act because they did not entail total-flooding fixed fire-suppression systems on all vessels, or, at least, not on all towing vessels used to transport oil and other hazardous substances. Many of the comments also held our logic of proposing alternative measures on existing vessels flawed, because there are specially designed fixed fire-suppression systems available for engine rooms that are not enclosed. Some of them also maintained that the proposed measures were inadequate because they did not consider vessels' characteristics, their methods of operation, or their nature of service, nor did they differentiate between ocean-going tugboats and inland towboats. Yet another group of comments disputed entirely the need for supplemental fire-suppression equipment, citing the established safety record of the towing industry, and pointing out that the SCANDIA incident was an isolated occurrence.

While most of the comments disagreed with our proposals for fire-suppression equipment, most agreed with our proposals for added safety measures, such as communication systems and fire-detection systems. We therefore divided the fire-protection issues into two separate rulemakings. The less-controversial requirements we addressed in an interim rule titled: ''Fire Protection Measures for Towing Vessels'' [USCG–1998–4445], which was published on October 19, 1999 [64 FR 56257]. That rule implemented requirements for general-alarm systems, internal-communication systems, fire-detection systems, remote fuel-shut-off valves, and monthly drills on all non-exempt towing vessels. Those requirements ultimately appeared in a final rule on August 28, 2000 [65 FR 52043]. That rule involved some minor changes based on comments received on the docket, but did not address requirements for fire-suppression systems, either manual or fixed.

We began a separate rulemaking to address the controversial requirements for fire-suppression systems. On November 8, 2000, we published a supplemental notice of proposed rulemaking (SNPRM) entitled: ''Fire-Suppression Systems and Voyage Planning for Towing Vessels'' [USCG–2000–6931][65 FR 66941]. The SNPRM included voyage planning in response to public comments made on the docket for the prior proposal. We received cogent comments doubting whether voyage planning was amenable to treatment in a NVIC. We therefore proposed rules that would require completion of a voyage-planning analysis before each trip.

As announced in a notice of meeting [65 FR 82030] on February 8, 2001, a public meeting occurred during the comment period in Washington, DC. At the meeting, the Chairman of the Towing Safety Advisory Committee (TSAC) advised us that the comment period was scheduled to close before the regularly scheduled meeting of the TSAC on March 14–15, 2001, and that, consequently, we would not have the benefit of the members' input. So we published a notice [66 FR 11241] extending the comment period until May 8, 2001, to allow the members more time for comments. During the extended comment period, we received requests from several operators of towing vessels on the Western Rivers to hold another public meeting, at a place convenient to the inland waterways. We honored this request by, again, publishing a notice [66 FR 36224] extending the comment period, and announcing that we would hold a second meeting, in Huntington, West Virginia, on August 15, 2001.

The interim rule published on April 29, 2003 [68 FR 22604] changed the requirements proposed in the SNPRM in response to the comments received, both on the docket and at the two public meetings. The interim rule prescribed that non-exempted towing vessels must—

- Be fitted with fire-suppression equipment in their engine rooms; and
- Not proceed on a trip or voyage beyond the territorial sea baseline before completing a plan for the trip or voyage.

However, separate requirements were proposed for (1) vessels in inland service and (2) those in ocean or coastal service.

These changes were made in the interim rule because the public response to the SNPRM was overwhelmingly negative. Most of the comments opposed the requirement for fixed fire-suppression systems on towing vessels in inland service, and suggested we allow manual fire-fighting measures on those vessels. Most of the comments on voyage planning opposed its application to towing vessels on inland waters. After considering all of the comments to the SNPRM along with the fire-related casualty statistics available for towing vessels, we decided to accept manual fire-fighting equipment and measures as an alternative to fixed fire-suppression systems on all towing vessels operating exclusively on inland waters. However, we still required the installation of fixed fire-suppression systems in the engine rooms of new ocean or coastal service towing vessels whose construction was contracted for on or after August 27, 2003. And the applicability of the voyage-planning requirement was narrowed, so that it does not apply to towing vessels operating exclusively on inland waters.

The public response to the interim rule showed that the changes we made were generally acceptable to the towing industry. Several limited comments were submitted in response to the interim rule, and they are summarized under *Discussion of Comments and Changes.*

Statutory Mandate

Section 902 of the Authorization Act of 1996 directs that the Coast Guard consider requiring the installation, maintenance, and use of fire-suppression systems or other such measures on towing vessels. It further directs that the Coast Guard develop rules for the installation ''of a fire-suppression system or other measures to provide adequate assurance that a fire on board a towing vessel, that is towing a non-self-propelled tank vessel, can be suppressed under reasonably foreseeable circumstances.''

On March 1, 2003, by authority of subsection 103(c) of the Homeland-Security Act of 2002 [Pub. L. 107–296], the Coast Guard shifted from the Department of Transportation to the Department of Homeland Security. The Secretary of Homeland Security supports this rulemaking as an important initiative.

Discussion of Comments and Changes

The docket received a total of 9 letters containing 17 comments on the interim rule. Of the comments, 15 dealt with fire suppression while 2 dealt with voyage planning. The following paragraphs contain summaries of the comments (and explanations of any changes made by this rule to the interim rule) under the category-headings that follow:

Requirement for a Fixed Fire-Extinguishing System

One comment indicated support for changing the rule to require fixed fire-extinguishing systems for the protection of all towing vessels' engine rooms. This comment was not adopted for the reasons explained in the interim rule (68 FR 22606).

Design of Fixed Suppression Systems

One comment recommended that we add criteria to § 27.305(b) to require that engine-intake air must come from outside the engine room. The commenter felt that this would allow the vessel's engine or engines to continue to operate if the extinguishing system was discharged. We do not agree with this comment. If there were a fire in the engine room, the engine could be affected by fire-related damage despite the source of intake air. We expect that the fixed-fire suppression system will limit this damage.

Requirements for Semi-Portable Fire Extinguishers

One comment expressed concern that the requirement for a size B-V semi-portable fire extinguisher on all towing vessels was excessive. The comment proposed that a size B-III portable extinguisher would be satisfactory for the protection of towing vessels under 79 feet (24 m) in length. We do not agree with this proposal. The severity of an engine-room fire is not related to the length of the vessel, but to the fire hazard present in the engine room. The use of marine diesel fuel oil poses a sufficient hazard to warrant the higher fire-suppression capability of a size B–V extinguisher.

Editorial

Another comment recommended revising the wording of § 27.209 to prescribe the use of video training materials instead of videotapes, since DVD format is now routinely used. We agree with this and have changed the section accordingly.

Applicability

One comment questioned the clarity of the exemptions listed in § 27.100—specifically, the use of the word ''solely'' in each sub-paragraph of § 27.100, (b)(1) through (4). The comment noted that the use of the word ''solely'' within each sub-paragraph would appear to exclude vessels that perform more than one of the exempted services from being granted an exemption. We agree with the comment. It was not our intent to prevent towing vessels that may perform multiple services not involving the towing of barges from receiving an exemption. We have revised the text of the rule to further clarify which vessels may receive an exemption.

A related comment criticized the wording in the exemption listed in § 27.100(b)(7) that permits vessels that operate within 20 miles of shore and in fair weather, a general exemption from the rule. The comment pointed out that, as it currently stands, this exemption would permit a wide range of towing vessels to move tank barges for significant distances within the permitted 20-mile limit from shore. If an engine-room fire were to occur on one of these vessels that caused the loss of propulsion or steering, a significant polluting accident could occur. We agree with this observation. It was our intent that the exemption only apply to certain towing vessels—those pushing a barge ahead or hauling a barge alongside—that normally operate in inland service and occasionally travel, in fair weather only, beyond the territorial sea baseline of the U.S. for very short distances on pre-determined routes. The proposed wording and the location of the exemption within the rule were in error. To correct this, we have moved the exemption to § 27.305 and narrowed the acceptable operating distance to within 12 miles of shore.

Another comment requested that we reconsider the exemption for harbor-assist tugs stated in § 27.100(b). The comment suggested that fixed fire-suppression systems should be required on such vessels because local fire departments in that State did not have the resources to fight vessel fires. We do not agree with this comment and have not changed the rule because of it. In our NPRM and SNPRM, we considered the extent of the fire hazard attributable to harbor-assist tugs nationwide, and determined that, because they do not routinely move tank barges, they present an acceptable level of risk.

Other comments argued that we should require qualified fire-fighting training and personal protective gear for crewmembers. The comments disagreed with our view in the SNPRM that the costs associated with maintaining the correct gear in the sizes needed for each crewmember would be prohibitive, arguing instead that most crewmembers could wear a size large. They also argued that the lack of personal protective gear and fire-fighting training would shift the burden for the safety of towing vessels from the operators of the

vessels to the local fire departments. We do not agree with these opinions, and maintain the position taken in the SNPRM that our analysis of casualties indicates that all fires put out by crewmembers were put out by crewmembers without benefit of extensive training or protective clothing. We therefore have decided not to amend the final rule.

Requirements for Inspection

We received two comments that recommended that we subject towing vessels to inspection by the Coast Guard. This suggestion is outside the scope of this rulemaking and has not been considered in the final rule.

Fire Pump Controls

Several comments requested that we reconsider the requirement in § 27.301(a)(2) that a crewmember be able to energize the fixed fire pump from the operating station. The commenters suggested that this was too restrictive a requirement and that locating the fire-pump control at any safe place outside the engine room would be suitable. We agree and have changed the wording of this section.

A related comment pointed out that the fire-main valves need to be included in the requirements for remote operation, because they may not be normally kept in the open position. We acknowledge that this could be a problem if the fire main has valves. However, we have not issued any rules that require valves to be installed. Acting on this suggestion, we have added criteria for being able to remotely operate any valves in the fire main.

Incorporation by Reference

We received comments from the National Fire Protection Association, whose standards we incorporate by reference in § 27.102, informing us that the references we cited have been updated. The Association recommends that the reference to NFPA 302—Pleasure and Commercial Motorcraft—be changed from the 1989 edition to the 1998 edition. The other reference in need of updating is NFPA 750—Standard on Water Mist Fire Protection Systems. In the interim rule we cited the 2000 edition. The current edition is 2003. We have decided to make the recommended changes. The Association also recommended that we cite NFPA standard 301—Safety to Life From Fire on Merchant Vessels—for informational purposes, since chapter 18 of this standard addresses towing vessels. We have not done so, because we do not incorporate the standard by reference in the rule.

Voyage Planning

One comment suggested that we require every towing vessel to be equipped with an electronic chart-plotter and that mariners be trained in its use. This requirement is outside the scope of this rulemaking and has not been considered.

A second comment recommended that we reconsider our position to exempt inland towing vessels from performing voyage or trip planning. The comment did not supply any new information on this topic. We have made no changes to the rule in response to this request.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. However, it is significant under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Regulatory Evaluation in the docket for the interim rule is unchanged for the final rule.

A summary of the Evaluation follows:

We expect measures published in this rule to yield a benefit-to-cost ratio of about 1.6-to-1. Estimated benefits, in the form of avoided injuries and avoided damage to vessels and property, are around $29.5 million. In addition, the measures are estimated to prevent 14,139 barrels of oil pollution. The estimated total present-value cost of this rulemaking is $18.6 million. The table following this paragraph illustrates the calculation of total benefits and costs and also breaks out the benefits and costs of the fire-suppression and voyage-planning components. The period of analysis is from 2003 until 2015. Most of the costs are incurred in the first two years of the analysis period, as this is when industry will incur the capital costs of installing manual fire-fighting equipment.

TOTAL COSTS, BENEFITS, AND BENEFIT/COST RATIOS OF REQUIREMENTS FOR FIRE-SUPPRESSION AND VOYAGE PLANNING

[2003–2015]

Present-Value Total Cost of Fire-Suppression	$16,975,875
Present-Value Total Benefit of Fire-Suppression	$24,325,311
Barrels of Pollution Avoided	9,032
Benefit/Cost Ratio	1.43:1
Present-Value Total Cost of Voyage Planning	$1,633,346
Present-Value Total Benefit of Voyage Planning	$5,104,360
Barrels of Pollution Avoided	5,107
Benefit/Cost Ratio	3.13:1
Present-Value Total Cost of Rule	$18,609,221
Present-Value Total Benefit of Rule	$29,429,671
Barrels of Pollution Avoided by Rule	14,139
Benefit/Cost Ratio of Rule	1.58:1

Note: Benefit/Cost ratio is present-value total benefit divided by the present-value total cost.

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*, the Coast Guard considers the economic impact on small entities of each rule for which a general notice of proposed rulemaking is required. ''Small entities'' include: small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The requirements contained in this rule will have much less of an impact on small entities than those contained in the SNPRM published November 8, 2000. There, we indicated that the requirements contained in the SNPRM might constitute a significant impact on

a substantial number of small entities. The total present-value cost of the requirements contained in the SNPRM was around $116 million.

The SNPRM initially required the installation of a fixed fire-suppression system in the engine room of a towing vessel as an alternative to manual fire-suppression systems. The IR, however, prescribed the installation of manual fire-suppression equipment in place of a more costly fixed fire-suppression system for all new and existing inland and coastal towing vessels. A fixed fire-suppression system would be required for new coastal towing vessels only. Since the estimated number of new coastal towing vessels is small, this greatly reduced the costs for the fire-suppression requirement.

Additionally, the interim rule required voyage planning for new and existing coastal towing vessels only, not inland towing vessels, which further reduced costs of the voyage planning requirement, and, subsequently, the total cost of the rule.

We estimate that this final rule will cost industry $18.6 million. About 1,200 companies are affected by this rule; of these, about 1,000 count as small entities. The average small business, in our analysis, owns two affected towing vessels and has average annual revenues of $1.1 million. Consequently, an average small business will spend around $12,000 over the 13 years covered by our analysis to have the manual fire-fighting equipment on board and to conduct voyage planning. Therefore, we certify that this rule does not have a significant impact on a substantial number of small entities.

Assistance for Small Entities

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

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

If your small business or organization is affected by this rule, and you have questions concerning its provisions or options for compliance, please call Mr. Randall Eberly, P. E., Project Manager, at 202–267–1861.

Collection of Information

This rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*]

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S. Ct. 1135 (March 6, 2000).) This final rule involves equipping and operation of vessels. Because the States may not regulate within these categories, preemption under Executive Order 13132 is not an issue.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Reform of Civil Justice

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

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

Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 164

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

46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 27

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Vessels.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 164 and 46 CFR parts 25 and 27 as follows:

PART 164—NAVIGATION SAFETY REGULATIONS

■ 1. Revise the citation of authority for part 164 to read as follows:

Authority: 33 U.S.C. 1222(5), 1223, 1231; 46 U.S.C. 2103, 3703; Department of Homeland Security Delegation No. 0170.1 (75). Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

■ 2. In § 164.78, revise paragraphs (a)(6), (7), and (8) to read as follows:

§ 164.78 Navigation under way: Towing vessels.

(a) * * *

(6) Knows the speed and direction of the current, and the set, drift, and tidal state for the area to be transited;

(7) Proceeds at a safe speed taking into account the weather, visibility, density of traffic, draft of tow, possibility of wake damage, speed and direction of the current, and local speed-limits; and

(8) Monitors the voyage plan required by § 164.80.

* * * * *

■ 3. In § 164.80, revise paragraph (c) to read as follows:

§ 164.80 Tests, inspections, and voyage planning.

* * * * *

(c)(1) The voyage-planning requirements outlined in this section do not apply to you if your towing vessel is—

(i) Used solely for any of the following services or any combination of these services—

(A) Within a limited geographic area, such as a fleeting-area for barges or a commercial facility, and used for restricted service, such as making up or breaking up larger tows;

(B) For harbor-assist;

(C) For assistance towing as defined by 46 CFR 10.103;

(D) For response to emergency or pollution;

(ii) A public vessel that is both owned, or demise chartered, and operated by the United States Government or by a government of a foreign country; and that is not engaged in commercial service;

(iii) A foreign vessel engaged in innocent passage; or

(iv) Exempted by the Captain of the Port (COTP).

(2) If you think your towing vessel should be exempt from these voyage planning requirements for a specified route, you should submit a written request to the appropriate COTP. The COTP will provide you with a written response granting or denying your request.

(3) If any part of a towing vessel's intended voyage is seaward of the baseline (*i.e.,* the shoreward boundary) of the territorial sea of the U.S., then the owner, master, or operator of the vessel, employed to tow a barge or barges, must ensure that the voyage with the barge or barges is planned, taking into account all pertinent information before the vessel embarks on the voyage. The master must check the planned route for proximity to hazards before the voyage begins. During a voyage, if a decision is made to deviate substantially from the planned route, then the master or mate must plan the new route before deviating from the planned route. The voyage plan must follow company policy and consider the following (related requirements noted in parentheses):

(i) Applicable information from nautical charts and publications (also see paragraph (b) of section 164.72), including Coast Pilot, Coast Guard Light List, and Coast Guard Local Notice to Mariners for the port of departure, all ports of call, and the destination;

(ii) Current and forecast weather, including visibility, wind, and sea state for the port of departure, all ports of call, and the destination (also see paragraphs (a)(7) of section 164.78 and (b) of section 164.82);

(iii) Data on tides and currents for the port of departure, all ports of call, and the destination, and the river stages and forecast, if appropriate;

(iv) Forward and after drafts of the barge or barges and under-keel and vertical clearances (air-gaps) for all bridges, ports, and berthing areas;

(v) Pre-departure checklists;

(vi) Calculated speed and estimated time of arrival at proposed waypoints;

(vii) Communication contacts at any Vessel Traffic Services, bridges, and facilities, and any port-specific requirements for VHF radio;

(viii) Any master's or operator's standing orders detailing closest points of approach, special conditions, and critical maneuvers; and

(ix) Whether the towing vessel has sufficient power to control the tow under all foreseeable circumstances.

PART 25—REQUIREMENTS

■ 4. Revise the citation of authority for part 25 to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4102, 4302; Department of Homeland Security Delegation No. 0170.1 (75).

■ 5. In § 25.30–10, revise the heading, and paragraph (c) and Table 25.30–10(C), to read as follows:

§ 25.30–10 Hand-portable fire extinguishers and semi-portable fire-extinguishing systems.

* * * * *

(c) The number designations for size run from ''I'' for the smallest to ''V'' for the largest. Sizes I and II are hand-portable fire extinguishers; sizes III, IV, and V are semi-portable fire-extinguishing systems, which must be fitted with hose and nozzle or other practical means to cover all portions of the space involved. Examples of the sizes for some of the typical hand-portable fire extinguishers and semi-portable fire-extinguishing systems appear in Table 25.30–10(C):

TABLE 25.30–10(C)

Classification	Foam, liters (gallons)	Carbon dioxide, kilograms (pounds)	Dry chemical, kilograms (pounds)
B–I	6.5 (1¾)	2 (4)	1 (2)
B–II	9.5 (2½)	7 (15)	4.5 (10)

TABLE 25.30–10(C)—Continued

Classification	Foam, liters (gallons)	Carbon dioxide, kilograms (pounds)	Dry chemical, kilograms (pounds)
B–III	45 (12)	16 (35)	9 (20)
B–IV	75 (20)	23 (50)	13.5 (30)
B–V	150 (40)	45 (100)	23 (50)

■ 6. Revise § 25.30–15 to read as follows:

§ 25.30–15 Fixed fire-extinguishing systems.

(a) When a fixed fire-extinguishing system is installed, it must be a type approved or accepted by the Commandant (G–MSE) or the Commanding Officer, U.S. Coast Guard Marine Safety Center.

(b) If the system is a carbon-dioxide type, then it must be designed and installed in accordance with subpart 76.15 of part 76 of subchapter H (Passenger Vessels) of this chapter.

PART 27—TOWING VESSELS

■ 7. Revise part 27 to read as follows:

Subpart A—General Provisions for Fire-Protection Measures and Fire-Suppression Equipment on Towing Vessels

Sec.
27.100 What towing vessels does this part affect?
27.101 Definitions.
27.102 Incorporation by reference.

Subpart B—Fire-Protection Measures for Towing Vessels

27.201 What are the requirements for general alarms on towing vessels?
27.203 What are the requirements for fire detection on towing vessels?
27.205 What are the requirements for internal communication systems on towing vessels?
27.207 What are the requirements for fuel shut-offs on towing vessels?
27.209 What are the requirements for training crews to respond to fires?
27.211 What are the specifications for fuel systems on towing vessels whose construction was contracted for on or after January 18, 2000?

Subpart C—Fire-Suppression Equipment for Towing Vessels

27.301 What are the requirements for fire pumps, fire mains, and fire hoses on towing vessels?
27.303 What are the requirements for fire-extinguishing equipment on towing vessels in inland service, and on towing vessels in ocean or coastal service whose construction was contracted for before August 27, 2003?
27.305 What are the requirements for fire-extinguishing equipment on towing vessels in ocean or coastal service whose construction was contracted for on or after August 27, 2003?

Authority: 46 U.S.C. 3306, 4102 (as amended by Pub. L. 104–324, 110 Stat. 3901); Department of Homeland Security Delegation No. 0170.1(75).

PART 27—TOWING VESSELS

Subpart A—General Provisions for Fire-Protection Measures and Fire-Suppression Equipment on Towing Vessels

§ 27.100 What towing vessels does this part affect?

(a) You must comply with this part if your towing vessel operates on the navigable waters of the United States, unless your vessel is one exempt under paragraph (b) of this section.

(b) This part does not apply to you if your towing vessel is—

(1) Used solely for any of the following services or any combination of these services—

(i) Within a limited geographic area, such as a fleeting-area for barges or a commercial facility, and used for restricted service, such as making up or breaking up larger tows;

(ii) For harbor-assist;

(iii) For assistance towing as defined by 46 CFR 10.103;

(iv) For response to emergency or pollution;

(2) A public vessel that is both owned, or demise chartered, and operated by the United States Government or by a government of a foreign country; and that is not engaged in commercial service;

(3) A foreign vessel engaged in innocent passage; or

(4) Exempted by the Captain of the Port (COTP).

(c) If you think your towing vessel should be exempt from these requirements for a specified route, you should submit a written request to the appropriate COTP. The COTP will provide you with a written response granting or denying your request. The COTP will consider the extent to which unsafe conditions would result if your vessel lost propulsion because of a fire in the engine room.

(d) You must test and maintain all of the equipment required by this part in accordance with the attached nameplate or manufacturer's approved design manual.

§ 27.101 Definitions.

As used in this part—

Accommodation includes any:

(1) Messroom.

(2) Lounge.

(3) Sitting area.

(4) Recreation room.

(5) Quarters.

(6) Toilet space.

(7) Shower room.

(8) Galley.

(9) Berthing facility.

(10) Clothing-changing room.

Engine room means the enclosed area where any main-propulsion engine is located. It comprises all deck levels within that area.

Fixed fire-extinguishing system means:

(1) A carbon-dioxide system that satisfies 46 CFR subpart 76.15 and is approved by the Commandant;

(2) A manually-operated clean-agent system that satisfies the National Fire Protection Association (NFPA) Standard 2001 (incorporated by reference in § 27.102) and is approved by the Commandant; or

(3) A manually-operated water-mist system that satisfies NFPA Standard 750 (incorporated by reference in § 27.102) and is approved by the Commandant.

Fleeting-area means a separate location where individual barges are moored or assembled to make a tow. The barges are not in transport, but are temporarily marshaled, waiting for pickup by different vessels that will transport them to various destinations. A fleeting-area is a limited geographic area.

Harbor-assist means docking and undocking ships.

Limited geographic area means a local area of operation, usually within a single harbor or port. The local Captain of the Port (COTP) determines the definition of local geographic area for each zone.

Operating station means the principal steering station on the vessel, from which the vessel is normally navigated.

Towing vessel means a commercial vessel engaged in, or intending to engage in, pulling, pushing, or hauling alongside, or any combination of pulling, pushing, or hauling alongside.

Towing vessel in inland service means a towing vessel that is not in ocean or coastal service.

Towing vessel in ocean or coastal service means a towing vessel that operates beyond the baseline of the U.S. territorial sea.

We means the United States Coast Guard.

Work space means any area on the vessel where the crew could be present while on duty and performing their assigned tasks.

You means the owner of a towing vessel, unless otherwise specified.

§ 27.102 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register—in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the **Federal Register** and make the material available for inspection. All approved material is available at the U.S. Coast Guard, Office of Design and Engineering Standards (G–MSE), 2100 Second Street SW., Washington, DC 20593–0001, or from the sources indicated in paragraph (b) of this section, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) The material approved for incorporation by reference in this part and the sections affected are:

American Boat and Yacht Council (ABYC), 3069 Solomons Island Road, Edgewater, MD 21037–1416	
H–25–1986—Portable Fuel Systems for Flammable Liquids	27.211
H–33–1989—Diesel Fuel Systems	27.211
National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269–9101	
NFPA 302–1998—Fire Protection Standard for Pleasure, and Commercial Motorcraft	27.211
NFPA 750—Standard on Water Mist Fire Protection Systems, 2003 edition	27.101
NFPA 2001—Standard on Clean Agent Fire Extinguishing Systems, 2000 edition	27.101
Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096–0001	
SAE J1475–1984—Hydraulic Hose Fitting for Marine Applications	27.211
SAE J1942–1989—Hose and Hose Assemblies for Marine Applications	27.211

Subpart B—Fire-Protection Measures for Towing Vessels

§ 27.201 What are the requirements for general alarms on towing vessels?

(a) You must ensure that your vessel is fitted with a general alarm that:

(1) Has a contact-maker at the operating station that can notify persons on board in the event of an emergency.

(2) Is capable of notifying persons in any accommodation, work space, and the engine room.

(3) Has installed, in the engine room and any other area where background noise makes a general alarm hard to hear, a supplemental flashing red light that is identified with a sign that reads:

Attention General Alarm—When Alarm Sounds or Flashes Go to Your Station.

(4) Is tested at least once each week.

(b) You or the operator may use a public-address (PA) system or other means of alerting all persons on your towing vessel instead of a general alarm, if the system—

(1) Is capable of notifying persons in any accommodation, work space, and the engine room;

(2) Is tested at least once each week;

(3) Can be activated from the operating station; and

(4) Complies with paragraph (a)(3) of this section.

§ 27.203 What are the requirements for fire detection on towing vessels?

You must have a fire-detection system installed on your vessel to detect engine-room fires. Any owner of a vessel whose construction was contracted for before January 18, 2000, may use an existing engine-room-monitoring system (with fire-detection capability) instead of a fire-detection system, if the monitoring system is operable and complies with this section. You must ensure that—

(a) Each detector, each control panel, and each fire alarm are approved under 46 CFR subpart 161.002 or listed by an independent testing laboratory; except that, if you use an existing engine-room-monitoring system (with fire-detection capability), each detector must be listed by an independent testing laboratory;

(b) The system is installed, tested, and maintained in line with the manufacturer's design manual;

(c) The system is arranged and installed so a fire in the engine room automatically sets off alarms on a control panel at the operating station;

(d) The control panel includes—

(1) A power-available light;

(2) Both an audible alarm to notify crew at the operating station of fire and visible alarms to identify the zone or zones of origin of the fire;

(3) A means to silence the audible alarm while maintaining indication by the visible alarms;

(4) A circuit-fault detector test-switch; and

(5) Labels for all switches and indicator lights, identifying their functions;

(e) The system draws power from two sources, switchover from the primary source to the secondary source being either manual or automatic;

(f) The system serves no other purpose, unless it is an engine-room-monitoring system (with fire-detection capability) installed on a vessel whose construction was contracted for before January 18, 2000; and

(g) The system is certified by a Registered Professional Engineer, or by a recognized classification society (under 46 CFR part 8), to comply with paragraphs (a) through (f) of this section.

§ 27.205 What are the requirements for internal communication systems on towing vessels?

(a) You must ensure that your vessel is fitted with a communication system between the engine room and the operating station that—

(1) Consists of either fixed or portable equipment, such as a sound-powered telephone, portable radios, or other reliable method of voice communication, with a main or reserve power supply that is independent of the electrical system on your towing vessel; and

(2) Provides two-way voice communication and calling between the operating station and either—

(i) The engine room; or

(ii) A location immediately adjacent to an exit from the engine room.

(b) Twin-screw vessels with operating-station control for both engines are not required to have internal communication systems.

(c) When the operating-station's engine controls and the access to the engine room are within 3 meters (10 feet) of each other and allow unobstructed visual contact between them, direct voice communication is acceptable instead of a communication system.

§ 27.207 What are the requirements for fuel shut-offs on towing vessels?

To stop the flow of fuel in the event of a break in the fuel line, you must have a positive, remote fuel-shut-off

valve fitted on any fuel line that supplies fuel directly to an engine or generator. The valve must be near the source of supply (for instance, at the day tank, storage tank, or fuel-distribution manifold). Furthermore, it must be operable from a safe place outside the space where the valve is installed. Each remote valve control should be marked in clearly legible letters, at least 25 millimeters (1 inch) high, indicating the purpose of the valve and the way to operate it.

§ 27.209 What are the requirements for training crews to respond to fires?

(a) *Drills and instruction.* The master or person in charge of a vessel must ensure that each crewmember participates in drills and receives instruction at least once each month. The instruction may coincide with the drills, but need not. You must ensure that all crewmembers are familiar with their fire-fighting duties, and, specifically, with the following contingencies:

(1) Fighting a fire in the engine room and elsewhere on board the vessel, including how to—

(i) Operate all of the fire-extinguishing equipment on board the vessel;

(ii) Stop any mechanical ventilation system for the engine room and effectively seal all natural openings to the space to prevent leakage of the extinguishing agent; and

(iii) Operate the fuel shut-off for the engine room.

(2) Activating the general alarm.

(3) Reporting inoperative alarm systems and fire-detection systems.

(4) Putting on a fireman's outfit and a self-contained breathing apparatus, if the vessel is so equipped.

(b) *Alternative form of instruction.* The master or person in charge of a vessel may substitute, for the instruction required in paragraph (a) of this section, the viewing of video training materials concerning at least the contingencies listed in paragraph (a), followed by a discussion led by someone familiar with these contingencies. This instruction may occur either on board or off the vessel.

(c) *Participation in drills.* Drills must take place on board the vessel, as if there were an actual emergency. They must include—

(1) Participation by all crewmembers;

(2) Breaking out and using, or simulating the use of, emergency equipment;

(3) Testing of all alarm and detection systems; and

(4) Putting on protective clothing (by at least one person), if the vessel is so equipped.

(d) *Safety Orientation.* The master or person in charge of a vessel must ensure that each crewmember who has not (i) participated in the drills required by paragraph (a) of this section, and (ii) received the instruction required by that paragraph, receives a safety orientation within 24 hours of reporting for duty.

(e) The safety orientation must cover the particular contingencies listed in paragraph (a) of this section.

§ 27.211 What are the specifications for fuel systems on towing vessels whose construction was contracted for on or after January 18, 2000?

(a) You must ensure that, except for the components of an outboard engine or of a portable bilge pump or fire pump, each fuel system installed on board the vessel complies with this section.

(b) *Portable fuel systems.* The vessel must not incorporate or carry portable fuel systems, including portable tanks and related fuel lines and accessories, except when used for outboard engines or when permanently attached to portable equipment such as portable bilge pumps or fire pumps. The design, construction, and stowage of portable tanks and related fuel lines and accessories must comply with ABYC H–25 (incorporated by reference in § 27.102).

(c) *Fuel restrictions.* Neither you nor the master or person in charge may use fuel other than bunker C or diesel, except for outboard engines, or where otherwise accepted by the Commandant (G–MSE). An installation that uses bunker C, heavy fuel oil (HFO), or any fuel that requires pre-heating, must comply with subchapter F of this chapter.

(d) *Vent pipes for integral fuel tanks.* Each integral fuel tank must meet the requirements of this paragraph as follows:

(1) Each tank must have a vent that connects to the highest point of the tank, discharges on a weather deck through a bend of 180 degrees (3.14 radians), and is fitted with a 30-by-30-mesh corrosion-resistant flame screen. Vents from two or more tanks may combine in a system that discharges on a weather deck.

(2) The net cross-sectional area of the vent pipe for the tank must be—

(i) Not less than 312.3 square millimeters (0.484 square inches) for any tank filled by gravity; or

(ii) Not less than that of the fill pipe for any tank filled under pressure.

(e) *Fuel piping.* Except as permitted in paragraphs (e)(1), (2), and (3) of this section, each fuel line must be seamless and made of steel, annealed copper, nickel-copper, or copper-nickel. Each fuel line must have a wall thickness of not less than 0.9 millimeters (0.035 inch) except that—

(1) Aluminum piping is acceptable on an aluminum-hull vessel if it is installed outside the engine room and is at least Schedule 80 in thickness; and

(2) Nonmetallic flexible hose is acceptable if it—

(i) Is used in lengths of not more than 0.76 meters (30 inches);

(ii) Is visible and easily accessible;

(iii) Does not penetrate a watertight bulkhead;

(iv) Is fabricated with an inner tube and a cover of synthetic rubber or other suitable material reinforced with wire braid; and

(v) Either,—

(A) If it is designed for use with compression fittings, is fitted with suitable, corrosion-resistant, compression fittings, or fittings compliant with SAE J1475 (incorporated by reference in § 27.102); or,

(B) If it is designed for use with clamps, is installed with two clamps at each end of the hose. Clamps must not rely on spring tension and must be installed beyond the bead or flare or over the serrations of the mating spud, pipe, or hose fitting. Hose complying with SAE J1475 is also acceptable.

(3) Nonmetallic flexible hose complying with SAE J1942 (incorporated by reference in § 27.102) is also acceptable.

(f) A towing vessel of less than 24 meters (79 feet) in length may comply with any of the following standards for fuel systems rather than with those of paragraph (e) of this section:

(1) ABYC H–33 (incorporated by reference in § 27.102).

(2) Chapter 5 of NFPA 302 (incorporated by reference in § 27.102).

(3) 33 CFR chapter I, subchapter S (Boating Safety).

Subpart C—Fire-Suppression Equipment for Towing Vessels

§ 27.301 What are the requirements for fire pumps, fire mains, and fire hoses on towing vessels?

By April 29, 2005, you must provide for your towing vessel either a self-priming, power-driven, fixed fire-pump, a fire main, and hoses and nozzles in accordance with paragraphs (a) through (c) of this section; or a portable pump, and hoses and nozzles, in accordance with paragraphs (d) and (e) of this section.

(a) The fixed fire-pump must be capable of—

(1) Delivering water simultaneously from the two highest hydrants, or from

both branches of the fitting if the highest hydrant has a Siamese fitting, at a pitot-tube pressure of at least 344 kPa (50 psi) and a flow rate of at least 300 lpm (80 gpm); and

(2) Being energized remotely from a safe place outside the engine room and from the pump.

(b) All valves necessary for the operation of the fire main must be kept in the open position or must be capable of operation from the same place where the remote fire pump contol is located.

(c) The fire main must have a sufficient number of fire hydrants with attached hose to reach any part of the machinery space using a single length of fire hose.

(d) The hose must be lined commercial fire-hose, at least 40mm (1.5 inches) in diameter, 15 meters (50 feet) in length, and fitted with a nozzle made of corrosion-resistant material capable of providing a solid stream and a spray pattern.

(e) The portable fire pump must be self-priming and power-driven, with—

(1) A minimum capacity of at least 300 lpm (80 gpm) at a discharge gauge pressure of not less than 414 kPa (60 psi), measured at the pump discharge;

(2) A sufficient amount of lined commercial fire hose at least 40mm (1.5 inches) in diameter and 15 meters (50 feet) in length, immediately available to attach to it so that a stream of water will reach any part of the vessel; and

(3) A nozzle made of corrosion-resistant material capable of providing a solid stream and a spray pattern.

(f) You must stow the pump with its hose and nozzle outside of the machinery space.

§ 27.303 What are the requirements for fire-extinguishing equipment on towing vessels in inland service, and on towing vessels in ocean or coastal service whose construction was contracted for before August 27, 2003?

You must carry on your towing vessel both—

(a) The minimum number of hand-portable fire extinguishers required by subpart 25.30 of this part; and

(b) By April 29, 2005, either—

(1) An approved B–V semi-portable fire-extinguishing system to protect the engine room; or

(2) A fixed fire-extinguishing system installed to protect the engine room of the vessel.

§ 27.305 What are the requirements for fire-extinguishing equipment on towing vessels in ocean or coastal service whose construction was contracted for on or after August 27, 2003?

(a) You must carry on your towing vessel both—

(1) The minimum number of hand-portable fire extinguishers required by subpart 25.30 of this part; and

(2) An approved B–V semi-portable fire-extinguishing system to protect the engine room.

(b) You must have a fixed fire-extinguishing system installed to protect the engine room of the vessel.

(c) This section does not apply to any towing vessel pushing a barge ahead, or hauling a barge alongside, when the barge's coastwise or Great Lakes route is restricted (as indicated on its certificate of inspection), so that the barge may operate ''in fair weather only, within 12 miles of shore,'' or with words to that effect.

Dated: April 9, 2004.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 04–13600 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–04–023]

RIN 1625–AA00

Safety Zone; Port Huron, St. Clair River, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Southside Summer Festival fireworks display on June 27, 2004. This safety zone is necessary to control vessel traffic within the immediate location of the fireworks launch site and to ensure the safety of life and property during the event. This safety zone is intended to restrict vessel traffic from a portion of the St. Clair River.

DATES: This temporary final rule is effective from 10 p.m. until 10:25 p.m. on June 27, 2004.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–04–023] and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave. Detroit, MI 48207, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: ENS Cynthia Lowry, U.S. Coast Guard Marine Safety Office Detroit, (313) 568–9580.

SUPPLEMENTARY INFORMATION:

Regulatory Information

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

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on accidents that have occurred in other Captain of the Port zones and the explosive hazard of fireworks, the Captain of the Port Detroit has determined firework launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the locations of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risk.

The safety zone will encompass all waters of the St. Clair River within a 500-foot radius of the fireworks launch platform in approximate position 42°57′05″ N, 083°25′19″ W (off of the River Rats Club). The geographic coordinates are based upon North American Datum 1983 (NAD 83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-

scene patrol representative. Entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed this rule under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS)(44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary. This determination is based on the minimal time that vessels will be restricted from the safety zone.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone is only in effect from 10 p.m. until 10:25 p.m. the day of the event and allows vessel traffic to pass outside of the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the St. Clair River by the Ninth Coast Guard District Local Notice to Mariners and Marine Information Broadcasts. Facsimile broadcasts may also be made.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), small entities may be assisted in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction or if you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Detroit (see **ADDRESSES**).

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Environment

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

Technical Standards

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

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

Energy Effects

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T09–023 is added to read as follows:

§ 165.T09–023 Safety Zone; St. Clair River, Port Huron, MI.

(a) *Location.* The safety zone encompasses all waters of the St. Clair River within a 500-foot radius of the fireworks launch platform in approximate position 42°57′05″ N, 083°25′19″ W (off of the River Rats Club) (NAD 83).

(b) *Effective date.* This rule is effective from 10 p.m. until 10:25 p.m. (local time) on June 27, 2004.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit, or his designated on-scene representative. The designated on-scene Patrol Commander may be contacted via VHF Channel 16.

Dated: June 9, 2004.

P.G. Gerrity,

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

[FR Doc. 04–13820 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AL39

Priorities for Outpatient Medical Services and Inpatient Hospital Care

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This final rule affirms without change an interim final rule that amended VA's medical regulations. The rule established that in scheduling appointments for non-emergency outpatient medical services and admissions for inpatient hospital care, VA will give priority to veterans with service-connected disabilities rated 50 percent or greater and veterans needing care for a service-connected disability. The Veterans' Health Care Eligibility Reform Act of 1996 authorizes VA to ensure that these two categories of veterans receive priority access to this type of care. The intended effect of this final rule is to carry out that authority.

DATES: *Effective Date:* June 18, 2004.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of the Assistant Deputy Under Secretary for Health (10A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, at (202) 273–8934.

SUPPLEMENTARY INFORMATION: We published in the **Federal Register** on September 17, 2002 (67 FR 58528), an interim final rule amending VA's medical regulations at 38 CFR 17.49 to include a new provision establishing for certain veterans a priority for outpatient medical services and inpatient hospital care. The priority was for two groups of veterans: Veterans needing care for service-connected conditions, and veterans with service-connected disability rated at 50 percent or more. We provided a 60-day comment period that ended on November 18, 2002. We received comments from thirteen commenters, and three of them expressed support for the rule. The issues raised by the commenters are discussed below.

One commenter stated that 38 U.S.C. 1705 and 1706 prohibit the Secretary from promulgating the interim final rule. The commenter stated that the plain language of 38 U.S.C. 1705 and 1706 prohibits VA from establishing criteria to determine when health care will be accorded a veteran, and what type of health care is provided, that are unrelated to the medical needs of enrolled veterans. The commenter stated that VA has no authority to insert barriers based solely upon status and not upon medical judgment. The commenter noted that some veterans are exempted from the requirement of enrollment as a precondition for receiving VA health care, but stated that this exemption does not lead to an absolute priority in scheduling appointments for outpatient medical services and admissions for inpatient hospital care. The commenter stated that Congress intended the priority system in section 1705 to control access to VA when resources are scarce, and that the ability to enroll or disenroll veterans based on priority categories is VA's tool to ensure that care to enrollees is timely and of acceptable quality. The commenter stated that once enrolled, veterans are to be accorded health care based on medical need, and not on legal status. The commenter also stated that veterans who are unemployable are not exempted from the necessity of enrollment, and are outside the authority VA claims for the interim rule.

No changes are made based on this comment. The Veterans' Health Care Eligibility Reform Act of 1996, Public Law 104–262 (Eligibility Reform Act), supports the rule's provisions in 38 CFR 17.49 granting priority access to veterans with service-connected disabilities rated at 50 percent or greater based on one or more disabilities or unemployability and veterans needing care for a service-connected disability. Under the Eligibility Reform Act, these veterans are to be provided hospital care and medical services regardless of whether they enroll for care. The statute specifically directs the Secretary, in designing the enrollment system, to give highest priority to their needs when granting access to VA health care. The commenter asserts that veterans who are unemployable are not exempted from enrollment, but the commenter fails to note that there is a distinction between veterans determined to be unemployable for compensation purposes and veterans determined to be unemployable for pension purposes. Veterans determined to be unemployable for compensation purposes (see, *e.g.*, 38 CFR 3.341 and 4.16) are awarded a total disability rating based on service-connected disabilities and thus would be exempted

from enrollment. Other veterans, lacking sufficient service-connected disability to establish unemployability for compensation purposes, are found unemployable for pension purposes (see, *e.g.*, 38 CFR 3.342 and 4.17), which would not provide a basis for exemption from enrollment. The reference to unemployability in § 17.49 pertains only to veterans ''with service-connected disabilities rated 50 percent or greater based on * * * unemployability.'' Thus, all of the veterans to whom § 17.49 applies would be exempted from enrollment.

One commenter agreed that service-connected veterans should receive timely access to care, but stated that any such change should not create further delays for the veterans currently waiting for care. The commenter discussed the Eligibility Reform Act, noting that under this law, VA offers a full range of medical benefits for eligible and enrolled veterans, and that once enrolled, veterans have access to all of the health care services offered in VA's medical benefits package. The commenter expressed a concern that the interim final rule will compound waiting times. The commenter stated that all enrolled veterans deserve timely access to health care, and stated that inadequate discretionary funding causes waiting lists. The commenter described various proposals made to Congress to strengthen the annual VA medical care budget, and suggested that waiting times can be shortened by improving third-party collections, allowing Medicare reimbursement, and making VA medical care funding a mandatory account. The commenter stated that improved funding would ensure that all veterans receive quality healthcare in a timely manner. A number of additional commenters, including one who supported the rule, described current difficulties in obtaining timely VA care. One commenter stated that all veterans should be treated equally, regardless of their service-connected condition. No changes are made based on these comments. The Secretary has authority, under the Eligibility Reform Act, to provide priority access to the veterans identified in this final rule. While our goal is to decrease or eliminate all wait periods, the final rule provides that those veterans with the highest claim to VA care, as identified by Congress, will have priority access to that care.

One commenter stated that there should be priority access for service-connected veterans with no percentage limit. One commenter indicated general support for the regulation, but suggested that priority should be given first to combat veterans with service-connected disabilities; then to all other combat veterans; and finally, to all other veterans. One commenter stated that top priority should be given to any veteran who served in a war, as well as veterans awarded the Purple Heart. As noted above, Congress has granted VA authority to provide priority access to the veterans identified in this final rule. Statutory authority does not allow VA to accord veterans priority access on the alternative bases described by the commenters.

One commenter suggested that documentation of service connection is focused on physical ailments, and that VA records do not adequately track outpatient care such as psychology. The rule does not distinguish between service-connected conditions on the basis of physical or psychological conditions. In implementing the rule, all service-connected conditions must be considered.

One commenter expressed concern that veterans who already have appointments may lose their appointment times. Under VA policy implementing this rule, cancellation of a current appointment for another veteran is not permitted to be used as a mechanism to accommodate the priority scheduling described in the final rule.

One commenter stated that the local VA facility is not following the interim final rule, and suggested that the regulation be amended to mandate immediate and punitive action against any clinic or hospital director that refuses to service all veterans for their medical conditions. The change suggested concerns agency management of its personnel, which is beyond the scope of this rulemaking.

One commenter stated that veterans should not be required to pay any copayments for medications or medical services at VA facilities. Congress requires VA to charge copayments for certain hospital care and medical services. The issue of whether copayments should be charged is not within the scope of this rulemaking.

For the reasons stated above, no changes are made based on these comments.

Based on the rationale set forth in the preamble to the interim final rule and in this preamble, we are adopting the provisions of the interim final rule as a final rule without change.

Administrative Procedure Act

This document affirms without any changes an interim final rule that is already in effect. Accordingly, we have determined under 5 U.S.C. 553 that there is good cause for dispensing with a delayed effective date based on the conclusion that such procedure is impracticable and unnecessary.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This final rule would have no such effect on State, local, or tribal governments, or the private sector.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This amendment would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: June 9, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ Accordingly, the interim final rule amending 38 CFR part 17 which was published at 67 FR 58528 on September

17, 2002, is adopted as a final rule without change.

[FR Doc. 04–13764 Filed 6–17–04; 8:45 am]
BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[OAR–2003–0083; FRL–7775–5]

Air Quality Designations and Classifications for the 8-Hour Ozone; National Ambient Air Quality Standards; Deferral of Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting a deferral of the effective date, to September 13, 2004, of the 8-hour ozone nonattainment designation for Clark County, Nevada. This deferral is based on additional information submitted by the State demonstrating that, due to the late finding of nonattainment in the State, the State did not have sufficient time to recommend an appropriate boundary for the Las Vegas nonattainment area. EPA believes the relevant factors for defining a nonattainment area may support a different boundary recommendation than the one submitted by the State on April 12, 2004, and a short deferral will provide the State and EPA time to determine whether such an adjustment is appropriate. At the same time, it is certain that at least some portion of Clark County will be designated nonattainment. As such, we do not intend to use this extension of the effective date of the designation to affect the deadline for submittal of the State implementation plan that would otherwise apply if the effective date were not deferred and further believe the extension should not delay attainment of the ozone standard or the ability of the State to achieve attainment as expeditiously as practicable.

DATES: *Effective Date:* This final rule is effective on June 15, 2004.

ADDRESSES: The EPA has established dockets for this action under Docket ID No. OAR–2003–0083 (Designations). All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the 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 Office of Air and Radiation Docket and Information Center is (202) 566–1742. In addition, we have placed a copy of the rule and a variety of materials regarding designations on EPA's designation Web site at: *http://www.epa.gov/oar/oaqps/glo/designations* and on the Tribal Web site at: *http://www.epa.gov/air/tribal.* In addition, the public may inspect the rule and technical support at the following locations:

U.S. Environmental Protection Agency, Region 9, Air Division, Planning Office, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Steven Barhite, Chief, Planning Office, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. The telephone number is (415) 972–3980. Mr. Barhite can also be reached via electronic mail at *barhite.steven@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What Action Is EPA Taking Today?

The EPA is deferring the effective date of the nonattainment designation for Clark County, Nevada (County). This action modifies the effective date for Clark County provided in our final 8-hour ozone designations rule published April 30, 2004. 69 FR 23858. In that final rule we noted that the effective date for the Clark County nonattainment designation would be June 15, 2004. See 69 FR at 23919–20 (revising 40 CFR § 81.329). With today's action, the new effective date for the County's nonattainment designation will be September 13, 2004. We are not changing the designation of the County at this time, but, as explained below, believe the deferral is necessary to allow the State of Nevada (State) to account for newly discovered information and accurately define the appropriate nonattainment area boundaries.

II. What Is the Background for This Action?

On April 15, 2004, the EPA Administrator signed a final rule announcing designations under the 8-hour ozone national ambient air quality standards (NAAQS).[1] In that action we designated Clark County as nonattainment and provided that this designation would become effective on June 15, 2004. Since that notice, the State has submitted additional information explaining that the State's recommendation on the area to be designated nonattainment should be reconsidered and that such an evaluation was not possible prior to EPA's April 15, 2004 deadline for signing the 8-hour ozone designations. Letter from Allen Biaggi, Administrator, Nevada Division of Environmental Protection, to Michael O. Leavitt, Administrator, U.S. Environmental Protection Agency (June 9, 2004).[2] In the June 9, 2004 letter the State explains that it did not have time to make an appropriate recommendation regarding the boundaries of the nonattainment area in Clark County because it was not discovered until late February 2004 that any portion of Nevada would be designated nonattainment.

The unusual history of the Clark County designation supports the State's claim. In July 2003, the State submitted its recommended designations for the 8-hour ozone designations. See letter from Allen Biaggi, Administrator, Nevada Division of Environmental Protection, to Wayne Nastri, Regional Administrator, U.S. EPA, Region IX (July 10, 2003). Based on the monitoring data provided to the State for the period of 2000 through 2002, the State concluded that all monitors within the State were showing compliance with the 8-hour ozone NAAQS. On December 3, 2003, EPA agreed with the State's recommendation not to designate any Nevada area as nonattainment for the 8-hour ozone standard. See Letter from Wayne Nastri, Regional Administrator, U.S. EPA, Region IX, to Hon. Kenny C. Guinn, Governor of Nevada (December 3, 2004). In that letter EPA noted that the final designation determination would be based on monitoring data and design values for the period 2001 through 2003, but that based on our preliminary review of the air quality monitoring data for the 2003 ozone season, there were no areas in Nevada violating the 8-hour ozone standard. Id. In mid-February 2004, EPA discovered that the July 10, 2003 recommendation from the State had failed to include

[1] This signature date was a deadline for EPA action in accordance with a consent decree. The final rule was published on April 30, 2004. 69 FR 23875.

[2] This letter supplements an earlier letter dated May 21, 2004, from Governor Kenny C. Guinn to Administrator Leavitt.

complete monitoring data for 2001. This overlooked data, in combination with the new 2003 data, resulted in a 2001–03 design value over the applicable standard at one of the monitors (Joe Neal) in the Las Vegas area of Clark County. EPA contacted the State and described that, by default, the metropolitan statistical area (MSA) that included Clark and Nye Counties in Nevada and Mohave County in Arizona should be recommended for designation as nonattainment. Arizona and Nevada were able to prepare an analysis of the ozone problem in the area that supported the exclusion of Nye and Mohave Counties from the nonattainment area. See Letter from Allen Biaggi, Administrator, Nevada Division of Environmental Protection, to Wayne Nastri, Regional Administrator, U.S. EPA, Region IX (April 12, 2004) (transmitting Nevada Division of Environmental Protection (NDEP) report entitled ''Nevada Air Quality Designations and Boundary Recommendations for the 8-Hour Ozone National Ambient Air Quality Standard'' (March 26, 2004)); Letter from Stephen A. Owens, Director, Arizona Department of Environmental Quality, to Wayne Nastri, Regional Administrator, U.S. EPA, Region IX (March 26, 2004) (transmitting report entitled ''Arizona Boundary Recommendations for the 8-Hour Ozone National Ambient Air Quality Standard'' (March 26, 2004)). As a result, three days before the EPA deadline for making designations, the State recommended that Clark County be designated nonattainment. Id. As the State has subsequently explained, had NDEP and Clark County discovered earlier that the County should be designated nonattainment, it would have further analyzed the appropriate boundaries within the 8000-square mile County for the nonattainment area. Given the late discovery, however, the State and County could not provide the necessary analysis and defaulted to the County boundaries.[3] Given the size of the County, the geographic features of the area, the location of sources and the monitoring data collected in the outlying portions of the County, it is reasonable to conclude that further analysis could have supported an alternate boundary for the nonattainment area.

In the June 9, 2004 letter, the State further explains why the missing monitoring data were not discovered until late February, 2004. The monitoring data in question are from the new Joe Neal monitoring station, which began operation in 2000. As a result, it was not until the end of 2003 that three complete years of data were available upon which to calculate a design value. The State's recommendation had not included the 2003 data, so it had not focused attention on this monitor because, at the time, it had mistakenly assumed the monitor had not been in existence long enough to have an effect on design values. According to the State, the State and County had an expectation that the 2001 data would not affect the design value for the 8-hour ozone designation. See June 9 Letter from Allen Biaggi. The County apparently did not realize certain 2001 data had not been added to the Air Quality System—the system used to support the designation recommendations. Management at the County and State, and within EPA, looking at the monitoring data in the Air Quality System could not see that additional data were available that would have changed the designation conclusion. The State and County have demonstrated to our satisfaction that until late February 2004, they were not aware that the area should be designated nonattainment and, as noted above, by that time did not have time to adequately evaluate the appropriate boundaries for the nonattainment area.

III. What Action Is EPA Taking To Defer the Effective Date of Nonattainment Designations for Clark County?

Effective June 15, 2004, EPA will defer until September 13, 2004, the effective date of nonattainment designations for Clark County, Nevada by modifying 40 CFR 81.329. EPA is making this change without notice and comment in accordance with section 107(d)(2) of the Clean Air Act, which exempts the promulgation of these designations from the notice and comment provisions of the Administrative Procedure Act.

We are making this deferral action effective on June 15, 2004, which is the date the nonattainment designation would otherwise become effective. Section 553(d) of the Administrative Procedure Act generally provides that rulemakings shall not be effective less than 30 days after publication unless the agency finds good cause for an earlier date. 5 U.S.C. 553(d)(3). EPA is invoking the good cause exception to make the effective date of today's action June 15, 2004. This notice explains why the current effective date of the nonattainment designation for Las Vegas should be deferred. Today's action must take effect by June 15, 2004 in order to achieve that deferral and avoid unnecessary confusion.

EPA does not intend to extend the deadline for state implementation plan submission for the Las Vegas nonattainment area. EPA will address this deadline in a subsequent action but believes it is reasonable to require submission according to the same schedule to which the area would be subject without today's deferral of the effective date. Likewise, the time by which attainment occurs should not be affected by this action. Today's deferral of the designation effective date should not delay the attainment of the 8-hour ozone NAAQS because it is clear a core area will still be designated nonattainment and attainment is required as expeditiously as practicable.

IV. Final Action

The EPA is deferring the effective date to September 13, 2004, of the nonattainment designation for Clark County, Nevada, based on additional information submitted by the State. We are amending 40 CFR § 81.329 to reflect the modified effective date for the County.

V. Statutory and Executive Order 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 Office of Management and Budget (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) 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, it has been determined that this rule is not a

[3] The May 21, 2004 letter from Governor Guinn and the June 9, 2004 letter from Allen Biaggi both note that the State has contracted with the Desert Research Institute to assist in assessing the appropriate boundaries.

''significant regulatory action'' because none of the above factors applies. As such, this final rule was not formally submitted to OMB for review.

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.* This rule changes the effective date of a nonattainment designation for Clark County, Nevada that was promulgated on April 15, 2004. The present final rule does not establish any new information collection burden apart from that required by law. 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 Procedures Act or any other statute unless the agency certifies 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 today's final rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards. (See 13 CFR 121.); (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. This rule defers the effective date of the nonattainment designation. The deferral of the effective date will not impose any requirements on small entities. After considering the economic impacts of today's final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

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 to State, local, and Tribal governments, in the aggregate, or to 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. Today's final action does not include a Federal mandate within the meaning of UMRA that may result in expenditures of $100 million or more in any 1 year by either State, local, or Tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. It does not create any additional requirements beyond those of the 8-hour NAAQS for ozone (62 FR 38894; July 18, 1997), therefore, no UMRA analysis is needed. In this rule, EPA is deferring the effective date of nonattainment designation for Clark County, Nevada. The EPA believes that no new controls will be imposed as a result of this action. Thus, this Federal action will not impose mandates that will require expenditures of $100 million or more in the aggregate in any 1 year.

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.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The CAA establishes the scheme whereby States take the lead in developing plans to meet the NAAQS. This rule will not modify the relationship of the States and EPA for purposes of developing programs to implement the NAAQS. 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 ''Tribal implications'' as specified in Executive Order 13175. This rule concerns the deferral of the effective date of the nonattainment designation for Clark County, Nevada. This final

rule does not have Tribal implications as defined by Executive Order 13175. It does not have a substantial direct effect on one or more Indian Tribes, since no Tribe has implemented a CAA program to attain the 8-hour ozone NAAQS at this time. Furthermore, this rule does not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the TAR establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Because this rule does not have Tribal implications, Executive Order 13175 does not apply. Although Executive Order 13175 does not apply to this rule,prior to designations action promulgated on April 15, 2004, EPA did outreach to Tribal representatives regarding the designations. The EPA supports a national ''Tribal Designations and Implementation Work Group'' which provides an open forum for all Tribes to voice concerns to EPA about the designation and implementation process for the NAAQS, including the 8-hour ozone standard. These discussions informed EPA about key Tribal concerns regarding designations as the rule was under development.

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

Executive Order 13045: ''Protection of Children From Environmental Health 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 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. The final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health risks or safety risks addressed by this rule present a disproportionate risk to children. Nonetheless, we have evaluated the environmental health or safety effects of the 8-hour ozone NAAQS on children. The results of this risk assessment are contained the National Ambient Air Quality Standards for Ozone, Final Rule (62 FR 38855–38896, July 18, 1997; specifically, 62 FR 38854, 62 FR 38860 and 62 FR 38865).

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

This rule is not subject to Executive Order 13211, ''Actions That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Information on the methodology and data regarding the assessment of potential energy impacts is found in Chapter 6 of U.S. EPA 2002, Cost, Emission Reduction, Energy, and Economic Impact Assessment of the Proposed Rule Establishing the Implementation Framework for the 8-Hour, 0.08 ppm Ozone National Ambient Air Quality Standard, prepared by the Innovative Strategies and Economics Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC, April 24, 2003.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

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. The 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 on or before the effective date of this rule. 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 June 15, 2004.

K. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by EPA. This Section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit (i) when the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.'' The rule designating areas for the 8-hour ozone standard was ''nationally applicable'' within the meaning of section 307(b)(1) since it established designations for all areas of the United States for the 8-hour ozone NAAQS. Since this final action defers the effective date of one of the designations made in that nationwide rulemaking, any petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit. At the core of the designations rulemaking is EPA's interpretation of the definition of nonattainment under section 107(d)(1) of the CAA. In determining which areas should be designated nonattainment (or conversely, should be designated unclassifiable/attainment), EPA used a set of 11 factors that it applied consistently across the United States. For the same reasons, the Administrator also determined that the final designations are of nationwide scope and effect for purposes of section 307(b)(1). This is particularly appropriate because in the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that an action is of ''nationwide scope or effect'' would be appropriate for any action that has ''scope or effect beyond a single judicial circuit.'' H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402–03. Here, the scope and effect of the designations rulemaking extend to numerous judicial circuits since the designations apply to all areas of the country. In these circumstances, section 307(b)(1) and its legislative history calls for the Administrator to find the rule to be of ''nationwide scope or effect'' and for

venue to be in the D.C. Circuit. Thus, any petitions for review of this final action must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 14, 2004.

Michael O. Leavitt,

Administrator.

■ For the reasons set forth in the preamble, 40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

Subpart C—[Amended]

■ 2. In § 81.329, the table entitled ''Nevada–Ozone (8-Hour Standard)'' is amended by revising the entry for ''Clark County'' to read as follows:

§ 81.329 Nevada.

* * * * *

NEVADA—OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
Las Vegas, NV: Clark County	(2)	Nonattainment	(2)	Subpart 1.
* * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.
[2] Effective date deferred until September 13, 2004.

* * * * *

[FR Doc. 04–13851 Filed 6–17–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[OAR–2003–0083–1; FRL–7774–8]

Air Quality Designations and Classifications for the 8-Hour Ozone; National Ambient Air Quality Standards; Early Action Compact Areas With Deferred Effective Dates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting a deferral of the effective date, to September 30, 2005, of the nonattainment designation for Hamilton and Meigs Counties, Tennessee, and Catoosa County, Georgia, based on additional information submitted by this area. The basis for this action is an updated modeling analysis completed by this area that demonstrates attainment of the 8-hour ozone National Ambient Air Quality Standards (NAAQS) by December 31, 2007. In addition, in a letter dated May 27, 2004, from the Mayors of the City of Chattanooga and Hamilton County to EPA, the area has fully committed to adopt and implement additional local measures on a schedule consistent with requirements for Early Action Compact (EAC) areas. These measures are also included in the updated modeling analysis.

DATES: *Effective Date:* This final rule is effective on June 15, 2004.

ADDRESSES: The EPA has established dockets for this action under Docket ID No. OAR–2003–0083 (Designations) and OAR–2003–0090 (Early Action Compacts). All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the 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 Office of Air and Radiation Docket and Information Center is (202) 566–1742. In addition, we have placed a copy of the rule and a variety of materials regarding designations on EPA's designation Web site at: *http://www.epa.gov/oar/oaqps/glo/designations* and on the Tribal Web site at: *http://www.epa.gov/air/tribal.* Materials relevant to EAC areas are on EPA's Web site at: *http://www.epa.gov/ttn/naaqs/ozone/eac/w1040218_eac_resources.pdf.* In addition, the public may inspect the rule and technical support at the following locations: Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

FOR FURTHER INFORMATION CONTACT: Dick Schutt, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9033. Mr. Schutt can also be reached via electronic mail at *schutt.dick@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What Action Is EPA Taking Today?

The EPA is reinstating the EAC and deferring the effective date of the nonattainment designation for Hamilton County, TN; Meigs County, TN; and Catoosa County, GA, as a result of additional measures being taken by Chattanooga to improve air quality in the area. The additional measures being implemented in Hamilton County include a seasonal open burning ban and a vehicle inspection and maintenance program (I/M program). These measures have been included in the area's modeling demonstration and result in modeled attainment by December 2007.

II. What Is the Background for This Action?

The EPA entered into EACs with 33 communities on December 31, 2002, including the Chattanooga, TN–GA area. This area successfully completed the

December 31, 2002 and June 16, 2003 milestone requirements, and the June and December 2003 progress reports. By March 31, 2004, EAC areas submitted local plans, which are specific, quantified and permanent. These plans also included specific implementation dates for the local controls, as well as technical assessment of whether the area could attain the 8-hour ozone NAAQS by the December 31, 2007, milestone. On April 15, 2004, EPA designated areas nonattainment for the 8-hour ozone NAAQS. In that same action, EPA deferred the effective date of nonattainment designation for many areas that were participating in the EAC process. However, as stated in the April 15 action, we determined that Chattanooga, along with Knoxville and Memphis, did not pass the modeled attainment test and the predicted air quality improvement test. In addition, our review of meteorological influences for the three areas was inconclusive; and these areas did not provide additional measures not already modeled. In addition to the technical analysis, we reviewed the strength of the control strategies each EAC area proposed in their March 31, 2004 plans. We determined that the control measures submitted by these three areas could have been strengthened, and the Agency expected more local measures. The EPA also determined that the States' technical assessments for each of theses areas and their suite of measures were not acceptable. Therefore, in our April 15, 2004 action, these three areas in Tennessee, including Chattanooga, did not receive a deferral of the effective date of their nonattainment designation. Chattanooga was, instead, designated as nonattainment under Subpart 1 of the Clean Air Act (CAA), effective June 15, 2004.

The 8-hour ozone attainment demonstration for the Chattanooga EAC was, initially, independently developed by the States of Georgia and Tennessee using different modeling systems and inputs. Both demonstrations represent reasonable and plausible conditions. The Tennessee modeling in the March 31, 2004 submittal was reviewed as the primary modeling for the demonstration. This modeling was based on local or fine-grid scale (*i.e.*, horizontal grid spacing of 4 kilometers (km)). The Georgia modeling was submitted for the March 31, 2004 EAC milestone as corroborative or supporting data for the Chattanooga demonstration. It was based on regional modeling using a horizontal grid-scale resolution of 12 km. The Tennessee modeling predicted a 2007 future design value of 85.6 parts per billion (ppb) that does not indicate attainment, while the Georgia modeling did predict a 2007 future design value less than 85 ppb. Attainment is indicated when the future design value is less than 85 ppb. The supporting weight of evidence analysis from the Tennessee modeling (overall model predicted ozone improvement, meteorological influences, and attainment test sensitivities) that accompanied the attainment modeling also was inconclusive to support a decision that Chattanooga would more than likely attain the NAAQS by 2007. The EPA believed additional control measures would be needed. Additional details on the March 31, 2004, submittal and EPA's review are included in the April 30, 2004 **Federal Register** at 69 FR 23865–66, and on the EAC website at: *http://www.epa.gov/ttn/naaqs/ozone/eac/index.htm.*

On June 3, 2004, the States of Georgia and Tennessee collectively submitted revised modeling, which includes additional local control measures to support the first deferral of the effective date of designation for Hamilton County, TN; Meigs County, TN; and Catoosa County, GA, which is a portion of the Chattanooga EAC area. The modeling is based on a revision to the March 31, 2004 Georgia EAC submittal for Chattanooga. The revised modeling uses a fine 4 km horizontal grid scale resolution over the Chattanooga EAC area. The modeling was developed in accordance with the EPA draft 8-hour modeling guidance with an appropriate modeling system, grid configuration, inputs and acceptable model performance. The days modeled are representative of meteorological conditions that are conducive to exceedances of the 8-hr ozone NAAQS. The modeling attainment and screening tests were successfully applied and predict future design values (*i.e.*, 81 ppb) at the Chattanooga monitors that are below the 8-hr NAAQS of 85 ppb. The control strategy for Chattanooga was strengthened with the addition of more controls (*i.e.*, reductions from an On-Board Diagnostics vehicle I/M program for Hamilton County, Tennessee, and a seasonal open burning ban). The control strategy for Chattanooga is comparable to the controls for other EAC areas with similar design value concentrations. The EPA believes the technical information submitted is adequate to grant a deferral of the effective date of nonattainment designation. This does not constitute a decision of approval of the attainment demonstration which will be submitted in December 2004. The EPA will perform a more comprehensive review of the Georgia and Tennessee technical analyses before making a final decision on the attainment demonstration by September 30, 2005.

III. What Action Is EPA Taking To Defer the Effective Date of Nonattainment Designations for Chattanooga?

The counties of Hamilton and Meigs, TN and Catoosa, GA submitted to EPA the following documentation that strengthens its March 31, 2004 EAC milestone submittal and supports attainment of the 8-hour ozone NAAQS no later than December 2007: (1) technical support including revised modeling technical analysis; (2) a description of additional local measures (including I/M and a seasonal open burning ban); (3) a letter from the Mayor of Hamilton County and the Mayor of the City of Chattanooga, including legal authority to adopt these additional measures; and (4) a commitment to implement these measures by the 2005 ozone season. The Mayors have also committed to work with the State to submit the adopted measures to EPA as a SIP revision by December 31, 2004. Therefore, effective immediately, EPA will defer until September 30, 2005, the effective date of nonattainment designations for Hamilton and Meigs Counties, TN and Catoosa County, GA by modifying 40 CFR part 81.311 and 81.343.

IV. Final Action

The EPA is deferring the effective date to September 30, 2005, of the nonattainment designation for Hamilton and Meigs Counties, Tennessee and Catoosa County, Georgia, based on additional information submitted by this area. We are also amending 40 CFR part 81, subpart C, to reflect the modified effective dates for these three counties.

V. Statutory and Executive Order 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 Office of Management and Budget (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) 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, it has been determined that this rule is not a ''significant regulatory action'' because none of the above factors applies. As such, this final rule was not formally submitted to OMB for review.

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.* This rule changes the effective date of a nonattainment designation for portions of the Chattanooga MSA that was promulgated on April 15, 2004. The present final rule does not establish any new information collection burden apart from that required by law. 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 Procedures Act or any other statute unless the agency certifies 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 today's final rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards. (See 13 CFR 121.); (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. This rule defers the effective date of the nonattainment designation for areas that implement control measures and achieve emissions reductions earlier than otherwise required by the CAA in order to attain the 8-hour ozone NAAQS. The deferral of the effective date will not impose any requirements on small entities. States and local areas that have entered into compacts with EPA have the flexibility to decide which sources to regulate in their communities. After considering the economic impacts of today's final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

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 to State, local, and Tribal governments, in the aggregate, or to 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. Today's final action does not include a Federal mandate within the meaning of UMRA that may result in expenditures of $100 million or more in any 1 year by either State, local, or Tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. It does not create any additional requirements beyond those of the 8-hour NAAQS for ozone (62 FR 38894; July 18, 1997), therefore, no UMRA analysis is needed. In this rule, EPA is deferring the effective date of nonattainment designation for three counties in the Chattanooga, TN area that have entered into a compact with us. The EPA believes that any new controls imposed as a result of this action will not cost in the aggregate $100 million or more annually. Thus, this Federal action will not impose mandates that will require expenditures of $100 million or more in the aggregate in any 1 year.

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.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132. The CAA establishes the scheme whereby States take the lead in developing plans to meet the NAAQS. This rule will not modify the relationship of the States and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this rule. Although Executive Order 13132 does not apply to this rule, EPA discussed the designation process and compact program with representatives of State and local air pollution control agencies, and Tribal governments, as well as the Clean Air Act Advisory Committee, which is also composed of State and local representatives. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on the proposed rule for deferring the effective date of nonattainment designations 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 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have ''Tribal implications'' as specified in Executive Order 13175. This rule concerns the deferral of the effective date of the nonattainment designation for a portion of the Chattanooga area participating in the EAC process that has met all milestones. The CAA provides for States to develop plans to regulate emissions of air pollutants within their jurisdictions. The Tribal Authority Rule (TAR) gives Tribes the opportunity to develop and implement CAA programs such as programs to attain and maintain the 8-hour ozone NAAQS, but it leaves to the discretion of the Tribe whether to develop these programs and which programs, or appropriate elements of a program, they will adopt. The Chattanooga area that is affected by this final rule was required to develop and submit local plans for adoption and implementation of the 8-hour ozone standard earlier than the CAA requires. These plans must be submitted to EPA as a SIP revision in December 2004. No EAC areas include Tribal land. This final rule does not have Tribal implications as defined by Executive Order 13175. It does not have a substantial direct effect on one or more Indian Tribes, since no Tribe has implemented a CAA program to attain the 8-hour ozone NAAQS at this time or has participated in a compact. Furthermore, this rule does not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the TAR establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Because this rule does not have Tribal implications, Executive Order 13175 does not apply. Although Executive Order 13175 does not apply to this rule, prior to designations action promulgated on April 15, 2004, EPA did outreach to Tribal representatives regarding the designations and to inform them about the compact program and its impact on designations. The EPA supports a national ''Tribal Designations and Implementation Work Group'' which provides an open forum for all Tribes to voice concerns to EPA about the designation and implementation process for the NAAQS, including the 8-hour ozone standard. These discussions informed EPA about key Tribal concerns regarding designations as the rule was under development.

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

Executive Order 13045: ''Protection of Children From Environmental Health 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 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. The final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health risks or safety risks addressed by this rule present a disproportionate risk to children. Nonetheless, we have evaluated the environmental health or safety effects of the 8-hour ozone NAAQS on children. The results of this risk assessment are contained the National Ambient Air Quality Standards for Ozone, Final Rule (62 FR 38855–38896, July 18, 1997; specifically, 62 FR 38854, 62 FR 38860 and 62 FR 38865).

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

This rule is not subject to Executive Order 13211, ''Actions That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Information on the methodology and data regarding the assessment of potential energy impacts is found in Chapter 6 of U.S. EPA 2002, Cost, Emission Reduction, Energy, and Economic Impact Assessment of the Proposed Rule Establishing the Implementation Framework for the 8-Hour, 0.08 ppm Ozone National Ambient Air Quality Standard, prepared by the Innovative Strategies and Economics Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC, April 24, 2003.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

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. The 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 June 15, 2004.

K. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by EPA. This Section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit (i) when the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.'' The rule designating areas for the 8-hour ozone standard was ''nationally applicable'' within the meaning of section 307(b)(1) since it established designations for all areas of the United States for the 8-hour ozone NAAQS. Since this final action defers the effective date of three of the designations made in that nationwide rulemaking, any petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit. At the core of the designations rulemaking is EPA's interpretation of the definition of nonattainment under section 107(d)(1) of the CAA. In determining which areas should be designated nonattainment (or conversely, should be designated unclassifiable/attainment), EPA used a set of 11 factors that it applied consistently across the United States. For the same reasons, the Administrator also determined that the final designations are of nationwide scope and effect for purposes of section 307(b)(1). This is particularly appropriate because in the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that an action is of ''nationwide scope or effect'' would be appropriate for any action that has ''scope or effect beyond a single judicial circuit.'' H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402–03. Here, the scope and effect of the designations rulemaking extend to numerous judicial circuits since the designations apply to all areas of the country. In these circumstances, section 307(b)(1) and its legislative history calls for the Administrator to find the rule to be of ''nationwide scope or effect'' and for venue to be in the D.C. Circuit. Thus, any petitions for review of this final action must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 14, 2004.

Michael O. Leavitt,

Administrator.

■ For the reasons set forth in the preamble, 40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

Subpart C—[Amended]

■ 2. In § 81.311, the table entitled ''Georgia-Ozone (8–Hour Standard)'' is amended by revising the entry for ''Catoosa County'' to read as follows:

§ 81.311 Georgia.

* * * * *

GEORGIA—OZONE

[8-hour standard]

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
Chattanooga, TN–GA:				
Catoosa County	(2)	Nonattainment	(2)	Subpart 1.
* * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.
[2] Early Action Compact Area, effective date deferred until September 30, 2005.
* * * * *

■ 3. In § 81.343, the table entitled ''Tennessee-Ozone (8-Hour Standard)'' is amended by revising the entries for ''Hamilton County'' and ''Meigs County'' to read as follows:

§ 81.343 Tennessee.

* * * * *

TENNESSEE—OZONE

[8-hour standard]

Designated area	Designation[a]		Category/classification	
	Date [1]	Type	Date [1]	Type
Chattanooga, TN-GA:				
Hamilton County	(2)	Nonattainment	(2)	Subpart 1.
Meigs County	(2)	Nonattainment	(2)	Subpart 1.
* * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.
[2] Early Action Compact Area, effective date deferred until September 30, 2005.
* * * * *

[FR Doc. 04–13852 Filed 6–17–04; 8:45 am]
BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 69, No. 117
Friday, June 18, 2004

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

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Regulation J; Docket No. R–1202]

Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board of Governors is publishing for comment a proposed rule that would amend subpart A of Regulation J to provide for the rights and obligations of sending banks, paying banks, returning banks, and Reserve Banks in connection with collection of substitute checks and items that have been converted to electronic form. The proposed changes would ensure that Regulation J covers the new check processing service options that the Reserve Banks plan to offer when the Check Clearing for the 21st Century Act becomes effective on October 28, 2004.

DATES: Comments on the proposed rule must be received on or before July 26, 2004.

ADDRESSES: You may submit comments, identified by Docket No. R–1202, by any of the following methods:

- Agency Web site: *http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- FAX: 202/452–3819 or 202/452–3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Jack K. Walton, II, Assistant Director (202/452–2660), or Joseph P. Baressi, Senior Financial Services Analyst (202/452–3959), Division of Reserve Bank Operations and Payment Systems; or Adrianne G. Threatt, Counsel (202/452–3554), Legal Division; for users of Telecommunication Devices for the Deaf (TDD) only, contact 202/263–4869.

SUPPLEMENTARY INFORMATION:

Background

Subpart A of Regulation J governs collection of checks and other items by the Reserve Banks. This subpart includes the warranties and indemnities that are given to the Reserve Banks by parties that send items to the Reserve Banks for collection and return, as well as the warranties and indemnities for which the Reserve Banks are responsible in connection with the items they handle. Subpart A of Regulation J also describes the Reserve Banks' security interest in the assets of banks for which they collect items, as well as the amounts and methods by which the Reserve Banks may recover for losses associated with their collection of items. Subpart A authorizes the Reserve Banks to issue operating circulars governing the details of the collection of checks and other items and provides that such operating circulars have binding effect on all parties interested in an item handled by a Reserve Bank. The Reserve Banks' Operating Circular No. 3, ''Collection of Cash Items and Returned Checks'' (OC 3), is the operating circular that is most relevant to the Reserve Banks' check collection activities.

Under existing Regulation J, the term ''item'' is understood to mean a paper instrument. Although Reserve Banks in some cases accept, transfer, present, or return items in electronic form, the rights and obligations associated with handling items electronically currently are specified in OC 3 and the appendices thereto, rather than in Regulation J.

Once the Check Clearing for the 21st Century Act (the Check 21 Act) takes effect on October 28, 2004, the Board expects that the Reserve Banks will offer a wider variety of services that involve handling items electronically. In addition, the Board expects that the Reserve Banks in some cases will act as ''reconverting banks'' that create substitute checks and provide the associated substitute check warranties and indemnity in accordance with the Check 21 Act and subpart D of the Board's Regulation CC.[1]

The proposed amendments to Regulation J primarily are designed (1) to cover the Reserve Banks' handling of electronic items explicitly under Regulation J, (2) to acknowledge the substitute check warranties and indemnity that Reserve Banks and other banks will make under the Check 21 Act and subpart D when handling a substitute check or a paper or electronic representation of a substitute check, and (3) to include new warranties and indemnities that will apply when Reserve Banks and other banks send an electronic item that is not otherwise covered by the Check 21 Act and subpart D.[2]

Section-by-Section Analysis

Section 210.1 Authority, Purpose, and Scope

The Board proposes to amend this section to acknowledge the Check 21 Act as a source of authority.

Section 210.2 Definitions

A. Check. The Board proposes to amend the definition of *check* by adding a cross-reference to new subpart D of Regulation CC.

B. Item. To bring electronic items under the coverage of Regulation J, the Board proposes to amend the definition of *item* to include an electronic image of

[1] The Board has proposed to implement the Check 21 Act by adding a new subpart D to existing Regulation CC (69 FR 1470, Jan. 8, 2004). The comment period for this proposed rule expired on March 12, 2004, and the Board intends to finalize subpart D no later than July of this year.

[2] The Board expects that the Reserve Banks will amend OC 3 to address the operational details associated with new check processing services following the Board's adoption of final amendments to Regulation CC and Regulation J.

a paper item, together with information describing that item, that a Reserve Bank handles pursuant to an operating circular. This type of item would be defined as an *electronic item.*

C. Paying bank. Regulation J currently defines a bank whose routing number appears on the check ''in magnetic characters or fractional form'' as a *paying bank.* The electronic items that would be covered by the proposed expansion of the definition of *item* would contain MICR-line information but would not contain characters encoded in magnetic ink. The Board therefore proposes to replace the reference to ''magnetic characters'' with a reference to the information in the item's magnetic ink character recognition (MICR) line or in fractional form on the front of the check, or in the MICR-line information that accompanies an electronic item.

D. Sender. To further clarify the entities that are senders, the Board proposes to add Federal Reserve Banks and U.S. branches and agencies of foreign banks as entities listed in that definition. The Board also proposes technical amendments to streamline the definition.

E. Undefined terms. The Board proposes to reformat existing language explaining that terms that are not directly defined in § 210.2 of Regulation J have the meanings set forth in Regulation CC or the UCC and to add a cross-reference to new subpart D of Regulation CC. This reformatted language would be in a new paragraph (s).

Section 210.3 General Provisions

The Board proposes to amend paragraph (b) of this section to state explicitly that new subpart D of Regulation CC would be binding on all parties interested in an item handled by a Reserve Bank. Although subpart D would apply even in the absence of this reference, the Board believes that an explicit statement in Regulation J promotes clarity.

Section 210.4 Sending Items to Reserve Banks

Section 210.4(b) lists the parties that are deemed to have handled an item that is sent to a Reserve Bank in the order in which they are deemed to have handled it. The Board proposes to add at the end of that list the Administrative Reserve Bank of the bank to which a Reserve Bank sends or presents the item. This addition clarifies the chain of parties deemed to have handled an item.

Section 210.5 Sender's Agreement; Recovery by Reserve Bank

In paragraph (a), the Board proposes adding to the list of warranties made to each Reserve Bank a new warranty that the item bears all indorsements applied by previous parties that handled the item for forward collection or return. This amendment would facilitate compliance with the requirement under the Check 21 Act that a reconverting bank preserve all previously-applied indorsements. This new warranty does not require senders to obtain missing indorsements, but rather parallels the Check 21 Act's requirement that a reconverting bank preserve the indorsements applied by all parties that previously handled a check in any form. The proposed new warranty would be of particular relevance for items that have been indorsed in electronic form, because a Reserve Bank (or other collecting bank) that handles such an item might convert it to a substitute check and thus have a duty under the Check 21 Act to preserve all previously-applied indorsements.

The Board also proposes that paragraph (a) explicitly acknowledge the warranties and indemnities that a sending bank makes under Regulation CC subject to the terms of that regulation. Proposed paragraph (a)(3)(i) would list the settlement, encoding, and offset warranties in § 229.34(c)(2)–(4) of Regulation CC. Proposed paragraph (a)(3)(ii) would acknowledge explicitly that a sender makes the warranties and indemnity specified in subpart D of Regulation CC (which implements the Check 21 Act) when sending an item in the form of a substitute check or a paper or electronic representation of a substitute check. Although senders would make each of these warranties as provided in Regulation CC even if the warranties were not listed in paragraph (a), the Board believes that the meaning of the rule is clearer if paragraph (a) specifically acknowledges these warranties. These changes also conform the list of senders' warranties in § 210.5(a) of Regulation J to the list of the Reserve Banks' warranties in § 210.6(b) of the regulation.

Proposed paragraph (a) would supplement the warranties that are given under other law by including new warranties that a sender would give only under Regulation J to each Reserve Bank that handles an electronic item that is not a representation of a substitute check and thus is not subject to the Check 21 Act warranties. The Reserve Banks anticipate that most electronic items they will receive will fall into this category and that the Reserve Banks or subsequent parties might later use such electronic items to create substitute checks. A recipient of an electronic item that is not subject to the Check 21 Act (*i.e.*, an electronic item created directly from an original check) would not receive the Check 21 Act warranties from the sending bank. However, that recipient would itself make the Check 21 Act warranties if it subsequently used the electronic item to create a substitute check that it transferred for value. The proposed new warranties in Regulation J thus are designed to allow the recipient of an electronic item to pass back liabilities incurred under the Check 21 Act but for which the recipient did not receive corresponding Check 21 Act protections. The proposed new electronic item warranties therefore closely track the substitute check warranties contained in the Check 21 Act.

The amendments described in the analysis of § 210.6(b) would explicitly acknowledge the Reserve Banks' responsibility for the new Check 21 Act indemnity to be implemented in § 229.53 of Regulation CC and would add a new indemnity that Reserve Banks would give for electronic items that are not subject § 229.53. The Board therefore proposes to add two new paragraphs to newly-redesignated § 210.5(a)(5) that would allow the Reserve Bank in certain circumstances to pass back to the sender losses the Reserve Bank incurs in connection with these indemnities. Specifically, new § 210.5(a)(5)(iv) would require a sender who sent a substitute check (or a paper or electronic representation of a substitute check) to indemnify the Reserve Bank for losses that the Reserve Bank incurred as a result of an indemnity that it made under §§ 210.6(b)(2) and 229.53. Similarly, new § 210.5(a)(5)(v) would require a sender who sent an electronic item to indemnify the Reserve Bank for losses that the Reserve Bank incurred because it made an indemnity for that electronic item under § 210.6(b)(3). The Board also proposes that newly-redesignated § 210.5(c)(3) (currently § 210.5(b)(3)) specify that the Reserve Banks' recovery rights under newly-redesignated § 210.5(c) extend to any indemnity that the Reserve Banks provide under § 210.6(b).

An undesignated phrase after existing paragraph (a)(2) currently specifies that the warranties listed in paragraph (a) do not limit warranties that a sender gives under other law. The Board proposes to move this text to a new paragraph (b) and to amend the text to cover both warranties and indemnities provided

under other law. The remaining paragraphs of § 210.5 would be redesignated, and where necessary cross-references would be amended, to reflect the inclusion of new paragraph (b).

Section 210.6 Status, Warranties, and Liability of Reserve Bank

The Board proposes to amend § 210.6 regarding the warranty and other liabilities of Reserve Banks for items that they handle.

The Board proposes to amend paragraph (a) to acknowledge explicitly the Reserve Banks' status and liability when handling substitute checks under the Check 21 Act and subpart D of Regulation CC. The Board also proposes to redesignate existing text from paragraph (b)(2) regarding the limitations on a Reserve Bank's liability as a new paragraph (c) and to redesignate existing paragraph (c) as paragraph (d). Redesignated paragraph (d) would be amended to include a one-year statute of limitations for claims relating to the new supplemental warranty in paragraph (b)(4) (which specifies warranties made when handling electronic items that are not subject to the Check 21 Act or Regulation CC) and to specify that paragraph (d) does not extend the time for bringing claims under subpart D of Regulation CC.

The Board proposes to amend paragraph (b) along the same lines as § 210.5(a) so that the protections that the Reserve Banks give when they handle an item for forward collection parallel the protections that the Reserve Banks receive from senders. Specifically, the Board proposes to add a new paragraph (b)(1)(iii), to provide that Reserve Banks handling an item for forward collection would make the same warranty regarding preservation of previously-applied endorsements that a sender would give under proposed § 210.5(a)(2)(iii). Similarly, paragraph (b)(2) would parallel § 210.5(a)(3) by explicitly acknowledging the Reserve Banks' responsibilities under subparts C and D of Regulation CC, including the warranties and indemnity that Reserve Banks would give when handling a substitute check or a paper or electronic representation of a substitute check. Paragraph (b)(3) would parallel the new warranties in § 210.5(a)(4) that flow with the transfer of an electronic item that is not subject to the Regulation CC warranties. Paragraph (b)(3) also would add a new indemnity that Reserve Banks would make if an electronic item they sent later were converted to a substitute check that was subject to an indemnity claim under § 229.53 of Regulation CC.

Section 210.12 Return of Cash Items and Handling of Returned Checks

The Board proposes to amend paragraph (b) to parallel the proposed amendments to § 210.4 by including the Administrative Reserve Bank of the bank to which a Reserve Bank returns a check in the chain of parties deemed to have handled a check. Proposed amendments to paragraphs (c) and (d) parallel the proposed amendments to §§ 210.5 and 210.6 by making the return warranties and indemnities given by paying and returning banks and Reserve Banks correspond to the forward-side warranties given by senders and Reserve Banks, respectively, and by including a returning or paying bank's responsibility for indemnifying a Reserve Bank for indemnities it pays for returned checks. The proposed amendments also would move existing language from § 210.12(c)(2) about preservation of other warranties and liabilities to a separate paragraph (d), paralleling the creation of new § 210.5(b) with respect to preservation of forward warranties and indemnities.

Regulatory Flexibility Act

In accordance with section 3 of the Regulatory Flexibility Act (12 U.S.C. 605) and for the reasons stated below, the Board certifies that the proposed amendments to Regulation J if promulgated would not have a significant economic impact on a substantial number of small entities.

Under section 3 of the Small Business Act, as implemented at 13 CFR part 121, subpart A, a bank is considered a ''small entity'' or ''small bank'' if it has $150 million or less in assets. Based on December 2003 call report data, the Board estimates that there are approximately 14,335 depository institutions with assets of $150 million or less. The proposed amendments simply would provide that each bank that sends an electronic item to a Reserve Bank for forward collection or return would make warranties and an indemnity for that item. The proposed new warranties and indemnity in Regulation J are similar to the warranties and indemnity that apply to substitute checks under the Check 21 Act. The proposed amendments would apply to all banks, regardless of size, that collect checks through a Federal Reserve Bank but the Board does not expect these amendments to impose economic costs on any such bank.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no new collections of information and proposes no substantive changes to existing collections of information pursuant to the Paperwork Reduction Act.

12 CFR Chapter II

List of Subjects in 12 CFR Part 210

Banks, banking.

Authority and Issuance

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 210 to read as follows:

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS AND FUNDS TRANSFERS THROUGH FEDWIRE (REGULATION J)

1. The authority citation for part 210 is revised to read as follows:

Authority: 12 U.S.C. 248(i), (j), and (o), 342, 360, 464, 4001–4010, and 5001–5018.

§ 210.1 [Amended]

2. In § 210.1, add the phrase ''the Check Clearing for the 21st Century Act (12 U.S.C. 5001–5018);'' between the phrases ''the Expedited Funds Availability Act (12 U.S.C. 4001 *et seq.*);'' and ''and other laws'' in the first sentence.

§ 210.2 [Amended]

3. In § 210.2(h), in the second sentence remove the phrase ''subpart C'' and add the phrase ''subparts C and D'' in its place.

4. In § 210.2(i):

A. Redesignate paragraphs (i)(1), (i)(2), and (i)(3), as paragraphs (i)(1)(i), (i)(1)(ii), and (i)(1)(iii), respectively, and designate the text after the phrase ''*Item* means'' as paragraph (i)(1);

B. Remove the period at the end of newly-redesignated paragraph (i)(1)(iii) and add a semicolon followed by the word ''and'' in its place; and

C. After newly-redesignated paragraph (i)(1)(iii), add a new paragraph (i)(2) to read as follows:

* * * * *

(i) *Item* means—

* * * * *

(2) An electronic image of an item described in paragraph (i)(1) of this section, together with information describing that item, that a Reserve Bank handles pursuant to an operating

circular. This type of item is referred to in this subpart as an *electronic item*.

* * * * *

5. In § 210.2(i), after paragraph (2), designate the undesignated paragraph with the word ''Note'' followed by a colon.

6. In § 210.2(l), revise paragraph (3) to read as follows:

* * * * *

(l) *Paying bank* means—

* * * * *

(3) The bank whose routing number appears on a check in the MICR line or in fractional form (or in the MICR-line information that accompanies an electronic item) and to which the check is sent for payment or collection.

* * * * *

7. Revise § 210.2(n) to read as follows:

* * * * *

(n) *Sender* means any of the following entities that sends an item to a Reserve Bank for forward collection—

(1) A *depository institution*, as defined in section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b));

(2) A *clearing institution*, defined as—

(i) An institution that is not a depository institution but that maintains with a Reserve Bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342); or

(ii) A corporation that maintains an account with a Reserve Bank in conformity with § 211.4 of this chapter (Regulation K);

(3) Another Reserve Bank;

(4) An *international organization* for which a Reserve Bank is empowered to act as depositary or fiscal agent and maintains an account;

(5) A *foreign correspondent*, defined as any of the following entities for which a Reserve Bank maintains an account: A foreign bank or banker, a foreign state as defined in section 25(B) of the Federal Reserve Act (12 U.S.C. 632), or a foreign correspondent or agency referred to in section 14(e) of that act (12 U.S.C. 358); or

(6) A branch or agency of a foreign bank maintaining reserves under section 7 of the International Banking Act of 1978 (12 U.S.C. 347d, 3105).

* * * * *

8. Remove the undesignated paragraph after § 210.2(o).

9. In § 210.2, add a new paragraphs (s) to read as follows:

* * * * *

(s) Unless the context otherwise requires—

(1) The terms not defined herein have the meanings set forth in § 229.2 of this chapter applicable to part 229, subpart C or D of this chapter, as appropriate; and

(2) The terms not defined herein or in § 229.2 of this chapter have the meanings set forth in the Uniform Commercial Code.

§ 210.3 [Amended]

10. In § 210.3(b) remove the phrase ''subpart C'' and add the phrase ''subparts C and D'' in its place; and

§ 210.4 [Amended]

11. In § 210.4(b)(1), remove the word ''and'' at the end of paragraph (iii), remove the period and add a semicolon followed by the word ''and'' at the end of paragraph (iv), and add a new paragraph (v) to read as follows:

(b) *Handling of items*.

(1) * * *

(v) The Administrative Reserve Bank of the bank to which a Reserve Bank sends or presents the item.

* * * * *

§ 210.5 [Amended]

12. In § 210.5(a):

A. Remove the word ''and'' at the end of paragraph (a)(2)(i);

B. Redesignate paragraph (3) as paragraph (5);

C. Revise paragraph (a)(2)(ii) and add new paragraphs (a)(2)(iii) through (a)(4) to read as follows:

(a) *Sender's agreement.* * * *

(2) * * *

(ii) The item has not been altered; and

(iii) The item bears all indorsements applied by parties that previously handled the item for forward collection or return;

(3) Subject to the terms of part 229 of this chapter—

(i) Makes the applicable warranties set forth in § 229.34(c) of this chapter; and

(ii) If the item is a substitute check or a paper or electronic representation of a substitute check, makes the warranties and indemnity set forth in §§ 229.52 and 229.53 of this chapter;

(4) If the item is an electronic item that is not a representation of a substitute check, warrants to each Reserve Bank handling the item that—

(i) The item accurately represents all of the information on the front and back of the original check as of the time that the original check was truncated; replicates the MICR line of the original check, except for any changes required or permitted by part 229, subpart D of this chapter for substitute checks; and meets the technical requirements for sending electronic items to a Reserve Bank as set forth in the operating circulars; and

(ii) No party will receive a transfer, presentment, or return of, or otherwise be charged for, the electronic item, the original item, or a paper or electronic representation of the electronic item such that the party will be asked to make payment based on an item it already has paid; and

* * * * *

13. In newly-redesignated § 210.5(a)(5):

A. In the first sentence remove the word ''of'' between the words ''loss'' and ''expense'' and add the word ''or'' in its place; and

B. Remove the word ''or'' between paragraphs (ii) and (iii);

C. Remove the period at the end of paragraph (iii) and add a semicolon in its place; and

D. Add two new paragraphs (5)(iv) and 5(v) to read as follows:

* * * * *

(iv) Any indemnity made by the Reserve Bank under § 229.53 of this chapter, as described in § 210.6(b)(2)(ii) of this subpart, if the sender sent a substitute check or a paper or electronic representation of a substitute check to the Reserve Bank; and

(v) Any indemnity made the Reserve Bank under § 210.6(b)(3)(ii) of this subpart, if the sender sent an electronic item that was not a representation of a substitute check to the Reserve Bank.

* * * * *

14. In § 210.5, redesignate paragraphs (b), (c), and (d) as paragraphs (c), (d), and (e), respectively, and add a new paragraph (b) to read as follows:

* * * * *

(b) *Preservation of other warranties and indemnities.* Nothing in paragraph (a) of this section limits any warranty or indemnity by a sender (or a party that handled an item prior to the sender) arising under state law or regulation or other federal law or regulation.

* * * * *

15. In paragraph (3) of newly-redesignated § 210.5(c), add the phrase ''or indemnity'' between the words ''warranty'' and ''made.''

16. In newly-redesignated § 210.5(d):

A. In paragraph (1) remove the phrase ''paragraph (b)'' and add the phrase ''paragraph (c)'' in its place;

B. Designate the last sentence of paragraph (d)(2) as newly designated paragraph (d)(3);

C. In paragraph (d)(2) and newly-designated paragraph (d)(3), remove the phrase ''paragraph (c)'' wherever it appears and add the phrase ''paragraph (d)'' in its place; and

D. In newly-designated paragraph (d)(3) remove the phrase ''paragraph (a)(3)'' and add the phrase ''paragraph (a)(5)'' in its place.

§ 210.6 [Amended]

17. In § 210.6(a):

A. Redesignate paragraph (a)(2) as paragraph (a)(3);

B. Designate the third sentence of paragraph (a)(1) as paragraph (a)(2) and add the heading *Limitations on Reserve Bank liability.*; and

C. Redesignate paragraphs (a)(1)(i), (a)(1)(ii), and (a)(i)(iii) as paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii), respectively;

D. In newly-designated paragraph (a)(2)(iii), remove the phrase ''subpart C'' and add the phrase ''subparts C and D'' in its place.

18. Revise § 210.6(b) to read as follows:

* * * * *

(b) *Warranties and liability.* The following provisions apply when a Reserve Bank presents or sends an item—

(1) The Reserve Bank warrants to a subsequent collecting bank and to the paying bank and any other payor that—

(i) The Reserve Bank is a person entitled to enforce the item (or is authorized to obtain payment of the item on behalf of a person who is either entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item);

(ii) The item has not been altered; and

(iii) The item bears all indorsements applied by parties that previously handled the item for forward collection or return;

(2) Subject to the terms of part 229 of this chapter, the Reserve Bank—

(i) Makes the applicable warranties set forth in § 229.34(c) of this chapter; and

(ii) If the item is a substitute check or a paper or electronic representation of a substitute check, makes the warranties and indemnity set forth in §§ 229.52 and 229.53 of this chapter; and

(3) If the item is an electronic item that is not a representation of a substitute check, the Reserve Bank—

(i) Warrants to the bank to which it transfers or presents the item that—

(A) The item accurately represents all of the information on the front and back of the original check as of the time that the original check was truncated; replicates the MICR line of the original check, except for any changes required or permitted by part 229, subpart D of this chapter for substitute checks; and meets the technical requirements for sending electronic items to a Reserve Bank as set forth in the operating circulars; and

(B) No party will receive a transfer, presentment, or return of, or otherwise be charged for, the electronic item, the original item, or a paper or electronic representation of the electronic item such that the party will be asked to make payment based on an item it already has paid; and

(ii) Agrees to indemnify the bank to which it transfers or presents the item for the amount of any losses that the bank incurs under § 229.53 of this chapter for an indemnity that the bank was required to make under § 229.53 in connection with a substitute check later created from the electronic item.

* * * * *

19. In § 210.6, redesignate paragraph (c) as paragraph (d) and add a new paragraph (c) to read as follows:

* * * * *

(c) *Limitation on Reserve Bank liability.* A Reserve Bank shall not have or assume any liability to the paying bank or other payor, except as provided in paragraph (b) of this section or for the Reserve Bank's own lack of good faith or failure to exercise ordinary care.

* * * * *

20. Revise newly-redesignated § 210.6(d) to read as follows:

* * * * *

(d) *Time for commencing action against Reserve Bank.* (1) A claim against a Reserve Bank for lack of good faith or failure to exercise ordinary care shall be barred unless the action on the claim is commenced within two years after the claim accrues. Such a claim accrues on the date when a Reserve Bank's alleged failure to exercise ordinary care or to act in good faith first results in damages to the claimant.

(2) A claim that arises under paragraph (b)(3) of this section shall be barred unless the action on the claim is commenced within one year after the claim accrues. Such a claim accrues as of the date on which the claimant first learns, or by which the claimant reasonably should have learned, of the facts and circumstances giving rise to the claim.

(3) This paragraph (d) does not lengthen the time limit for claims under section 229.38(g) (which include claims for breach of warranty under § 229.34 of this chapter) or part 229, subpart D of this chapter.

§ 210.12 [Amended]

21. In § 210.12(b)(1), remove the word ''and'' at the end of paragraph (iii), remove the period and add a semicolon followed by the word ''and'' at the end of paragraph (iv), and add a new paragraph (v) to read as follows:

* * * * *

(b) *Handling of returned checks.*

(1) * * *

(v) The Administrative Reserve Bank of the bank to which a Reserve Bank returns the returned check.

* * * * *

22. In § 210.12(c), redesignate paragraph (c)(3) as paragraph (c)(5), redesignate paragraph (c)(2) as paragraph (c)(3), revise newly-redesignated paragraph (c)(3), and add new paragraphs (c)(2) and (c)(4) to read as follows:

* * * * *

(c) *Paying bank's and returning bank's agreement.* * * *

(2) Warrants to each Reserve Bank handling a returned check that the returned check bears all indorsements applied by parties that previously handled the returned check for forward collection or return;

(3) Subject to the terms of part 229 of this chapter—

(i) Makes the applicable warranties set forth in § 229.34 of this chapter; and

(ii) If the returned check is a substitute check or a paper or electronic representation of a substitute check, makes the warranties and indemnity set forth in §§ 229.52 and 229.53 of this chapter; and

(4) If the returned check is an electronic item that is not a representation of a substitute check, warrants to each Reserve Bank handling the item that—

(i) The returned check accurately represents all of the information on the front and back of the original check as of the time that the original check was truncated; replicates the MICR line of the original check, except for any changes required or permitted by part 229, subpart D of this chapter for substitute checks; and meets the technical requirements for sending electronic items to a Reserve Bank as set forth in the operating circulars; and

(ii) No party will receive a transfer, presentment, or return of, or otherwise be charged for, the electronic item, the original item, or a paper or electronic representation of the electronic item such that the party will be asked to make payment based on an item it already has paid; and

* * * * *

23. In newly-redesignated § 210.12(c)(5), revise paragraph (iii) and add new paragraphs (5)(iv) and (5)(v) to read as follows:

* * * * *

(iii) Any warranty made by the Reserve Bank under paragraph (e) of this section;

(iv) Any indemnity made by the Reserve Bank under § 229.53 of this chapter, as described in § 210.12(e)(1)(ii) of this subpart, if the returned check

sent to the Reserve Bank was a substitute check or a paper or electronic representation of a substitute check; and

(v) Any indemnity made the Reserve Bank under § 210.12(e)(1)(iii) of this subpart, if the returned check sent to the Reserve Bank was an electronic item that was not a representation of a substitute check.

* * * * *

24. In § 210.12, redesignate paragraphs (d) through (i) as paragraphs (e) through (j), respectively, and add a new paragraph (d) to read as follows:

* * * * *

(d) *Preservation of other warranties and indemnities.* Nothing in paragraph (c) of this section limits any warranty or indemnity by a returning bank or paying bank (or a party that handled an item prior to that bank) arising under state law or regulation or other federal law or regulation.

* * * * *

25. Revise newly-redesignated § 210.12(e) to read as follows:

* * * * *

(e) *Warranties by Reserve Bank.* (1) The following provisions apply when a Reserve Bank handles a returned check under this subpart—

(i) The Reserve Bank warrants to the bank to which it sends the returned check that the returned check bears all indorsements applied by parties that previously handled the returned check for forward collection or return;

(ii) Subject to the terms of part 229 of this chapter, the Reserve Bank—

(A) Makes the returning-bank warranties in § 229.34 of this chapter; and

(B) If the returned check is a substitute check or a paper or electronic representation of a substitute check, makes the warranties and indemnity set forth in §§ 229.52 and 229.53 of this chapter; and

(iii) If the returned check is an electronic item that is not a representation of a substitute check, the Reserve Bank—

(A) Warrants to the bank to which it sends the returned check that—

(*1*) The item accurately represents all of the information on the front and back of the original check as of the time that the original check was truncated; replicates the MICR line of the original check, except for any changes required or permitted by part 229, subpart D of this chapter for substitute checks; and meets the technical requirements for sending electronic items to a Reserve Bank as set forth in the operating circulars; and

(*2*) No party will receive a transfer, presentment, or return of, or otherwise be charged for, the electronic item, the original item, or a paper or electronic representation of the electronic item such that the party will be asked to make payment based on an item it already has paid; and

(B) Agrees to indemnify the bank to which it sends the returned check for the amount of any losses that the bank incurs under § 229.53 of this chapter for an indemnity that the bank was required to make under § 229.53 in connection with a substitute check later created from the returned check.

(2) A Reserve Bank shall not have or assume any other liability to any person with respect to a returned check except—

(i) As provided in paragraph (e)(1) of this section;

(ii) For the Reserve Bank's own lack of good faith or failure to exercise ordinary care as provided in subpart C of part 229 of this chapter; or

(iii) As provided in part 229, subpart D of this chapter.

* * * * *

26. In newly-redesignated § 210.12(f)(3), remove the phrase ''Any warranty made by the Reserve Bank under 12 CFR 229.34,'' and add the phrase ''Any warranty or indemnity made by the Reserve Bank under paragraph (e) of this section,'' in its place.

27. In newly-redesignated § 210.12(g):

A. In paragraph (g)(1) introductory text, remove the phrase ''paragraph (d)'' and add the phrase ''paragraph (e)'' in its place; and

B. Designate the last sentence of paragraph (g)(2) as paragraph (g)(3);

C. In paragraph (g)(2) and newly-designated paragraph (g)(3), remove the phrase ''paragraph (f)'' wherever it appears and add the phrase ''paragraph (g)'' in its place;

D. In newly-designated paragraph (g)(3), remove the phrase ''paragraph (c)(3)'' and add the phrase ''paragraph (c)(5)'' in its place.

§ 210.13 [Amended]

28. In § 210.13(b), remove the citation ''§ 210.9(a)(5)'' and add the citation ''§ 210.9(b)(5)'' in its place.

By order of the Board of Governors of the Federal Reserve System, June 4, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–13147 Filed 6–17–04; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–271–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 series airplanes. This proposal would require inspecting the pilot's and co-pilot's seat tracks for proper locking of the seats, and adjusting or replacing the seat tracks, if necessary. This action is necessary to prevent uncommanded movement of the pilot's or co-pilot's seat, which could result in interference with the operation of the airplane and consequent temporary loss of airplane control. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 19, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–271–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–271–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate,

1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–271–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–271–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 series airplanes. The DAC advises that there have been a number of cases reported where flight crews had difficulty fitting the lock pin into the track of their seats during seat adjustments due to damage in the seat track locking holes. This condition, if not corrected, could result in uncommanded movement of the pilot's or co-pilot's seat, which could result in interference with the operation of the airplane and consequent temporary loss of airplane control.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin (SB) 145–53–0027, Revision 03, dated February 5, 2004, which describes procedures for inspecting for proper locking of the seats to the pilot's and co-pilot's seat tracks; related investigative actions, if necessary; and corrective actions, if necessary. The related investigative actions include checking for proper fitting of the locking pins, performing a detailed inspection of the seat track alignment, and measuring the seat track holes for excessive wear. The corrective actions include the following: Adjusting the seat track alignment; reworking seat track holes; and replacing the seat track with a new, improved seat track, if necessary.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DAC recommended this service bulletin as mandatory and issued Brazilian airworthiness directive 2002–09–01, dated September 23, 2002, in order to assure the continued airworthiness of these airplanes in Brazil.

For certain airplanes, EMBRAER SB 145–53–0027 recommends prior or concurrent accomplishment of the Accomplishment Instructions of SICMA Aero Seat SB 147–25–020, Issue 2, dated December 22, 2003. The service bulletin describes procedures for replacing the locking pin and the locking spring with new parts, and adding a modification placard.

FAA's Conclusions

These airplane models are manufactured in Brazil 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 DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, 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.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as described below.

Difference Between This Proposed AD and the Brazilian Airworthiness Directive

We have determined that the requirements of Part I of the Brazilian airworthiness directive include repetitive inspections or inspections that conflict with Parts II and III of the Brazilian airworthiness directive. Therefore, this proposed AD would not require the actions of Part I of the Brazilian airworthiness directive.

The manufacturer has revised EMBRAER SB 145–53–0027 to recommend a new service bulletin by SICMA Aero Seat (147–25–020) for concurrent accomplishment, and to update the Effectivity section of the EMBRAER service bulletin. The DAC has not issued a revised, or corresponding, airworthiness directive, although accomplishment of the SICMA service bulletin may be considered mandatory for operators of these aircraft in Brazil. This proposed AD would require accomplishment of the SICMA Aero Seat service bulletin, and would specify the updated effectivity of the EMBRAER service bulletin. These issues have been coordinated with the Brazilian authority.

Differences Between Proposed Rule and Service Bulletin

Although the service bulletin specifies that operators may contact the manufacturer for disposition of certain repair conditions, this proposal would require operators to repair those conditions per a method approved by either the FAA or the DAC (or its delegated agent). In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness

agreements, we have determined that, for this proposed AD, a repair approved by either the FAA or the DAC would be acceptable for compliance with this proposed AD.

Cost Impact

The FAA estimates that 459 airplanes of U.S. registry would be affected by this proposed AD. The following table shows the estimated cost impact for airplanes affected by this AD. The average labor rate is $65 per work hour.

Action	Number of airplanes affected	Work hours	Parts cost	Total cost
Inspection (Part I of EMBRAER SB 145–53–0027, Revision 03, February 5, 2004).	459	4	(none)	$119,340, or $260 per airplane.
Inspection and Alignment (Part III of EMBRAER SB145–53–0027, Revision 03, February 5, 2004).	348	4	(none)	$90,480, or $260 per airplane.
Locking Pin and Spring Replacement (SICMA Aero Seat SB 147–25–020, Issue 2, December 22, 2003).	459	1	$684	$343,791, or $749 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this 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) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 the following new airworthiness directive:

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket 2003–NM–271–AD.

Applicability: Model EMB–135, and –145 series airplanes, as listed in EMBRAER Service Bulletin 145–53–0027, Revision 03, dated February 5, 2004; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded movement of the pilot's or copilot's seat, which could result in interference with the operation of the airplane and consequent temporary loss of airplane control, accomplish the following:

Inspection and Other Actions Per Parts I and II of the Service Bulletin

(a) For airplanes with serial numbers (S/N) 145004 through 145362 inclusive, and 145364 through 145384 inclusive: Within 500 flight hours after the effective date of this AD, perform general visual and detailed inspections of the seat tracks of the pilot's and copilot's seats for proper locking of the seats, and do all applicable related investigative actions and corrective actions by accomplishing all the actions of Part I and Part II of the Accomplishment Instructions of EMBRAER SB 145–53–0027, Revision 03, February 5, 2004; except as provided by paragraph (d) of this AD. Repeat the inspections/related investigative actions of this paragraph thereafter at intervals not to exceed 500 flight hours until the seat tracks are replaced with new seat tracks having P/N 145–33669–601 per Part II of the Accomplishment Instructions of the service bulletin.

(1) Before further flight, accomplish any related investigative actions.

(2) Within 50 flight hours after the inspection, accomplish any applicable corrective action per Part II of the Accomplishment Instructions of the service bulletin.

Note 1: For the purposes of this AD, a general visual inspection is defined as: ''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 enhance visual access to all exposed 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.''

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Concurrent Service Bulletin

(b) For airplanes with the same serial numbers listed in paragraph (a) of this AD: Prior to or concurrent with the actions specified in paragraph (a) of this AD, replace the locking pin and spring with new parts in accordance with the Accomplishment Instructions of SICMA Aero Seat Service Bulletin 147–25–020, Issue 2, dated December 22, 2003.

Inspection and Other Actions Per Part III of the Service Bulletin

(c) For airplanes with S/N 145291 through 145559 inclusive, except for S/N 145363, 145411, 145412, 145431, 145447, 145451, 145462, 145464, 145484, 145490, 145495, 145505, 145509, 145516, 145524, 145528, 145540, 145549, 145551, and 145555: Within

500 flight hours after the effective date of this AD, perform general visual and detailed inspections of the tracks of the pilot's and copilot's seats for proper locking of seats, and do all applicable related investigative and corrective actions by accomplishing all of the actions in Part III of the Accomplishment Instructions of EMBRAER Service Bulletin 145–53–0027, Revision 03, dated February 5, 2004, except as provided by paragraph (d) of this AD. Do the actions per the service bulletin. Accomplish any related investigative action or corrective action before further flight.

Certain Repairs

(d) Where the EMBRAER service bulletin recommends contacting EMBRAER for appropriate action: Before further flight, repair per a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Departamento de Aviacao Civil (or its delegated agent).

Actions Accomplished Per Previous Issue of Service Bulletin

(e) Accomplishment of the actions specified in EMBRAER Service Bulletin 145–53–0027, Revision 02, dated January 24, 2003, before the effective date of this AD, is considered acceptable for compliance with the requirements of paragraphs (a) and (c) of this AD.

Alternative Methods of Compliance

(f) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 2002–09–01, dated September 23, 2002.

Issued in Renton, Washington, on June 10, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–13869 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–298–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Model A320 series airplanes. This proposal would require a detailed inspection of the tail cone triangle to determine its position, and corrective actions if necessary. This action is necessary to prevent excessive vibrations of the elevators, which could result in reduced structural integrity and reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 19, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–298–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–298–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–298–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–298–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A320 series airplanes. The DGAC advises that the tail cone triangles were not installed properly on certain airplanes during production, resulting in possible mis-rigged elevator servo-controls. Mis-rigged elevator servo controls may result in low hinge moments and possible vibrations, if combined with elevator freeplay. This condition, if not corrected, could result in excessive vibrations of the elevator, which could result in reduced structural integrity and reduced controllability of the airplane.

Other Related Rulemaking

On August 10, 2001, the FAA issued AD 2001–16–09, amendment 39–12377 (66 FR 43471, August 20, 2001), applicable to all Airbus Model A319, A320, and A321 series airplanes. That AD currently requires periodic inspection of the elevators for excessive

freeplay, repair of worn parts if excessive freeplay is detected, and modification of the elevator neutral setting. That action was prompted by reports of severe vibration in the aft cabin of Model A320 series airplanes, and studies that indicate that the primary cause is excessive freeplay in the elevator attachments. The requirements of that AD are intended to prevent excessive vibration of the elevators, which could result in reduced structural integrity and reduced controllability of the airplane.

Since issuance of AD 2001–16–09, several operators of Airbus Model A320 series airplanes have reported airframe vibrations originating from the elevator surfaces due to mis-rigged elevator servo controls.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–27–1132, Revision 01, dated June 19, 2002, which describes procedures for performing a detailed visual inspection of the position of each tail cone triangle based on certain measurements; and corrective actions if necessary. The corrective actions include re-rigging the elevator servo controls to adjust the elevator neutral setting, and changing the position of the tail cone triangle. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2002–514(B) R1, dated November 13, 2002, to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness 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.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Difference Between the Proposed Rule and the Service Bulletin

Operators should note that, although the service bulletin describes procedures for submitting certain information to the manufacturer, this proposed AD would not require those actions. The FAA does not require this information.

Differences Between the Proposed Rule and the French Airworthiness Directive

Although paragraphs 3.1 and 3.2 of the French airworthiness directive state that operators must perform periodic inspection of the elevators for excessive freeplay; repair worn parts if excessive freeplay is detected; and modify the elevator neutral setting; this proposed AD does not include those actions. Those actions are already included in AD 2001–16–09, amendment 39–12377 (66 FR 43471, August 20, 2001). This proposed AD includes only the actions described in paragraph 3.3 of the French airworthiness directive.

Although the French airworthiness directive is applicable to all Airbus Model A319, A320, and A321 series airplanes, this proposed AD applies only to certain Airbus Model A320 series airplanes. The action in paragraph 3.3 of the French airworthiness directive applies only to that model.

Cost Impact

The FAA estimates that 64 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $4,160, or $65 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this 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) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 the following new airworthiness directive:

Airbus: Docket 2002–NM–298–AD.

Applicability: Model A320 series airplanes, as listed in Airbus Service Bulletin A320–27–1132, Revision 01, dated June 19, 2002; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent excessive vibrations of the elevators, which could result in reduced structural integrity and reduced controllability of the airplane, accomplish the following:

Detailed Inspection and Corrective Action

(a) Within 800 flight hours after the effective date of this AD, perform a detailed inspection to determine the position of each

tail cone triangle in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1132, Revision 01, dated June 19, 2002. If the position of the tail cone triangle is not within the limits specified in the service bulletin: Within 3,500 hours after the inspection, re-rig the elevator servo controls to adjust the elevator neutral setting, and change the position of the tail cone triangle, in accordance with the service bulletin.

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

Actions Accomplished Per Previous Release of the Service Bulletin

(b) Actions accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A320–27–1132, dated March 14, 2001, are considered acceptable for compliance with the corresponding actions required by this AD.

No Reporting Requirement

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

Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Note 2: The subject of this AD is addressed in French airworthiness directive 2002–514(B) R1, dated November 13, 2002.

Issued in Renton, Washington, on June 9, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–13868 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–257–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes. This proposal would require replacement of the lightweight tailpipes of the auxiliary power units (APU). This action is necessary to prevent stress cracking of the tailpipe inner liner from possibly causing the tailpipe to become separated from the APU during operation, which could pose a hazard to persons on the ground. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 19, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–257–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–257–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Gary Lium, Aerospace Engineer; International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1112; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–257–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–257–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A319, A320, and A321 series airplanes. The DGAC advises that stress cracking stemming from design issues has been discovered in the inner liners of the lightweight tailpipes of certain auxiliary power units (APU). This condition, if not corrected, could result in the tailpipe becoming separated from the APU during operation, which could pose a hazard to persons on the ground.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–49–1057, dated June 2, 1999, which describes procedures for replacing the lightweight tailpipe of the APU with a new or modified tailpipe.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2002–456(B), dated September 4, 2002, to ensure the continued airworthiness of these airplanes in France.

Operators should note that Service Bulletin A320–49–1057 refers to APIC Service Bulletin 4500002–49–72, Revision 1, dated November 20, 1998, as an additional source of service information for replacing the tailpipe.

FAA's Conclusions

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. 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.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the Airbus service bulletin described previously, except as discussed below.

Difference Between the French Airworthiness Directive and This Proposed AD

The applicability of French airworthiness directive 2002–456(B), dated September 4, 2002, excludes airplanes on which Airbus Service Bulletin A320–49–1057, dated June 02, 1999, was done in service. However, we have not excluded those airplanes in the applicability of this proposed AD; rather, this proposed AD includes a requirement to accomplish the actions specified in that service bulletin. Such a requirement would ensure that the actions specified in the service bulletin and required by this proposed AD are accomplished on all affected airplanes. Operators must continue to operate the airplane in the configuration required by this proposed AD unless an alternative method of compliance is approved.

Cost Impact

The FAA estimates that 576 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $65 per work hour. Required parts would cost approximately $11,300 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $6,583,680, or $11,430 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this 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) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 the following new airworthiness directive:

Airbus: Docket 2002–NM–257–AD.

Applicability: Model A319, A320, and A321 series airplanes; certificated in any category; fitted with Auxiliary Power International Corporation (APIC) auxiliary power unit (APU) APIC APS3200 having part number (P/N) 4500001 and a serial number between 1065 and 1451 inclusive, or having P/N 4500001 that has been modified per APIC Service Bulletin 4500001–49–13; excluding those airplanes equipped with an APU on which Airbus Modification 28155 has been embodied in production.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the inner liner of the lightweight tailpipe of the APU, which could result in the tailpipe possibly becoming separated from the APU during operation, which could pose a hazard to persons on the ground, accomplish the following:

Replacement

(a) Within 9 months after the effective date of this AD, replace the existing lightweight tailpipe of the APU with a new or modified tailpipe, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–49–1057, dated June 2, 1999.

Note 1: Airbus Service Bulletin A320–49–1057, dated June 2, 1999, refers to APIC Service Bulletin 4500002–49–72, Revision 1, dated November 20, 1998, as an additional source of service information.

Part Installation

(b) As of the effective date of this AD, no person may install on any airplane an APIC APS3200 APU having P/N 4500001 unless the APU has been modified in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–49–1057, dated June 2, 1999.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Note 2: The subject of this AD is addressed in French airworthiness directive 2002–456(B), dated September 4, 2002.

Issued in Renton, Washington, on June 9, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–13867 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S–030]

RIN 1218–AC01

Safety Standards for Cranes and Derricks

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of Negotiated Rulemaking Committee meeting.

SUMMARY: The Occupational Safety and Health Administration (OSHA) announces the July meeting of the Crane and Derrick Negotiated Rulemaking Advisory Committee (C–DAC). The Committee will review summary notes of the prior meeting and review draft regulatory text. The meeting will be open to the public.

DATES: The meeting will be on July 6, 7, 8, and 9, 2004. The meeting will begin at 1 p.m. on July 6th and 8:30 a.m. on July 7, 8, and 9. The meeting is expected to last three and a half days. Individuals with disabilities wishing to attend should contact Luz Dela Cruz by telephone at 202–693–2020 or by fax at 202–693–1689 to obtain appropriate accommodations no later than Friday, June 25, 2004.

ADDRESSES: The July meeting will be held at the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 and will be in conference room N–3437 A, B, C.

Written comments to the Committee may be submitted in any of three ways: by mail, by fax, or by email. Please include ''Docket No. S–030'' on all submissions.

By mail: submit three (3) copies to: OSHA Docket Office, Docket No. S–030, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2625, Washington, DC 20210, telephone (202) 693–2350. Note that receipt of comments submitted by mail may be delayed by several weeks.

By fax: written comments that are 10 pages or fewer may be transmitted to the OSHA Docket Office at fax number (202) 693–1648.

Electronically: comments may be submitted through OSHA's Webpage at *http://ecomments.osha.gov.* Please note that you may not attach materials such as studies or journal articles to your electronic comments. If you wish to include such materials, you must submit three copies to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, clearly identify your electronic comments by name, date, subject, and Docket Number, so that we can attach the materials to your electronic comments.

FOR FURTHER INFORMATION CONTACT: Audrey Rollor, Office of Construction Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3468, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: (202) 693–2020.

SUPPLEMENTARY INFORMATION:

I. Background

On July 16, 2002, OSHA published a notice of intent to establish a negotiated rulemaking committee to improve crane and derrick safety in construction, requesting comments and nominations for membership (Volume 67 of the **Federal Register**, page 46612). In subsequent notices the Department of Labor announced the establishment of the Committee (Volume 68 of the **Federal Register**, page 35172, June 12, 2003), requested comments on a list of proposed members (68 FR 9036, February 27, 2003), published a final membership list (68 FR 39877, July 3, 2003), and announced the first meeting, (68 FR 39880, July 3, 2003), which was held July 30–August 1, 2003. The Agency published notices announcing the subsequent meetings.

II. Agenda

At the July meeting, the Committee will primarily review draft materials based on CDAC discussions at prior meetings. OSHA anticipates that CDAC will be reviewing draft regulatory text of items mentioned below on the ''Anticipated Key Issues for Negotiation'' list.

III. Anticipated Key Issues for Negotiation

OSHA anticipates that CDAC will continue discussing key issues from the following list in upcoming meetings:

1. Scope
2. General Requirements
3. Assembly/Disassembly
4. Operation—Procedures
5. Authority to Stop Operation
6. Signals
7. Requirements for equipment with a manufacturer-rated hoisting/lifting capacity 2,000 pounds or less
8. Operational Aids/Safety Devices
9. Inspections
10. Equipment Modifications
11. Personnel Training
12. Wire Rope
13. Operator Qualifications
14. Keeping Clear of the Load
15. Fall Protection (ladder access and catwalks, fall arrest)
16. Hoisting Personnel
17. Qualifications of Maintenance & Repair Workers
18. Machine Guarding
19. Responsibility for environmental considerations, site conditions, ground conditions
20. Work Area Control (access/egress)
21. Power line safety
22. Derricks
23. Verification criteria for structural adequacy of crane components and stability testing requirements
24. Floating Cranes & Cranes on Barges
25. Free Fall/Power Down
26. Multiple Crane Lifts
27. Tower Cranes
28. Operator Cab Criteria
29. Overhead & Gantry Cranes
30. Definitions

IV. Public Participation

All interested parties are invited to attend the July public meeting at the time and place indicated above. Seating will be available to the public on a first-come, first-served basis. Individuals with disabilities wishing to attend should contact Luz Dela Cruz by telephone at 202–693–2020 or by fax at 202–693–1689 to obtain appropriate accommodations no later than Friday, June 25, 2004. The meeting is expected to last three and a half days.

In addition, members of the general public may request an opportunity to make oral presentations to the Committee. The Facilitator has the authority to decide to what extent oral presentations by members of the public may be permitted at the meeting. Oral presentations will be limited to statements of fact and views, and shall not include any questioning of the committee members or other participants.

Minutes of the meetings and materials prepared for the Committee will be available for public inspection at the OSHA Docket Office, Room N–2625, 200 Constitution Ave., NW., Washington, DC 20210; Telephone (202) 693–2350. Minutes will also be available on the OSHA Docket webpage: *http://dockets.osha.gov/.*

The Facilitator, Susan Podziba, can be reached at Susan Podziba and Associates, 21 Orchard Road, Brookline, MA 02445; telephone (617) 738 5320, fax (617) 738–6911.

Signed at Washington, DC, this 14th day of June, 2004.

John L. Henshaw,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 04–13755 Filed 6–17–04; 8:45 am]

BILLING CODE 4310–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–04–030]

RIN 1625–AA09

Drawbridge Operation Regulations; Mystic River, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the S99 (Alford Street) Bridge, at mile 1.4, across the Mystic River, Massachusetts. Under this proposed rule the bridge may remain closed to vessel traffic from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004. Vessels that can pass under the draw without a bridge opening may do so at all times. This action is necessary in the interest of public safety to facilitate vehicular traffic during the Democratic National Convention.

DATES: Comments and related material must reach the Coast Guard on or before July 8, 2004.

ADDRESSES: You may mail comments and related material to Commander (obr), First Coast Guard District Bridge Branch, 408 Atlantic Avenue, Boston, Massachusetts, 02110, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–04–030), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background

The S99 (Alford Street) Bridge, mile 1.4, across the Mystic River has a vertical clearance in the closed position of 7 feet at mean high water and 16 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR § 117.609.

The bridge owner, the City of Boston, requested that the S99 (Alford Street) Bridge remain closed to vessel traffic during the Democratic National Convention (DNC) from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004. Vessels that can pass under the draw without a bridge opening may do so at all times.

During the DNC several primary vehicular traffic routes, including I–93 to Boston, and the North Station commuter rail station will be closed.

It is anticipated that much of the detoured vehicular traffic will be using Route 99 to drive into and through Boston during the week the DNC is underway. Rail commuters that normally transit to North Station will be bussed into Boston utilizing Route 99 as a detour route as a result of the North Station commuter rail station closure.

The bridge owner; therefore, has requested that the S99 (Alford Street) Bridge remain closed to facilitate the expected heavy vehicular traffic in the interest of public safety.

A shortened comment period of 20 days is necessary to allow this rule to become effective in time for the start of the DNC on July 26, 2004.

Discussion of Proposal

This proposed change would amend 33 CFR § 117.609 by suspending paragraph (a) and adding a new temporary paragraph (c) from July 26, 2004 through July 30, 2004.

Under this proposed rule the S99 (Alford Street) Bridge may remain closed to vessel traffic from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004.

This action is necessary to facilitate anticipated heavy vehicular traffic during the Democratic National Convention in the interest of public safety.

Regulatory Evaluation

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

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

This conclusion is based on the fact that most vessel traffic on the Mystic River can pass under the bridge without a bridge opening at various stages of the tide.

Small Entities

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

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

This conclusion is based on the fact that most vessel traffic on the Mystic River can pass under the bridge without a bridge opening at various stages of the tide.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environment documentation because it has been determined that the promulgation of operating regulations or procedures for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. In § 117.609, from July 26, 2004 through July 30, 2004, paragraph (a) is temporarily suspended and a new temporary paragraph (c) is added to read as follows:

§ 117.609 Mystic River.

* * * * *

(c) The draw of the S99 Bridge need not open for the passage of vessel traffic from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004.

Dated: June 3, 2004.

Vivien S. Crea,

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

[FR Doc. 04–13819 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD11–03–005]

RIN 1625–AA09

Drawbridge Operation Regulations; Connection Slough, Stockton, CA

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard has revised its proposal to amend the regulations governing the operation of the

Connection Slough Drawbridge. The revised proposal reopens the comment period. It emphasizes the continued availability of the drawspan to open for vessel passage, at any time, with advance notice dates and times adjusted, to coincide with documented seasonal reductions in navigation on the waterway. The proposal would ensure a bridge operator is present during identified increased navigation periods, and reduce the hours a drawbridge operator is required to be at the drawbridge and not gainfully employed.

DATES: Comments and related materials must be received by September 16, 2004.

ADDRESSES: Comments and related materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD11–03–005] and are available for inspection or copying at the Eleventh Coast Guard District, Bridge Office, Building 50–3, Coast Guard Island, Alameda, CA 94501–5100, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (510) 437–3516. The Coast Guard Bridge Office maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD11–03–005], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

The drawbridge owner, Central California Redevelopment Company (CCRC Farms), requested changing the dates and times for advance notice for drawspan operation at their Reclamation District drawbridge, crossing Connection Slough between Mandeville and Bacon Islands, near Stockton, CA. The reason for the proposal is to reduce operating costs of the drawbridge while continuing to meet the reasonable needs of vessel traffic.

CCRC Farms provided drawbridge operating logs for a two-year period that documented a significant decrease in calls for operation of the drawspan between September 15 and May 15, annually, or between the hours of 5 p.m. and 9 a.m. This supports their request to adjust the existing advance notice period to more closely match the reduced navigational activity.

On September 22, 2003, we published a Notice of Proposed Rule Making (NPRM), entitled ''Drawbridge Operation Regulations; Connection Slough, Stockton, CA'' in the **Federal Register** (Volume 68, Number 183). The information was also published in the Coast Guard Local Notice to Mariners (LNM), 40/3, dated October 7, 2003.

The wording in the NPRM and LNM did not clearly emphasize that the drawspan will continue to be available for passage of vessels on a 24 hour, 7 day per week basis. It became apparent by the comments received that many waterway users are unfamiliar with the existing regulation, and unaware of their ability to have the drawspan open at any time by providing advance notice.

The NPRM requested comments no later than October 22, 2003, and did not provide sufficient comment period for the proposed rule. We continued to accept comments on the NPRM through February 2004.

Between September 22, 2003 and February 2004, we received approximately 220 letters and observed at least 2 articles in a local publication that objected to a reduced availability of the drawbridge to open for vessels. Apparently, the waterway users had not read or not understood the intent of the information contained in the **Federal Register** NPRM or the Coast Guard LNM prior to commenting, but reacted to comments promulgated locally by unofficial sources. For this reason, we will provide copies of this SNPRM, in writing, to the local media and to those who commented previously, to ensure any replies to our office are based upon the official proposal.

The existing regulation, 33 CFR 117.150, requires the drawbridge, from May 1 through October 31, to open on signal between the hours of 6 a.m. and 10 p.m., and from November 1 through April 30, to open on signal between the hours of 9 a.m. and 5 p.m. All other times the drawbridge must open on signal if notice is given at least 4 hours in advance. The drawbridge must open upon 1-hour notice for emergency vessel operation.

It is important to note that the existing regulation presently allows the drawbridge owner to operate the drawbridge with advance notice, during certain dates and times. It does not allow the drawbridge to remain closed or to obstruct navigation, when the proper signals to open have been given. Many comments, received in response to the NPRM, indicated a lack of understanding of the existing advance notice operation. The Coast Guard will ensure signs are installed on the upstream and downstream sides of the drawbridge, in compliance with 33 CFR 117.55, to post the advance notice schedules, with telephone numbers and point of contact to be notified for drawbridge operation.

Discussion of Proposed Rule

The proposed changes are as follows: From May 15 through September 15 the drawbridge would open on signal between the hours of 9 a.m. and 5 p.m., and it would open upon 12 hours notice between the hours of 5 p.m. and 9 a.m. From September 16 through May 14 the bridge would open upon 12 hours notice between the hours of 9 a.m. and 5 p.m., and it would open upon 24 hours notice between the hours of 5 p.m. and 9 a.m. The proposed changes would lower the costs of operating the bridge for the bridge owner without significantly impacting navigation.

As proposed, this change would not reduce the availability of the drawspan to open for vessels. It would require mariners to contact the drawbridge earlier, when planning a transit through the drawbridge during the advance notice periods.

The proposed change would allow the drawbridge to be operated on an advance notice schedule, similar to other nearby drawbridges on adjacent channels in the Delta. It would allow CCRC Farms to utilize the drawbridge operator more effectively during documented navigational inactivity at the drawbridge, and still have the operator available at the drawbridge to provide an opening when a vessel arrives.

Should the proposed change be implemented and fail to meet the reasonable needs of vessel traffic, nothing in this proposal or the Final Rule would preclude review and adjustment of the regulation to ensure navigational needs are satisfied. In support of documenting the effectiveness of the proposed change, and potential future changes, the Coast Guard will require CCRC Farms continued submission of drawbridge operating logs and land traffic counts at this drawbridge.

Mariners are encouraged to notify the Coast Guard Bridge Office promptly of any alleged violation of drawbridge operating regulations, to allow effective investigation and correction of bridge-related discrepancies.

Since all drawbridges are subject to emergency operation in compliance with 33 CFR 117.31, the individual emergency operation text would be removed from the regulation.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Vessel counts derived from drawbridge operating logs and land traffic counts across the drawbridge were submitted by CCRC Farms in support of their request, showing little demand for bridge openings during the proposed periods of advance notice. Nothing in the proposed regulation change would relieve the bridge owner from the requirement to open the drawbridge for vessels, at any time, when the proper signals have been given. Therefore, the impact of the proposed regulation change is expected to be minimal.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. No small entities were identified that would be affected by the proposed rule. Vessel traffic counts indicate the waterway users, presently requiring operation of the drawspan, would continue to receive the same level of service at the bridge. The proposal is to expand the existing advance notice periods for opening the drawbridge. The drawbridge will continue to be required to open for vessels at any time, when the proper signals have been given. Therefore, the impact of the proposed regulation change is expected to be minimal.

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

Collection of Information

This proposed rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these

standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation, since promulgation of drawbridge regulations has been determined not to have any effect on the environment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Revise § 117.150 to read as follows:

§ 117.150 Connection Slough.

The draw of the Reclamation District No. 2027 bridge between Mandeville and Bacon Islands, mile 2.5, near Stockton, from May 15 through September 15, shall open on signal between the hours of 9 a.m. and 5 p.m., and it shall open upon 12 hours notice between the hours of 5 p.m. and 9 a.m. From September 16 through May 14 the bridge shall open upon 12 hours notice between the hours of 9 a.m. and 5 p.m., and it shall open upon 24 hours notice between the hours of 5 p.m. and 9 a.m.

Dated: June 9, 2004.

Kevin J. Eldridge,

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

[FR Doc. 04–13821 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 04–186 and ET Docket No. 02–380; FCC 04–113]

Unlicensed Operation in the TV Broadcast Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Commission's rules to allow unlicensed radio transmitters to operate in the broadcast television spectrum at locations where that spectrum is not being used. We believe that the proposals set forth will provide for more efficient and effective use of the TV spectrum and will have significant benefits for the public by allowing the development of new and innovative types of unlicensed broadband devices and services for businesses and consumers.

DATES: Comments must be filed on or before September 1, 2004, and reply comments must be filed on or before October 1, 2004.

FOR FURTHER INFORMATION CONTACT: Hugh VanTuyl, (202) 418–7506, email: *Hugh.VanTuyl@fcc.gov* or Alan Stillwell, (202) 418–2925, email: *Alan.Stillwell@fcc.gov*, Office of Engineering and Technology. e-mail:, TTY (202) 418–2989.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making,* ET Docket No. 04–186 and ET Docket No. 02–380, FCC 04–113, adopted May 13, 2004, and released May 25, 2004. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: www.fcc.gov. Alternate formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before September 1, 2004, and reply comments on or before October 1, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Although this proceeding is captioned under multiple dockets, only one copy of an electronic submission, captioned to ET Docket No. 04–186, should be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

Summary of Notice of Proposed Rule Making

1. The Notice of Proposed Rule Making proposes to allow unlicensed radio transmitters to operate in the broadcast television spectrum at

locations where that spectrum is not being used. We believe that the proposals set forth herein would provide for more efficient and effective use of the TV spectrum and would have significant benefits for the public by allowing the development of new and innovative types of unlicensed broadband devices and services for businesses and consumers.

2. We recognize that broadcasters are currently undergoing a transition to digital operation, during which channel availability is likely to change more frequently. Our approach will appropriately account for these changes. To ensure that no harmful interference to authorized users of the spectrum will occur, we propose to define when a TV channel is ''unused'' and to require these unlicensed devices comply with significant restrictions and technical protections. Unlicensed devices would be required to incorporate ''smart radio'' features to identify the unused TV channels in the area where they are located. We intend to consider several alternative methods for identifying the unused TV channels, including approaches that would; allow existing television and/or radio stations to transmit information on TV channel availability directly to an unlicensed device; employ geo-location technologies such as the Global Positioning Satellite (GPS) system; or employ spectrum sensing techniques that would determine if the signals of authorized TV stations are present in an area.

3. On December 11, 2002, the Commission adopted a Notice of Inquiry (NOI), 68 FR 2730, January 21, 2003, in this proceeding seeking comment on the possibility of allowing unlicensed devices to operate in the TV broadcast bands at locations and times when the spectrum is not being used by authorized services. The Commission noted that unused portions of the TV spectrum appear to be a suitable choice for expanded unlicensed operations. In this regard, the Commission observed that there is significant bandwidth available because each TV channel occupies six megahertz and multiple channels are generally vacant or unused in a particular area. The Commission stated that allowing unlicensed devices to operate on unused TV channels would lead to more efficient use of the spectrum. Commenting parties representing the interests of manufacturers and users of unlicensed devices generally support this approach, while those representing the interests of the current users of the TV broadcast spectrum, both primary and secondary, express concern about potential interference from such new unlicensed operations.

Unlicensed Operation in the Broadcast TV Spectrum

4. Part 15 unlicensed devices and wireless broadband services using such devices have been extremely successful. The past few years have witnessed the development of broadband unlicensed industry standards such as IEEE 802.11b (Wi-Fi), Bluetooth, and Home RF that have greatly expanded the number and variety of devices that operate in the 2.4 GHz and 5 GHz industrial, scientific and medical equipment (ISM) bands. These standards have enabled the introduction of a host of new wireless Internet products as well as wireless computer peripherals such as printers and keyboards, and wireless headsets and computer connections for cellular and PCS phones.

5. The record developed in response to the *NOI* indicates that there is need for additional spectrum for unlicensed broadband devices. A number of commenting parties in particular state that unlicensed devices should be allowed to operate in the TV broadcast bands. Broadcasters, however, express concern that allowing unlicensed operation in the TV bands would pose a risk of interference to over-the-air television service and could adversely affect the DTV transition. They state that unlicensed operation in the TV bands would be problematic during the DTV transition because the television bands will be in a crowded, fluid and fragile state during that period, and unlicensed devices could cause significant disruption to DTV service. Other parties express concern about possible interference from unlicensed devices to licensed non-broadcast services that operate on TV channels. Parties representing Private Land Mobile Radio Service (PLMRS) and Commercial Mobile Radio Service (CMRS) interests do not believe that unlicensed devices should be permitted to operate on TV channels 14–20, which are used by the PLMRS/CMRS in certain parts of the country, or on TV channels above 51, which have been reallocated for other services. In addition, manufacturers of wireless microphones that operate on VHF and UHF TV channels are concerned about possible interference from unlicensed devices.

6. We request comment on our tentative conclusions regarding the interest in operation of unlicensed devices in the broadcast TV bands and the suitability of those bands for such operations. We request comment on proposals for requirements to ensure that unlicensed broadband devices operating in the TV bands would transmit on vacant spectrum and not interfere with authorized incumbent operations, including: analog and digital television, low power television, television translator, television booster, and Class A television stations (as well as future authorization of digital low power television, television translator and television booster stations being considered in MB Docket No. 03–185), 68 FR 55566, September 26, 2003, broadcast auxiliary services such as wireless microphones; and PLMRS and CMRS backhaul operations.

Requirements for Unlicensed Use of the TV Bands

7. Because unlicensed broadband devices would share spectrum with broadcast TV and other licensed services, they would need to have capabilities to avoid causing harmful interference to licensed services in the TV band. Specifically, an unlicensed device would need the ability to determine whether a TV channel or frequency band is unused before it could transmit. Additionally, an unlicensed device may need capabilities to avoid occupying a frequency band in the event a licensed user wishes to commence transmissions on a channel that was previously vacant. As pointed out by a number of parties with interest in TV broadcasting, this capability is especially important in light of the transition to DTV and the facts that many broadcasters may be required to change their current DTV channel and that new DTV stations may begin operation.

8. For the purpose of developing interference protection criteria, we propose to classify the unlicensed broadband devices to be used in the TV bands into these two general functional categories. The first category will consist of lower power ''personal/portable'' unlicensed devices, such as Wi-Fi like cards in laptop computers or wireless in-home LANs. The second category will consist of higher power ''fixed/access'' unlicensed devices that are generally operated from a fixed location and may be used to provide a commercial service such as wireless broadband internet access. We believe that both of these types of operations can be accommodated in the TV spectrum, provided appropriate measures are taken to ensure that operations are limited to unused TV channels. At the same time, we recognize that different requirements may be appropriate for ensuring interference protection to licensed operations from the two different types of devices, given the differences in the

uses and the interference potential of these types of unlicensed broadband applications. That is, certain methods that are appropriate for limiting the interference potential of personal/portable devices would be less appropriate for fixed/access devices and vice versa. Therefore, we propose different interference avoidance requirements for these two different types of unlicensed broadband applications. In both cases, however, our goal is to make the technical requirements as simple and as reliable as possible. We believe that this approach will provide flexibility to permit a wide range of unlicensed broadband uses and applications and ensure that the most appropriate and effective mechanisms are in place to limit such unlicensed use to only unused TV channels.

9. There are at least three methods that could be used to determine whether a portion of the TV band is unused at a specific time and/or location. First, the location of an unlicensed device could be determined by a professional installer or by using geo-location technology such as GPS incorporated within the device. Using either of these methods, it could then be determined from either an internal or external database whether the unlicensed device is located far enough outside the protected service contours of licensed stations to avoid causing harmful interference. A second method would be for an unlicensed device to receive information transmitted by an external source such as a broadcast station or another unlicensed transmitter indicating which channels are available at its geographic location. A third method would be to incorporate sensing capabilities in the unlicensed device to detect whether other transmitters are operating in an area. For example, a fixed unlicensed transmitter could be required to incorporate an antenna and a receiver capable of detecting signals down to a certain threshold level that would be used to determine if a particular TV channel is actually in use. Generally, such sensing would have to be much more sensitive than the receivers used in the licensed service. If no signals were detected above the threshold, the device would be allowed to transmit. If signals are detected above the threshold on a particular channel, the unlicensed device would have to search for another channel. As the Commission has previously noted, there are techniques that can be used to increase the ability of a sensing receiver to reliably detect other signals in a band which rely on the fact that it is not necessary to decode the information in a signal to determine whether a signal is present.

10. *Unlicensed Personal/Portable Operations.* Interference was the primary concern raised by parties opposed to unlicensed operations in the TV bands. These parties raise valid concerns that given the potential ubiquitous and uncontrolled deployment of unlicensed devices, any requirements on these devices must ensure that the devices only transmit on unused TV channels. To ensure that this is the case, we are proposing to allow personal/portable unlicensed broadband devices to transmit only after they receive a ''control'' signal that positively identifies which TV channels are vacant and therefore available for use. Without reception of this ''control'' signal, no transmissions would be permitted. This would provide positive assurance that these devices would operate only on unused TV channels. We propose to permit the transmission of control signal data by a number of sources. In particular, we propose that the control signal could be a data stream from a digital TV station, information transmitted in the vertical blanking interval (VBI) of an analog TV station, subcarrier data from an FM radio station, data transmitted by a licensed wireless provider, or channel availability data from a fixed/access unlicensed device. We propose that the transmission of this information would be on a voluntary basis and that parties could receive compensation for transmitting this information. Under the approach we are proposing, a TV channel would be considered vacant only if no portion of the service area of an authorized station assigned to use that channel was within the service area of the station transmitting the control signal. For example, if the information is transmitted by a DTV station, the identified vacant channels must not be used for the provision of television or other licensed services anywhere within the noise-limited service contour of that DTV station. We also seek comment on how often the control signal information should be transmitted and updated to take into account changes in TV station operations that arise due to the transition to DTV and the commencement of new stations. We tentatively believe that control signal information should be at a minimum current on a daily basis.

11. Given the portable and potentially ubiquitous nature of these devices and the importance of protecting television service, we believe that, at least initially, unlicensed personal/portable broadband devices that operate in the TV bands should be subject to certain additional requirements. In particular, we propose to limit the maximum power output of these devices to 100 milliwatts (mW) and to require that such devices have a permanently attached integral antenna with a maximum permissible gain of 6 dBi. We believe that these power and antenna provisions will provide sufficient communications capabilities to allow personal/portable broadband devices to serve a wide range of broadband applications, such as home networks, LANs and broadband connectivity, while at the same time limiting the potential for interference and RF safety concerns. We seek comment on whether these devices should be subject to routine evaluation for RF exposure. We also seek comment on whether we should allow higher power operation and what safeguards would be needed to protect current and future licensees in the TV bands. We further propose to require that such devices automatically and periodically transmit a unique identification signal. We seek comment on what information should be required to be transmitted and how often it should be repeated for easy identification of the unlicensed device. For example, should we require the device to transmit the name of its manufacturer, its FCC identifier, and its serial number? What time interval would be appropriate for periodic transmission of the identifying information? We believe that taken together these proposed requirements address the interference concerns raised by commenting parties. In particular, we believe that this plan will appropriately manage the potential for harmful interference to television and other licensed services from unlicensed personal/portable devices and, in the unlikely event that such interference were to occur, provide a positive means to identify its source so that it can be eliminated.

12. We seek comment on these proposals. In particular, we seek specific comment on what is the most efficient and effective method for providing control signals to unlicensed devices. In this regard, we ask whether broadcasters would voluntarily engage in agreements with unlicensed device manufacturers or service providers to transmit this information. We note agreements with unlicensed device manufacturers to carry channel availability data could provide broadcasters a new source of revenue. For example, we understand that many FM radio broadcasters have agreed to transmit information to support devices

using Microsoft's Smart Personal Object Technology (''SPOT''). While we believe that voluntary approaches are the most desirable means for providing control channel information, we also request comment on whether we should require TV stations to transmit this information and how frequently such information should be transmitted. We further request comment on whether we should designate specific entities that would be responsible for determining the unused channels in a station's service area. For example, this function could be performed by frequency coordinators, engineering consulting firms, or broadcast trade associations. We also seek comment on the frequency with which these entities update their information on allotments and vacancies and whether we should provide guidelines in that regard. Additionally, we seek comment on whether constraints are needed on stations retransmitting control signals to ensure that the control signals are not transmitted or received beyond the originating station's service area. For example, translator stations generally retransmit the entire signal of a primary TV station. How should we ensure that translators do not inappropriately retransmit the control signals of their primary TV stations beyond the coverage area of those stations? We also request comment on the desirability and practicality of using other approaches for preventing harmful interference to TV services from personal/portable unlicensed devices in the TV bands. In particular, parties favoring such approaches should describe how such techniques would ensure that unlicensed devices only operate on vacant spectrum and not cause harmful interference to licensed services. We also request comment on whether additional requirements would be appropriate for personal/portable operations. For example, should we require that all personal/portable devices be registered with an industry-accepted entity, such as a frequency coordinator, that maintains a registration database of all models of personal/portable transmitters along with their operating frequencies? This registration data base could include the unique identification of the personal/portable device. We also request comment and suggestions on the appropriate entity that we should select to maintain such a registration database.

13. *Fixed/Access Unlicensed Devices.* Fixed/access types of devices present different operational and interference considerations. In general, we anticipate that these devices would be used by WISPs and others as base stations to provide internet access and other broadband data services to homes and businesses, including to personal/portable services. We propose to allow fixed/access devices to operate under the same technical provisions as digital transmission systems that operate under § 15.247 of the rules. This would permit fixed/access devices to operate with a transmitter output power of up to one watt and to employ higher gain directional antennas, with requirements for transmitter output reductions for antennas with gains above 6 dBi. We believe that these power levels are sufficient to be useful for WISPs and other wireless networking applications and will ensure that these devices can successfully share the TV spectrum. We also believe that these power and antenna provisions will limit the potential for interference and RF safety concerns. We seek comment on whether these devices should be subject to routine evaluation for RF exposure. We further propose to require that such devices automatically and periodically transmit a unique identification so that any harmful interference situation, should it occur, can be quickly identified and remedied. We request comment on what information should be required to be transmitted, in what format, and how often it should be repeated for easy identification of the unlicensed device. For example, should we require unlicensed fixed/access devices to transmit location information, name of manufacturer, FCC identifier, and serial number? What time interval would be appropriate for periodic transmission of the identification information?

14. To ensure that fixed/access devices operate only on unused TV channels, we propose to require that such devices incorporate a method for determining geographic location with a minimum accuracy of 10 meters. To meet this requirement, for example, the device could incorporate a GPS receiver to determine its geographic coordinates. Using this location information, local broadcast station data and the protection requirements described, channel availability for the unlicensed device can be determined. We therefore propose to require that the fixed/access unlicensed transmitter have the capability to access such a database and appropriate computational software to determine which TV channels are available for unlicensed use based on its location. The equipment would also be required to have the capability to limit its transmissions to only those channels that are identified as unused through this process. As an alternative, we propose to require that the unlicensed device be professionally installed by a party that would determine the device's geographic location and the available unused channels at that location. In this case, the installer could provide the device's coordinates to a frequency coordinator, industry association, local broadcast group or other party that maintains an appropriate and current data base to determine which TV channels are unused at the device's location. The installing party would then configure the device to operate only on unused channels. We seek comment on the qualifications an individual must possess in order to be classified as a professional installer. We recognize that industry organizations such as the National Association of Radio Telecommunications Engineers (NARTE) and the Part 15 Organization have developed Professional Installer Certification programs designed to ensure that installers are able to set up unlicensed links in a manner to minimize the possibility of creating harmful interference to other users of the spectrum. Should the Commission consider completion of industry-based certification programs such as these to be sufficient training to be recognized as a professional installer? What criteria should the Commission place on any such programs that it deems acceptable? As a second alternative, we seek comment on whether the control signal approach would also be appropriate for fixed/access devices. Under any of these approaches, we would require that the unlicensed device or its operator periodically access the channel availability database and software to ensure that the channels on which the device operates remain unused. We anticipate that this database and software could be made available by unlicensed equipment vendors, broadcast engineering firms or other third-party providers. We request comment on how often an unlicensed device or operator must access the channel availability database and update or reprogram the device's usable channel list.

15. We request comment on this approach, recognizing in particular the changes that will occur during the DTV transition. We also seek comment on whether we should allow fixed/access devices to operate with higher power than proposed above and, if so, what safeguards would be needed to protect current licensees in the TV bands. We note that we recently proposed to allow certain unlicensed devices to operate with higher power in rural or other

areas with limited spectrum use. We also seek comment on whether we should require devices to use transmit power control (TPC) and operate with the minimum power necessary to achieve reliable communication to reduce the possibility of interference to licensed services and to enable better spectrum sharing between unlicensed devices.

16. We also request comment on whether additional requirements would be appropriate for fixed/access operations. For example, should we require that all fixed/access devices also be registered with an industry-accepted entity, such as a frequency coordinator, that maintains a registration database of all fixed/access transmitters along with their operating frequencies? This registration data base would include the unique identification of the fixed/access device, its geographic coordinates, and the channels available for use at that location. We also request comment and suggestions on the appropriate entity that we should select to maintain such a registration database. In addition, we request comment on whether we should permit fixed/access devices to use a spectrum sensing approach, as an alternative to the geo-location approach described above. We request comment on what would be the appropriate signal levels that an unlicensed device would need to be capable of detecting to ensure that no harmful interference is caused to licensed operations, and the current availability of suitable detection measures and devices. In addition, when making a determination as to an appropriate signal level, it would also be necessary to specify other parameters of the detection methodology to the extent these could not be incorporated in a signal level measurement, including, for example, the length, location, and frequency of the detection measurement. In particular, we request parties to address how such an approach would consider the so-called ''hidden node'' problem where the unlicensed transmitting device may be shielded from the TV transmitter but have a direct path to a nearby TV receiver.

Protection of Broadcast Television Service

17. We propose to define the technical criteria for determining when a TV channel can be considered vacant for the purpose of allowing operation of an unlicensed device on that channel. Analog and digital full service TV stations and Class A TV, low power TV, TV translator and TV booster stations are generally protected from interference within defined signal contours. The signal level defining a television station's protected contour varies depending on the type of station, *e.g.*, analog or digital TV, and the band in which a TV station operates. Different protected contour values are specified for both analog and digital stations that operate in the low VHF band (channels 2–6), the high VHF band (channels 7–13) and the UHF band (channels 14–69), see chart in paragraph 29 of the NPRM. We propose to use the service area criteria to define the areas that unlicensed devices must protect from harmful interference. All unlicensed operations would be required to protect TV service within the contours defined by the criteria.

18. Whether or not interference occurs depends on the desired-to-undesired (D/U) signal ratio needed for acceptable service. This D/U ratio will vary depending on the type of station, the frequency band and the nature of the undesired signal. In considering digital broadband unlicensed operations in the television band, we note that such operations will be at very low power compared to television operations. We also believe that the signals from such unlicensed devices can be expected to appear ''noise-like'' and that the carrier-related interference mechanisms that can affect analog television would not occur. We therefore believe that the requirements needed to protect television service from digital unlicensed devices should be limited to co- and adjacent channel operations only for fixed/access operations and co-channel operations only for personal/portable operations. Given the expected noise-like character of signals from unlicensed devices, we are proposing to use the same protection criteria that are currently specified in the rules for digital television. We request comment on this approach and on whether we need to proscribe a modulation requirement for such unlicensed devices to ensure that their transmissions appear noise-like. With regard to personal/portable operations, we believe at this time that the potential for harmful interference to adjacent channel television operations is sufficiently low that we do not need to impose adjacent channel restrictions on these devices. We note that even in the ''worst case'' situation at the edge of a television station's service area, *i.e.*, where the TV station's signal is the lowest, the interference potential from an adjacent channel personal/portable device would be minimal and, in practice, would be mitigated by the effects of ambient noise, shielding from buildings, walls, ground clutter, etc. We therefore are proposing to use the criteria in paragraph 30 of the NPRM, to ensure that unlicensed devices do not cause harmful interference to TV service.

19. We propose to require that the service and protection criteria be used in conjunction with appropriate computational software, including use of the Commission's propagation curves, and a television station engineering database to develop the control signal information on available channels for unlicensed personal/portable devices and for coordination and deployment of unlicensed fixed/access devices. All unlicensed operations in the TV bands would be subject to the general requirements of part 15 for not causing harmful interference and would be required to ensure that the D/U ratios for acceptable television service always maintained. We also seek comment on whether there are any special considerations for cases where consumers use indoor DTV antennas. As indicated, fixed/access unlicensed devices would be subject to the co- and adjacent channel D/U criteria while personal/portable devices would be subject only to the co-channel criteria. The adjacent channel D/U criteria would not apply to fixed/access devices between channels 4 and 5, channels 6 and 7, and channels 13 and 14 because of the frequency separations that exist between those channels. That is, those channels are not actually on adjacent frequencies. For adjacent channel operations within the protected service contour, we propose to require that calculation of desired signal levels be based on FCC F(90,90) curves or the protected contour field strength value, whichever is higher. For unlicensed operation outside the protected contour of a television station, calculations of television (desired) signal levels would be based on the FCC F(50,50) curves. Calculations of unlicensed (undesired) signal levels would be based on the FCC F(50,50) curves or other appropriate models. We believe this approach should provide additional protection to television viewers within the protected contour of an adjacent channel station.

20. In addition, we propose to not allow unlicensed devices to operate within the protected contour of any co-channel TV operation. This proposal along with the minimum D/U requirements would mean that such devices would have to be located at least some minimum distance outside the protected signal contours of co-channel television stations. This minimum distance would be determined using the values in above Table and would depend on the maximum power and antenna

characteristics of the unlicensed device, the signal strength of the licensed station's protected service contour, the desired-to-undesired (D/U) signal ratio permitted at the licensed station's protected service contour, and the method used to calculate the signal contours of the unlicensed device. We seek comment on these proposals, including whether the proposed protection criteria are appropriate.

Permissible Channels for Unlicensed Operation

21. We believe it is generally desirable to allow unlicensed devices to access the largest practicable number of the 68 television channels. This would maximize the opportunities for operation of unlicensed devices in all areas, and would be particularly important for the successful implementation of unlicensed devices in areas where the TV bands are crowded with other services. There are, however, certain channels that we believe are, not suitable or appropriate for use by unlicensed devices, see paragraphs 34–36 of the NPRM for more discussion. These include channels 2–4, 37, and 52–69. In addition, we tentatively conclude that channels 14–20 are not suitable for use in markets where they are used for PLMRS and CMRS. With the exception of these channels, we propose to allow unlicensed devices to operate on any unused TV channel. Thus, TV channels 5–36 and 38–51 would be generally available for unlicensed operation and channels 14–20 would be available in most locations.

22. We seek comment on our proposals for the TV channels that would be available for unlicensed use. We also request comment on whether the proposed minimum separations to protect PLMRS/CMRS operations are appropriate, and in particular, what special protections, if any, are necessary to accommodate these operations, including those operations that are licensed pursuant to a waiver.

Wireless Microphone Operations

23. As noted, manufacturers of wireless microphones express concern that operation of new unlicensed devices in the TV bands could cause interference to wireless microphones. We believe that the operational characteristics of wireless microphones significantly reduce the likelihood of interference from unlicensed devices for several reasons. Wireless microphones are permitted relatively high output power given the range over which they are typically operating. The maximum permitted output power of these devices is 50 milliwatts in the VHF band and 250 milliwatts in the UHF band. Wireless microphones are used in locations such as theaters and sports arenas where the operating range would typically be hundreds of feet at the most, so operation at the power levels permitted in the rules results in a significant signal level at the wireless microphone receiver. Further, the vast majority of wireless microphones are frequency modulated (FM). FM receivers exhibit a ''capture effect'' in which they respond to only the strongest signal received on a frequency and reject any weaker interfering signals. Because the desired signal at a wireless microphone receiver is relatively strong, we believe that the likelihood of interference from unlicensed device signals is therefore low such that unlicensed use should generally be compatible with wireless microphones. Nonetheless, we seek comment on whether other measures are needed to protect wireless microphone operation including the possibility of designating one or two unused TV channels in each market for use by only wireless microphones.

Other Issues

24. *Out of Band Emission Limits.* We propose to require that unlicensed devices operating in the TV bands comply with the same out-of-band emission limits that apply to other part 15 digital transmission system transmitters. These limits seem appropriate given that we are proposing power and antenna characteristics for unlicensed devices in the TV bands that are similar to those for other part 15 devices that employ digital modulation. Specifically, we propose to require that out-of-band emissions in any 100 kHz bandwidth outside the frequency band in which the unlicensed device operates be at least 20 dB below that in the 100 kHz bandwidth within the band that contains the highest level of the desired power. Consistent with the current rules, we also propose to not require attenuation of emissions below the general limits specified in § 15.209(a). To reduce the likelihood of harmful interference to licensed services on adjacent channels or outside the TV bands, we further propose to require that emissions outside the TV channel(s) where an unlicensed device operates comply with the general limits in § 15.209(a). This is consistent with the out-of-band emission requirements for certain other part 15 intentional radiators. We seek comment on these proposals.

25. *Security Requirements.* As the Commission noted in the cognitive radio proceeding, equipment that relies on new capabilities such as geo-location raises the possibility of new types of abuse, such as reprogramming GPS receivers with geographic offsets or altering database information. In addition, the software used to select the appropriate operating parameters could be altered to make an unlicensed device transmit at frequencies, power levels or locations where it should not. To prevent devices from being modified to transmit on occupied frequencies and causing harmful interference to licensed services, we propose to require that an unlicensed device that operates in the TV bands have certain capabilities to ensure that it cannot be easily modified. Specifically, we propose to require that an unlicensed device not have any controls accessible to any party, other than a professional installer, that allow selection of the transmit channel or output power. We also propose to require that manufacturers of unlicensed devices that operate in the TV bands take steps to ensure that only the software that was approved with a device can be loaded into a device, and that the software not allow the user to operate the device with parameters outside those that were approved. This proposed requirement would apply to software that selects a device's operating frequency, to software used in determining a device's geographic location or identifying TV channels that are vacant, and to the information in the database accessed by a device. We further propose to require that an unlicensed device incorporate a means to detect whether tampering with the hardware or software has occurred, and that a device not operate if tampering is detected. We also propose to require that manufacturers describe their device's security features in the application for equipment authorization. We seek comment on these proposals. In particular, we seek comment on the steps manufacturers could take to protect hardware and software from modifications for improper purposes and how tampering with hardware or software could be detected.

26. *Compliance and Enforcement.* We propose to subject unlicensed devices operated under the proposals to the general operating conditions in § 15.5 that an unlicensed device not cause harmful interference and that it must accept interference caused by the operation of an authorized radio station. The operator of an unlicensed device operating under the rules proposed would be required to cease operation upon notification by a Commission

representative that the device was causing harmful interference, regardless or whether the device was otherwise in compliance with the rules, until such time as the condition causing the harmful interference was corrected. We also ask whether we should hold parties that provide information on channel availability to unlicensed devices responsible for the validity of that information. To what extent should these parties be able to rely on information obtained from the Commission? In cases where errors or other inaccuracies were found in such data, we would require the responsible party to cease distributing the control information when advised that it is incorrect by a Commission representative. Such party would be allowed to resume distribution of channel availability information if and when that information was corrected. We request comment on these proposals for ensuring that harmful interference is not caused by the operation of these devices and the enforcement of the rules we are proposing for unlicensed operation on vacant channels. We also invite interested parties to submit comments and suggestions regarding any other possible enforcement mechanisms that might be appropriate and effective for unlicensed devices operating in the broadcast TV bands.

27. *Measurement/Testing Procedures.* Unlicensed transmitters must be tested to show compliance with the applicable technical requirements in part 15 of the rules before they can be certified. Part 15 specifies general testing requirements applicable to unlicensed transmitters and incorporates some industry procedures into the rules by reference, such as the American National Standards Institute (ANSI) C63.4–2001 measurement procedure. The types of tests required typically include the maximum output power or field strength, spurious emissions, occupied bandwidth and operating frequency.

28. We expect that any new testing procedures would be specified at the time any rules are adopted, as the Commission did in the proceeding making additional spectrum available for unlicensed devices in the 5 GHz band. We seek comment on any new tests that may be required for unlicensed devices that operate in the TV bands and on the appropriate testing procedures.

29. *Certification by TCBs.* Unlicensed transmitters operating under part 15 of the rules are required to be certified by the Commission or a designated Telecommunication Certification Body (TCB) before they may be legally marketed within the United States. In establishing the requirements and rules for TCBs, the Commission stated that while it intended to allow TCBs to certify a broad range of equipment, certain functions should continue to be performed by the Commission. These functions include certifying new or unique equipment for which the rules or requirements do not exist or for which the application of the rules is not clear. Because unlicensed devices operating in the TV bands would contain new technologies and we are proposing new rules to accommodate them, we expect that many questions about the application of the rules would arise. Consistent with the Commission's previous action in the software defined radio proceeding, we tentatively conclude that TCBs should not be permitted to certify unlicensed devices that operate in the TV bands until the Chief of the Office of Engineering and Technology issues a public notice announcing that TCBs may certify such devices. We seek comment on this tentative conclusion.

30. *Unlicensed Use in Border Areas near Canada and Mexico.* The allotment and assignment of TV channels in the border areas with Canada and Mexico are subject to agreements with each of those countries. Low power TV assignments within 32 kilometers (20 miles) of the Canadian border must be referred to the Canadian authorities for approval. In addition, low power UHF TV stations that are located less than 40 kilometers (25 miles) from the Mexican border, and low power VHF TV stations that are less than 60 kilometers (37 miles) from the Mexican border, must be referred to the Mexican government for approval. In keeping with the current agreements with Canada and Mexico, we propose to prohibit unlicensed fixed/access devices from operating less than these distances from the Canadian and Mexican borders until agreements are reached with those countries. We seek comment on this proposal. In particular, we request comment on how to ensure that unlicensed devices using vacant TV channels do not operate within the border areas, whether the methods used to ensure that these devices operate only on vacant TV channels could be adapted to preclude operation in the border areas, or whether some other methods would be more appropriate in this regard.

31. *Need for Voluntary Standards.* Unlicensed devices operating under part 15 of the rules have no protection from interference from other unlicensed devices. In bands that are heavily used by unlicensed devices such as the spread spectrum bands under § 15.247 of the rules, industry bodies have developed voluntary standards that facilitate spectrum sharing between unlicensed devices, such as the IEEE 802.11 standards. We seek comment on whether there is a need for such voluntary standards to facilitate sharing between unlicensed users in the TV bands. If so, how should such voluntary standards be developed and what should the Commission's role, if any, be in such a process to make certain that the standards remain current and support innovation?

Initial Regulatory Flexibility Analysis

32. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Notice of Proposed Rule Making (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided in paragraph 51 of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[2] In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.[3]

A. Need for, and Objectives of, the Proposed Rules

33. The NPRM would propose to allow unlicensed devices to operate in the TV broadcast bands at locations where spectrum is not being used by licensed services. The NPRM would propose to require unlicensed devices to incorporate ''smart radio features'' to prevent harmful interference from unlicensed devices to licensed services. For the purpose of developing interference protection criteria, the NPRM would propose to classify unlicensed broadband devices to be used in the TV bands into two general functional categories. The first category would consist of lower power ''personal/portable'' unlicensed devices, such as Wi-Fi like cards in laptop computers or wireless in-home LANs. The second category would consist of higher power ''fixed/access'' unlicensed devices that are generally operated from

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[2] *See* 5 U.S.C. 603(a).

[3] *See* 5 U.S.C. 603(a).

a fixed location and may be used to provide a commercial service such as wireless broadband internet access.

34. These proposals, if adopted, will prove beneficial to manufacturers and users of unlicensed technology, including those who provide services to rural communities. Specifically, we note that a growing number of wireless internet service providers (WISPs) are using unlicensed devices within wireless networks to serve the needs of consumers. WISPs around the country are providing an alternative high-speed connection in areas where cable or DSL services have been slow to arrive. The additional frequency bands where operation is proposed will help to foster a viable last mile solution for delivering Internet services, other data applications, or even video and voice services to underserved, rural, or isolated communities. In addition, TV frequencies, which are below 900 MHz, have less signal attenuation through foliage and walls than frequencies above 900 MHz currently used by WISPs, thus affording improved signal coverage.

B. Legal Basis

35. The proposed action is authorized under sections 4(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

36. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[4] The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under Section 3 of the Small Business Act.[5] Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operations; and (3) meets many additional criteria established by the Small Business Administration (SBA).[6]

Radio and Television Broadcasting and Wireless Communications Equipment Manufacturers

37. The Commission has not developed a definition of small entities applicable to unlicensed communications devices manufacturers. Therefore, we will utilize the SBA definition application to manufacturers of Radio and Television Broadcasting and Communications Equipment. Under the SBA's regulations, a Radio and Television Broadcasting and Wireless Communications Equipment Manufacturer must have 750 or fewer employees in order to qualify as a small business concern.[7] Census Bureau data indicate that there are 1,215 U.S. establishments that manufacture radio and television broadcasting and wireless communications equipment, and that 1,150 of these establishments have fewer than 500 employees and would be classified as small entities.[8] The remaining 65 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and, therefore, also qualify as small entities under the SBA definition. We therefore conclude that there are at least 1,150 small manufacturers of radio and television broadcasting and wireless communications equipment, and possibly there are more that operate with more than 500 but fewer than 750 employees.

Wireless Service Providers

38. The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of ''Paging''[9] and ''Cellular and Other Wireless Telecommunications.''[10] Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1,320 firms in this category, total, that operated for the entire year.[11] Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more.[12] Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category Cellular and Other Wireless Telecommunications, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year.[13] Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more.[14] Thus, under this second category and size standard, the majority of firms can, again, be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

39. Unlicensed transmitters are already required to be authorized under the Commission's certification procedure as a prerequisite to marketing and importation, and the proposals in this proceeding would not change that requirement. There would, however, be several changes to the compliance requirements.[15]

40. Unlicensed transmitters capable of operating in the TV bands would have to incorporate features to ensure that they operate on only vacant channels. A transmitter used for fixed operation would have to incorporate a GPS receiver to determine its location and would have to access a database and computational software to determine which TV channels are vacant at its location. Alternatively, an unlicensed transmitter would not have to incorporate these features if it is professionally installed and the installer determines the geographic coordinates of the transmitter, determines which TV channels are vacant at that location, and adjusts the transmitter to operate on only those vacant channels. Portable unlicensed devices would have to be capable of receiving a signal from a fixed unlicensed transmitter, or a local FM or TV station indicating which TV

[4] *See* 5 U.S.C. 603(b)(3).

[5] *Id.* 601(3).

[6] 15 U.S.C. 632.

[7] 13 CFR 121.201, NAICS code 334220.

[8] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1997 Economic Census, Industry Series—Manufacturing, Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, Table 4 at 9 (1999). The amount of 500 employees was used to estimate the number of small business firms because the relevant Census categories stopped at 499 employees and began at 500 employees. No category for 750 employees existed. Thus, the number is as accurate as it is possible to calculate with the available information.

[9] 13 CFR 121.201, NAICS code 513321 (changed to 517211 in October 2002).

[10] 13 CFR 121.201, NAICS code 513322 (changed to 517212 in October 2002).

[11] U.S. Census Bureau, 1997 Economic Census, Subject Series: ''Information,'' Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513321 (issued October 2000).

[12] U.S. Census Bureau, 1997 Economic Census, Subject Series: ''Information,'' Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513321 (issued October 2000). The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is ''Firms with 1000 employees or more.''

[13] U.S. Census Bureau, 1997 Economic Census, Subject Series: ''Information,'' Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513322 (issued October 2000).

[14] U.S. Census Bureau, 1997 Economic Census, Subject Series: ''Information,'' Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513322 (issued October 2000). The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is ''Firms with 1000 employees or more.''

[15] *See* text of NPRM at paragraphs 21, 22, 25, 26, 30, 31, 32, 34, 35, 36, 39, 40, 41, 42, 45, and 46.

channels are vacant in that area. If the unlicensed device did not detect a signal with this channel availability information, or if no vacant channels were available at its location, the unlicensed device would not be allowed to operate. In addition, any unlicensed transmitter used in the TV bands would have to incorporate features to prevent unauthorized modifications that could cause it to operate on occupied frequencies and therefore cause harmful interference. The applicant for certification would have to demonstrate in the application that the equipment meets these requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

41. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.'' [16]

42. If the rules proposed in this notice are adopted, we believe they might have a significant economic impact on a substantial number of small entities. For an entity that chooses to manufacture or import equipment for the subject bands, the rules would impose costs for compliance with equipment technical requirements, such as incorporating a GPS receiver and database access capabilities into an unlicensed device to determine its location and which TV channels are vacant in an area, or incorporating an FM or TV receiver to detect the presence of channel availability data being transmitted in its area. However, the burdens for complying with the proposed rules would be the same for both large and small entities. Further, the proposals in this NPRM are ultimately beneficial for both large and small entities. We cannot find electrical engineering alternatives that would achieve our goals while treating small entities differently. Nonetheless, we solicit comment on any alternatives commenters may wish to suggest for the purpose of facilitating the Commission's intention to minimize the compliance burden on smaller entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

43. None.

Ordering Clauses

44. Pursuant to sections 4(i), 302, 303(e), 303(f), 303(r) and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(e), 303(f), 303(r) and 307, this Notice of Proposed Rule Making is hereby adopted.

45. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 15

Communications equipment, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 15 as follows:

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

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544a.

2. Section § 15.244 is added to read as follows:

§ 15.244 Operation within the bands 76–88 MHz, 174–216 MHz, 470–608 MHz and 614–698 MHz.

(a) The fundamental emissions from intentional radiators operated under this section shall be confined to one or more contiguous television broadcast channels as defined in part 73 of this chapter.

(b) The maximum conducted output power for fixed devices is 1 watt peak. The maximum conducted output power for portable devices is 100 milliwatts peak.

(c) If transmitting antennas of directional gain greater than 6 dBi are used, the peak output power specified in paragraph (b) of this section shall be reduced by the amount in dB that the directional gain of the antenna exceeds 6 dBi.

(d) In any 100 kHz bandwidth outside the frequency band in which the intentional radiator is operating, the radio frequency power that is produced by the intentional radiator shall be at least 20 dB below that in the 100 kHz bandwidth within the band that contains the highest level of desired power, based on either an RF conducted or radiated measurement. Attenuation below the general limits specified in § 15.209(a) is not required. Radiated emissions that fall outside the TV broadcast channel(s) where the device operates must comply with the radiated emission limits specified in § 15.209(a).

(e) An intentional radiator used for fixed operation must comply with one of the following paragraphs (e)(1) or (e)(2):

(1) The intentional radiator shall incorporate a GPS receiver to determine the geographic coordinates at its location with an accuracy of ±10 meters. The intentional radiator shall have the capability of accessing a database and computational software to determine the TV channels that are vacant at its location. The device must have the capability to limit its transmissions to only those channels that are identified as unused.

(2) The intentional radiator must be professionally installed by a party that will determine the device's geographic location and the available unused TV channels at that location. The installing party will configure the device to operate on only unused channels. The unlicensed device or its operator must periodically access a channel availability database and computational software to ensure that the channels on which the device operates remain unused.

(f) An intentional radiator used for portable operation must be capable of receiving a control signal from an unlicensed transmitter, or a TV or FM broadcast station indicating the TV channel(s) that are vacant within the service area of the unlicensed transmitter, TV or FM station. The intentional radiator must transmit only on channels(s) that are designated as vacant. The intentional radiator shall not operate if no unoccupied frequency band is available within its frequency range of operation or if it does not detect any unlicensed transmitters, FM or TV broadcast stations transmitting channel availability information.

(g)(1) An intentional radiator must protect TV stations from harmful interference within the following service contours.

[16] 5 U.S.C. 603(c)(1)–(c)(4).

Type of station	Protected contour		
	Channel	Contour (dBu)	Propagation curve
Analog TV	Low VHF (2–6)	47	F(50,50)
	High VHF (7–13)	56	F(50,50)
	UHF (14–69)	64	F(50,50)
Analog Class A, LPTV, translator and booster	Low VHF (2–6)	62	F(50,50)
	High VHF (7–13)	68	F(50,50)
	UHF (14–69)	74	F(50,50)
Digital TV	Low VHF (2–6)	28	F(50,90)
	High VHF (7–13)	36	F(50,90)
	UHF (14–51)	41	F(50,90)
Digital Class A	Low VHF (2–6)	43	F(50,90)
	High VHF (7–13)	48	F(50,90)
	UHF (14–51)	51	F(50,90)

(2) A TV channel will be considered vacant for use by an intentional radiator operating under the provisions of this section if the following desired-to-undesired (D/U) signal ratios between co-channel and adjacent channel TV stations and the intentional radiator are met at all points within the service area of the unlicensed transmitter, TV or FM broadcast station that transmits channel availability information.

Type of station	Protection ratios		
	Channel separation	D/U ratio (dB)	Propagation curve
Analog TV, Class A, LPTV, translator and booster	Co-channel	34	F(50,10)
	Upper adjacent	−17	F(50,50)
	Lower adjacent	−14	F(50,50)
Digital TV and Class A	Co-channel	23	F(50,10)
	Upper adjacent	−26	F(50,50)
	Lower adjacent	−28	F(50,50)

(h) Operation is not permitted within the service contours of co-channel stations. Portable devices are not required to comply with the D/U ratios for TV stations operating on adjacent channels. Fixed devices are not required to comply with the adjacent channel D/U ratios between channels 4 and 5, channels 6 and 7, and channels 13 and 14 because of the frequency separations that exist between those channels. For adjacent channel operation within the protected service contour of a television station, calculation of desired signal levels shall be based on FCC F(90,90) curves or the protected contour field strength value, whichever is higher. For unlicensed operation outside the protected contour of a television station, calculations of television (desired) signal levels would be based on the FCC F(50,50) curves. Calculations of unlicensed (undesired) signal levels would be based on the FCC F(50,50) curves or other appropriate models.

(i) Operation on a TV channel shared with the PLMRS or CMRS is permitted only if every point in the reception area of an unlicensed transmitter, or a TV or FM station that transmits channel availability information is separated by the following distances from the of the center coordinates of the metropolitan areas where shared operation is permitted: 134 kilometers for co-channel operation and 131 kilometers for adjacent channel operation.

(j) Operation of fixed devices under the provisions of this section is not permitted on VHF channels within 32 kilometers of the border with Mexico, on UHF channels within 40 kilometers of the border with Mexico, or on either VHF or UHF channels within 60 kilometers of the border with Canada.

(k) Devices operating under the provisions of this section shall be equipped with a means to automatically and periodically transmit a unique identification signal. Devices must not be equipped with any controls accessible to any party, other than a professional installer, that allow selection of the transmit channel or output power. Devices must include features to ensure that only the software that was approved with a device can be loaded into a device, and the software may not allow the user to operate the device with parameters outside those that were approved. ''Software'' in this context includes the software that selects a device's operating frequency, software used in determining a device's geographic location or identifying TV channels that are vacant, and to the information in the database accessed by a device. Devices must incorporate a means to detect whether tampering with the hardware or software has occurred and must not operate if tampering is detected. The application for certification must describe how the device complies with these requirements.

[FR Doc. 04–13573 Filed 6–17–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–1407, MB Docket No. 04–192, RM–10966]

Digital Television Broadcast Service; Honolulu, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Pacifica Broadcasting Company proposing the substitution of DTV channel *10 for station KALO assigned DTV channel *39c at Honolulu, Hawaii. DTV Channel *10 can be allotted to Honolulu with a ''c'' designation at reference coordinates 21–23–45 N. and 158–05–58 W. with a

power of 25, a height above average terrain HAAT of 577 meters.

DATES: Comments must be filed on or before July 19, 2004, and reply comments on or before August 3, 2004.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (*except in broadcast allotment proceedings*). *See Electronic Filing of Documents in Rule Making Proceedings,* GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Anne Goodwin Crump, Fletcher, Heald & Hildreth, P.L.C., 1300 North 17th Street, Eleventh Floor, Arlington, Virginia 22209 (Counsel for Pacifica Broadcasting Company).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 04–192, adopted May 18, 2004, and released May 28, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Hawaii is amended by removing DTV channel *39c and adding DTV channel *10c at Honolulu.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 04–13812 Filed 6–17–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–1416; MB Docket No. 04–202, RM–10985]

Radio Broadcasting Services; Tomahawk, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Audio Division requests comments on a petition filed by Results Broadcasting of Rhinelander, Inc., proposing the allotment of Channel 265C3 at Tomahawk, Wisconsin, as the community's second local FM transmission service. Channel 265C3 can be allotted to Tomahawk in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.5 kilometers (5.3 miles) west-northwest to avoid a short-spacing to the licensed and construction permit sites of Station WOBE(FM), Channel 264C1, Crystal Falls, Michigan. The coordinates for Channel 265C3 at Tomahawk are 46–30–01 North Latitude and 89–49–50 West Longitude. Since Tomahawk is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been requested.

DATES: Comments must be filed on or before July 19, 2004, reply comments on or before August 3, 2004.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mark Blacknell, Esq., Womble, Carlyle, Sandridge & Rice, PLLC, 1401 Eye Street, NW., 7th Floor, Washington, DC 20005 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 04–202, adopted May 26, 2004, and released May 28, 2004. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex, International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by adding Channel 265C3 at Tomahawk.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04–13810 Filed 6–17–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–1419; MB Docket No. 04–205, RM–10704; MB Docket No. 04–206, RM–10705]

Radio Broadcasting Services; Islamorada, FL and Pioche, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes new allotments in separate communities, Islamorada, Florida, and Pioche, Nevada. The Audio Division requests comment on a petition filed by Paul B. Christensen, proposing the allotment of Channel 283C2 at Islamorada, Florida, as the community's first local aural transmission service. Channel 283C2 can be allotted to Islamorada in compliance with the Commission's minimum distance separation requirements with a site restriction of site 0.9 kilometers (0.6 miles) southwest of the community. The reference coordinates for Channel 283C2 at Islamorada are 24–55–05 NL and 80–38–04 WL. The Audio Division also requests comments on a petition filed by Micah Shrewsberry proposing the allotment of Channel 268C1 at Pioche, Nevada, as the community's second local aural transmission service. Channel 268C1 can be allotted to Pioche in compliance with the Commission's minimum distance separation requirements without a site restriction. The reference coordinates for Channel 268C1 at Pioche are 37–55–58 NL and 114–27–04 WL. *See* **SUPPLEMENTARY INFORMATION**, *infra*.

DATES: Comments must be filed on or before July 19, 2004, and reply comments on or before August 3, 2004.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Paul B. Christensen, Esq., Law Offices of Paul B. Christensen, PA, 3749 Southern Hills Drive, Jacksonville, Florida 32225; Micah Shrewsberry, PO Box 1030, Greencastle, Indiana 46135.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket Nos. 04–205 and 04–206, adopted May 26, 2004 and released May 28, 2004. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Islamorada, Channel 283C2.

3. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by adding Channel 268C1 at Pioche.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04–13811 Filed 6–17–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–1282; MB Docket No. 02–177; RM–10489]

Radio Broadcasting Services; Milano, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: At the request of David P. Garland, we dismiss his petition for rule making proposing the allotment of Channel 274A at Milano, Texas, as the community's first local aural transmission service. *See* FR 31597, July 19, 2002. We also dismiss the counterproposal filed by Roy E. Henderson proposing an upgrade from Channel 297A to Channel 297C3 at Caldwell, the reallotment of Channel 297C3 from Caldwell to Bedias, and related channel substitution and modified reference coordinates to accommodate the reallotment. The allotment of Channel 274A at Caldwell as a replacement service is not consistent with Section 73.315 of the Commission's Rules because it does not provide city grade coverage over the entire community. Accordingly, since counterproposals must be ''technically correct and substantially complete'' at the time they are filed, the counterproposal is deemed technically defective.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–177, adopted May 19, 2004, and released May 21, 2004. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference

Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04–13813 Filed 6–17–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–1415; MB Docket No. 04–195, RM–10975; MB Docket No. 04–196, RM–10970; MB Docket No. 04–197, RM–10971; MB Docket No. 04–198, RM–10977; MB Docket No. 04–199, RM–10978; MB Docket No. 04–200, RM–10979; MB Docket No. 04–201, RM–10972]

Radio Broadcasting Services; Cross City, FL, Key Largo, FL, McCall, ID, and Shorter, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes seven new allotments in Cross City, Florida, Key Largo, Florida, McCall, Idaho, and Shorter, Alabama. The Audio Division requests comment on a petition filed by Paul B. Christensen proposing the allotment of Channel 249C3 at Cross City, as the community's second FM commercial aural transmission service. Channel 249C3 can be allotted to Cross City in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.2 kilometers (6.9 miles) north to avoid a short-spacing to the license sites of Station WSKY–FM, Channel 247C2, Micanopy, Florida and FM Station WXTB, Channel 250C, Clearwater, Florida. The reference coordinates for Channel 249C3 at Cross City are 29–44–07 North Latitude and 83–08–42 West Longitude. *See* **SUPPLEMENTARY INFORMATION**, *infra.*

DATES: Comments must be filed on or before July 19, 2004, and reply comments on or before August 3, 2004.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Paul B. Christensen, Esq., Law Offices of Paul B. Christensen, PA, 3749 Southern Hills Drive, Jacksonville, FL 32225; Robert Lewis Thompson, Esq., c/o McCall Broadcasting Company, Thiemann Aitken & Vohra, LLC, 908 King Street, Suite 300, Alexandria, VA 22314; Robert Lewis Thompson, Esq., c/o Brundage Broadcasting Company, Thiemann Aitken & Vohra, LLC, 908 King Street, Suite 300, Alexandria, VA 22314; Robert Lewis Thompson, Esq., c/o Long Valley Broadcasting Company, Thiemann Aitken & Vohra, LLC, 908 King Street, Suite 300, Alexandria, VA 22314; Robert Lewis Thompson, Esq., c/o King's Pines Broadcasting Company, Thiemann Aitken & Vohra, LLC, 908 King Street, Suite 300, Alexandria, VA 22314; Matthew K. Wesolowski, General Manager, SSR Communications Incorporated, 5270 West Jones Bridge Road, Norcross, GA 30092–1628.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket Nos. 04–195, 04–196, 04–197, 04–198, 04–199, 04–200, and 04–201, adopted July 19, 2004, and released August 3, 2004. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The Audio Division requests comments on a petition filed by Paul B. Christensen proposing the allotment of Channel 237C3 at Key Largo, Florida, as the community's second FM commercial aural transmission service. Channel 237C3 can be allotted to Key Largo in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 237C3 at Key Largo are 25–05–24 north latitude and 80–26–36 west longitude.

The Audio Division requests comments on a petition filed by McCall Broadcasting Company proposing the allotment of Channel 228C3 at McCall, Idaho, as the community's third FM commercial aural transmission service. Channel 228C3 can be allotted to McCall in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 228C3 at McCall are 44–54–30 north latitude and 116–06–00 west longitude.

The Audio Division requests comments on a petition filed by Brundage Broadcasting Company proposing the allotment of Channel 238C3 at McCall, Idaho, as the community's third FM commercial aural transmission service. Channel 238C3 can be allotted to McCall in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 238C3 at McCall are 44–54–30 north latitude and 116–06–00 west longitude.

The Audio Division requests comments on a petition filed by Long Valley Broadcasting Company proposing the allotment of Channel 275C3 at McCall, Idaho, as the community's third FM commercial aural transmission service. Channel 275C3 can be allotted to McCall in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 275C3 at McCall are 44–54–30 north latitude and 116–06–00 west longitude.

The Audio Division requests comments on a petition filed by King's Pines Broadcasting Company proposing the allotment of Channel 293C3 at McCall, Idaho, as the community's third FM commercial aural transmission service. Channel 293C3 can be allotted to McCall in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.4 kilometers (4.6 miles) northeast of McCall. The reference coordinates for Channel 293C3 at McCall are 44–57–54 north latitude and 116–03–00 west longitude.

The Audio Division requests comments on a petition filed by SSR Communications Incorporated proposing the allotment of Channel 300A at Shorter, Alabama, as the community's third FM commercial aural transmission service. Channel 300A can be allotted to Shorter in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.3 kilometers (8.3 miles) south of Shorter. The reference coordinates for Channel 300A at Shorter are 32–16–36 north latitude and 85–56–20 west longitude.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter

is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Shorter, Channel 300A.

3. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by adding Channel 228C3, Channel 238C3, Channel 275C3, and Channel 293C3 at McCall.

4. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Channel 249C3 at Cross City and Channel 237C3 at Key Largo.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04–13809 Filed 6–17–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–1418; MB Docket No. 04–204; RM–10661]

Radio Broadcasting Services; Birmingham, Alabama and Calhoun, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by SSR Communications Incorporated requesting the allotment of Channel 233A at Calhoun, Georgia, as its first FM aural broadcast service. The proposal also requires the reclassification of Station WYSF(FM), Birmingham, Georgia, Channel 233C to specify operation on Channel 233C0 pursuant to the reclassification procedures adopted by the Commission. *See Second Report and Order* in MM Docket 98–93, *1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules,* 65 FR 79773 (2000). An Order to Show Cause was issued to Citadel Broadcasting Company, licensee of Station WYSF(FM). Channel 233A can be allotted at Calhoun, Georgia, at Petitioner's requested site 10.8 kilometers (6.7 miles) east of the community to avoid short-spacing to the license site of Station WMUU(FM), Channel 233C, Greenville, South Carolina. The reference coordinates for Channel 233A at Calhoun are 34–31–48 NL and 84–50–19 WL.

DATES: Comments must be filed on or before July 19, 2004, and reply comments on or before August 3, 2004. Any counterproposal filed in this proceeding need only protect Station WYSF(FM), Birmingham, Georgia, as a Class C0 allotment.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Matthew K. Wesolowski, General Manager, SSR Communications Incorporated, 5270 West Jones Bridge Road, Norcross, Georgia 30092–1628.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MB Docket No. 04–204, adopted May 26, 2004, and released May 28, 2004. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, or via e-mail *qualexint@aol.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama is amended by removing Channel 233C and by adding Channel 233C0 at Birmingham.

3. Section 73.202(b), the Table of FM Allotments under Georgia is amended by adding Calhoun, Channel 233A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04–13808 Filed 6–17–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 061404A]

RIN 0648–AS26

Fisheries Off West Coast States and in the Western Pacific; Notice of Availability of Amendment 16–3 to the Pacific Coast Groundfish Fishery Management Plan

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Pacific Council) has submitted Amendment 16–3 to the Pacific Coast Groundfish Fishery Management Plan (FMP) for Secretarial review.

Amendment 16–3 would amend the FMP to include overfished species rebuilding plans for bocaccio, cowcod, widow rockfish, and yelloweye rockfish. Amendment 16–3 is intended to address the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to protect and rebuild overfished species managed under a Federal FMP. Amendment 16–3 is also intended to respond, in part, to a Court order in which NMFS was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, as required by the Magnuson-Stevens Act.

DATES: Comments on Amendment 16–3 must be received on or before August 17, 2004.

ADDRESSES: Copies of Amendment 16–3 and the Environmental Impact Statement/Regulatory Impact Review/Initial Regulatory Flexibility Analysis for the amendment are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Portland, OR 97220.

You may submit comments on Amendment 16–3 or supporting documents, identified by [RIN 0648–AS26], by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *Amendment16–3NOA.nwr@noaa.gov*. Include the RIN number in the subject line of the message.
- Fax: 206–526–6736, Attn: Jamie Goen.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070; or Rod McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Jamie Goen (Northwest Region, NMFS), phone: 206–526–4646; fax: 206–526–6736; or e-mail: *jamie.goen@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the internet at the website of the Office of the Federal Register: *http://www.gpoaccess.gov/fr/index.html*.

Background

The Magnuson-Stevens Act requires each regional fishery management council to submit fishery management plans or plan amendments to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires NMFS, immediately upon receiving a fishery management plan or plan amendment, to publish notification in the **Federal Register** that the fishery management plan or plan amendment is available for public review and comment. At the end of the comment period, NMFS considers the public comments received during the comment period described above in determining whether to approve, partially approve, or disapprove the fishery management plan or plan amendment.

This notice of availability announces an amendment, Amendment 16–3, to the FMP to include overfished species rebuilding plans for bocaccio, cowcod, widow rockfish, and yelloweye rockfish. NMFS declared the bocaccio stock overfished on March 3, 1999 in a letter from NMFS to the Pacific Council announcing partial approval of Amendment 11 to the groundfish FMP, which approved the overfishing definition. Cowcod was declared overfished on January 4, 2000 (65 FR 221), widow rockfish on January 11, 2001 (66 FR 2338) and yelloweye rockfish on January 11, 2002 (67 FR 1555). Because the spawning stock biomass levels for these stocks were determined to be below the minimum stock size threshold defined by the FMP, rebuilding plans need to be implemented to return the stocks to their maximum sustainable yield biomass levels (target biomass).

The rebuilding plans being adopted under Amendment 16–3 were approved by the Pacific Council at its April 2004 meeting. These rebuilding plans specify rebuilding parameters for individual stocks and are intended to address the Magnuson-Stevens Act requirement to protect and rebuild overfished species, in particular National Standard 1 on overfishing and Section 304(e). When making the recommendation to implement these rebuilding plans, the Pacific Council sought to balance the rebuilding risks to each stock with the short and long-term socio-economic costs borne by groundfish buyers, commercial harvesters, and recreational operators as a result of constraining the fisheries to reduce total mortality of these overfished species. Amendment 16–3 is based on the policies and rebuilding parameters established by Amendment 16–1.

On August 18, 2003 (68 FR 49415), NMFS published a notice of availability for Amendment 16–1 to the FMP and approved the amendment on November 14, 2003. The final rule to codify provisions of Amendment 16–1 was published in the **Federal Register** on February 26, 2004 (69 FR 8861). Amendment 16–1 amended the FMP by requiring that Pacific Coast groundfish overfished species rebuilding plans be added into the FMP via FMP amendment and implemented through Federal regulations. For each approved overfished species rebuilding plan, the following parameters are to be specified in the FMP: estimates of unfished biomass (B_0) and target biomass (B_{MSY}), the year the stock would be rebuilt in the absence of fishing (T_{MIN}), the year the stock would be rebuilt if the maximum time period permissible under the national standard guidelines were applied (T_{MAX}), the target year in which the stock would be rebuilt under the adopted rebuilding plan (T_{TARGET}), and a harvest control rule. Other relevant information listed in Amendment 16–1 will also be included in the FMP, including the probability of the stock attaining B_{MSY} by T_{MAX} (P_{MAX}).

As required by the standards in Amendment 16–1, the rebuilding plans under Amendment 16–3 for bocaccio, cowcod, widow rockfish, and yelloweye rockfish include estimates of unfished biomass and target biomass, the year the stock would be rebuilt in the absence of fishing, the year the stock would be rebuilt if the maximum time period permissible under the national standard guidelines were applied, the target year in which the stock would be rebuilt under the adopted rebuilding plan, and the harvest control rule for each species. Amendment 16–3 would add these parameters to section 4.5.4. of the FMP. Other relevant information on each of these overfished stocks, such as stock distribution, fishery interaction, and the rebuilding strategy would also be added to section 4.5.4 of the FMP. The information described above would be included in the FMP to serve as management benchmarks.

In addition, the final rule to Amendment 16–1 requires that the two rebuilding parameters needed to establish annual or biennial optimum yields (OYs) for overfished species be codified in Federal regulations (69 FR 8861, February 26, 2004). These parameters are the target year for rebuilding and the harvest control rule that is to be used during the rebuilding period. The target rebuilding year is the year in which there is a 50 percent probability that the stock will be rebuilt with a given mortality rate. The harvest control rule expresses a given fishing mortality rate that is to be used over the course of rebuilding, unless modified in a subsequent rulemaking.

An approved rebuilding plan will be implemented through setting OYs and establishing management measures necessary to maintain the fishing mortality within the OYs and to achieve objectives related to rebuilding requirements.

Public comments on Amendment 16–3 must be received by August 17, 2004, to be considered by NMFS in the decision whether to approve, disapprove, or partially approve Amendment 16–3. A proposed rule to implement Amendment 16–3 has been submitted for Secretarial review and approval. NMFS expects to publish and request public comments on proposed regulations to implement Amendment 16–3 in the near future.

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

Dated: June 14, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–13730 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 69, No. 117
Friday, June 18, 2004

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. LS–04–07]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension of a currently approved information collection used to compile and generate the livestock and meat market reports for the Livestock and Grain Market News Branch of the Livestock and Seed Program.

DATES: Comments on this notice must be received by August 17, 2004 to be assured of consideration.

ADDRESSES: Comments may be mailed to Jimmy A. Beard; Assistant to the Chief; Livestock and Grain Market News Branch, Livestock and Seed Program, AMS, USDA; STOP 0252; Room 2619–S; 1400 Independence Avenue, SW.; Washington, DC 20250–0252; Phone (202) 720–8054; Fax (202) 690–3732; e-mailed to the Federal eRulemaking Portal: *http://www.regulations.gov,* or e-mailed to *marketnewscomments@usda.gov.* State that your comments refer to Docket No. LS–04–07. All comments received will be available for public inspection at this address during the hours of 8 a.m. to 4 p.m. Monday through Friday, and on the Internet at *http://www.ams.usda.gov/lsmnpubs.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: John E. Van Dyke, Chief, Livestock and Grain Market News Branch, AMS, USDA, by telephone on (202) 720–4846, or via e-mail at: *john.vandyke@usda.gov;* or Jimmy A. Beard, Assistant to the Chief, LiIvestock and Grain Market News Branch, AMS, USDA, by telephone on (202) 720–8054, or e-mail at: *jimmy.beard@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Livestock and Meat Market Reports.

OMB Number: 0581–0154.

Expiration Date of Approval: 02–28–2005.

Type of Request: Extension of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621, *et seq.*) directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements aiding in the maintenance of farm income and to bring about a balance between production and utilization.

Under this market news program, AMS issues market news reports covering the livestock and meat trade, which encompasses a wide range of industry contacts, including packers, processors, producers, brokers, and retailers. These reports are compiled on a voluntary basis, in cooperation with the livestock and meat industry. The information provided by respondents initiates market news reporting, which must be timely, accurate, unbiased, and continuous if it is to be meaningful to the industry. The livestock and meat industry requested that AMS issue livestock and meat market reports in order to assist them in making informed production and marketing decisions. In addition, several Government agencies that purchase meat for various Federal programs use this data in making their purchasing decisions.

Estimate of Burden: Public reporting burden for this collection of information is estimated at .03 hours per response.

Respondents: Business or other for-profit, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 450.

Estimated Number of Responses per Respondent: 520.

Estimated Total Annual Burden on Respondents: 7,020 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (2) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: June 14, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–13861 Filed 6–17–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 04–003N]

New Technology Website Contents

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice with request for comments.

SUMMARY: The Food Safety and Inspection Service is requesting comments on the types of information that it intends to post on its Web site regarding the use of new technologies in the production of meat, poultry, and egg products. Specifically, FSIS intends to post information about new technologies that are under review, or that have been reviewed, by the Agency. The Agency seeks comments about the value of the information to the public and the costs and other detrimental effects to a company if this information is made publicly available. FSIS is publishing this notice as part of its ongoing effort to increase public and industry awareness of new technologies and to foster their use by small and very small plants.

DATES: The Agency must receive comments by July 19, 2004.

ADDRESSES: Comments may be submitted by any of the following methods:

- Mail, including floppy disks or CD–ROM's, and hand-or courier-delivered items: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102 Cotton Annex, Washington, DC 20250.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions at that site for submitting comments.

All submissions received must include the Agency name and docket number 04–003N. All comments submitted will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday. The comments also will be posted on the Agency's Web site at *http://www.fsis.usda.gov/OPPDE/rdad/FRDockets.htm.*

FOR FURTHER INFORMATION CONTACT: For further information contact Bobby Palesano, Acting Director, New Technology Staff, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, Room 2932, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250–3700; telephone (202) 205–0675, fax (202) 205–0080.

SUPPLEMENTARY INFORMATION:

FSIS has a longstanding interest in technologies used in meat and poultry establishments and egg products plants. FSIS believes that the development and proper use of technology can contribute significantly to improving the safety of the food supply, especially with regard to reducing the threat posed by pathogenic microorganisms.

On February 11, 2003, FSIS published a notice in the **Federal Register** titled ''FSIS Procedures for Notification of New Technology'' (68 FR 6873). This notice established new, flexible procedures to actively encourage the development and use of new technologies in meat and poultry establishments and egg products plants.

Six months later, on August 12, 2003, Dr. Elsa Murano, Under Secretary for Food Safety, United States Department of Agriculture, announced the formation of the New Technology Staff (NTS). Located within FSIS, the NTS is charged with reviewing new technologies that companies intend to employ in the processing of meat, poultry, and egg products to ensure that the use of these technologies is consistent with Agency regulations, and that the technologies will not adversely affect product safety, inspection procedures, or the safety of FSIS inspectors.

On February 19, 2004, FSIS posted on the FSIS website at *http://www.fsis.usda.gov/oppde/op/technology/guidance.htm* document titled ''Guidance Procedures for Notification and Protocol Submission of New Technology.'' This guidance document is intended to assist establishments in determining whether they need to notify FSIS of new technologies that they propose to use in meat and poultry establishments and egg products plants, and to provide guidance on when to submit protocols for in-plant testing of new technologies. These guidelines replaced the procedures specified in FSIS's February 11, 2003, **Federal Register** notice.

FSIS defines ''new technology'' as new, or new applications of, equipment, substances, methods, processes, or procedures affecting the slaughter of livestock and poultry or processing of meat, poultry, or egg products. Steam vacuums, steam pasteurization, and antimicrobials are all examples of advances in food safety technology that have occurred in recent years. New technologies have resulted in significant improvements in the safety of meat and poultry products in recent years.

Because of its desire to share information and to encourage small and very small plants to utilize new technologies, FSIS is considering posting on its Web site information on new technologies that are the subject of notifications or protocols that the Agency has received. The summaries would provide brief descriptions of the new technology notifications or protocols from industry. The summaries would include the submitter's name, a brief description of the new technology, and the status of the submission.

There are 5 status categories: (1) Pending (the notification is under review), (2) Objection Letter Issued (an aspect of the technology requires study), (3) Notification Information Inadequate (the notification does not include adequate information), (4) No Objection Letter Issued (the Agency has no objection to use of the new technology), and (5) Protocol Approved for In-plant Trial (the submitter will be studying an aspect of the use of the technology). The Agency intends to indicate the status of each pending submission.

The following are examples of new technologies and how they may appear on the Web site:

Company name	Summary of the notification/protocol	Status
XYZ	Direct application of a biological agent as an antimicrobial in processing of poultry	No Objection Letter Issued.
YZX	Application of a chemical agent as an antimicrobial processing aid on raw beef carcasses	Pending.
ZXY	Application of new substance as an antimicrobial food additive on fully cooked product	Notification Information Inadequate.

The Agency recognizes, however, that a new technology notification or protocol may contain proprietary information. Therefore, the Agency requests comments on what information on new technologies it should make publicly available and on ways to protect proprietary information. For example, FSIS requests comments on the possibility that, if a submitter is concerned about the disclosure of proprietary information or a trade secret contained in the notification or protocol, the submitter could prepare and submit to FSIS both a confidential business information (CBI) version of the document and a public version. The CBI version would specify the information that the submitter considers to be proprietary or trade secret. If none of the information in the submission is proprietary or trade secret, and the submitter has no concerns about disclosing it, then only a public version of the document would need to be submitted to FSIS.

FSIS is requesting comments on the information that it intends to post on its website regarding the submissions of new technologies. Specifically, the Agency is seeking comments on the value of this information and on the costs and other detrimental effects to a company if this information is made publicly available. FSIS will not begin to regularly post information about new notifications and protocols until after the comment period has ended, and it has evaluated and responded to all comments received.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to

ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS web page located at *http://www.fsis.usda.gov.*

The Regulations.gov website is the central online rulemaking portal of the United States government. It is being offered as a public service to increase participation in the Federal government's regulatory activities. FSIS participates in Regulations.gov and will accept comments on documents published on the site. The site allows visitors to search by keyword or Department or Agency for rulemakings that allow for public comment. Each entry provides a quick link to a comment form so that visitors can type in their comments and submit them to FSIS. The website is located at *http://www.regulations.gov.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to our constituents and stakeholders. The update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update also is available on the FSIS web page. Through Listserv and the web page, FSIS is able to provide information to a much broader, more diverse audience.

Done at Washington, DC, on June 15, 2004.

Barbara Masters,

Acting Administrator.

[FR Doc. 04–13863 Filed 6–17–04; 8:45 am]

BILLING CODE 3410–DM–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must be Received on or Before: July 18, 2004.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions. If the Committee approves the proposed additions, the entities of the Federal government identified in the notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products:

Product/NSN: Bag, T-Shirt Style (Defense Commissary Agency Requirements for the Southern and Central Regions only); 8105–00–NIB–1023.
NPA: Envision, Inc., Wichita, Kansas.
Contract Activity: Defense Commissary Agency, Fort Lee, Virginia.

Product/NSN: One Step Tub & Shower Cleaner, M.R. 584.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, North Carolina.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.

Services:

Service Type/Location: Administrative Service, Program Executive Office (PEO) Aviation, At the following locations: Fort Bragg, North Carolina, Fort Campbell, Kentucky, Fort Rucker, Alabama, Fort Hood, Texas, Fort Huachuca, Arizona, Huntsville, Alabama, Redstone Arsenal, Alabama.
NPA: Huntsville Rehabilitation Foundation, Huntsville, Alabama.
Contract Activity: U.S. Army Aviation and Missile Command, Huntsville, Alabama.

Service Type/Location: Data Entry, USDA, Food Safety & Inspection Services, Minneapolis, Minnesota.
NPA: JVS Works, Inc., Minnetonka, Minnesota.
Contract Activity: GSA, Federal Technology Service, Ft. Huachuca, Arizona.

Service Type/Location: Food Service Attendant, Minnesota Air National Guard, St. Paul, Minnesota.
NPA: AccessAbility, Inc., Minneapolis, Minnesota.
Contract Activity: Air National Guard-St. Paul, MN, St. Paul, Minnesota.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 04–13865 Filed 6–17–04; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the Rhode Island Advisory Committee will convene at 10:30 a.m. and adjourn at 11:30 a.m. on Friday, June 18, 2004. The purpose of the conference call is to plan future projects.

This conference call is available to the public through the following call-in number: 1–888–777–0937, access code number: 24576995. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the

conference call number and access code number.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Barbara de La Viez of the Eastern Regional Office, 202–376–7533 (TTY 202–375–8116), by 4 p.m. on Thursday, June 17, 2004.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated: June 11, 2004.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 04–13847 Filed 6–15–04; 2:50 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review: Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration.

Title: Advocacy Quality Assurance Survey.

Agency Form Number: ITA–XXXX.

OMB Number: 0625–XXXX.

Type of Request: Regular submission.

Burden: 37.92 hours.

Number of Respondents: 227.5.

Avg. Hours Per Response: 10 minutes.

Needs and Uses: The International Trade Administration's U.S. Commercial Service is mandated by Congress to help U.S. businesses, particularly small and medium-sized companies, export their products and services to global markets. As part of its mission, the U.S. Commercial Service uses ''Quality Assurance Surveys'' to collect feedback from the U.S. business clients it serves. These surveys ask the client to evaluate the U.S. Commercial Service on its customer service provision. Results from the surveys are used to make improvements to the agency's business processes in order to provide better and more effective export assistance to U.S. companies. The purpose of the attached survey is to collect feedback from U.S. businesses that receive advocacy services from the U.S. Commercial Service. In providing these services, the U.S. Commercial Service advocates on behalf of a U.S. company that is bidding on a project or government contract, trying to recover payment or goods, or facing a barrier to market entry.

Affected Public: U.S. companies who receive advocacy services from USFCS international posts.

Frequency: Upon completion of receipt of advocacy services (on occasion).

Respondents Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–7340.

Copies of the above information collection can be obtained by calling or writing Diana Hynek, Department Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230. E-mail *dHynek@doc.gov*.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503 within 30 days of the publication of this notice in the **Federal Register**.

Dated: June 14, 2004.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04–13735 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

[I.D. 061504A]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Region Gear Identification Requirements.

Form Number(s): None.

OMB Approval Number: 0648–0353.

Type of Request: Regular submission.

Burden Hours: 3,138.

Number of Respondents: 1,692.

Average Hours Per Response: 15 minutes.

Needs and Uses: The participants in the groundfish fisheries in the Exclusive Economic Zone off the coast of Alaska are required to identify all hook-and-line and pot gear marker buoys on board or in use by the vessel. The vessels will be identified with the vessel's Federal fisheries permit number or the State of Alaska Department of Fish and Game vessel registration number. The information is needed for fishery enforcement purposes.

Affected Public: Business or other for-profit organizations, and Individuals or households.

Frequency: Third party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number 202–395–7285, or *David__Rostker@omb.eop.gov*.

Dated: June 10, 2004.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04–13805 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–821]

Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 18, 2004.

SUMMARY: On January 26, 2003, the Department of Commerce published its preliminary determination of sales at less than fair value of the investigation on polyethylene retail carrier bags from Thailand. The period of investigation is April 1, 2002, through March 31, 2003. The investigation covers five manufacturers/exporters.

We invited interested parties to comment on our preliminary determination of sales at less than fair value. Based on our analysis of the comments received, we have made changes to our calculations. The final dumping margins for this investigation are listed in the ''Final Determination Margins'' section below.

FOR FURTHER INFORMATION CONTACT: Lyn Johnson (TPBG) or Fred Aziz (Universal), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW.,

Washington, DC 20230; telephone: (202) 482–4733.

Final Determination

The Department of Commerce (the Department) has conducted this antidumping investigation in accordance with section 735 of the Tariff Act of 1930, as amended (the Act). We have determined that polyethylene retail carrier bags (PRCBs) from Thailand are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the ''Final Determination Margins'' section of this notice.

Case History

The preliminary determination of sales at LTFV in this investigation was issued on January 21, 2004. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Retail Carrier Bags from Thailand,* 69 FR 3552 (January 26, 2004) (*Preliminary Determination*).

Since the *Preliminary Determination* the following events have occurred. In February 2004, we conducted verifications of the questionnaire responses of the respondents, Thai Plastic Bags Industries Co., Ltd. (TPBI), Winner's Pack Co., Ltd., and APEC Film Ltd (APEC) (collectively the Thai Plastic Bags Industries Group (TPBG)), and Advance Polybag Inc., Alpine Plastics Inc., API Enterprises Inc., and Universal Polybag Co., Ltd. (collectively Universal). We gave interested parties an opportunity to comment on the *Preliminary Determination*. We received case briefs on April 30, 2004, from the respondents and May 3, 2004, from the Polyetheylene Retail Carrier Bag Committee and its individual members, PCL Packing, Inc., Hilex Poly Co., LLC, Superbag Corp., Vanguard Plastics Inc., and Inteplast Group, Ltd. (collectively, the petitioners). We received rebuttal briefs on May 6, 2004, from both the respondents and the petitioners. The Department held a public hearing on May 14, 2004, at the request of the petitioners.

Period of Investigation

The period of investigation (POI) corresponds to the four most recent fiscal quarters prior to the filing of the petition, April 1, 2002, through March 31, 2003.

Scope of Investigation

The merchandise subject to this investigation is PRCBs, which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than .035 inch (0.889 mm) and no less than .00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments (*e.g.*, grocery, drug, convenience, department, specialty retail, discount stores and restaurants) to their customers to package and carry their purchased products. The scope of the petition excludes (1) PRCBs that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) PRCBs that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments (*e.g.*, garbage bags, lawn bags, trash-can liners).

Imports of the subject merchandise are currently classifiable under statistical category 3923.21.0090 of the *Harmonized Tariff Schedule of the United States*. This subheading also covers products that are outside the scope of this investigation. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the ''Issues and Decision Memorandum'' (*Decision Memorandum*) from Jeffrey May, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated June 9, 2004, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum,* is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov/.* The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides such information but the information cannot be verified, the Department shall, subject to sections 782(d) and (e) of the Act, use facts otherwise available in reaching the applicable determination.

Specifically, section 776(a)(2)(B) of the Act requires the Department to use facts available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of that party as facts otherwise available.

As explained in the *Preliminary Determination,* Champion Paper Polybags Ltd., TRC Polypack, and Zip-Pac Co., Ltd., failed to respond to our July 14, 2003, request for information. See *Preliminary Determination* at 69 FR 3552. Consistent with our decision in the *Preliminary Determination* and pursuant to section 776(a) of the Act, in reaching our final determination we have used total facts available for all three of these companies. These firms did not provide the data we needed to decide whether they should be selected as mandatory respondents. Also, because these companies failed to respond to our requests for information, we have found that they failed to cooperate to the best of their ability. Therefore, pursuant to section 776(b) of the Act, we have used an adverse inference in selecting from the facts available for the margins for these companies. Accordingly, we find that the highest margin based on petition information, as we adjusted for the initiation of this investigation, 122.88 percent, is corroborated within the meaning of section 776(c) of the Act. See *Initiation of Antidumping Duty Investigations: Polyethylene Retail Carrier Bags from The People's Republic of China, Malaysia, and Thailand,* 68 FR 42002 (July 16, 2003).

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information used for facts available by reviewing independent sources reasonably at its disposal. Information from the petitioners constitutes secondary information. The Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, at 870 (1994) (SAA), provides that the word ''corroborate'' means that the Department will satisfy itself that the secondary information used has probative value.

As discussed in the memorandum to the file entitled ''Corroboration of Facts Available'', dated January 16, 2004, we found that the export-price (EP) and normal-value information in the petition were reasonable and, therefore, determined that the petition information has probative value. Furthermore, there is no information on the record that demonstrates that the rate we have selected is an inappropriate total adverse facts-available rate for the companies in question. On the contrary, our existing record supports the use of this rate as the dumping margin for these firms. Therefore, we consider the selected rate to have probative value with respect to the firms in question and to reflect the appropriate adverse inference. Accordingly, for the final determination, the margin for Champion Paper Polybags Ltd., TRC Polypack, and Zip-Pac Co., Ltd., is 122.88 percent.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Cost of Production

As explained in our ''Request to Initiate a Cost Investigation'' dated November 21, 2003, we conducted a COP investigation of sales by TPBG in the home market pursuant to section 773(b)(1) of the Act.

In accordance with section 773(b)(3) of the Act, we calculated the cost of production (COP) based on the sum of the costs of materials and fabrication employed in producing the foreign like product, the selling, general and administrative (SG&A) expenses, and all costs and expenses incidental to packing the merchandise. In our COP analysis, we used the home-market sales and COP information provided in TPBG's questionnaire responses.

After calculating the COP, in accordance with section 773(b)(1) of the Act, we tested whether home-market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home-market prices less any applicable movement charges.

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of TPBG'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 the below-cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we disregarded the below-cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and because, based on comparisons of prices to weighted-average COPs for the POI, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, in the *Preliminary Determination* and for this final determination, we disregarded below-cost sales with respect to TPBG.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

Changes Since the Preliminary Determination

Since the *Preliminary Determination,* we have made the following changes to our margin calculations:

TPBG

1. We incorporated pre-verification changes by using the revised U.S., home-market, and cost-of-production sales listings provided in TPBG's February 2, 2004, filing.

2. We adjusted TPBG's reported U.S., home-market, and cost sales listings for corrections presented on the first day of the cost verification (see the cost verification report for TPBG dated March 31, 2004) and the first day of the sales verification (see the sales verification report dated April 15, 2004).

3. We adjusted TPBG's reported cost of inputs obtained from affiliates to reflect the higher of transfer price or market price in accordance with section 773(f)(2) of the Act. See Comment 5 of the *Decision Memorandum.*

4. We adjusted APEC's reported costs for an unreconciled difference between the total costs from the financial accounting system and the total costs from the cost of production (COP) and constructed value (CV) file. See Comment 14 of the *Decision Memorandum.*

5. We adjusted TPBI's reported costs for an unreconciled difference between the total costs from the financial accounting system and the total costs from the COP and CV file. See Comment 10 of the *Decision Memorandum.*

6. We adjusted TPBI's reported costs for a difference in the production quantities from the production system and those used to calculate the per-unit costs. See Comment 10 of the *Decision Memorandum.*

7. We adjusted TPBI's general and administrative (G&A) rate for a mathematical error. We also adjusted Winner's Pack's financial expense rate for a mathematical error. See Comment 14 of the *Decision Memorandum.*

8. We adjusted APEC's financial expense rate to disallow interest income offsets not related to short-term assets. See Comment 13 of the *Decision Memorandum.*

9. We made adjustments to U.S. price to account for two of the three types of duty drawback claims reported. See Comment 8 of the *Decision Memorandum.*

10. We revised the amount for indirect selling expenses (ISEs) incurred in Thailand as a result of verification. We also revised the home-market ISEs as a result of verification and calculation errors asserted by the petitioners. See Comment 15 of the *Decision Memorandum.*

See ''Final Determination Analysis Memorandum for Thai Plastic Bags Group,'' memorandum to the file dated June 9, 2004, and ''Constructed Value Calculation Adjustments for Thai Plastic Bags Group for the Final Determination,'' Memorandum to the File from the Office of Accounting, dated June 9, 2004, for more details concerning the above changes.

Universal

1. We imputed interest expense for a certain loan. For the final determination, we applied the interest rate in Thailand, as published by the International Monetary Fund, to the average daily loan balance of the loan, based on the actual number of days that

the principal amount of the loan was outstanding, to calculate the imputed interest expense. See Comment 7 of the *Decision Memorandum.*

2. We increased the total cost of manufacture to value affiliated-party inputs of masterbatch (color concentrate) at the higher of transfer price or market price. See Comment 5 of the *Decision Memorandum.*

3. We adjusted the reported costs to include unreconciled differences and other adjustments, found at verification, in the reconciliations of the financial statements to the financial accounting system and of the financial accounting system to the reported costs for the POI. See Memorandum from Nancy Decker through Theresa Caherty to Neal Halper, ''Universal Polybag Co., Ltd. Constructed Value Calculation Adjustments for the Final Determination'' dated June 9, 2004 (Universal Final Cost Memorandum).

4. We adjusted general and administrative (G&A) and financial expenses ratios to remove packing from the denominator of the calculation of these ratios. We then applied G&A and financial expenses to the total packing-exclusive cost of manufacturing.

5. We have recalculated the rates used for CV selling expenses and CV profit. See Comment 4 of the *Decision Memorandum.*

See the ''Final Determination Analysis Memorandum for Universal Polybag,'' Memorandum to the File, dated June 9, 2004, and ''Constructed Value Calculation Adjustments for Universal Polybag Co., Ltd. for the Final Determination,'' Memorandum to the File from the Office of Accounting dated June 9, 2004, for more details concerning the above changes.

Continuation of Suspension of Liquidation

Pursuant to 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Thailand, except for subject merchandise produced and exported by TPBG (which has a *de minimis* weighted-average margin) entered, or withdrawn from warehouse, for consumption on or after January 26, 2004, the date of the publication of our preliminary determination. CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

Final Determination Margins

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average percentage margin
TPBG	0.62
Universal	5.66
Champion Paper Polybags Ltd	122.88
TRC Polypack	122.88
Zip-Pac Co., Ltd	122.88
All Others	5.66

Pursuant to section 735(c)(5)(A) of the Act, we have excluded from the calculation of the all-others rate margins which are zero or *de mimimis* or determined entirely on facts available. See ''Antidumping Duty Investigation on Polyethylene Retail Carrier Bags from Thailand—Analysis Memo for All-Others Rate,'' dated June 9, 2004. The Department will disclose calculations performed within five days of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination of sales at LTFV. As our final determination is affirmative and in accordance with section 735(b) of the Act the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 9, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Issues Appendix

1. Foreign and Domestic Production
2. Allocation of Indirect Selling Expenses
3. Date of Sale
4. Surrogate-Value Information
5. Affiliated-Party Inputs
6. Inputed Interest on Long-Term Loans
7. Duty Drawback
8. Affiliations
9. Miscellaneous Cost Issues
10. Pre-Verification and Verification Corrections

[FR Doc. 04–13814 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–886]

Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 26, 2004, the Department of Commerce published its preliminary determination of sales at less than fair value in the investigation on polyethylene retail carrier bags from the People's Republic of China. On February 20, 2004, the Department of Commerce published its amended preliminary determination of sales at less than fair value. The period of investigation is October 1, 2002, through March 31, 2003. The investigation covers nine manufacturers/exporters which are mandatory respondents and nineteen section A respondents.

We invited interested parties to comment on our preliminary determination of sales at less than fair value. Based on our analysis of the comments received, we have made changes to our calculations for all parties. The final dumping margins for this investigation are listed in the ''Final Determination Margins'' section below.

EFFECTIVE DATE: June 18, 2004.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla (Nantong), Edythe Artman (Senetex), Kristin Case (United

Wah), Jeffrey Frank (Ming Pak), Janis Kalnins (Zhongshan), Jennifer Moats (Hang Lung), Thomas Schauer (Rally Plastics), or Dmitry Vladimirov (Glopack), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

Final Determination

We determine that polyethylene retail carrier bags (PRCBs) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV) as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the ''Final Determination Margins'' section of this notice.

Case History

The Department of Commerce (the Department) published its preliminary determination of sales at LTFV on January 26, 2004. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Retail Carrier Bags from the People's Republic of China*, 69 FR 3544 (*Preliminary Determination*). On February 20, 2004, the Department published an amended preliminary determination. See *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Retail Carrier Bags from the People's Republic of China*, 69 FR 7908 (*Amended Preliminary Determination*). We invited parties to comment on the *Preliminary Determination*. We received comments from the Polyethylene Retail Carrier Bag Committee and its individual members (collectively, petitioners) and from the following respondents: Hang Lung Plastic Manufactory Limited (Hang Lung), Dongguan Huang Jiang United Wah Plastic Bag Factory (United Wah), Nantong Huasheng Plastic Products Company, Limited (Nantong), Rally Plastics Company, Limited (Rally Plastics), Shanghai Glopack Packing Company Limited and Sea Lake Polyethylene Enterprise Limited (collectively, Glopack), Xiamen Ming Pak Plastics Company, Limited (Ming Pak), Nan Sing Plastics, Limited (Nan Sing), Dongguan Zhongqiao Combine Plastic Bag Factory (Dongguan Zhongqiao), Zhongshan Dongfeng Hung Wai Plastic Bag Manufactory (Zhongshan), Guangdong Esquel Packaging Company, Limited (Guangdong Esquel), and Duralok, Inc. (Duralok). On March 22, 2004, parties submitted surrogate-value information. On April 27, 2004, parties submitted case briefs. On May 3, 2004, parties submitted rebuttal briefs.

Scope of Investigation

The merchandise subject to this investigation is PRCBs which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than .035 inch (0.889 mm) and no less than .00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments (*e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants) to their customers to package and carry their purchased products. The scope of the investigation excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments (*e.g.*, garbage bags, lawn bags, trash-can liners).

Imports of the subject merchandise are classified under statistical category 3923.21.0090 of the *Harmonized Tariff Schedule of the United States* (HTSUS). This subheading also covers products that are outside the scope of this investigation. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Comments

The Department received scope comments and addressed them in the ''Issues and Decision Memorandum for the Investigation of Polyethylene Retail Carrier Bags from the People's Republic of China'' from Jeff May to James J. Jochum (June 9, 2004) (Decision Memo).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, dated June 9, 2004, which is hereby adopted by this notice (the Decision Memorandum). A list of the issues which parties raised and to which we respond in the Decision Memorandum is attached to this notice as an Appendix. The Decision Memorandum is a public document and is on file in the Central Records Unit (CRU), Main Commerce Building, Room B–099, and is accessible on the Web at www.ia.ita.doc.gov. The paper copy and electronic version of the memorandum are identical in content.

Separate Rates

In the *Preliminary Determination*, the Department found that several companies which provided responses to section A of the antidumping questionnaire were eligible for a rate separate from the PRC-wide rate. These companies are as follows: Beijing Lianbin Plastics and Printing Company Limited (Beijing Lianbin), Dongguan Zhongqiao, Good-in Holdings Limited (Good-in Holdings), Guangdong Esquel, Nan Sing, Ningbo Fanrong Plastics Products Company Limited (Ningbo Fanrong), Ningbo Huansen Plasthetics Company, Limited (Ningbo Huansen), Rain Continent Shanghai Company Limited (Rain Continent), Shanghai Dazhi Enterprise Development Company, Limited (Shanghai Dazhi), Shanghai Fangsheng Coloured Packaging Company Limited (Shanghai Fangsheng), Shanghai Jingtai Packaging Material Company, Limited (Shanghai Jingtai), Shanghai Light Industrial Products Import and Export Corporation (Shanghai Light Industrial), Shanghai Minmetals Development Limited (Shanghai Minmetals), Shanghai New Ai Lian Import and Export Company Limited (Shanghai New Ai Lian), Shanghai Overseas International Trading Company, Limited (Shanghai Overseas), Shanghai Yafu Plastics Industries Company Limited (Shanghai Yafu), Weihai Weiquan Plastic and Rubber Products Company, Limited (Weihai Weiquan), Xiamen Xingyatai Industry Company, Limited (Xiamen Xingyatai), and Xinhui Henglong. Consequently, we calculated a weighted-average margin for these companies based on the rates we calculated for the selected respondents (see Memorandum from Thomas Schauer to the File regarding calculation of the adverse-facts-available and non-adverse-facts-available margins dated January 16, 2004). The margin we calculated in the *Preliminary Determination* for these companies was 12.71 percent was amended in the *Amended Preliminary Determination* to 18.43 percent. Because the rates of the selected mandatory respondents have

changed since the *Preliminary Determination* and the *Amended Preliminary Determination*, we have recalculated the rate for section A respondents to be 23.06 percent. For a more detailed discussion of the section A rate, see Memorandum to the File entitled ''Analysis for the Final Determination of Polyethylene Retail Carrier Bags from the People's Republic of China (PRC): Calculation of PRC-Wide Rate Based on Adverse Facts Available and the Non-Adverse Margin for Respondents Not Selected for Analysis,'' dated June 9, 2004 (PRC-Wide Rate Memo).

With the exception of Nantong, the companies receiving this ''section A'' rate remain the same as those listed in the *Preliminary Determination* and are identified by name in the ''Final Determination Margins'' section of this notice. Nantong was given the ''section A'' rate as facts otherwise available for the *Preliminary Determination*. Because we are now using the data that Nantong reported, we are no longer using the ''section A'' rate for Nantong. For a more detailed discussion of this matter, see Comment 13.B of Issues and Decision Memorandum, dated June 9, 2004.

The PRC-Wide Rate

Because the Department begins with the presumption that all companies within a non-market-economy country are subject to government control and because only the companies listed in the ''Final Determination Margins'' section below have overcome that presumption, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters in the PRC. The PRC-wide rate we calculated in the *Preliminary Determination* was 80.52 percent. Because of certain changes to surrogate values, we have recalculated the PRC-wide rate to be 77.33 percent. For a more detailed discussion of these changes and the PRC-wide rate calculations, see the PRC-Wide Rate Memo.

Tai Chiuan failed to respond at all to the antidumping questionnaire. Senetex responded to the initial antidumping questionnaire but failed to respond to the supplemental questionnaire and submitted a letter stating that it no longer wished to participate in the investigation. By not responding fully to the questionnaire, two mandatory respondents, Senetex and Tai Chiuan, failed to demonstrate entitlement to a separate rate and, therefore, we preliminarily determined that the PRC-wide rate should apply to them. We have not received any information since the issuance of the *Preliminary Determination* that provides a basis for reconsideration of these determinations. Therefore, for the final determination we have not established a rate separate from the PRC-wide rate for these companies.

Final Determination Margins

We determine that the following percentage weighted-average margins exist:

Exporter and Producer	Margin (percent)
Hang Lung	0.20
United Wah	23.19
Nantong	2.29
Rally Plastics	23.81
Glopack	19.73
Ming Pak	35.23
Zhongshan	41.21
Beijing Lianbin	23.06
Dongguan Zhongqiao	23.06
Good-in Holdings	23.06
Guangdong Esquel	23.06
Nan Sing	23.06
Ningbo Fanrong	23.06
Ningbo Huansen	23.06
Rain Continent	23.06
Shanghai Dazhi	23.06
Shanghai Fangsheng	23.06
Shanghai Jingtai	23.06
Shanghai Light Industrial	23.06
Shanghai Minmetals	23.06
Shanghai New Ai Lian	23.06
Shanghai Overseas	23.06
Shanghai Yafu	23.06
Weihai Weiquan	23.06
Xiamen Xingyatai	23.06
Xinhui Henglong	23.06
PRC-wide Rate	77.33

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

Continuation of Suspension of Liquidation

Pursuant to 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from the PRC (except for entries of Hang Lung because this company has a *de minimis* margin) entered, or withdrawn from warehouse, for consumption on or after January 26, 2004, the date of publication of the *Preliminary Determination.* In accordance with section 351.204(e)(3) of our regulations, this exclusion only applies to merchandise produced and exported by Hang Lung. CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will, within 45 days, determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn form warehouse, for consumption on or after the effective date of the suspension of liquidation (*i.e.*, January 26, 2004).

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 9, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix

Issues in the Decision Memorandum

1. Scope Comments

2. Surrogate Financial Ratios
3. Market-Economy Inputs
4. Adjusting Indian Import Statistics
A. Excluding Countries That Receive Export Subsidies
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11. Hang Lung Issues
A. Affiliated U.S. Customer
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C. Adjustment of Market-Economy Purchases to Account for Unpaid Foreign Customs Duties
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12. United Wah Issues
A. Certain ''Market-Economy'' Purchases by United Wah
B. Ministerial-Error Allegation
13. Nantong Issues
A. Market-Economy Purchases of Raw Materials from Purchaser of PRCBs
B. Use of Adverse Facts Available for Inadequate Reporting of FOP Information
14. Rally Plastics Issues
A. Use of Facts Available for Direct Labor, Indirect Labor, and Electricity
B. Use of Facts Available for Marine Insurance
C. Use of Facts Available for International Freight
15. Glopack Issue
Classification of Sales as EP or CEP
16. Zhongshan Issues
A. Use of Adverse Facts Available for Sales Through Reliable Plastic Bags Manufacturing Ltd.
B. Ministerial-Error Allegations
C. Use of HTS Subheading 5607.90.02 to Value Cotton Rope/String
D. Valuing Cardboard Inserts Using HTS Subheadings
E. Surrogate Value for Rubber Rope
F. Surrogate Value for Clip (Loop) Handles
G. Whether the Department Should Adjust for Bank Fees

[FR Doc. 04–13815 Filed 6–17–04; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–813]

Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Malaysia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 18, 2004.

SUMMARY: On January 26, 2003, the Department of Commerce published its preliminary determination of sales at less than fair value of the investigation on polyethylene retail carrier bags from Malaysia. The period of investigation is April 1, 2002, through March 31, 2003. The investigation covers six manufacturers/exporters.

We invited interested partes to comment on our preliminary determination of sales at less than fair value. Based on our analysis of the comments received, we have made changes to our calculations. The final dumping margins for this investigation are listed in the ''Final Determination Margins'' section below.

FOR FURTHER INFORMATION CONTACT: David Dirstine (Bee Lian Plastic Industries Sdn. Bhd.) or Catherine Cartsos (Teong Chuan Plastic and Timber Sdn. Bhd.), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4033 or (202) 482–1757, respectively.

Final Determination

We determine that polyethylene retail carrier bags (PRCBs) from Malaysia are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at less than fair value (LTFV) are shown in the AFinal Determination Margins' section of this notice.

Case History

The preliminary determination of sales at LTFV in this investigation was issued on January 21, 2004. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Retail Carrier Bags from Malaysia,* 69 FR 35557 (January 26, 2004) (*Preliminary Determination*).

Since the *Preliminary Determination* the following events have occurred. Pursuant to section 782(i) of the Act, we conducted verification of the questionnaire responses of the sole responsive exporter in this case, Bee Lian Plastic Industries Sdn. Bhd. (Bee Lian), in March 2004. We gave interested parties an opportunity to comment on the *Preliminary Determination.* In April 2004, we received case and rebuttal briefs from the Polyethylene Retail Carrier Bag Committee and its individual members, PCL Packaging, Inc., Hilex Poly Co. LLC, Superbag Corp., Vanguard Plastics, Inc., and Interplast Group, Ltd. (the petitioners), and Bee Lian. We also received a case brief from the Malaysian Plastic Manufacturers Association. The Department held a public hearing on April 23, 2004, at the request of the petitioners.

Period of Investigation

The period of investigation (POI) is April 1, 2002, through March 31, 2003, which corresponds to the four most recent fiscal quarters prior to the June 20, 2003, filing of the petition.

Scope of Investigation

The merchandise subject to this investigation is polyethylene retail carrier bags, which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than .035 inch (0.889 mm) and no less than .00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments (*e.g.,* grocery, drug, convenience, department, specialty retail, discount stores, and restaurants) to their customers to package and carry their purchased products. The scope of the investigation excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments (*e.g.,* garbage bags, lawn bags, trash-can liners).

Imports of the subject merchandise are classified under statistical category 3923.21.0090 of the *Harmonized Tariff Schedule of the United States* (HTSUS). This subheading also covers products that are outside the scope of this investigation. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the ''Issues and Decision Memorandum'' (*Decision*

Memorandum) from Jeffrey May, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated June 9, 2004, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum,* is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov/.* The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Use of Facts Otherwise Available

As explained in the *Preliminary Determination,* because some companies failed to respond, wholly or in part, to our request for information, we have found that they failed to cooperate to the best of their ability. Therefore, pursuant to section 776(b) of the Act, we have used an adverse inference in selecting from the facts available for the margins for these companies. See Memorandum from Laurie Parkhill to Jeffrey May, dated January 16, 2004, ''Determination to Apply Adverse Facts Available and the Calculation of the Adverse Facts-Available Rate'' (*AFA Memo*).

As adverse facts available, we have examined the margins that the petitioners alleged in their June 30, 2003, response to our June 25, 2003, letter requesting supplemental information with respect to the petition and selected the higher of the two margins; that rate is 101.74 percent.

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information used for facts available by reviewing independent sources reasonably at its disposal. Information from the petitioners constitutes secondary information. The Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, Vol. 1, at 870 (1994) (SAA), provides that the word ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value.

As discussed in the *AFA Memo,* we found that the export-price and normal-value information in the supplemental petition was reasonable and, therefore, we preliminarily determined that the information had probative value. Accordingly, we find that the highest margin based on that information, 101.74 percent, is corroborated within the meaning of section 776(c) of the Act.

Furthermore, there is no information on the record that demonstrates that the rate we have selected is an inappropriate total adverse facts—available rate for the companies in question. Therefore, we consider the selected rate to have probative value with respect to the firms in question and to reflect the appropriate adverse inference.

Accordingly, we have applied a margin of 101.74 percent to Branpak Industries Sdn. Bhd., Gants Pac Industries, Sido Bangun, Zhin Hin/Chin Hin, and Teong Chuan.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondent.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes to the margin calculations. For a discussion of these changes, see Memorandum to the File from David Dirstine, dated June 9, 2004, Final Determination Analysis Memorandum for Bee Lian Plastic Industries Sdn. Bhd. (Bee Lian)—Polyethylene Retail Carrier Bags from Malaysia.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct Customs and Border Protection (CBP) to continue to suspend liquidation of all imports of subject merchandise from Malaysia (except for entries of Bee Lian because this company has a *de minimis* margin) entered, or withdrawn from warehouse, for consumption on or after January 26, 2004, the date of the publication of our preliminary determination. The CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

Final Determination Margin

The weighted-average dumping margins are as follows:

Exporter or producer	Weighted-average percent margin
Bee Lian Plastic Industries Sdn. Bhd	00.91
Teong Chuan Plastic and Timber Sdn. Bhd	101.74
Brandpak Industries Sdn. Bhd	101.74
Gants Pac Industries	101.74
Sido Bangun Sdn. Bhd	101.74
Zhin Hin/Chin Hin Plastic Manufacturer Sdn. Bhd	101.74
All Others	84.94

All Others

All companies that we examined have either a *de minimis* margin or rates based on total adverse facts available. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(B) of the Act, we have calculated a simple average of the six margin rates we have determined in the investigation. See All-Others Rate Calculation Memorandum from Laurie Parkhill to Jeffrey May, dated January 16, 2004.

The Department will disclose calculations performed within five days of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination of sales at LTFV. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act the ITC will, within 45 days, determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the CBP to assess antidumping duties on all imports of the subject merchandise

entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation (*i.e.*, January 26, 2004).

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 9, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

1. All-Others Rate
2. Rejection of Bee Lian's Response and Application of Total Adverse Facts Available
3. Determination of Production and Sales Quantities
4. Offset to Cost of Manufacturing (COM) for the Sale of Recycled Resin Produced from Scrap and Misprinted Bags
5. Value of Recycled Resin Used in Production
6. Average Resin Cost by Type
7. Application of Auditors Year-End Adjustments
8. General, Administrative and Financial Expenses of Affiliated Companies
9. Treatment of Glue Spots as Cost of Materials Instead of Packing Cost
10. Billing Adjustments
11. Affiliation of Bee Lian and Certain U.S. Customers

[FR Doc. 04–13816 Filed 6–17–04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–887]

Final Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: June 18, 2004.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Peter Mueller, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3207 and (202) 482–5811, respectively.

Final Determination

We determine that tetrahydrofurfuryl alcohol from the People's Republic of China (''PRC'') is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Tariff Act of 1930, as amended (''the Act''). The estimated margin of dumping is shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

Case History

We published in the **Federal Register** the preliminary determination in this investigation on January 27, 2004. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol from the People's Republic of China,* 69 FR 3887 (January 27, 2004) (''*Preliminary Determination*''). Since the publication of the *Preliminary Determination,* the following events have occurred.

On February 4, 2004, the respondent, Qingdao (F.T.Z.) Wenkem Trading Company, Ltd. (''QWTC''), submitted its Section D supplemental questionnaire response. Also on February 4, 2004, the Department received pre-verification comments from the petitioner.

From February 9 through 12, 2004, the Department conducted a factors of production verification at Zhucheng Huaxiang Chemical Co., Ltd. (''ZHC''). On February 13, 2004, the Department conducted a sales verification at QWTC.

On February 24, 2004, the petitioner submitted a request for a public hearing in accordance with 19 CFR 351.310(c). On April 28, 2004, the petitioner withdrew its request for a hearing. Because the petitioner was the only party to request a hearing, and because it was withdrawn in a timely manner, the Department did not conduct a hearing.

On February 27, 2004, the Department received a request from QWTC for a postponement of the final determination. On March 15, 2004, the Department postponed the final determination, in accordance with section 735(a)(2) of the Act by no later than 135 days after the publication of preliminary determination in the **Federal Register**. Therefore, the final determination was postponed until June 10, 2004. *See Notice of Postponement of Final Determination of Antidumping Duty Investigation: Tetrahydrofurfuryl Alcohol from the People's Republic of China,* 69 FR 12127 (March 15, 2004).

In the *Preliminary Determination,* we stated that if we made a change in our normal calculation methodology previous to the final determination, we would release to interested parties for comment a preliminary calculation sheet and analysis memorandum using that methodology. On March 9, 2004, the Department released to the interested parties its post-preliminary calculation, which included a factor value memorandum, an analysis memorandum with an attachment, and a print-out of the log for the margin calculation. *See* post-preliminary calculation.

On March 10, 2004, the Department released its factors of production and sales verification report to interested parties. *See Verification of Factors of Production for Zhucheng Huaxiang Chemical Co., Ltd. (''ZHC'') and for the Sales of Qingdao Wenkem (F.T.Z.) Trading Co., Ltd. (''QWTC'') in the Antidumping Duty Investigation of Tetrahydrofurfuryl Alcohol from the People's Republic of China (''PRC'')* (''*Verification Report*'').

On March 15, 2004, the petitioner requested an extension for the time limit for submitting the case briefs and rebuttal briefs. On March 16, 2004, the Department granted interested parties a sixteen-day extension for submission of the case briefs and explained that the rebuttal briefs would be due five days thereafter.

On March 19, 2004, QWTC submitted comments to the Department's post-preliminary calculation.

On March 23, 2004, the petitioner placed on the record public information for the purpose of providing the Department with additional information to be used in valuing the factors of production.

On April 5, 2004, the petitioner submitted its case brief with respect to the sales and factors of production verification and the Department's *Preliminary Determination.* On April 5, 2004, QWTC submitted its ''Comments on the Calculation of Normal Value'' with respect to the sales and factors of production verification and the Department's preliminary determination. On April 7, 2004, the Department placed a memorandum in the file explaining that the respondent's document titled, ''Comments on the Calculation of Normal Value,'' was in fact the respondent's case brief. On April 7, 2004, the Department rejected both the petitioner's case brief and the respondent's case brief, concluding that the each contained new information that

was untimely filed in accordance with section 351.301(b)(1) of the Department's regulations. Also on April 7, 2004, the Department withdrew from the record all known copies of the case brief and returned them the petitioner and respondent, in accordance with section 351.302(d)(2) of the Department's regulations.

On April 8, 2004, the petitioner submitted its revised case brief. On April 9, 2004, the respondent submitted its revised case brief.

On April 19, 2004, the petitioner submitted a rebuttal brief with respect to the sales and factors of production verification and the Department's *Preliminary Determination*. On April 19, 2004, the respondent requested an extension for submitting its rebuttal brief. On April 21, 2004, the Department received, via electronic-mail, a document containing the respondent's rebuttal brief. On April 22, 2004, the Department sent a letter to the respondent rejecting its request for an extension and rejecting the respondent's rebuttal brief. Following section 351.103(b) of the Department's regulations, the Department explained in its letter that the extension request and the rebuttal brief were both improperly filed, as they were not received in Import Administration's Dockets Center by close of business on April 19, 2004.

Period of Investigation

The period of investigation (''POI'') is October 1, 2002 through March 31, 2003. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition (June 23, 2003). *See* 19 CFR 351.204(b)(1).

Scope of Investigation

For the purpose of this investigation, the product covered is tetrahydrofurfuryl alcohol ($C_5H_{10}O_2$) (''THFA''). THFA, a primary alcohol, is a clear, water white to pale yellow liquid. THFA is a member of the heterocyclic compounds known as furans and is miscible with water and soluble in many common organic solvents. THFA is currently classified in the Harmonized Tariff Schedules of the United States (''HTSUS'') under subheading 2932.13.00.00. Although the HTSUS subheadings are provided for convenience and for the purposes of the U.S. Customs and Border Protection (''Customs''), the Department's written description of the merchandise under investigation is dispositive.

Analysis of Comments Received

All issues raised in the case briefs by the parties to this investigation are addressed in detail in the *Memorandum to James J. Jochum, Assistant Secretary for Import Administration, from Jeffrey A. May, Deputy Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Less Than Fair Value Investigation of Tetrahydrofurfuryl Alcohol from the People's Republic of China,* (June 10, 2004) (''*Final Decision Memorandum*''), which is hereby adopted by this notice. A list of the issues which parties raised, and to which we have responded, all of which are in the *Final Decision Memorandum,* is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in B–099. In addition, a complete version of the *Final Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/frn/.* The paper copy and electronic version of the *Final Decision Memorandum* are identical in content.

Non-Market Economy Country Status

In our *Preliminary Determination,* we treated the PRC as a non-market economy (''NME'') country. The Department has treated the PRC as a NME country in all past antidumping investigations. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China,* 65 FR 33805 (May 25, 2000). A designation as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. The respondent in this investigation has not requested a revocation of the PRC's NME status. We have, therefore, determined to continue to treat the PRC as an NME country. When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base the normal value on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise.

Furthermore, no interested party has requested that the THFA industry in the PRC be treated as a market-oriented industry and no information has been provided that would lead to such a determination. Therefore, we have not treated the THFA industry in the PRC as a market-oriented industry in this investigation.

Separate Rates

In our *Preliminary Determination,* we found that the respondent met the criteria for the application of separate, company-specific antidumping duty rate. For the purpose of the final determination, we continue to grant a separate, company-specific rate to the respondent. For a complete discussion of the Department's determination that the respondent is entitled to a separate rate, please *see Memorandum to the File from Peter Mueller, Case Analyst to Edward C. Yang, Director, Office IX, Antidumping Duty Investigation of Tetrahydrofurfuryl Alcohol from the People's Republic of China,* (December 22, 2003).

The PRC-Wide Rate

We are continuing to apply the same methodology to our PRC-wide rate as used in the *Preliminary Determination.* For a discussion of our methodology for the PRC-wide rate, please *see Memorandum to the File From Peter Mueller, Case Analyst, to Edward C. Yang, Office Director, Office IX, Antidumping Duty Investigation of Tetrahydrofurfuryl Alcohol from the People's Republic of China: PRC-Wide Rate,* (June 10, 2004).

Surrogate Country

For purposes of the final determination, we continue to find that India is the appropriate primary surrogate country for the PRC. For further discussion and analysis regarding the surrogate country selection, see the Department's *Preliminary Determination.*

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent. For changes resulting from the results of verification and from the post-preliminary calculation *see Memorandum to the File, from Peter Mueller, Case Analyst, through Robert Bolling, Program Manager, Analysis for the Final Determination of Tetrahydrofurfuryl Alcohol from the People's Republic of China,* (June 10, 2004) (''*Final Analysis Memo*'').

Facts Available

For purposes of this final determination, we have determined that the use of facts available is appropriate for certain elements of the respondent's dumping margin calculations. Section

776(a)(2) of the Act provides that if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. For a further discussion of the facts available applied to the respondent, please see the *Final Decision Memorandum* at Comment 1.

Adverse Facts Available

For purposes of this final determination, we have determined that the use of adverse facts available is appropriate for certain elements of the respondent's dumping margin calculations. Section 776(b) of the Act provides that if the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Such adverse inference may include reliance on 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 placed on the record.

Adverse inferences are appropriate ''to ensure 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 at 870; *Borden, Inc.* v. *United States*, 4 F. Supp. 2d 1221 (CIT 1998); *Mannesmannrohren-Werke AG* v. *United States*, 77 F. Supp. 2d 1302 (CIT 1999). The Court of Appeals for the Federal Circuit, in *Nippon Steel Corporation* v. *United States,* 337 F. 3d 1373, 1380 (Fed. Cir. 2003), provided an explanation of the ''failure to act to the best of its ability'' standard, holding that the Department need not show intentional conduct existed on the part of the respondent, but merely that a ''failure to cooperate to the best of a respondent's ability'' existed (*i.e.*, information was not provided ''under circumstances in which it is reasonable to conclude that less than full cooperation has been shown'').

The record shows that QWTC, in part, failed to cooperate to the best of its ability, within the meaning of section 776(b) of the Act. In reviewing the evidence on the record, the Department finds that the respondent failed to provide requested information at the factor of production verification for the indirect inputs used to produce the respondent's self-produced inputs of electricity, steam, hydrogen, and catalyst. As a general matter, it is reasonable for the Department to assume that the respondent possessed the records necessary to participate in the factor of production verification. However, by not supplying the information the Department requested, the respondent failed to cooperate to the best of their ability. As the respondent has failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act to estimate the respondent's consumption of its self-produced hydrogen, steam, electricity, and catalyst. For a further discussion of the adverse facts available applied to the respondent, please *see Final Decision Memorandum*, at Comments 1, 5, 8, and 9.

Changes Since the Preliminary Determination

Based on our findings at verification, additional information placed on the record of this investigation, the post-preliminary calculation, and analysis of comments received, we have made adjustments to the methodology in calculating the final dumping margin in this proceeding. For discussions of the specific changes made since the *Preliminary Determination* to the final margin programs, please *see Final Analysis Memo*.

Surrogate Values

The Department made changes to the starting point and the surrogate values used to calculate the normal value from the *Preliminary Determination*. For a complete discussion of the starting point and the surrogate values, *see Memorandum to the File from Peter Mueller, Case Analyst, through Robert Bolling, Program Manager, and Edward C. Yang, Office Director, regarding Factor Valuations for the Final Determination* (''*Final Factor Value Memo*''), dated June 10, 2004.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing Customs to continue to suspend liquidation of all entries of subject merchandise from the PRC, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination*. Customs shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This suspension of liquidation instructions will remain in effect until further notice.

Final Determination

We determine that the following weighted-average dumping margins exist for the period October 1, 2002 through March 31, 2003:

TETRAHYDROFURFURYL ALCOHOL FROM THE PRC

Producer/manufacturer/exporter	Weighted-average margin (percent)
Qingdao (F.T.Z.) Wenkem Trading Company Limited	136.86
PRC—Wide Rate	136.86

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (''APO'')

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance

with section 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 10, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix: Issues in the Final Decision Memorandum

Comment 1: The Use of Adverse Facts Available
Comment 2: Starting Point for Calculation of Export Price
Comment 3: Freight Deduction to Calculation of Export Price
Comment 4: Surrogate Values for the Ocean Freight Deduction
Comment 5: Multi-Stage Factors of Production
Comment 6: THFA Production Starting Point
Comment 7: Furfural Value
Comment 8: Values for Dregs and Residue
Comment 9: Value for Hydrogen
Comment 10: Packing Value

[FR Doc. 04–13817 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061404E]

Proposed Information Collection; Comment Request; Tag Recapture Card

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 17, 2004.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Eric Orbesen, 1–800–437–3936.

SUPPLEMENTARY INFORMATION:

I. Abstract

The primary objectives of a tagging program are to obtain scientific information on fish growth and movements necessary to assist in stock assessment and management. This is accomplished by the random recapture of tagged fish by fishermen and the subsequent voluntary submission of the appropriate data.

II. Method of Collection

The recapture cards will be sent out to the constituents who will fill out the cards with the pertinent information when and if they recapture a tagged fish and mail the cards as instructed on the card.

III. Data

OMB Number: 0648–0259.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 240.

Estimated Time Per Response: .033 hours (2 minutes).

Estimated Total Annual Burden Hours: 8 hours.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 10, 2004.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04–13803 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061504B]

Proposed Information Collection; Comment Request; Fishermen's Contingency Fund

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 17, 2004.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Charles L. Cooper, Financial Services Division, F/MB5, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910, phone 301–713–2396.

SUPPLEMENTARY INFORMATION:

I. Abstract

U.S. commercial fishermen may file claims for compensation for losses of or damage to fishing gear or vessels, plus 50 percent of resulting economic losses, attributable to oil and gas activities on the U.S. outer continental shelf. To obtain compensation applicants must comply with requirements set forth in 50 CFR part 296. The requirements include a report within 15 days of the date the vessel first returns to port after the incident to gain a presumption of eligible causation and an application form.

II. Method of Collection

Paper forms are used.

III. Data

OMB Number: 0648–0082.

Form Number: NOAA Forms 88–164, 88–166.

Type of Review: Regular submission.

Affected Public: Individuals or households, and Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Response: 10 hours for an application, and 5 minutes for a 15–day report.

Estimated Total Annual Burden Hours: 1,008.

Estimated Total Annual Cost to Public: $500.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 10, 2004.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04–13804 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061004D]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability and request for comment.

SUMMARY: This notice advises the public that the Nez Perce Indian Tribe has submitted a Tribal resource management plan (Tribal Plan) to NMFS pursuant to the limitation on take prohibitions for actions conducted under Tribal Plans promulgated under the Endangered Species Act (ESA). The Tribal Plan specifies the management of recreational, ceremonial, and subsistence fisheries in 2004 in the Imnaha River subbasin in the State of Oregon that potentially affect Snake River spring/summer chinook salmon listed as threatened under the ESA. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to whether implementation of the Tribal Plan will appreciably reduce the likelihood of survival and recovery of Snake River salmon and steelhead, and the availability for public comment of a draft environmental assessment on the proposed action.

DATES: Written comments on the Secretary's pending determination and the draft assessment must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight time on July 6, 2004.

ADDRESSES: Written comments and requests for copies of the Proposed Evaluation and Pending Determination document and the draft Environmental Assessment should be addressed to Herb Pollard, Sustainable Fisheries Division, 10215 W. Emerald St. Suite 180, Boise, ID 83704. Comments may also be sent via fax to (208) 378–5699. The documents are also available on the Internet at *www.nwr.noaa.gov*. Comments on this draft EA may be submitted by e-mail. The mailbox address for providing e-mail comments is *Imnaha04.nwr@noaa.gov*. Include in the subject line the following document identifier: ''Imnaha 2004 chinook''. Comments may also be submitted electronically through the Federal e-Rulemaking portal: *www.regulations.gov*. Comments received will also be available for public inspection, by appointment, during normal business hours by calling (208) 378–5614.

FOR FURTHER INFORMATION CONTACT: Herb Pollard at phone number: (208) 378–5614, or e-mail: *herbert.pollard@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Imnaha River subbasin population of the Snake River Spring/Summer Chinook salmon (*Oncorhynchus tshawytscha*) and Snake River steelhead (*Oncorhynchus mykiss*) Evolutionarily Significant Units (ESU).

Background

The Nez Perce Tribe has submitted to NMFS a Tribal Plan for recreational, ceremonial, and subsistence fisheries in 2004 potentially affecting threatened Snake River spring/summer chinook salmon in the Imnaha River basin. The Tribal Plan includes recreational fisheries specified by the Oregon Department of Fish and Wildlife that take place in the same waters and in the same time frame as the tribal ceremonial and subsistence fisheries. The Nez Perce Tribe and the State of Oregon have co-manager responsibilities for spring chinook salmon within the Imnaha River sub-basin and manage this salmon population under cooperative agreements. The objective of the Tribal Plan is to harvest spring chinook salmon in a manner that does not appreciably reduce the likelihood of survival and recovery of the ESU. Impact levels on the listed spring chinook populations in the ESU are specified in the Tribal Plan. Analysis of the predicted return of naturally and hatchery-produced spring chinook salmon to the Imnaha River basin in 2004 and the proposed harvest levels indicate that all hatchery brood stock and supplemental spawning and natural spawning escapement needs will be met after the proposed fisheries. A variety of monitoring and evaluation tasks to be conducted by the co-managers is specified in the Tribal Plan to assess the abundance of spring chinook and to determine fishery effort and catch of spring chinook. A comprehensive review of the Tribal Plan to evaluate whether the fisheries and listed spring chinook populations are performing as expected will be done within and at the end of the proposed 2004 season.

As required by the ESA 4(d) rule for Tribal Plans (65 FR 42481, July 10, 2000 [50 CFR 223.209]), the Secretary is seeking public comment on his pending determination as to whether the Tribal Plan for Imnaha River chinook salmon would appreciably reduce the likelihood of survival and recovery of the threatened Snake River spring/summer chinook salmon ESU.

Authority

Under section 4 of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA Tribal 4(d) Rule (65 FR 42481, July 10, 2000 [50 CFR 223.209]) states that the ESA section 9 take prohibitions will not apply to Tribal Plans that will not appreciably reduce the likelihood of

survival and recovery for the listed species.

Dated: June 14, 2004.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–13801 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060904A]

Endangered and Threatened Wildlife and Plants: Updated Status Review of the North American Green Sturgeon

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

ACTION: Status review update; request for information.

SUMMARY: Following receipt of a petition to list the North American green sturgeon (*Acipenser medirostris*; hereafter ''green sturgeon'') as threatened or endangered under the Endangered Species Act (ESA), NMFS conducted a status review and determined that the petitioned species is comprised of two distinct population segments (DPSs) that qualify as species under the ESA, but that neither DPS warranted listing as a threatened or endangered species. Because of uncertainties regarding their population structure and status, however, NMFS determined that both DPSs should be identified as candidate species. NMFS also committed to re-evaluating the status of both DPSs in 5 years, provided sufficient new information was available indicating that a status review was warranted. However, on March 2, 2004, a U.S. District Court set aside NMFS' finding and remanded the matter back to the agency for re-consideration of whether the green sturgeon is endangered or threatened in a significant portion of its range. NMFS intends to reconvene its Biological Review Team (BRT) to consider the most recent scientific and commercial information available regarding the biological status of green sturgeon. NMFS is requesting that interested parties submit pertinent information to assist the agency in updating its status review and making a new listing determination.

DATES: Information must be received by August 17, 2004.

ADDRESSES: Information on this action should be submitted to the Assistant Regional Administrator, Protected Resources Division, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. In response to NMFS's solicitation for new information, comments may be sent via email to *GreenSturgeon.Comments@noaa.gov* or to the Federal eRulemaking website: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Craig Wingert, NMFS, Southwest Region (562) 980–4021; Melissa Neuman, NMFS, Southwest Region (562) 980–4115; Scott Rumsey, NMFS, Northwest Region (503) 872–2791; or Lisa Manning, NMFS, Office of Protected Resources (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Electronic Access

The 2003 green sturgeon biological status review is available on the Internet at: *http://www.nwr.noaa.gov/1salmon/salmesa/pubs/GSstatus_review.pdf*

Background

On June 12, 2001, NMFS received a petition from the Environmental Protection Information Center, Center for Biological Diversity, and Waterkeepers Northern California requesting that NMFS list the green sturgeon as threatened or endangered under the ESA and that critical habitat be designated for the species concurrently with any listing determination. On December 14, 2001, NMFS provided notice of its determination that the petition presented substantial information that a listing may be warranted and requested information to assist with a status review to determine if green sturgeon warranted listing under the ESA (66 FR 64793). To assist in the status review, NMFS formed a Biological Review Team (BRT) comprised of scientists from the Agency's Northwest and Southwest Fisheries Science Centers and from the United States Geological Survey. NMFS also requested technical information and comments from State and Tribal co-managers in California, Oregon, and Washington, as well as from scientists and individuals having research or management expertise pertaining to green sturgeon from California and the Pacific Northwest. The BRT considered information presented in the petition and the best available scientific and commercial information provided in response to NMFS' information request to prepare a final review of the biological status of green sturgeon (NMFS, 2002).

Under the ESA, a listing determination may address a species, subspecies, or a DPS of any vertebrate species which interbreeds when mature (16 U.S.C. 1532(15)). On February 7, 1996, the U.S. Fish and Wildlife Service and NMFS adopted a policy describing what constitutes a DPS of a taxonomic species (51 FR 4722). The joint DPS policy identified two elements that must be considered when making DPS determinations: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the remainder of the species (or subspecies) to which it belongs. After conducting the status review, NMFS determined that green sturgeon is comprised of two DPSs that qualify as species under the ESA: (1) a northern coastal DPS consisting of populations in coastal watersheds northward of and including the Eel River; and (2) a southern DPS consisting of coastal or central valley populations south of the Eel River, with the only known population in the Sacramento River.

The BRT considered the following information in order to assess risk factors for each green sturgeon DPS: (1) Abundance trends by examining fisheries data; (2) the effects of harvest bycatch; (3) the possible loss of spawning habitat in, for example, the Eel, South Fork Trinity, and San Joaquin Rivers; (4) concentration of spawning in the Klamath (northern DPS) and Sacramento (southern DPS) River systems; (5) lack of adequate population abundance data; (6) potentially lethal water temperatures and adverse effects by contaminants (southern DPS); (7) entrainment by water projects (southern DPS); and (8) adverse effects by exotic species (southern DPS). Based on this risk assessment, NMFS determined that neither DPS warranted listing as threatened or endangered (68 FR 4433; January 23, 2003). Uncertainties in the structure and status of both DPSs led NMFS to add them to its species of concern list (formerly the candidate species list; 69 FR 19975; April 15, 2004). The biological status review is available online (see Electronic Access), and bound copies of the biological status review and other documents supporting the finding are available upon request from NMFS (see **ADDRESSES**). Along with the finding, NMFS announced that it would reevaluate the status of green sturgeon in 5 years provided that sufficient new information warrants an update of the status review.

On April 7, 2003, the Environmental Protection Information Center (and

other plaintiffs) challenged NMFS' not warranted finding. The U.S. District Court for the Northern District of California issued an order on March 2, 2004, which set aside NMFS's not warranted finding and remanded the matter back to NMFS for redetermination of whether green sturgeon is in danger of extinction throughout all or a significant portion of its range, or is likely to become endangered within the foreseeable future throughout all or a significant portion of its range. Therefore, these DPSs are now considered candidate species, as well as species of concern. NMFS will make this determination on or before March 2, 2005.

Information Solicited

For the original status review, NMFS solicited information concerning the status of green sturgeon to ensure that the review was complete and based on the best available science (66 FR 64793; December 14, 2001). Specifically, the Agency requested available information on: (1) relevant biological data that could help identify DPSs of green sturgeon (e.g., age structure, genetics, migratory patterns, morphology); (2) the range, distribution, habitat use and abundance of green sturgeon, including information on the spawning populations of the species; (3) current or planned activities and their potential impact on green sturgeon (e.g., harvest impacts, habitat impacting activities or actions); and (4) green sturgeon protection efforts underway in California, Oregon, Washington and Canada.

NMFS also requested information on areas that include the physical and biological features essential to the recovery of the species and that may qualify as critical habitat for green sturgeon. Essential features included, but were not limited to the following: (1) habitat for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and rearing of offspring; and (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species. For areas potentially qualifying as critical habitat, NMFS requested information describing: (1) the activities that affect the area or could be affected by the designation; and (2) the economic costs and benefits of additional requirements of management measures likely to result from the designation.

The U.S. District Court's March 2004 remand was issued because the Court was not satisfied with NMFS's examination of whether purported lost spawning habitat constituted a significant portion of either DPS's range. To ensure that the forthcoming status review update is comprehensive, based on the best available data, and specifically addresses the deficiencies outlined by the Court, NMFS is soliciting any new information beyond that considered in the 2002 green sturgeon status review or the January 2003 1–year finding on the following topics for the northern and southern DPSs of green sturgeon: (1) new genetic, morphological, physiological, or ecological information relevant to DPS identification; (2) current or historic information documenting the geographic extent (e.g., area, river mile distance) and magnitude (e.g., abundance of spawning females, reproductive output) of spawning in particular river systems (e.g., Fraser River, Umpqua River, South Fork Trinity River, Eel River, Feather River, and San Joaquin River) where spawning is reported to have occurred historically, but apparently no longer does; (3) information documenting the current geographic extent and magnitude of spawning in areas other than where it is known to presently occur (i.e., areas other than the Sacramento River, Klamath River and Rogue River); (4) the legitimacy of references used to support information regarding current or historic spawning in the systems mentioned above in (2) and (3), particularly citations by Houston (1988) for the Fraser River, Lauman *et al.* (1972) and the Oregon Department of Fish and Wildlife (2002) for the Umpqua River, Moyle *et al.* (1992) and references therein for the South Fork Trinity River, Puckett (1976), Moyle *et al.* (1992) and references therein for the Eel River; Wang (1986) and U.S. Fish and Wildlife Service (1995) for the Feather River, and Moyle *et al.* (1992) and references therein for the San Joaquin River; (5) historic, current or future factors that may be responsible for the reported loss of spawning habitat and associated spawning populations; and (6) fishery-dependent and -independent abundance data for analysis of population trends.

Information on item above one will assist NMFS in determining whether the DPS structure previously identified is correct or needs modification. Items two and three should provide the following types of information: (1) abiotic and biotic characteristics of spawning habitat (e.g., amount, substrate type, water temperature, flow rates, sedimentation rates); (2) abundance of spawning females from each river system; (3) measures of reproductive output from spawning habitats; and (4) age/size structure of populations from spawning habitats. Item five information should not only identify factors that may be responsible for lost spawning habitat, but should also provide qualitative and/or quantitative data (e.g., changes in mortality rates, growth rates, behavior) that suggest a direct or indirect link to the identified threat(s). Item six will provide updated information for abundance trends analysis that was conducted during the first biological status review.

Information submitted to NMFS should be accompanied by references and a commentary by the presenter on the veracity of the data and whether the information is based on published or unpublished scientific data, professional judgment, or anecdotal accounts. This will be particularly crucial in helping NMFS determine whether purported historic spawning in the Fraser River, Umpqua River, South Fork Trinity River, Eel River, Feather River, and San Joaquin River can be substantiated. In addition, suggestions of novel methods for addressing any of the above topics, in particular assessing the amount and importance of spawning habitat that may have been lost, is requested.

References

The 2003 biological status review of green sturgeon is available via the Internet (see Electronic Access) and a complete list of all references used in this notice is available upon request (see **ADDRESSES**).

Dated: June 14, 2004.

Laurie Allen,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–13802 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060704E]

Groundfish Fisheries of the Bering Sea and Aleutian Islands (BSAI) Area and the Gulf of Alaska, King and Tanner Crab Fisheries in the BSAI, Scallop and Salmon Fisheries Off the Coast of Alaska

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

ACTION: Notice of public meeting.

SUMMARY: NMFS has requested the Center for Independent Experts (CIE) to conduct a peer review of the agency's evaluation of the effects of fishing on Essential Fish Habitat (EFH) in Alaska. CIE is a group affiliated with the University of Miami that provides independent peer reviews of NMFS science nationwide, including reviews of stock assessments for fish and marine mammals. The evaluation of the effects of fishing on EFH was completed in support of the Draft Environmental Impact Statement (DEIS) for EFH Identification and Conservation in Alaska. The CIE review will examine whether the evaluation incorporates the best available scientific information and provides a reasonable approach to understanding the effects of fishing on habitat in Alaska. As part of this review, NMFS will hold a public meeting between the CIE panel and the NMFS scientists who designed the analysis and the underlying model.

DATES: The public meeting will be held June 29, 2004, from 9 a.m. - 5 p.m. Pacific daylight time.

ADDRESSES: The meeting will convene at the NMFS Alaska Fisheries Science Center, Jim Traynor Conference Room, Building 4, 7600 Sand Point Way NE, Seattle, WA.

FOR FURTHER INFORMATION CONTACT: Jon Kurland, Assistant Regional Administrator for Habitat Conservation, 907–586–7638.

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Steven Act) requires NMFS and Fishery Management Councils to describe and identify EFH in fishery management plans (FMPs), minimize to the extent practicable the adverse effects of fishing on EFH, and identify other actions to encourage the conservation and enhancement of EFH. The North Pacific Fishery Management Council (North Pacific Council) amended its FMPs for the groundfish, crab, scallop, and salmon fisheries in 1998 to address the EFH requirements. The Secretary of Commerce, acting through NMFS, approved the North Pacific Council's EFH FMP amendments in January 1999 (64 FR 20216; April 26, 1999). In the spring of 1999, a coalition of seven environmental groups and two fishermen's associations filed suit in the United States District Court for the District of Columbia to challenge NMFS' approval of EFH FMP amendments prepared by the Gulf of Mexico, Caribbean, New England, North Pacific, and Pacific Fishery Management Councils. The focus of the litigation was whether NMFS and the Councils had adequately evaluated the effects of fishing on EFH and had taken appropriate measures to mitigate adverse effects. In September 2000, the court upheld NMFS' approval of the EFH amendments under the Magnuson-Stevens Act, but ruled that the environmental assessment prepared for the amendments violated the National Environmental Policy Act (NEPA). The court ordered NMFS to complete new and thorough NEPA analyses for each EFH amendment in question. The DEIS for EFH Identification and Conservation in Alaska is the curative NEPA analysis for the North Pacific Council's FMPs. A notice of availability for the DEIS was published in the **Federal Register** on January 16, 2004 (69 FR 2593). The DEIS is available on the internet at *www.fakr.noaa.gov/habitat/seis/efheis.htm*. The public comment period closed April 15, 2004.

The DEIS analysis of the effects of fishing on EFH has two components: (1) a quantitative mathematical model to show the expected long term effects of fishing on habitat, and (2) a qualitative assessment of how those changes affect fish stocks. After considering the available tools and methodologies for assessing effects of fishing on habitat, NMFS, the North Pacific Council, and the North Pacific Council's Scientific and Statistical Committee concluded that the model and analysis incorporate the best available scientific information and provide a good approach to understanding the impacts of fishing activities on habitat. Nevertheless, the model has not been subjected to a formal peer review. Given the newness of the model, the importance of this analysis for Alaska's fisheries, and the controversial nature of the subject matter, NMFS determined that an outside peer review is a prudent step that will strengthen the administrative record for the agency's decisions.

The CIE panel will consist of five reviewers plus a chair. The panel will review materials related to the topic, participate in a workshop with the NMFS scientists who developed the model and the analytical approach, and produce a report. The final report is due in August 2004 and will consist of individual reports from each panelist plus a summary report. The chair will present the results of the review during the October 2004 North Pacific Council meeting. Further information, including the statement of work for the CIE review and all of the documents NMFS is asking the panel to review, is available on the internet at *www.fakr.noaa.gov/habitat/cie/review.htm*.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for special accommodations should be directed to Mary B. Goode, (907) 586–7636, at least five working days before the meeting date.

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

Dated: June 10, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–13724 Filed 6–14–04; 4:55 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061004B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

Notification of a proposal for an EFP to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject EFP application requested by the National Fisheries Institute (NFI) and Rutgers, The State University of New Jersey (Rutgers), for a study to conduct a supplemental finfish trawl survey (survey) under the Mid-Atlantic Fishery Management Council Research Set-Aside (RSA) Program contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Summer Flounder, Scup, and Black Sea Bass, Atlantic Mackerel, Squid, and Butterfish, and Bluefish Fishery Management Plans. However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Regional Administrator proposes to issue an EFP that would allow one vessel to conduct fishing operations that are otherwise restricted by the

regulations governing the fisheries of the Northeastern United States.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before July 6, 2004.

ADDRESSES: Comments on this notice may be submitted by e-mail. The mailbox address for providing e-mail comments is *DA327A@noaa.gov*. Include in the subject line the following document identifier: ''Comments on supplemental finfish trawl survey.'' Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on supplemental finfish trawl survey.'' Comments may also be sent via fax to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Paul Perra, Fishery Policy Analyst, phone: 978–281–9153, fax: 978–281–9135.

SUPPLEMENTARY INFORMATION: The requested EFP would expand work allowed under an existing EFP for the vessel to conduct additional research trawls in November along two offshore transects: one each at Alvin and Poor Man's Canyons.

Work under the existing EFP currently allows the vessel to conduct two trawl transects (one east of Hudson Canyon and one south of Baltimore Canyon) in January, May, and November, and along six offshore transects, one each near Alvin, Hudson, Baltimore, Poor Man's, Washington, and Norfolk Canyons in March. NFI and Rutgers have requested that, during November, the transects at Alvin and Poor Man's Canyons also be sampled. This would expand the scope of work under the project's current EFP from two transects to four transects during November. Therefore, a new EFP is required for the November portion of the project.

The EFP would allow for exemptions from summer flounder fishery regulations at 50 CFR 648.101(a) and (b); summer flounder gear restrictions at § 648.104; scup trimester quota closures at § 648.121(a); scup time and area restrictions at § 648.122(a) and (b); scup trawl gear restrictions at § 648.123; black sea bass trip limits at § 648.140(b)(2); black sea bass gear restrictions at § 648.144(a); *Loligo* squid and Atlantic mackerel closures at § 648.22(a) and (c); and bluefish closures at § 648.161(a) and (b). In addition, in order to collect individual size measurements and other data, the EFP for the research vessel would grant exemptions from the following regulations: Minimum size for summer flounder at § 648.103(a), (b), and (c), for scup at § 648.124(a), for black sea bass at § 648.143, for monkfish at § 648.93, for spiny dogfish at § 648.233, for yellowtail flounder and winter flounder at § 648.83, and for lobster at § 697.20(b); from spiny dogfish closures at § 648.231; and from Northeast multispecies regulated mesh, restrictions on gear, and methods of fishing at § 648.80.

The general trawl sampling procedures in November would remain similar to what is described in the original EFP. Sampling would be conducted at trawl stations along each transect from depths near 40, 60, 80, 125, 150, 200, and 225 fathoms (73, 109, 146, 228, 274, 366, and 411 meters, respectively), with four additional trawl sites added along each of the transects based on the catches of the target species. Primary target species would be summer flounder, scup, black sea bass, monkfish, and spiny dogfish, and secondary target species would be skates, yellowtail flounder, winter flounder, lobster, and *Loligo* squid. One tow would be conducted at each station over a distance of 0.5 to 2 nautical miles, with a tow speed of 3 to 3.2 knots. Careful records would be kept of all gear descriptions so that consistent gear can be used on subsequent surveys. A four-seam box net would be used with a 2.4 inch (6.1 cm) mesh codend. Sampling protocol for handling the catch from the trawl survey would follow standard NOAA Fisheries survey methods. Every effort would be made to weigh the entire catch, or to put in baskets the entire catch and weigh a subsample of the baskets. Lengths would be obtained for target species. If time does not permit sampling between tows, fish sorted for length measurement would be placed in labeled containers and stored until processing can occur. Temperature, salinity, and depth profiles would be taken for each tow. Pre- and post-cruise meetings would be held to confirm study logistics and conduct retrospective analysis of cruise activities. Scientific research personnel would be on board the vessel at all times when the survey is conducted.

The participating vessel would be required to report all landings in its Vessel Trip Reports.

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

Dated: June 14, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E4–1378 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060804B]

Marine Mammals; File Nos. 1065–1749 and 1034–1685

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

ACTION: Receipt of applications.

SUMMARY: Notice is hereby given that the following individuals have applied in due form for permits or permit amendments to conduct scientific research on marine mammals: Dr. Patrick Butler, University of Birmingham, School of Biosciences, Edgbaston, Birmingham, United Kingdom (File No. 1069–1749); and Dr. Markus Horning, Texas A&M University, Laboratory for Applied Biotelemetry and Biotechnology, Department of Marine Biology, 5007 Avenue U, Galveston, TX 77551 (Permit No. 1034–1685).

DATES: Written, telefaxed, or e-mail comments must be received on or before July 19, 2004.

ADDRESSES: The applications and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Written comments or requests for a public hearing on these applications should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on the particular request would be appropriate.

Comments may also be submitted by facsimile to (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no

later than the closing date of the comment period.

Additionally, comments may be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov*. Include the appropriate File No. (1065–1749 or 1034–1685) as a document identifier in the subject line of the e-mail comment.

FOR FURTHER INFORMATION CONTACT: Dr. Tammy Adams or Amy Sloan, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit and permit amendment are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

File No. 1065–1749: The applicant requests a 5–year permit to develop a heart rate logger and surgical procedures for implanting instruments in pinnipeds in general and in Steller sea lions (*Eumetopias jubatus*) in particular. The applicant proposes to use California sea lions (*Zalophus californianus*), Northern elephant seals (*Mirounga angustirostris*), and Northern fur seals (*Callorhinus ursinus*) from animals in rehabilitation at The Marine Mammal Center (TMMC) in Sausalito, California, for development and monitoring trials. The purpose of the implantable heart rate logger is to measure heart rate and body temperature over periods of months to years, allowing estimation of field metabolic rates which will enable greatly improved assessment of food requirements of free-ranging individuals over more representative samples of their life histories than has been possible thus far. While actual numbers will vary depending on availability, the total number of marine mammals proposed for the trials is up to six individuals of each species over five years.

Permit No. 1034–1685: Permit No. 1034–1685, issued on March 17, 2003 (68 FR 20117) and which expires on April 30, 2008, currently authorizes the holder to surgically implant transmitters in 30 rehabilitated California sea lions at TMMC to determine long-term post-release survival rates; attach external tags for short-term monitoring; blood sample to assess stress and health; and assess body condition through blubber biopsies, bioelectrical impedance analysis, deuterium dilution determinations, and blubber ultrasound measurements. Researchers may perform blood and blubber sampling, bioelectrical impedance analyses, deuterium dilutions, and blubber ultrasound measurements on an additional 90 control animals. The permit holder requests an amendment to study the adrenal response of California sea lions. A total of up to six sea lions undergoing rehabilitation at TMMC would be injected intramuscularly with adrenocorticotropic hormone and have pre-injection and post-injection blood samples taken while under anesthesia for analysis of glucocorticoids. Feces would also be collected for analysis.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 8, 2004.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–13732 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

June 14, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: June 18, 2004.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin board of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection website at http://www.cbp.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 65231 published on November 19, 2003.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 14, 2004.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 11, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the period which began on January 1, 2004 and extends through December 31, 2004.

Effective on June 18, 2004, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
340/640	2,650,706 dozen.
347/348	3,336,111 dozen.
351/651	592,538 dozen.
443	84,770 numbers.
448	55,099 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2003.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 04–13759 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Malaysia

June 14, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: June 21, 2004.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection website at http://www.cbp.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, carryover, special swing, and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926 published on February 2, 2004). Also see 68 FR 59921, published on October 20, 2003.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 14, 2004.

Commissioner,

Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 14, 2004, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on June 21, 2004, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Fabric Group	
218–220, 225–227, 313–326, 611–O [2], 613/614/615/617, 619 and 620, as a group	214,397,954 square meters equivalent.
Other specific limits	
237	676,201 dozen.
300/301	5,673,906 kilograms.
333/334/335	514,329 dozen of which not more than 282,305 dozen shall be in Category 333.
338/339	2,256,234 dozen.
340/640	2,432,181 dozen.
341/641	3,065,489 dozen of which not more than 1,139,921 dozen shall be in Category 341.
342/642	846,898 dozen.
345	325,767 dozen.
347/348	1,090,748 dozen.
351/651	522,387 dozen.
435	18,901 dozen.
604	2,011,550 kilograms.
634/635	1,424,275 dozen.
638/639	1,036,640 dozen.
645/646	561,652 dozen.
647/648	3,027,503 dozen of which not more than 2,213,435 dozen shall be in Category 647–K [3] and not more than 2,213,435 dozen shall be in Category 648–K [4].
Group II	
201, 224, 239pt [5], 332, 352, 359pt. [6], 360–362, 369pt. [7], 400–414, 433, 434, 436, 438–O [8], 440, 443, 444, 447, 448, 459pt. [9], 469pt. [10], 603, 618, 624–629, 633, 643, 644, 652, 659pt. [11], 666pt. [12], 845, 846 and 852, as a group	39,134,160 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2002.

[2] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

[3] Category 647–K: only HTS numbers 6103.23.0040, 6103.23.0045, 6103.29.1020, 6103.29.1030, 6103.43.1520, 6103.43.1540, 6103.43.1550, 6103.43.1570, 6103.49.1020, 6103.49.1060, 6103.49.8014, 6112.12.0050, 6112.19.1050, 6112.20.1060 and 6113.00.9044.

[4] Category 648–K: only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2006, 6104.63.2011, 6104.63.2026, 6104.63.2028, 6104.63.2030, 6104.63.2060, 6104.69.2030, 6104.69.2060, 6104.69.8026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.9052 and 6117.90.9070.

[5] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[6] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[7] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0805, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[8] Category 438–O: only HTS numbers 6103.21.0050, 6103.23.0025, 6105.20.1000, 6105.90.1000, 6105.90.8020, 6109.90.1520, 6110.11.0070, 6110.12.2070, 6110.19.0070, 6110.30.1550, 6110.90.9072, 6114.10.0020 and 6117.90.9025.

[9] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[10] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[11] Category 659pt.: all HTS numbers except 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000. 6406.99.1510 and 6406.99.1540.

[12] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 04–13757 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

June 14, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: June 18, 2004.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection website at http://www.cbp.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 68599, published on December 9, 2003.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 14, 2004.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 3, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on June 18, 2004, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month restraint limit [1]
Specific limits	
237	345,479 dozen.
334/634	791,061 dozen.
335/635	804,699 dozen.
338	9,801,833 dozen.
347/348	1,976,418 dozen.
638/639	650,395 dozen.
647/648	2,153,998 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2003.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 04–13758 Filed 6–17–04 8:45 am]

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, July 2, 2004.

PLACE: 1155 21st., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–14000 Filed 6–16–04; 2:58 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, July 9, 2004.

PLACE: 1155 21st St., NW., Washington, DC 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–14001 Filed 6–16–04; 2:58 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, July 16, 2004.

PLACE: 1155 21st St., NW., Washington, DC 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, (202) 418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–14002 Filed 6–16–04; 2:58 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, July 23, 2004.

PLACE: 1155 21st St., NW., Washington, DC 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–14003 Filed 6–16–04; 2:58 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, July 30, 2004.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of Commission.

[FR Doc. 04–14004 Filed 6–16–04; 2:58 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice for Submission of Donation Application for the Destroyer ex-FORREST SHERMAN (DD 931)

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the deadline of November 18, 2004, for submission of a donation application for the Destroyer ex-FORREST SHERMAN (DD 931) under the authority of 10 U.S.C. section 7306. Ex-FORREST SHERMAN (DD 931) is located at the NAVSEA Inactive Ships On-Site Maintenance Office, Philadelphia, PA. Eligible recipients include: (1) Any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof; (2) the District of Columbia; or (3) any organization incorporated as a non-profit entity under section 501 of the Internal Revenue Code. The transfer of a vessel under this law shall be made at no cost to the United States. The donee will be required to maintain the vessel in a condition satisfactory to the Secretary of the Navy as a static museum/memorial. Prospective donees must submit a comprehensive application that addresses the significant financial, technical, environmental, and curatorial responsibilities associated with donated Navy vessels. Further application information can be found on the Navy Ship Donation Program Web site at *http://www.navsea.navy.mil/ndp.*

FOR FURTHER INFORMATION CONTACT: Commander, Program Executive Office Ships (PEO SHIPS), PMS333, Inactive Ship Program Office, Attn: Ms. Gloria Carvalho (PMS 333G), 1333 Isaac Hull Avenue SE., Stop 2701, Washington Navy Yard, DC 20376–2701, telephone (202) 781–0485.

Dated: June 14, 2004.

S.K. Melancon,

Paralegal Specialist, Office of the Judge Advocate General, Alternate Federal Register Liaison Officer.

[FR Doc. 04–13768 Filed 6–17–04; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability for Donation of the Submarine ex-TROUT (SS 566) and the Destroyer ex-EDSON (DD 946)

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the availability for donation as a museum and/or memorial, the Submarine ex-TROUT (SS 566) and the Destroyer ex-EDSON (DD 946), both located at the NAVSEA Inactive Ships On-Site Maintenance Office, Philadelphia, PA, under the authority of 10 U.S.C. section 7306. Eligible recipients include: (1) Any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof; (2) the District of Columbia; or (3) any organization incorporated as a non-profit entity under section 501 of the Internal Revenue Code. The transfer of a ship for donation under 10 U.S.C. 7306 shall be made at no cost to the United States government. The donee will be required to maintain the ship as a static display in a condition that is satisfactory to the Secretary of the Navy. Prospective donees must submit a comprehensive application that addresses the significant financial, technical, environmental, and curatorial responsibilities associated with donated Navy ships. Further application information can be found on the Navy Ship Donation Program Web site at *http://www.navsea.navy.mil/ndp.* All vessels currently in a donation hold status, including the ex-TROUT (SS 566) and the ex-EDSON (DD 946) will be reviewed by the Chief of Naval Operations during the annual Ship Disposition Review (SDR) process, at which time a determination will be made whether to extend donation hold status.

Other ships that are currently available for donation include:

—Patrol Combat ex-CANON (PG 90), Philadelphia, PA.
—Guided Missile Destroyer ex-CHARLES F. ADAMS (DDG 2), Philadelphia, PA.
—Destroyer ex-CONOLLY (DD 979) Philadelphia, PA.
— Heavy Gun Cruiser, ex-DES MOINES (CA 134), Philadelphia, PA.
— Destroyer ex-FORREST SHERMAN (DD 931), Philadelphia, PA.
— Frigate ex-KNOX (FF 1052), Bremerton, WA.
— Amphibious Assault Ship ex-NEW ORLEANS (LPH 11), Suisun Bay, CA.
— Aircraft Carrier ex-RANGER (CV 61), Bremerton, WA.
— Aircraft Carrier ex-SARATOGA (CV 60), Newport, RI.

FOR FURTHER INFORMATION CONTACT: Commander, Program Executive Office Ships (PEO SHIPS), PMS333, Inactive Ship Program Office, Ship Donation Program, ATTN: Ms. Gloria Carvalho (PMS 333G), 1333 Isaac Hull Avenue SE., Stop 2701, Washington Navy Yard, DC 20376–2701, telephone (202) 781–0485.

Dated: June 14, 2004.

S. K. Melancon,

Paralegal Specialist, Office of the Judge Advocate General, Alternate Federal Register Liaison Officer.

[FR Doc. 04–13769 Filed 6–17–04; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Meeting of the National Advisory Council on Indian Education

AGENCY: National Advisory Council on Indian Education (NACIE), U.S. Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the National Advisory Council on Indian Education (the Council) and is intended to notify the general public of their opportunity to attend. This notice also describes the functions of the Council. Notice of the Council's meetings is required under section 10(a)(2) of the Federal Advisory Committee Act and by the Council's charter.

Agenda: The purpose of the meeting will be to discuss the Presidential Executive Order 13336 on American Indian and Alaska Native Education and formalize committee assignments, including the selection of a chairman.

Date and Time: July 1, 2004—9 a.m. to 4 p.m. and July 2, 2004—9 a.m. to 12 Noon.

Location: The Department of Education, Room 1W103, 400 Maryland Avenue, SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Bernard Garcia, Group Leader, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW.,

Washington, DC 20202. Telephone: 202–260–1454. Fax: 202–260–7779.

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of Education concerning the funding and administration (including the development of regulations, and administrative policies and practices) of any program, including any program established under Title VII, Part A of the ESEA, with respect to which the Secretary has jurisdiction and that includes Indian children or adults as participants or that may benefit Indian children or adults; makes recommendations to the Secretary for filling the position of the Director of Indian Education whenever a vacancy occurs; and submits to the Congress, not later than June 30 of each year, a report on the activities of the Council, including any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants or that may benefit Indian children or adults, and recommendations concerning the funding of any such program.

The Executive Order 13336, dated April 30, 2004, purpose is to assist American Indian and Alaska Native students in meeting the challenging student academic standards of the No Child Left Behind Act of 2001 (Pub. L. 107–110) in a manner that is consistent with tribal traditions, languages, and cultures. The E.O. establishes an Interagency Working Group on American Indian and Alaska Native Education (Working Group) to oversee the implementation and the Working Group may consult with representatives of NACIE.

The general public is welcome to attend the July 1 and July 2, 2004, meeting. However, space is limited and is available on a first-come, first-serve basis. Individuals who need accommodations for a disability in order to attend the meeting (*i.e.* interpreting services, assistive listening devices, materials in alternative format) should notify Bernard Garcia, 202–260–1454 by June 24, 2004. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

A summary of the activities of the meeting and other related materials that are informative to the public will be available to the public within 14 days after the meeting. Records are kept of all Council proceedings and are available for public inspection at the Office of Indian Education, United States Department of Education, Room 3W201, 400 Maryland Avenue, NW., Washington, DC 20202.

Rod Paige,

Secretary, U.S. Department of Education.

[FR Doc. 04–13741 Filed 6–17–04; 8:45 am]

BILLING CODE 4000–01–M

ELECTION ASSISTANCE COMMISSION

Board of Advisors: Submission of Charter

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice of Board of Advisors: charter submission.

SUMMARY: The Election Assistance Commission announces the submission of the charter for the Board of Advisors. The purpose of the Board is to provide advice and consultation to the Election Assistance Commission consistent with the requirements of the Help America Vote Act of 2002.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005. Telephone: (202) 566–3100; toll free: 1–866–747–1471.

Gracia M. Hillman,

Vice-Chair, U.S. Election Assistance Commission.

Charter of the U.S. Election Assistance Commission Board of Advisors

The U.S. Election Assistance Commission (EAC) hereby Charters the Board of Advisors established in title II, section 211 of the Help America Vote Act of 2002 (HAVA) (Public Law 107–252) pursuant to the Federal Advisory Committee Act.

Objectives and Duties

1. The objective of the Board of Advisors (the Board) is to advise the EAC through review of the voluntary voting systems guidelines described in title II part 3 of the HAVA; through review of the voluntary guidance described under title III of HAVA; and through the review of the best practices recommendations contained in the report submitted under section 242(b) of title II (HAVA title II section 212).

2. The Board will function solely as an advisory body and will comply fully with the provisions of the Federal Advisory Committee Act.

Membership

1. The Board shall consist of the following:

—Two members appointed by the National Governors Association.
—Two members appointed by the National Conference of State Legislatures.
—Two members appointed by the National Association of Secretaries of State.
—Two members appointed by the National Association of State Election Directors.
—Two members appointed by the National Association of Counties.
—Two members appointed by the National Association of County Recorders, Election Administrators, and Clerks.
—Two members appointed by the United States Conference of Mayors.
—Two members appointed by the Election Center.
—Two members appointed by the International Association of County Recorders, Election Officials, and Treasurers.
—Two members appointed by the United States Commission on Civil Rights.
—Two members appointed by the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792).
—The chief of the Office of Public Integrity of the Department of Justice, or the chief's designee.
—The Chief of the Voting Section of the civil Rights Division of the Department of Justice or the chief's designee.
—The director of the Federal Voting Assistance Program of the Department of Defense.
—Four members representing professionals in the field of science and technology, of whom—(A) One each shall be appointed by the Speaker and the Minority Leader of the House of Representatives; and (B) One each shall be appointed by the Majority Leader and the Minority Leader of the Senate.
—Eight members representing voter interests, of whom—(a) Four members shall be appointed by the Committee on House Administration of the House of Representatives, of whom two shall be appointed by the chair and two shall be appointed by the ranking minority member; and (B) Four members shall be appointed by the Committee on Rules and Administration of the Senate, of whom two shall be appointed by the chair and two shall be appointed by the ranking minority member. (HAVA title II section 214 (a)).

2. Vacancy appointments shall be made in the same manner as the original appointments.

3. Members of the Board shall serve for a term of 2 years and may be reappointed.

4. The Board shall elect a Chair from among its members.

Administrative Provisions

1. The Board will report to the EAC through the Advisory Committee Management Officer pursuant to 5 U.S.C. app. 1, section 8(b). This officer shall be an EAC Commissioner designated by the Chairman of the EAC.

2. The Board will meet a minimum of once a year for purposes of voting on the voluntary voting system guidelines. Additional meetings may be called at such other times as it considers appropriate for the purposes of conducting other business as it considers appropriate consistent with title II of HAVA. (HAVA title II, section 215 (a)(2)).

3. The EAC and GAO will provide clerical and other necessary support services to the Board. (HAVA title II, section 215 (d)).

4. Members of the Board will not be compensated for their services but will be

reimbursed for travel expenses and subsistence. (HAVA title II section 215 (e)).

5. The Board may use the United States mails in the same manner and under the same conditions as a department or agency of the Federal government. (HAVA title II, section 215 (c)).

6. The annual cost for operating the Board is estimated at $100,000 which includes one quarter staff year for support services.

7. The Board may establish such committees of its members as may be necessary subject to the provisions of the law.

8. The Board may, by simple majority vote, adopt resolutions and make recommendations. Such resolutions and recommendations will, however, be only advisory to the EAC and will be restricted to the EAC's activities described in title II, section 212 of the Help America Vote Act of 2002.

9. The EAC will provide liaison services between the Board and the Advisory Panel Secretariat as required by the Federal Advisory Committee Act.

Duration

This is a permanent committee as established in title II section 215(f) of the Help America Vote Act of 2002.

Dated: June 14, 2004.

Gracia M. Hillman,

Vice Chair, U.S. Election Assistance Commission.

[FR Doc. 04–13799 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–MP–M

ELECTION ASSISTANCE COMMISSION

Standards Board: Submission of Charter

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice of Standards Board: charter submission.

SUMMARY: The Election Assistance Commission announces the submission of the charter for the Standards Board. The purpose of the Board is to provide advice and consultation to the Election Assistance Commission consistent with the requirements of the Help America Vote Act of 2002.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005. Telephone: (202) 566–3100; toll free: 1–(866) 747–1471.

Gracia M. Hillman,

Vice-Chair, U.S. Election Assistance Commission.

Charter of the U.S. Election Assistance Commission Standards Board

The U.S. Election Assistance Commission (EAC) hereby Charters the Standards Board established in title II, section 211 of the Help America Vote Act of 2002 (HAVA) (Public Law 107–252) pursuant to the Federal Advisory Committee Act.

Objectives and Duties

1. The objective of the Standards Board (the Board) is to advise the EAC through review of the voluntary voting systems guidelines described in title II part 3 of the HAVA; through review of the voluntary guidance described under title III of HAVA; and through the review of the best practices recommendations contained in the report submitted under section 242(b) of title II (HAVA title II, section 212).

2. The Board will function solely as an advisory body and will comply fully with the provisions of the Federal Advisory Committee Act.

Membership

1. The Board shall consist of 110 members. Fifty-five members shall be State election officials selected by the chief State election official of each State. Fifty-five shall be local election officials selected under a process supervised by the chief election official of the State. The 2 members of the Standards Board who represent the same State may not be members of the same political party. (HAVA title II, section 213(a)). Vacancy appointments shall be made in the same manner as the original appointments.

2. The Board shall select 9 of its members as an Executive Board of whom, not more than 5 may be State election officials; not more than 5 may be local election officials; and not more than 5 may be members of the same political party. Members of the Executive Board shall serve 2 year terms and may not serve more than 3 consecutive terms. Of the initial Executive Board, 3 members shall serve for 1 term; 3 shall serve for 2 consecutive terms; and 3 shall serve for 3 consecutive terms, as determined by lot at the time the members are first appointed (HAVA title II, section 213(c)).

Administrative Provisions

1. The Board will report to the EAC through the Advisory Committee Management Officer pursuant to 5 U.S.C. app. 1, section 8(b). This officer shall be an EAC Commissioner designated by the Chairman of the EAC.

2. The Board will meet a minimum of once a year for purposes of voting on the voluntary voting system guidelines and not less frequently than once every 2 years for purposes of selecting the Executive Board. Additional meetings may be called at such other times as it considers appropriate for the purposes of conducting other business as it considers appropriate consistent with title II of HAVA. (HAVA title II, section 215(a)(2)).

3. The EAC and GAO will provide clerical and other necessary support services to the Board. (HAVA title II, section 215(d)).

4. Members of the Board will not be compensated for their services but will be reimbursed for travel expenses and subsistence. (HAVA title II, section 215(e)).

5. The Board may use the United States mails in the same manner and under the same conditions as a department or agency of the Federal government. (HAVA title II, section 215 (c)).

6. The annual cost for operating the Board is estimated at $210,000 which includes one quarter staff year for support services.

7. The Board may establish such committees of its members as may be necessary subject to the provisions of the law.

8. The Board may, by simple majority vote, adopt resolutions and make recommendations. Such resolutions and recommendations will, however, be only advisory to the EAC and will be restricted to the EAC's activities described in title II section 212 of the Help America Vote Act of 2002.

9. The EAC will provide liaison services between the Board and the Advisory Panel Secretariat as required by the Federal Advisory Committee Act.

Duration

This is a permanent committee as established in title II, section 215 (f) of the Help America Vote Act of 2002.

Dated: June 14, 2004.

Gracia M. Hillman,

Vice Chair, U.S. Election Assistance Commission.

[FR Doc. 04–13798 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–MP–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC04–538–001, FERC–538]

Commission Information Collection Activities, Proposed Collection; Comment Request; Submitted for OMB Review

June 8, 2004.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and reinstatement of this information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of March 31, 2004 (69 FR 16907–16908), and has responded to their comments in its submission to OMB.

DATES: Comments on the collection of information are due by July 6, 2004.

ADDRESSES: Address comments on the collection of information to the Office of

Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *Pamela_L._Beverly@omb.eop.gov* and include the OMB Control No. as a point of reference. The Desk Officer may be reached by telephone at 202–395–7856. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED–30, Attention: Michael Miller, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC04–538–001.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's e-mail address upon receipt of comments. User assistance for electronic filings is available at (202) 502–8258 or by e-mail to *efiling@ferc.gov.* Comments should not be submitted to the e-mail address.

All comments are available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Description

The information collection submitted for OMB review contains the following:

1. Collection of Information: FERC–538 ''Gas Pipeline Certificates: Section 7(a) Mandatory Initial Service.''

2. Sponsor: Federal Energy Regulatory Commission.

3. Control No.: 1902–0061.

The Commission is now requesting that OMB approve and reinstate with a three-year extension of the expiration date, with no changes to the existing collection. The information filed with the Commission is mandatory.

4. Necessity of the Collection of Information: Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the statutory provisions 7(a), 10(a) and 16 of the Natural Gas Act (NGA) (Pub. L. 75–688) (15 U.S.C. 717–717w). The reporting requirements contained in this information collection are used by the Commission to determine whether a distributor applicant can economically construct and manage its facilities. Requests are made to the Commission by individuals or entities to have the Commission, by order, direct a natural gas pipeline to extend or improve its transportation facilities, and sell gas to an individual, entity or municipality for the specific purpose indicated in the order, and to extend the pipeline's transportation facilities to communities immediately adjacent to the municipality's facilities or to territories served by the natural gas company. In addition, the Commission reviews the supply data to determine if the pipeline company can provide the service without curtailing certain of its existing customers. The flow data and market data are also used to evaluate existing and future customer requirements on the system to find if sufficient capacity will be available. Likewise, the cost of facilities and the rate data are used to evaluate the financial impact of the cost of the project to both the pipeline company and its customers. The Commission implements the filing requirements in the Code of Regulations (CFR) under 18 CFR part 156.

5. Respondent Description: The respondent universe currently comprises 1 company (on average per year) subject to the Commission's jurisdiction

6. Estimated Burden: 240 total hours, 1 respondent (average per year), 1 response per respondent, and 240 hours per response (average).

7. Estimated Cost Burden to Respondents: 240 hours/2080 hours per year × $107,185 per year = $12,368.

Statutory Authority: Sections 7(a), 10(a) and 16 of the Natural Gas Act (NGA), Pub. L. 75–688 (15 U.S.C. 717–717w).

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1357 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–122]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rate

June 10, 2004.

Take notice that on June 7, 2004, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets to be effective June 7, 2004:

Sheet Nos. 822–825
Sheet No. 827
Sheet Nos. 831–832
Sheet Nos. 836–839
Sheet Nos. 842–847
Sheet No. 849
Sheet Nos. 892–1999

CEGT states that the purpose of this filing is to reflect the termination of negotiated rates with respect to certain transactions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. 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 proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the eFiling link.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1373 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES04–37–000]

Cleco Power LLC; Notice of Application

June 9, 2004.

Take notice that on June 4, 2004, Cleco Power LLC submitted an application pursuant to section 204 of the Federal Power Act requesting that the Commission authorize the issuance of short-term debt securities in an aggregate amount not to exceed $150 million.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 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 motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a) (1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: June 29, 2004.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1356 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–057]

Columbia Gas Transmission Corporation; Notice of Filing

June 8, 2004.

Take notice that on May 10, 2004, Columbia Gas Transmission Corporation (Columbia) filed to report on the sharing with its customers of a portion of the profits from the sale of certain base gas as provided in Columbia's Docket No. RP95–408 rate case settlement. *See* Stipulation II, Article IV, Sections A through E, in Docket No. RP95–408 approved at Columbia Gas Transmission Corp., 79 FERC ¶ 61,044 (1997).

Columbia states that copies of its filing have been mailed to all firm customers, State commissions, and parties on the official service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed on or before the protest date as shown below. 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 proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Protest Date: June 15, 2004.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1372 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–241–012]

El Paso Natural Gas Company; Notice of Compliance Filing

June 8, 2004.

Take notice that on June 2, 2004, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, Substitute Original Sheet No. 219N, with an effective date of July 1, 2004.

EPNG states that it is submitting a substitute tariff sheet to its May 27, 2004 filing implementing pro forma tariff sheets previously approved in this proceeding to remove additional references to the dual primary point provision.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. 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 proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1366 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–328–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 14, 2004.

Take notice that on June 9, 2004, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1A, Third Revised Sheet No. 290A, with an effective date of July 12, 2004.

El Paso states that the tariff sheet establishes procedures for demonstrating the availability of capacity prior to re-sale.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. 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 proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Linda Mitry,

Acting Secretary

[FR Doc. E4–1371 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–75–000]

Freeport LNG Development, L.P.; Notice of Availability of the Final Conformity Determination for the Freeport LNG Project

June 10, 2004.

The staff of the Federal Energy Regulatory Commission has prepared a Final General Conformity Determination to assess the potential air quality impacts associated with the construction and operation of a liquefied natural gas (LNG) import terminal and natural gas pipeline proposed by Freeport LNG Development, L.P. (Freeport LNG), referred to as the Freeport LNG Project, in Docket No. CP03–75–000.

This Final General Conformity Determination was prepared to satisfy the requirements of the Clean Air Act.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1374 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–361–031]

Gulfstream Natural Gas System, L.L.C.; Notice of Compliance Filing

June 8, 2004.

Take notice that on June 2, 2004, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing an executed service agreement and related negotiated rate letter agreement in compliance with an order of the Commission in the above-captioned docket dated May 26, 2004.

Gulfstream states that copies of its filing have been mailed to all affected customers and interested state commissions, as well as all parties on the Official Service List compiled by the Secretary of the Commission in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with § 154.210 of the Commission's regulations. 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 proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1367 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–361–032]

Gulfstream Natural Gas System, L.L.C.; Notice of Negotiated Rate

June 8, 2004.

Take notice that on June 2, 2004, 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. 8.01a, reflecting an effective date of July 1, 2004.

Gulfstream states that this filing is being made in connection with a negotiated rate transaction pursuant to section 31 of the General Terms and Conditions of Gulfstream's FERC Gas Tariff. Gulfstream states that Original Sheet No. 8.01a identifies and describes the negotiated rate transaction, including the exact legal name of the relevant shipper, the negotiated rate, the

rate schedule, the contract terms, and the contract quantity. Gulfstream also states that Original Sheet No. 8.01a includes footnotes where necessary to provide further details on the transaction listed thereon.

Gulfstream states that copies of its filing have been mailed to all affected customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. 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 proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1368 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–324–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff and Filing of Non-Conforming Service Agreements

June 8, 2004.

Take notice that on June 3, 2004, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Fourth Revised Sheet No. 373, to be effective July 4, 2004. Northwest also tendered for filing a Rate Schedule TF–1 non-conforming service agreement.

Northwest states that the purpose of this filing is to (1) submit a Rate Schedule TF–1 service agreement containing contract-specific operational flow order provisions that do not conform to the Rate Schedule TF–1 form of service agreement contained in Northwest's tariff, (2) add this agreement to the list of non-conforming service agreements in Northwest's tariff, and (3) remove a service agreement due to termination from the list of non-conforming service agreements in Northwest's tariff.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested State regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. 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 proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1370 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 372–008]

Southern California Edison Company; Notice Granting Late Intervention

June 10, 2004.

On November 5, 1998, the Commission issued a notice of the application for a new license filed by Southern California Edison Company for the Lower Tule River Hydroelectric Project No. 372, located on the Middle Fork Tule River in Tulare County, California, partially within the Sequoia National Forest. The notice established January 5, 1998, as the deadline for filing motions to intervene in the proceeding.

On April 14, 2000, and October 16, 2000, respectively, the Public Utilities Commission of the State of California and the California Department of Fish and Game filed late motions to intervene in the proceeding. Granting the late motions to intervene will not unduly delay or disrupt the proceeding, or prejudice other parties to it. Therefore, pursuant to Rule 214,[1] the late motions to intervene in the Lower Tule Hydroelectric Project proceeding are granted, subject to the Commission's rules and regulations.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1361 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER04–912–000, ER04–917–000]

XL Weather and Energy, Inc., XL Trading Partners America LLC; Notice of Filing

June 9, 2004.

Take notice that on May 28, 2004 XL Weather & Energy, Inc. (XL Weather) and XL Trading Partners America LLC (XL Trading America) tendered for filing Notices of Cancellation for XL Weather's FERC Electric Rate Schedule No. 1, originally filed in Docket No. ER02–2610 and amended in Docket No. ER03–330; and XL Trading America's FERC Electric Rate Schedule No. 1, originally filed in Docket No. ER04–350. XL Weather and XL Trading Partners state

[1] 18 CFR 385.214 (2004).

that this filing is being made to reflect the fact that no business is being transacted under either rate authority. XL Weather and XL Trading America request an effective date of 60 days after the date of filing, or earlier if the Commission so chooses.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 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 motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: June 18, 2004.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1355 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG04–46–000, et al.]

Great Bay Hydro Corporation, et al.; Electric Rate and Corporate Filings

June 7, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Great Bay Hydro Corporation

[Docket No. EG04–46–000]

Take notice that on May 14, 2004, Great Bay Hydro Corporation (Great Bay Hydro) submitted an amendment to its March 30, 2004, application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations and section 32 of the Public Utility Holding Company Act of 1935.

Comment Date: June 21, 2004.

2. The Detroit Edison Company

[Docket No. EL04–31–003]

Take notice that on June 1, 2004, The Detroit Edison Company (Detroit Edison) tendered for filing in compliance with the Commission's March 5, 2004, Order in Docket No. EL04–31–000 the net effect on imbalance payments as a result of the recalculation of the decremental prices for the period of January 1, 2002, through December 1, 2002.

Comment Date: June 22, 2004.

3. Westar Generating, Inc.

[Docket No. ER01–1305–009]

Take notice that on May 28, 2004, Westar Generating, Inc. (Westar) submitted an informational filing as required by Article IV, Informational Filings, of the Settlement Agreement in Docket No. ER01–1305–000.

Westar states that a copy of this filing was served upon the Kansas Corporation Commission.

Comment Date: June 18, 2004.

4. New York Independent System Operator, Inc.

[Docket No. ER01–3001–010]

Take notice that on June 1, 2004, the New York Independent System Operator, Inc. (NYISO) submitted a report which addresses, as of June 1, 2004; (1) the NYISO's existing demand response programs, the status of real-time demand response mechanisms, and the effects of demand response programs on wholesale prices; and (2) the status of new generation resources in the New York Control area.

NYISO states that it has served a copy of this filing to all parties on the official service list in this proceeding, including the New York State Public Service Commission, and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: June 22, 2004.

5. International Transmission Company

[Docket No. ER03–343–005]

Take notice that on May 28, 2004, International Transmission Company (International Transmission), submitted a revised tariff sheets in compliance with the Commission's order issued April 29, 2004, in Docket No. AC03–33–000.

International Transmission states that it has served a copy of this filing upon its customers and the Michigan Public Service Commission.

Comment Date: June 18, 2004.

6. Commonwealth Edison

[Docket Nos. ER03–654–001, ER03–655–001, ER03–656–001, ER04–736–001, ER04–737–001]

Take notice that on May 28, 2004, Commonwealth Edison, (ComEd) submitted a response to a Commission deficiency letter issued May 13, 2004, in Docket Nos. ER03–654–000, ER03–655–000, ER03–656–000, ER04–736–000 and ER04–737–000. ComEd requests withdrawal of the unexecuted service agreements filed April 14, 2004, in Docket Nos. ER04–736–000 and ER04–737–000. ComEd also requests withdrawal of the interconnection agreements filed March 25, 2003, in Docket Nos. ER03–654–000, ER03–655–000, ER03–656–000.

ComEd states that copies of the filing were served on all parties in the official service lists in the above captioned proceedings as well as the Illinois Commerce Commission.

Comment Date: June 18, 2004.

7. Duquesne Power, L.P., Duquesne Light Co., Monmouth Energy, Inc., Metro Energy, L.L.C., NM Colton Valley Genco, L.L.C, NM Mid-Valley Genco, L.L.C., NM Milliken Genco, L.L.C.

[Docket Nos. ER04–268–001, ER98–4159–004, ER99–1293–003, ER01–2317–003, ER03–320–005, ER03–321–005, and ER03–322–005]

Take notice that on June 2, 2004, Duquesne Power, L.P. (Duquesne Power), Duquesne Light Company (DLC), Monmouth Energy, Inc. Metro Energy, L.L.C. (collectively Applicants) submits for filing a revised generation market power analysis in support of Duquesne Power's request for blanket authorization to sell power at market-based rates and the notice of change in status relating to Applicants other than Duquesne Power. Applicants request that the Commission act on their request within 60 days to facilitate an August 2004 closing of Duquesne Power's acquisition of the Sunbury generating station.

Comment Date: June 23, 2004.

8. Florida Power & Light Company

[Docket No. ER04–520–003]

Take notice that on June 2, 2004, Florida Power & Light Company (FPL) submitted a compliance filing pursuant

to the Commission's order issued May 21, 2004, in Docket No. ER04–520–002, 107 FERC ¶ 61,176 (2004).

FPL states that a copy of this filing has been served on Seminole Electric Cooperative, Inc. and Lee County Electric Cooperative, Inc.

Comment Date: June 23, 2004.

9. BP West Coast Products LLC

[Docket No. ER04–611–002]

Take notice that on June 1, 2004, BP West Coast Products LLC submitted for filing a complete Second Revised Volume No. 1 of the Market Based Rate Power Sales Tariff, including a final revision of Paragraph 4 filed May 24, 2004, in Docket No. ER04–611–001.

Comment Date: June 24, 2004.

10. California Independent System Operator Corporation

[Docket No. ER04–885–000]

On May 26, 2004, the California Independent System Operator Corporation (ISO) tendered for filing Amendment No. 2 to the Interconnected Control Area Operating Agreement (ICAOA) between the ISO and Nevada Power Company (NEVP). The ISO requests that the agreement be made effective as of May 14, 2004.

ISO states that the non-privileged elements of this filing have been served on NEVP, the California Public Utilities Commission, and all entities on the official service lists for the original ICAOA in Docket No. ER00–2292–000 and Amendment No. 1 to the ICAOA in Docket No. ER01–1995–000.

Comment Date: June 16, 2004.

11. Cleco Power LLC

[Docket No. ER04–906–000]

Take notice that on June 3, 2004, Cleco Power LLC (Cleco) submitted a filing restating its existing open access transmission tariff and incorporating as part of that tariff the large generator interconnection procedures and *pro forma* large generator interconnection agreement required by the Commission's Order No. 2003-A. Cleco requests an effective date of June 4, 2004.

Cleco states that a copy of this filing was served electronically on Cleco's transmission customers and on the Louisiana Public Service Commission.

Comment Date: June 24, 2004.

12. Ohio Valley Electric Corporation

[Docket No. ER04–908–000]

Take notice that on June 4, 2004, Ohio Valley Electric Corporation (OVEC) tendered for filing Modification No. 15, to the Inter-Company Power Agreement among OVEC and certain other companies named within that agreement as Sponsoring Companies (the Inter-Company Power Agreement). OVEC has requested that the changes to the Inter-Company Power Agreement become effective as of April 30, 2004.

OVEC states that copies of the filing were served upon Allegheny Energy Supply Company, LLC, Appalachian Power Company, the Cincinnati Gas & Electric Company, Columbus Southern Power Company, the Dayton Power and Light Company, FirstEnergy Generation Corp., Indiana Michigan Power Company, Kentucky Utilities Company, Louisville Gas and Electric Company, Monongahela Power Company, Ohio Power Company, Southern Indiana Gas and Electric Company, the Utility Regulatory Commission of Indiana, the Public Service Commission of Kentucky, the Public Service Commission of Maryland, the Public Service Commission of Michigan, the Public Utilities Commission of Ohio, the Public Utility Commission of Pennsylvania, Tennessee Regulatory Authority, the State Corporation Commission of Virginia and the Public Service Commission of West Virginia.

Comment Date: June 25, 2004.

13. Nevada Power Company

[Docket No. ER04–909–000]

Take notice that on June 4, 2004, Nevada Power Company (Nevada Power) tendered for filing, an executed Service Agreement for Network Integration Transmission Service Retail Access Transmission Service (Transmission Service Agreement) between Nevada Power Company; Public Service Company of New Mexico, Scheduling Coordinator; the Colorado River Commission of Nevada, Aggregator for End Use Customer; and the Southern Nevada Water Authority, End-Use Customer and an executed Network Operating Agreement between Nevada Power Company and Public Service Company of New Mexico. Nevada Power requests an effective date for service be the service commencement date of July 1, 2004.

Comment Date: June 25, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 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 motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1375 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC03–114–001, et al.]

Connecticut Valley Electric Company, Inc., et al.; Electric Rate and Corporate Filings

June 10, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Connecticut Valley Electric Company Inc., Public Service Company of New Hampshire, Central Vermont Public Service Corporation

[Docket No. EC03–114–001]

Take notice that on June 3, 2004, Central Vermont Public Service Corporation (CVPS) and Connecticut Valley Electric Company Inc. (CVEC) tendered for filing an application for a supplemental order in this proceeding to authorize the transfer of $89,167 of transmission facilities from CVEC to CVPS.

CVPS and CVEC state that they have served copies of the application on the Vermont Public Service Board and on the New Hampshire Public Utilities Commission.

Comment Date: June 24, 2004.

2. MxEnergy Electric Inc.

[Docket Nos. EC04–116–000 and ER04–170–003]

Take notice that on June 4, 2004, MxEnergy Electric Inc. (MxEnergy) filed an application under section 203 of the Federal Power Act requesting Commission authorization for the transfer of up to 30 percent of the indirect upstream ownership interests in MxEnergy to one or more individuals or private equity funds. MxEnergy has requested confidential treatment of the contents of Exhibit I to the section 203 application. In addition, MxEnergy filed a notice of change in status in the above-referenced rate docket with respect to the change in the indirect upstream ownership of MxEnergy that will be effected by the transaction.

Comment Date: June 25, 2004.

3. Delmarva Power & Light Company

[Docket No. EC04–117–000]

Take notice that, on June 4, 2004, Delmarva Power & Light Company (Delmarva) tendered for filing, pursuant to section 203 of the Federal Power Act and part 33 of the Commission's regulations, a request for Commission authorization for the transfer of material and equipment related to the Cartanza substation from the City of Dover, Delaware to Delmarva.

Delmarva states that copies of the filing were served on the Delaware Public Service Commission, the Maryland Public Service Commission, the New Jersey Board of Public Utilities, the Virginia State Corporation Commission, the District of Columbia Public Service Commission and the Securities and Exchange Commission.

Comment Date: June 25, 2004.

4. Brooklyn Navy Yard Cogeneration Partners, L.P.

[Docket Nos. EG04–75–000]

On June 1, 2004, Brooklyn Navy Yard Cogeneration Partners, L.P. (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for redetermination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant states that it owns a 315 MW (net) topping-cycle cogeneration facility fueled primarily by natural gas, located within Building 41 Powerhouse at the Brooklyn Navy Yard and sells all of its output at wholesale to (1) the Consolidated Edison Company of New York, Inc., (2) Brooklyn Yard Development Corporation; and (3) Tyche Power Marketing LLC.

Comment Date: June 22, 2004.

5. DPL Energy, LLC

[Docket No. EG04–76–000]

Take notice that on June 7, 2004, DPL Energy, LLC (DPL Energy) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's Regulations.

DPL Energy states that it is a limited liability company, organized under the laws of the State of Ohio, and is a wholly-owned subsidiary of DPL, Inc. DPL Energy further states that it is in the business of owning and operating four merchant electric generation facilities located in Ohio and Indiana, with a combined summer rating of 1114 megawatts.

Comment Date: June 28, 2004.

6. New England Power Company

[Docket No. ER03–793–002]

Take notice that on June 7, 2004, New England Power Company submitted a filing in compliance with the Commission's order issued May 7, 2004, in Docket No. ER03–793–001. New England Power Company, 107 FERC ¶ 61,127 (2004).

Comment Date: June 28, 2004.

7. New York Independent System Operator, Inc.

[Docket Nos. ER04–230–005]

Take notice that on June 7, 2004, New York Independent System Operator, Inc. (NYISO) filed revised tariff sheets in compliance with the Commission's order issued May 7, 2004, in Docket Nos. ER04–230–002 and ER04–230–004.

NYISO states that copies of this filing are being served all parties designated on the official service list maintained by the Secretary of the Commission in this proceeding. NYISO states that it is also serving a copy of this filing on the New York State Public Service Commission and the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: June 28, 2004.

8. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04–656–001]

Take notice that on June 7, 2004, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing a response clarifying its intentions concerning the cancellation of various Service Agreements under the Midwest ISO Joint Open Access Transmission Tariff pursuant to the Commission's May 7, 2004, Order Docket No. ER04–656–000.

Midwest ISO requests waiver of the service requirements set for in 18 CFR 385.2010 and in rule 602(d) of the Commission's rules of practice and procedure, 18 CFR 385.602(d).

Midwest ISO states that it has served a copy of this filing electronically, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commission within the region. Midwest ISO further states that the filing has been posted electronically on the Midwest ISO's Web site at *http://www.midwestiso.org*. under the heading ''Filings to FER'' for other interested parties in this matter and that it will provide hard copies upon request.

Comment Date: June 28, 2004.

9. Public Service Company of New Mexico

[Docket No. ER04–668–001]

Take notice that on June 8, 2004, Public Service Company of New Mexico (PNM) submitted for filing an amendment to its March 24, 2004, filing in Docket No. ER04–668–000 response to a Commission letter issued May 14, 2004, in Docket No. ER04–668–000, notifying PNM that its original filing was deficient. PNM requests an effective date of June 9, 2004.

PNM states that copies of this filing have been served on all customers under PNM's tariff, the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: June 29, 2004.

10. PJM Interconnection, L.L.C. Commonwealth Edison Company

[Docket No. ER04–718–004]

Take notice that on June 8, 2004, Commonwealth Edison Company (ComEd) submitted for filing a substitute Financial Hold Harmless Service Agreement under PJM Interconnection, L.L.C.'s Open Access Transmission Tariff in compliance with the Commission's Order issued April 27, 2004, in Docket No. ER04–375–002, *et al.*, 107 FERC ¶ 61,087.

ComEd states that copies of the filing were served upon each person on the Commission's official service list in Docket No. ER04–718.

Comment Date: June 29, 2004.

11. Public Service Company of New Mexico

[Docket No. ER04–760–000]

Take notice that on June 8, 2004, Public Service Company of New Mexico, (PNM) submitted for filing a Notice of Withdrawal. PNM states that it seeks to withdraw the tariff sheets

filed on April 26, 2004, in Docket No. ER04–760–000 and to terminate the proceeding.

Comment Date: June 29, 2004.

12. Calpine Newark, LLC

[Docket No. ER04–831–001]

Take notice that on June 7, 2004, Calpine Newark, LLC (Newark) filed an amendment to its May 11, 2004, filing to include a tariff provision prohibiting power sales to affiliated public utilities with a franchised electric service territory and to reflect the effective date of FERC Rate Schedule No.1. Newark requests waiver of the 60-day notice requirements to permit an effective date of May 24, 2004.

Comment Date: June 28, 2004.

13. Calpine Parlin, LLC

[Docket No. ER04–832–001]

Take notice that on June 7, 2004, Calpine Parlin, LLC (Parlin) filed an amendment to its May 11, 2004, filing to include a tariff provision prohibiting power sales to affiliated public utilities with a franchised electric service territory and to reflect the effective date of FERC Rate Schedule No. 2. Parlin requests waiver of the 60-day notice requirements to permit waiver of the 60-day notice requirements to permit an effective date of May 24, 2004.

Comment Date: June 28, 2004.

14. Central Hudson Gas & Electric Corporation

[Docket No. ER04–918–000]

Take notice that on June 7, 2004, Central Hudson Gas & Electric Corporation (Central Hudson) pursuant to 18 CFR 35.15 and 131.53, submitted for filing a Notice of Cancellation of its Rate Schedule FERC No. 61, accepted by the Commission in Docket No. ER80–589. Central Hudson states that the contract was terminated in accordance with its terms. Central Hudson requests an effective date of June 1, 2004.

Central Hudson states that a copy of this filing has been served on Northeast Utilities Service Company and the New York Public Service Commission.

Comment Date: June 28, 2004.

15. Central Maine Power Company

[Docket No. ER04–919–000]

Take notice that on June 8, 2004, Central Maine Power Company (CMP) tendered for filing a Notice of Cancellation of the unsigned Agreement for Lease of Transmission Line between Central Maine Power Company and Androscoggin Reservoir Company, previously designated as Rate Schedule FERC No. 202. CMP states that this submission is made in response to the Commission's Order issued May 20, 2004, in Docket No. ER03–1307–001. CMP requests an effective date of September 5, 2003.

CMP states that copies of this filing have been served on the parties.

Comment Date: June 29, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 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 motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1376 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER04–907–000, et al.]

Avista Corporation, et al.; Electric Rate and Corporate Filings

June 8, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Avista Corporation

[Docket No. ER04–907–000]

Take notice that on June 7, 2004, Avista Corporation (Avista) tendered for filing Original Service Agreement No. 315, a non-conforming Service Agreement under Avista's FERC Electric Tariff Original Volume No. 10 between Avista and the Western Area Power Administration—Upper Great Plains Region (Service Agreement). Avista requests an effective date of June 1, 2004.

Comment Date: June 28, 2004.

2. The Detroit Edison Company, International Transmission Company, and the Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04–910–000]

Take notice that on June 4, 2004, The Detroit Edison Company, (Detroit Edison) International Transmission Company (International Transmission) and the Midwest Independent Transmission System Operator, Inc., (the Midwest ISO) (collectively the Parties) an executed Must-Run Agreement and accompanying exhibits by and among The Detroit Edison Company, International Transmission Company and the Midwest Independent Transmission System Operator, Inc., which sets forth the rates, terms and conditions under which The Detroit Edison Company will provide reliability must-run services to International Transmission Company's service territory. The Parties requested a waiver of the Commission's regulations to permit an effective date of June 7, 2004.

The Parties states that copies of this filing, with attachments have been electronically served on all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the region. In addition, the Parties states that the filing has been electronically posted on the Midwest ISO's Web site at *http://www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: June 25, 2004.

3. PPL University Park, LLC

[Docket No. ER04–911–000]

Take notice that on June 4, 2004, PPL University Park, LLC (PPL University Park) tendered for filing a rate schedule pursuant to which it specifies its revenue requirement for providing cost-based Reactive Supply and Voltage Control from Generation Sources

Service (Reactive Power). PPL University Park states that it will provide Reactive Power from its natural gas-fueled electric generating facility located in University Park, Illinois in the control area administered by the PJM Interconnection, L.L.C. PPL University Park requests waiver of the notice requirements of 18 CFR 35.3, to the extent necessary, to permit an effective date for the proposed Rate Schedule FERC No. 2 of July 1, 2004.

Comment Date: June 25, 2004.

4. Centaurus Energy Master Fund, L.P.

[Docket No. ER04–913–000]

Take notice that on June 4, 2004, Centaurus Energy Master Fund, L.P. (Centaurus) petitioned the Commission for acceptance of Centaurus' FERC Electric Tariff Original Volume No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations. Centaurus states that it intends to engage in wholesale electric power and energy purchases and sales as a marketer.

Comment Date: June 25, 2004.

5. Total Gas & Electricity, Inc.

[Docket Nos. ER04–914–000 and ER04–836–000]

Take notice that on June 4, 2004, Total Gas & Electricity, Inc. (TG&E) (f/k/a Total Energy, Inc.) filed a notice of cancellation of its market-based rate electric tariff, Rate Schedule FERC No. 1, effective April 1, 2004. TG&E also requested that the notice of succession filed on May 12, 2004, in Docket No. ER04–836–000 be withdrawn.

Comment Date: June 25, 2004.

6. Total Gas & Electric (PA), Inc.

[Docket Nos. ER04–915–000 and ER04–837–000]

Take notice that on June 4, 2004, Total Gas & Electricity (PA), Inc. (TG&E PA) filed a notice of cancellation of its market-based rate electric tariff, Rate Schedule FERC No. 1, effective April 1, 2004. TG&E PA also requested that the notice of succession filed on May 12, 2004, in Docket No. ER04–837–000 be withdrawn.

Comment Date: June 25, 2004.

7. Duke Energy Corporation

[Docket No. ER04–916–000]

Take notice that on June 4, 2004, Duke Energy Corporation, on behalf of Duke Electric Transmission, (collectively, Duke) tendered for filing a revised Network Integration Service Agreements (NITSA) with New Horizon Electric Cooperative, Inc. Duke requests an effective date for the revised NITSA of June 1, 2004.

Comment Date: June 25, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 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 motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie Salas,

Secretary.

[FR Doc. E4–1377 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

June 10, 2004.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New major license.

b. *Project No.:* P–11882–002.

c. *Date Filed:* May 27, 2004.

d. *Applicant:* Fall River Rural Electric Cooperative, Inc.

e. *Name of Project:* Hebgen Dam Hydroelectric Project.

f. *Location:* On the Madison River, near the town of West Yellowstone, Gallatin County, Montana. The project is located in the Gallatin National Forest and is within close proximity to Yellowstone National Park.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Brent L. Smith, Northwest Power Services, Inc. PO Box 535, Rigby, Idaho 83442, (208) 745–0834.

i. *FERC Contact:* Kim A. Nguyen, *kim.nguyen@ferc.gov*, (202) 502–6105.

j. Pursuant to 18 CFR 4.32(b)(7) of the Commission's regulations, if any resource agency, Indian tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

k. Deadline for filing additional study requests and requests for cooperating agency status: July 26, 2004.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's rules of practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

l. The application is not ready for environmental analysis at this time.

m. The Applicant proposes to utilize the existing Hebgen Dam, Hebgen Reservoir, outlet works, and spillway, currently owned and operated by Pennsylvania Power and Light Montana, LLC (PPL Montana) as a regulating reservoir under the Missouri-Madison Hydroelectric Project, FERC No. 2188. The Applicant proposes to construct a powerhouse with a single turbine generator unit of approximately 6.7

megawatt capacity at the area downstream of the dam and immediately north of the present outlet discharge. The Applicant also proposes to install a new 9.4-mile, 25-kilovolt underground power transmission line to connect the powerhouse with the existing Fall River Rural Electric Cooperative's Hebgen substation located near Grayline, Montana. The average annual generation is estimated to be 42.98 gigawatthours.

n. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are initiating consultation with the Montana State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

p. Procedural schedule and final amendments: The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Acceptance/Deficiency Letter: July 2004.

Request Additional Information: July 2004.

Issue Acceptance Letter: October 2004.

Issue Scoping Document 1 for comments: November 2004.

Request Additional Information (if necessary): January 2005.

Issue Scoping Document 2: February 2005.

Notice that application is ready for environmental analysis (EA): February 2005.

Notice of the availability of the draft EA: August 2005.

Notice of the availability of the final EA: November 2005.

Ready for Commission's decision on the application: November 2005.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1358 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Proposed Land Exchange and Soliciting Comments, Motions To Intervene, and Protests

June 10, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Approval of a proposed exchange of project lands.

b. *Docket No.:* 2145–059.

c. *Date Filed:* May 17, 2004.

d. *Applicant:* Public Utility District No. 1 of Chelan County (District).

e. *Name of Project:* Rocky Reach Project.

f. *Location:* The project is located on the Columbia River, in Chelan County, Washington. The project utilizes Federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a), 825(r), and 799 and 801.

h. *Applicant Contact:* Keith Truscott, P.O. Box 1231, Wenatchee, WA 98807–1231, telephone number (509) 661–4831.

i. *FERC Contact:* Any questions on this notice should be addressed to Diane Murray, *diane.murray@ferc.gov*, or (202) 502–8838.

j. *Deadline for filing comments and or motions:* July 12, 2004.

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 docket number (P–2145–059) on any comments, protests, or motions filed. Comments, protests, or interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Proposal:* This proposal includes the exchange of a 1.5-acre parcel of project land owned by the District and located adjacent to Stephen and Pamela Talbot's residence, approximately three miles north of the Rocky Reach Dam (District's Parcel B) for an equal-sized parcel of project land owned by the Talbots, located approximately 20 miles upstream near Stayman Flats (Talbot's Parcel A). The District's Parcel B has been leased to the Talbots since 1989. The conveyance of the District's Parcel B would be subject to a flowage easement and customary covenants and restrictions under the standard land use article, which would permit the District to use and protect the parcel for project purposes. Talbot's Parcel A, when conveyed, will remain vacant land and will be subject to the District's flowage easement for project purposes and no development will be permitted. Both parcels will remain inside the project boundary.

l. *Locations of the Application:* The filing is available for review at the Commission's Public Reference Room, 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 ''eLibrary'' link, select ''General Search'', select ''Date Range'' and ''Docket Number'' and follow the instructions to access the document. For assistance, please call the Helpline at (866) 208–3676 or contact *FERConlineSupport@ferc.gov*. For 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, 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'', ''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.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1360 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2009–030]

Virginia Electric & Power Company dba Dominion Virginia Power/ Dominion North Carolina Power; Notice of Technical Conference

June 9, 2004.

Take notice that a technical conference will be held to discuss the proposed revisions to license articles submitted by the licensee on rehearing for the Gaston-Roanoke Rapids Project.

This conference will be held on June 16, 2004, beginning at 10:30 a.m. (e.s.t.), and on June 17, 2004, if necessary, in Hearing Room 4, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Attendance at the conference is limited to Commission staff and existing parties as of March 31, 2004, the issuance date of the license order. There will be no transcript of the conference. For more information about the conference, please contact Elizabeth Molloy, at 202–502–8771, or *Elizabeth.molloy@ferc.gov*.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1359 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–136–000]

Iroquois Gas Transmission System; Notice of Informal Settlement Conference

June 9, 2004.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 1:30 p.m. (e.s.t.) on Tuesday, June 15, 2004, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Arnold H. Meltz at *arnold.meltz@ferc.gov*, (202) 502–8649 or Thomas J. Burgess at *thomas.burgess@ferc.gov*, (202) 502–6058.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1369 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF04–12–000]

Transcontinental Gas Pipe Line Corporation; Notice of Site Visit

June 9, 2004.

On June 29, 2004, the Office of Energy Projects (OEP) staff will conduct a pre-certification site visit of Transcontinental Gas Pipe Line Corporation's (Transco) planned Central New Jersey Expansion Project. The project consists of about 3.5 miles of 36-inch-diameter pipeline that would loop Transco's existing Trenton Woodbury Line in Bordentown and Mansfield Townships, Burlington County, New Jersey.

We will view five of the route variations that are being considered for the planned pipeline expansion. Examination will be by automobile and on foot. Representatives of Transco will be accompanying the OEP staff.

All interested parties may attend. Those planning to attend must provide their own transportation. Those interested in attending should meet at 2 p.m. (e.s.t.) in the parking lot/area of the Ramada Inn, Bordentown, located at 1083 Route 206 North, Bordentown, New Jersey.

For additional information, please contact the Commission's Office of External Affairs at 1–866–208–FERC.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1362 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Sunshine Act Meeting

June 10, 2004.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: June 17, 2004, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, telephone (202) 502–8400; for a recording listing items stricken from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

862nd—Meeting June 17, 2004, Regular Meeting 10 a.m.

Administrative Agenda

A–1.
DOCKET# AD02–1, 000, Agency Administrative Matters

A–2.
DOCKET# AD02–7, 000, Customer Matters, Reliability, Security and Market Operations

A–3, A–4.
DOCKET# AD04–7, 000, 2004 Summer Energy Market Assessment Strategic Plan

Markets, Tariffs and Rates—Electric

E–1.
OMITTED

E–2.
DOCKET# ER02–1656, 017, California Independent System Operator Corporation
OTHER#S ER02–1656, 018, California Independent System Operator Corporation
EL04–108, 000, Public Utilities Providing Service in California under Sellers' Choice Contracts

E–3.
DOCKET# ER03–262, 009, New PJM Companies
American Electric Power Service Corp.
On behalf of its Operating Companies: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company

Commonwealth Edison Company, and Commonwealth Edison Company of Indiana, Inc., The Dayton Power and Light Company, and
PJM Interconnection, LLC
OTHER#S ER03–262, 010, New PJM Companies
American Electric Power Service Corp.
On behalf of its Operating Companies: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company
Commonwealth Edison Company, and Commonwealth Edison Company of Indiana, Inc., The Dayton Power and Light Company, and
PJM Interconnection, LLC
ER03–262, 013, New PJM Companies
American Electric Power Service Corp.
On behalf of its Operating Companies: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company
Commonwealth Edison Company, and
Commonwealth Edison Company of Indiana, Inc., The Dayton Power and Light Company, and
PJM Interconnection, LLC
EC98–40, 008, American Electric Power Company and Central and Southwest Corporation
ER98–2770, 009, American Electric Power Company and Central and Southwest Corporation
ER98–2786, 009, American Electric Power Company and Central and Southwest Corporation

E–4.
DOCKET# ER04–776, 000, PJM Interconnection L.L.C.

E–5.
OMITTED

E–6.
OMITTED

E–7.
OMITTED

E–8.
DOCKET# ER04–419, 001, Xcel Energy Operating Companies
OTHER#S ER04–419, 002, Xcel Energy Operating Companies

E–9.
OMITTED

E–10.
DOCKET# ER04–753, 000, Sulpher Springs Valley Electric Cooperative, Inc.

E–11.
DOCKET# ER04–761, 000, Puget Sound Energy, Inc.

E–12.
OMITTED

E–13.
OMITTED

E–14.
OMITTED

E–15.
OMITTED

E–16.
OMITTED

E–17.
OMITTED

E–18.
OMITTED

E–19.
DOCKET# ER04–434, 001, Southwest Power Pool

E–20.
DOCKET# EC04–95, 000, Kandiyohi Power Cooperative

E–21.
OMITTED

E–22.
OMITTED

E–23.
OMITTED

E–24.
OMITTED

E–25.
OMITTED

E–26.
OMITTED

E–27.
OMITTED

E–28.
DOCKET# EL04–43, 001, *Tenaska Power Services Co.* v. *Midwest Independent Transmission System Operator, Inc.*
OTHER#S EL04–46, 001, *Cargill Power Markets, LLC* v. *Midwest Independent Transmission System Operator, Inc.*

E–29.
DOCKET# RM04–6, 000, Sharing Information With Marketing Monitoring Units

E–30.
DOCKET# EL04–96, 000, W.E. Power LLC and Elm Road Generating Station Supercritical, LLC

E–31.
OMITTED

E–32.
DOCKET# EL04–14, 000, *Californians for Renewable Energy, Inc.* v. *Mirant Americas Energy Marketing, L.P. and California Department of Water Resources*

E–33.
OMITTED

E–34.
DOCKET# EL00–95, 085, *San Diego Gas & Electric Company* v. *Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange Corporation*
OTHER#S EL00–98, 085, *Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange*

E–35.
DOCKET# PL04–10, 000, Federal Power Act Section 305(b) Obligations

E–36.
DOCKET# EL02–23, 000, *Consolidated Edison Company of New York, Inc.* v. *Public Service Electric and Gas Company, PJM Interconnection, L.L.C., and New York Independent System Operator, Inc.*

E–37.
DOCKET# ER03–1274, 000, Boston Edison Company

E–38.
DOCKET# TX04–1, 000, Northeast Utilities Service Company

E–39.
DOCKET# ER03–997, 000, Kansas City Power & Light Company
OTHER#S ER03–997, 001, Kansas City Power & Light Company

E–40.
OMITTED

E–41.
DOCKET# ER02–2001, 003, Electric Quarterly Reports
OTHER#S ER92–429, 020, Torco Energy Marketing, Inc.
ER94–931, 016, PowerNet G.P.
ER94–1580, 022, Energy Resource Marketing, Inc.
ER94–1676, 017, Texas-Ohio Power Marketing, Inc.
ER95–257, 020, Industrial Gas & Electric Services Co.
ER95–385, 010, Southeastern Energy Resources, Inc.
ER95–473, 012, Proven Alternatives, Inc.
ER95–792, 014, K Power Company, Inc.
ER95–914, 013, Power Clearinghouse, Inc.
ER95–964, 011, CNB/Olympic Gas Services
ER95–1047, 011, Ruffin Energy Services, Inc.
ER95–1234, 017, Prairie Winds Energy, Inc.
ER95–1855, 012, VTEC Energy, Inc.
ER96–1, 018, Powertec International, LLC
ER96–203, 004, Multi-Energies USA, Inc.
ER96–280, 016, Energy Transfer Group, LLC
ER96–332, 008, PowerMark, LLC
ER96–525, 012, Utility Management & Consulting, Inc.
ER96–594, 006, International Utility Consultants, Inc.
ER96–659, 017, Bonneville Fuels Management Corp.
ER96–795, 011, Gateway Energy Marketing
ER96–906, 009, SuperSystems, inc.
ER96–947, 015, Quantum Energy Resources, Inc.
ER96–1119, 008, Kibler Energy Ltd
ER96–1150, 003, Wheeled Electric Power Co.
ER96–1283, 008, BTU Power Corporation
ER96–1724, 010, SDS Petroleum Products, Inc.
ER96–1754, 001, Powerline Controls, Inc.
ER96–1798, 006, CPS Capital Limited
ER96–1930, 011, Power Fuels, Inc.
ER96–2435, 001, J.D. Enterprises
ER96–2583, 002, Hubbard Power & Light, Inc.
ER96–2882, 014, Russell Energy Services Company
ER96–2914, 007, Working Assets Green Power, Inc.
ER96–3086, 011, Energy2, Inc.
ER97–135, 001, Manner Technologies, LLC
ER97–360, 013, American Energy Trading, Inc.
ER97–765, 008, Revelation Energy Resources Corporation
ER97–778, 004, NXIS, LLC
ER97–1248, 005, Wasatch Energy Corporation
ER97–1428, 006, American Power Reserve Marketing
ER97–1630, 004, Brennan Power, Inc.
ER97–1643, 001, APRA Energy Group, Inc.
ER97–2413, 012, FINA Energy Services Company
ER97–2426, 004, UtiliSys Corporation
ER97–2517, 009, Xenergy, Inc.

ER97–2604, 007, Applied Resources Integrated Services, Inc.
ER97–2792, 010, Community Electric Power Corporation
ER97–2900, 002, United Regional Energy, L.L.C.
ER97–3056, 004, R. Hadler and Company, Inc.
ER97–3187, 002, Power Systems Group, Inc.
ER97–3306, 003, UTIL Power Marketing, Inc.
ER97–3416, 006, Global Energy & Technology, Inc.
ER97–3526, 006, Woodruff Energy
ER97–3788, 010, Anker Power Services, Inc.
ER97–4173, 001, Electrical Associates Power Marketing, Inc.
ER97–4427, 004, Electric Lite, Inc.
ER97–4787, 001, High Island Marketing, Inc.
ER98–174, 007, Millennium Energy Corporation
ER98–1148, 006, Kamps Propane, Inc.
ER98–1421, 006, Polaris Electric Power Company, Inc.
ER98–1486, 004, Equinox Energy, LLC
ER98–1622, 008, Energy Unlimited, Inc.
ER98–1823, 005, XERXE Group, Inc.
ER98–1824, 009, Pacific Energy & Development Corp.
ER98–1829, 009, UtiliSource Corporaton
ER98–1953, 006, PG Energy PowerPlus
ER98–2175, 008, Salem Electric, Inc.
ER98–2535, 004, Hafslund Energy Trading, LLC
ER98–3012, 002, Rainbow Power USA LLC
ER98–3261, 003, Reliable Energy, Inc.
ER98–3344, 001, Omni Energy
ER98–3393, 006, Fortistar Power Marketing, LLC
ER98–3433, 005, JMF Power Marketing
ER98–3526, 007, Shamrock Trading, LLC
ER98–4240, 002, Abacus Group, Ltd.
ER98–4264, 001, International Energy Ventures, Inc.
ER99–505, 005, Lakeside Energy Services, LLC
ER99–1184, 002, Minnesota Agri-Power, LLC
ER99–3005, 003, Coast Energy Group
ER99–3142, 001, FPH Electric, LLC
ER99–4044, 001, Sandia Resources Corporation
ER00–741, 002, Canal Emirates Power International, Inc.
ER00–1408, 001, Utilimax.com, Inc.
ER00–1453, 001, Essential Utility Resources, LLC
ER00–1975, 001, American Energy Savings, Inc.
ER00–2248, 001, Energy Trading Company, Inc.
ER00–2363, 001, Allied Companies, LLC
ER01–36, 002, USPower Energy, LLC
ER01–40, 001, Quinnipiac Energy LLC
ER01–1279, 002, Connecticut Energy Cooperative, Inc.
ER01–1496, 001, Sundance Energy
ER01–1760, 002, Haleywest LLC
ER01–1897, 002, EOPT Power Group Nevada, Inc.
ER01–2656, 001, Credit Suisse First Boston International
ER02–517, 003, U.S. Gas & Electric

E–42.
DOCKET# ER03–262, 009, New PJM Companies
American Electric Power Service Corp.
On behalf of its Operating Companies: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company
Commonwealth Edison Company, and
Commonwealth Edison Company of Indiana, Inc., The Dayton Power and Light Company, and
PJM Interconnection, LLC

E–43.
DOCKET# TX04–3, 000, Long Island Power Authority, Long Island Lighting Company d/b/a LIPA and Cross-Sound Cable Company LLC

Miscellaneous Agenda

M–1.
DOCKET# RM04–9, 000, Electronic Notification of Commission Issuances

Markets, Tariffs and Rates—Gas

G–1.
DOCKET# RP04–238, 000, El Paso Natural Gas Company

G–2.
DOCKET# RP04–176, 000, Northwest Pipeline Corporation

G–3.
DOCKET# RP03–542, 001, Texas Eastern Transmission, LP

G–4.
DOCKET# RP02–361, 016, Gulfstream Natural Gas System, L.L.C.

G–5.
OMITTED

G–6.
DOCKET# RP03–64, 001, Gulf South Pipeline Company, LP
OTHER#S RP03–64, 002, Gulf South Pipeline Company, LP

G–7.
DOCKET# RP04–188, 001, Great Lakes Gas Transmission Limited Partnership
OTHER#S RP04–188, 002, Great Lakes Gas Transmission Limited Partnership

G–8.
OMITTED

G–9.
OMITTED

G–10.
DOCKET# RP04–67, 000, NGO Transmission, Inc.

Energy Projects—Hydro

H–1.
DOCKET# P–460, 026, City of Tacoma, Washington
OTHER#S P–460, 021, City of Tacoma, Washington

H–2.
DOCKET# P–2842, 038, City of Idaho Falls, Idaho
OTHER#S P–553, 160, City of Seattle, Washington
P–637, 026, Public Utility District No. 1 of Chelan County, Washington
P–943, 086, Public Utility District No. 1 of Chelan County, Washington
P–1417, 144, Central Nebraska Public Power and Irrigation District
P–1862, 130, City of Tacoma, Washington
P–2000, 049, New York Power Authority
P–2016, 070, City of Tacoma, Washington
P–2042, 026, Public Utility District No. 1 of Pend Oreille County, Washington
P–2101, 080, Sacramento Municipal Utility District
P–2144, 031, City of Seattle, Washington
P–2145, 058, Public Utility District No. 1 of Chelan County, Washington
P–2149, 111, Public Utility District No. 1 of Douglas County, Washington
P–2216, 063, New York Power Authority
P–2409, 128, Calaveras County Water District
P–2442, 065, City of Watertown, New York
P–2685, 018, New York Power Authority
P–2705, 032, City of Seattle, Washington
P–2959, 118, City of Seattle, Washington
P–2997, 028, South Sutter Water District
P–3083, 103, Oklahoma Municipal Power Authority
P–3190, 020, City of Santa Clara, California
P–3193, 019, City of Santa Clara, California
P–6842, 157, Cities of Aberdeen and Tacoma, Washington
P–10551, 099, City of Oswego, New York

H–3.
DOCKET# P–2145, 057, Public Utility District No. 1 of Chelan County, Washington
OTHER#S P–943, 083, Public Utility District No. 1 of Chelan County, Washington
P–2149, 106, Public Utility District No. 1 of Douglas County, Washington

H–4.
DOCKET# P–2145, 057, Public Utility District No. 1 of Chelan County, Washington

H–5.
DOCKET# P–943, 083, Public Utility District No. 1 of Chelan County, Washington

H–6.
DOCKET# P–2149, 106, Public Utility District No. 1 of Douglas County, Washington

H–7.
DOCKET# P–6132, 009, John C. Jones

H–8.
DOCKET# P–2576, 022, Northeast Generation Services Company
OTHER#S P–2597, 019, Northeast Generation Services Company

H–9.
DOCKET# P–1984, 092, Wisconsin River Power Company

H–10.
DOCKET# P–2210, 088, Appalachian Power Company

Energy Projects—Certificates

C–1.
DOCKET# CP03–75, 000, Freeport LNG Development, L.P.

C–2.
DOCKET# CP04–58, 001, Sound Energy Solutions

C–3.
DOCKET# RP04–249, 000, *AES Ocean Express LLC* v. *Florida Gas Transmission Company*

C–4.
DOCKET# CP04–49, 000, Dominion Transmission, Inc.

C–5.

DOCKET# CP01–37, 002, Trans-Union Interstate Pipeline, L.P.

The Capitol Connection offers the opportunity for remote listening and viewing of the meeting. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.gmu.edu* and click on ''FERC''.

Magalie R. Salas,

Secretary.

[FR Doc. 04–13984 Filed 6–16–04; 2:31 pm]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL04–9–000]

Acquisition and Disposition of Merchant Generation Assets by Public Utilities; Notice Inviting Comments

June 10, 2004.

On June 10, 2004, the Commission Staff held a technical conference to discuss acquisitions and dispositions by public utilities. All interested persons are invited to file written comments no later than July 1, 2004, in relation to the issues that were the subject of the technical conference.

Filing Requirements for Paper and Electronic Filings

Comments, papers, or other documents related to this proceeding may be filed in paper format or electronically. The Commission strongly encourages electronic filings. Those filing electronically do not need to make a paper filing.

Documents filed electronically via the Internet must be prepared in MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov*, click on ''E–Filing'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments. User assistance for electronic filing is available at 202–502–8258 or by e-mail to *efiling@ferc.gov*. Do not submit comments to this e-mail address.

For paper filings, the original and 14 copies of the comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to the above-referenced Docket Nos.

All written comments will be placed in the Commission's public files and will be available for inspection at the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, during regular business hours.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1364 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL04–6–000]

Solicitation Processes for Public Utilities; Notice Inviting Comments

June 10, 2004.

On June 10, 2004, the Commission Staff held a technical conference to discuss the solicitation processes for public utilities. All interested persons are invited to file written comments no later than July 1, 2004, in relation to the issues that were the subject of the technical conference.

Filing Requirements for Paper and Electronic Filings

Comments, papers, or other documents related to this proceeding may be filed in paper format or electronically. The Commission strongly encourages electronic filings. Those filing electronically do not need to make a paper filing.

Documents filed electronically via the Internet must be prepared in MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov*, click on ''e-Filing'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments. User assistance for electronic filing is available at 202–502–8258 or by e-mail to *efiling@ferc.gov*. Do not submit comments to this e-mail address.

For paper filings, the original and 14 copies of the comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to the above-referenced docket number.

All written comments will be placed in the Commission's public files and will be available for inspection at the Commission's Public Reference Room, 888 First Street, NE., Washington, DC, 20426, during regular business hours.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–1363 Filed 6–17–04; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7774–5; Docket ID Numbers: OAR–2004–0058 to OAR–2004–0062]

Agency Information Collection Activities: Proposed Collections; Request for Comment on Five Proposed Information Collection Requests (ICRs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit five continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). This is a request to renew five existing approved collections. These ICRs are scheduled to expire between August 31, 2004 and December 31, 2004 as listed below. Refer to section INFORMATION FOR INDIVIDUAL ICRS for information pertaining to each individual ICR. Before submitting these ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before August 17, 2004.

ADDRESSES: Submit your comments, referencing the appropriate docket ID number listed under each ICR title (see below), to EPA online using EDOCKET (our preferred method), by e-mail to *a-and-r-docket@epamail.epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Nydia Y. Reyes-Morales, Mail Code 6403J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone

number: (202) 343–9264; fax number: (202) 343–2804; e-mail address: *reyes-morales.nydia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for each ICR. The docket number of each ICR is listed below under the ICR title. The dockets are available for public viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number as identified below.

Any comments related to these ICRs should be submitted to EPA within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov./edocket.*

Information for all ICRS

The information requested under all ICRs is collected by the Engine Programs Group, Certification and Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation. Confidentiality of proprietary information submitted by manufacturers is granted in accordance with the Freedom of Information Act, EPA regulations at 40 CFR part 2, and class determinations issued by EPA's Office of General Counsel.

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.

The EPA would like to solicit comments to:

(i) 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;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

An estimated burden is provided for each ICR. 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.

Information for Individual ICR

(1) *Title:* Transition Program for Equipment Manufacturers; EPA ICR Number 1826.03, OMB Control Number 2060–0369, expiring on 9/30/2004.

Docket Number: OAR–2004–0058.

Affected entities: Entities potentially affected by these actions are manufacturers of nonroad compression-ignition engine and equipment manufacturers, and post-manufacture marinizers.

Abstract: In August 1998, EPA established emission standards (Tier I standards) for engines under 37 kW, and tightened existing standards (Tier II standards) for engines above 37 kW. To comply with the new standards, engine manufacturers may make changes to engine designs. During the rulemaking process, some equipment manufacturers expressed concerns about delays in notification from engine manufacturers about engine design changes. These design changes can create problems in fitting the engine to the equipment. Consequently, equipment manufacturers would be unable to sell the volume of equipment they planned for, since they would need to redesign their equipment before any products could be sold. In an effort to provide original equipment manufacturers (OEMs) with some flexibility in complying with the regulations, EPA created the Transition Program for Equipment Manufacturers (TPEM). Under the program, OEMs are allowed to use a number of noncompliant engines (uncertified engines rated below 37 kW or Tier I engines rated at or above 37 kW) in their equipment for up to seven years after the effective date of the standards. Participation in the program is voluntary. Participating OEMs and engine manufacturers who provide the noncompliant engines to the OEMs are required to keep records and submit reports of their activities under the program.

Burden Statement: The annual public reporting and recordkeeping burden is estimated to average 146 hours per participating equipment manufacturer or post-manufacture marinizer and 72 hours per engine manufacturer.

(2) *Title:* Emissions Certification and Compliance Requirements for Nonroad Compression-ignition Engines and On-highway Heavy Duty Engines; EPA ICR Number 1684.06, OMB Control Number 2060–0287, expiring on 9/30/2004.

Docket Number: OAR–2004–0059.

Affected entities: Entities potentially affected by these actions are manufacturers of nonroad compression-ignition engines.

Abstract: This information collection is requested under the authority of Title II of the Clean Air Act (42 U.S.C. 7521 *et seq.*). Under this Title, EPA is charged with issuing certificates of conformity for those engines which comply with applicable emission standards. Such a certificate must be issued before engines may be legally introduced into commerce. Certification requirements

for compression-ignition engines are set forth at 40 CFR part 89. To apply for a certificate of conformity, manufacturers are required to submit descriptions of their planned production line, including detailed descriptions of the emission control system, and test data. This information is organized by ''engine family'' groups expected to have similar emission characteristics. There are also recordkeeping and labeling requirements. Manufacturers electing to participate in the AB&T Program are also required to submit information regarding the calculation of projected and actual generation and usage of credits in an initial report, end-of-the-year report and final report. These reports are used for certification and enforcement purposes. Manufacturers need to maintain records for eight years on the engine families participating in the program. In this notice, former ICR 0011.08 (''Selective Enforcement Auditing and Recordkeeping Requirements for On-Highway Heavy-Duty Engines, Nonroad Large Compression Ignition Engines, and On-Highway Light-Duty Vehicles and Light-Duty Trucks,'' OMB Control Number 2060–0064, expired on 8/31/1999) is being incorporated into ICR 1684.06. This action is undertaken to consolidate information requirements for the same industry into one ICR, for simplification. With this consolidation, we combine the burden associated with the certification, AB&T and SEA programs for non-road compression-ignition engines. Portions of former ICR 1897.04 (''Information Requirements for Nonroad Diesel Engines (Nonroad Large SI Engines and Marine Diesel Engines)'' OMB Control Number 2060–0460, expiring on 10/31/2004) related to certification requirements for marine compression-ignition engines are also being incorporated into ICR 1684.06. With this consolidation, we combine all the certification and compliance burden associated with the compression-ignition engine industry.

Burden Statement: The annual public reporting and recordkeeping burden is estimated to average 327 hours per respondent for the on-highway certification program, 333 hours per respondent for the on-highway AB&T program; 284 hours per respondent for the nonroad certification program, and 460 hours per respondent for the nonroad AB&T program.

(3) *Title:* Emissions Certification and Compliance Requirements for Nonroad Spark-ignition Engines; EPA ICR Number 1695.08, OMB Control Number 2060–0338, expiring on 9/30/2004.

Docket Number: OAR–2004–0060.

Affected entities: Entities potentially affected by these actions are manufacturers of nonroad spark-ignition engines.

Abstract: This information collection is requested under the authority of Title II of the Clean Air Act (42 U.S.C. 7521 *et seq.*). Under this Title, EPA is charged with issuing certificates of conformity for those engines which comply with applicable emission standards. Such a certificate must be issued before engines may be legally introduced into commerce. Certification requirements for spark-ignition engines are set forth at 40 CFR part 90. To apply for a certificate of conformity, manufacturers are required to submit descriptions of their planned production line, including detailed descriptions of the emission control system, and test data. This information is organized by ''engine family'' groups expected to have similar emission characteristics. The emission values achieved during certification testing are used in the Averaging, Banking, and Trading (ABT) Program. The program allows manufacturers to bank credits for engine families that emit below the standard and use the credits for families that are above the standard, or trade banked credits with other manufacturers. Participation in the ABT program is voluntary. There are also recordkeeping and labeling requirements. In this notice, former ICR 1845.03 (''Production Line Testing, In-use Testing, and Selective Enforcement Auditing Reporting and Recordkeeping Requirements for Manufacturers of Nonroad Spark Ignition Engines At or Below 19 Kilowatts,'' OMB Control Number 2060–0427, expiring on 3/31/2007) is being incorporated into ICR 1695.08 . This action is undertaken to consolidate certification and compliance information requirements for spark-ignition engines below 19 kW into one ICR for simplification. Portions of former ICR 1897.04 (''Information Requirements for Nonroad Diesel Engines (Nonroad Large SI Engines and Marine Diesel Engines),'' OMB Control Number 2060–0460, expiring on 10/31/2004) related to certification requirements for spark ignition engines above 19 kW are also being incorporated into ICR 1695.08. With this consolidation, we combine all the certification and compliance burden associated with the spark-ignition engine industry.

Burden Statement: The annual public reporting and recordkeeping burden is estimated to average 916 hours per respondent for the certification program, 6,709 hours for the PLT program, 705 hours for the In-use program and 528 hours for the SEA Program.

(4) *Title:* Emissions Certification and Compliance Requirements for Marine Engines; EPA ICR Number 1722.04, OMB Control Number 2060–0321, expiring on 9/30/2004.

Docket Number: OAR–2004–0061.

Affected entities: Entities potentially affected by these actions are manufacturers of marine spark-ignition engines.

Abstract: Under Title II of the Clean Air Act (42 U.S.C. 7521 *et seq.*; CAA), EPA is charged with issuing certificates of conformity for certain spark-ignition engines used to propel marine vessels that comply with applicable emission standards. Such a certificate must be issued before engines may be legally introduced into commerce. To apply for a certificate of conformity, manufacturers are required to submit descriptions of their planned production line, including detailed descriptions of the emission control system and engine emission test data. This information is organized by ''engine family'' groups expected to have similar emission characteristics. To comply with the corporate average emission standard, manufacturers must use the Averaging, Banking and Trading Program (AB&T) and must submit information regarding the calculation, actual generation and usage of emission credits in an initial report, end-of-the-year report, and final report. These reports are used for engine family certification, that is, to insure pre-production compliance with emissions requirements, and enforcement purposes. Manufacturers must maintain records for eight years on the engine families included in the program. In this notice, former ICRs 1725.03 (''Marine Engine Manufacturers Assembly-Line Testing Reporting & Recordkeeping Requirements, ''OMB Control Number 2060–0323, expiring on 9/30/2004) and 1726.03 (''Marine Engine Manufacturer Based In-Use Emission Testing Program,'' OMB Number 2060–0322, expiring on 10/31/2004) are being incorporated into ICR 1684.06. This action is undertaken to consolidate information requirements for the same industry into one ICR, for simplification. With this consolidation, we combine the burden associated with the certification, AB&T, PLT and In-use Testing programs for marine spark-ignition engines. Under the Production-line Testing (PLT) Program, manufacturers are required to test a sample of engines as they leave the assembly line. This self-audit program allows manufacturers to monitor compliance with statistical certainty and minimize the cost of correcting errors through early detection. Under

the In-use Testing Program, manufacturers are required to test engines after a number of hours of use to verify that they comply with emission standards throughout their useful lives. There are recordkeeping requirements in all programs.

Burden Statement: The annual public reporting and recordkeeping burden is estimated to average 3,865 hours per respondent for the certification program, 1,930 hours per respondent for the PLT program and 2,041 hours per respondent for in-use program.

(5) *Title:* Information Requirements for Locomotive and Locomotive Engines; EPA ICR Number 1800.03, OMB Control Number 2060–0392, expiring on 12/31/2004.

Docket Number: OAR–2004–0062.

Affected entities: Entities potentially affected by these actions are manufacturers and remanufacturers of locomotives and locomotive engines.

Abstract: The Clean Air Act requires manufacturers and remanufacturers of locomotives and locomotive engines to obtain a certificate of conformity with applicable emission standards before they may be legally introduced their products into commerce. To apply for a certificate of conformity, respondents are required to submit descriptions of their planned production, including detailed descriptions of emission control systems and test data. This information is organized by ''engine family'' groups expected to have similar emission characteristics and is submitted every year, at the beginning of the model year. Respondents electing to participate in the Averaging, Banking and Trading (AB&T) Program are also required to submit information regarding the calculation, actual generation and usage of credits in quarterly reports, and an end-of-the-year report. Under the Production-line Testing (PLT) Program, manufacturers are required to test a sample of engines as they leave the assembly line. The Installation Audit Program requires remanufacturers to audit the installation of a sample of remanufactured engines. These self-audit programs (collectively referred to as the ''PLT Program'') allow manufacturers and remanufacturers to monitor compliance with statistical certainty and minimize the cost of correcting errors through early detection. Under the In-use Testing Program, manufacturers and remanufacturers are required to test locomotives after a number of years of use to verify that they comply with emission standards throughout their useful lives. There are recordkeeping requirements in all programs.

Burden Statement: The annual public reporting and recordkeeping burden associated with the certification program is estimated to average 203 hours per manufacturer and 159 per remanufacturer. Respondents electing to participate in the AB&T program spend 278 hours per year on average. The annual burden associated with participation in the PLT Program is 183 hours for manufacturers and 155 for remanufacturers. In-use testing burden is 155 hours for manufacturers and 60 hours for remanufacturers.

Dated: June 10, 2004.

Robert Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 04–13855 Filed 6–17–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6652–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa*. Weekly receipt of Environmental Impact Statements filed June 7, 2004, through June 11, 2004, pursuant to 40 CFR 1506.9.

EIS No. 040271, Final EIS, FHW, VT, VT 9/100, Transportation Improvement Study (NH–010–1(33), in the Towns of Wilmington and West Dover, Federal Permits and Approvals, NPDES Permit and COE section 10 and 404 Permits. Windham County, VT, wait period ends: July 19, 2004, contact: Kenneth R. Sikora, Jr. (802) 828–4423.

EIS No. 040272, Final EIS, NPS, CA, Whiskeytown Fire Management Plan, Implementation, Whiskeytown National Recreation Area, Klamath Mountains, Shasta County, CA, wait period ends: July 19, 2004, contact: Paul DePrey (530) 242–3445.

EIS No. 040273, Final EIS, FRC, CA, Pit 3, 4, 5 Hydroelectric Project, (FERC No. 233–081), Application for New License, Pit River, Pit River Basin, Shasta-Trinity National Forest and Lassen National Forest, Shasta County, CA, wait period ends: July 19, 2004, contact: John Mudre (202) 502–8902.

EIS No. 040274, Draft EIS, DOE, MT, South Fork Flathead Watershed Westslope Cutthroat Trout Conservation Program, Preserve the Genetic Purity of the Westslope Cutthroat Trout Population, Flathead National Forest, Flathead River, Flathead, Powell and Missoula Counties, MT, comment period ends: August 2, 2004, contact: Colleen Spiering (503) 230–5756. This document is available on the Internet at: *http://www.efw.bpa.gov/.*

EIS No. 040275, Draft EIS, BLM, AK, Northeast National Petroleum Reserve Alaska Amended Integrated Activity Plan, to Amend 1998 Northeast Petroleum Reserve, to Consider Opening Portions of the BLM-Administrated Lands, North Slope Borough, AK, comment period ends: August 2, 2004, contact: Susan Childs (907) 271–1985.

EIS No. 040276, Final EIS, FAA, MN, Flying Cloud Airport Expansion, Extensions of the Runway 10R/28L and 10L/28R, Long-Term Comprehensive Development, in the City of Eden Prairie, MN, wait period ends: August 17, 2004, contact: Glen Orcult (612) 713–4354.

EIS No. 040277, Draft EIS, DOI, AZ, CA, NV, NM, Programmatic EIS—Lower Colorado River Multi-Species Conservation Program, Issuing a Incidental Take Permit based on the Plan, Extending from Lake Mead to the Southerly International Boundary with Mexico, AZ, NV and CA, comment period ends: August 18, 2004, contact: Glen Gould (702) 293–8702.

EIS No. 040278, Draft EIS, IBR, CA, San Joaquin River Exchange Contractors Water Authority—2005 to 2014, Water Transfer Program, Stanislaus, San Joaquin, Merced, Madera, Fresno, San Benito, Santa Clara, Kern, and Kings Counties, CA, comment period ends: August 2, 2004, contact: Sheryl Carter (559) 487–5299.

EIS No. 040279, Final EIS, DOE, OH, Portsmouth, Ohio Site Depleted Uranium Hexafluoride Conversion Facility, Construction and Operation, Pike County, OH wait period ends: July 19, 2004, contact: Gary S. Hartman (866) 530–0944. This document is available on the Internet at: *http://www.eh.doe.gov/nepa/documents.htm1.*

EIS No. 040280, FINAL EIS, DOE, KY, Paducah, Kentucky, Site Depleted Uranium Hexafluoride Conversion Facility, Construction and Operation, McCraken County, KY, wait period ends: July 19, 2004, contact: Gary S. Hartman (866) 530–0944. This document is available on the Internet at: *http://www.eh.doe.gov/nepa/documents.htm1.*

Dated: June 15, 2004.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 04–13859 Filed 6–17–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6652–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 2, 2004 (69 FR 17403).

Draft EISs

ERP No. D–AFS–J65018–MT Rating EC2, Sheep Creek Salvage Project, Moving Current Resource Conditions and Trends Toward Desired Future Conditions, Beaverhead-Deerlodge National Forest, Beaverhead County, MT.

Summary: EPA expressed concerns about potential water effects of proposed salvage harvests and noted the need for consistency with TMDL development for Trail Creek. EPA recommended additional watershed restoration components and improved grazing management to assure Sheep Creek Salvage activities can occur consistent with TMDLs and long-term water quality restoration.

ERP No. D–NAS–A12042–00 Rating LO, Programmatic EIS—Mars Exploration Program (MEP) Implementation.

Summary: EPA has no objection to the action as proposed.

ERP No. D–NSF–A99224–00 Rating LO, Development and Implementation of Surface Traverse Capabilities in Antarctia Comprehensive Environmental Evaluation, Antarctica.

Summary: EPA has no objections to the proposed action.

Final EISs

ERP No. F–BOP–K81025–CA, Fresno Federal Correctional Facility Development, Funding, Orange Cove, Fresno County, CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FAA–G11043–LA, Adoption—2nd Armored Cavalry Regiment Transformation and Installation Mission Support, Joint Readiness Training Center (JRT) Stryker Bridge Combat Team, Long-Term Military Training Use of Kisatchie National Forest Lands, Fort Polk, LA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–GSA–D89079–DC, Southeast Federal Center Development, Land Transfer for Mixed-Use Development of Residences, Offices, Shops, a Waterfront Park and Cultural Amenities, Implementation, DC.

Summary: EPA has no objection to the proposed action.

ERP No. F–HUD–C81018–NY, Generic EIS—World Trade Center Memorial and Redevelopment Plan, to Remember, Rebuild andRenew what was Lost on September 11, 2001, Construction in the Borough of Manhattan, New York County, NY.

Summary: EPA expressed continued concerns regarding air quality impacts from construction. EPA requested that the ROD be definitive on the utilization of electric construction equipment; include a commitment to implement all Environmental Performance Commitments; contain an evaluation of the cumulative NO_X emissions and the result of the final statement of Conformity and; commit to emission offset measures pending conformity demonstration with the New York State SIP.

ERP No. F–USA–E11052–GA, Digital Multi-Purpose Range Complex at Fort Benning, Construction, Operation andMaintenance, Gunnery Training Facilities for the Bradley Fighting Vehicle (BFV) and the Abrams M1A1 Tank System (Tank), Fort Benning, GA.

Summary: EPA continues to express concern regarding wetland/water quality impacts and erosion/sediment control.

Dated: June 15, 2004.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 04–13860 Filed 6–17–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6652–7]

Retraction of Notice of Intent To Prepare an EIS

AGENCY: Environmental Protection Agency, EPA.

ACTION: Notice.

SUMMARY: This notice retracts the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the proposed reissuance of National Pollutant Discharge Elimination System (NPDES) General Permits (GPs), OKG010000 and NMG010000, for Concentrated Animal Feeding Operations (CAFOs) in Oklahoma and New Mexico, and Indian lands in Oklahoma and New Mexico, issued on May 18, 2004. The scoping meetings scheduled for June 22, 2004, in Oklahoma City, Oklahoma, and on June 24, 2004, in Las Cruces, New Mexico, are cancelled.

ADDRESSES: Office of Planning and Coordination, U.S. Environmental Protection Agency, Region 6, 1445 Ross Ave., Dallas, TX 75202; tel: (214) 665–8150.

Responsible Official: Richard E. Greene, Regional Administrator.

Anne Norton Miller,

Director, Office of Federal Activities.

[FR Doc. 04–13917 Filed 6–17–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7775–4]

Notice of Public Meeting of the National Environmental Education Advisory Council

Notice is hereby given that the National Environmental Education Advisory Council, established under section 9 of the National Environmental Education Act of 1990 (the Act), will hold a public meeting on July 29 and 30, 2004. The meeting will take place at 1200 Pennsylvania Ave., NW., Washington, DC, from 9 a.m. to 5 p.m. on Thursday, July 29th and Friday, July 30th. The purpose of this meeting is to provide the Council with the opportunity to advise EPA's Office of Public Affairs (OPA) and the Office of Environmental Education (OEE) on its implementation of the Act. Members of the public are invited to attend and submit written comments to EPA following the meeting.

For additional information regarding the Council's upcoming meeting, please contact Ginger Potter, Office of Environmental Education (1704A), Office of Public Affairs, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460 or call (202) 564–0453.

Dated: June 10, 2004.

Ginger Potter,

Designated Federal Official, National Environmental Education Advisory Council/

[FR Doc. 04–13853 Filed 6–17–04; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7774–4]

Proposed CERCLA Administrative Cost Recovery Settlement; Potomac Yard CERCLA Removal Site

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Potomac Yard CERCLA Removal Site in the City of Alexandria and Arlington County, Virginia, with Commonwealth Atlantic Land V Inc., the settling party. The administrative settlement was signed by the United States Environmental Protection Agency (''EPA''), Region III's Regional Administrator on June 7, 2004, and is subject to review by the public pursuant to this document.

EPA is proposing to enter into a settlement pursuant to section 122(h) of CERCLA, 42 U.S.C. 9622(h). The proposed settlement resolves EPA's claim for past response costs under section 107 of CERCLA, 42 U.S.C. 9607, against Commonwealth Atlantic Land V Inc. for response costs incurred at the Potomac Yard CERCLA Removal Site. The proposed settlement requires Commonwealth Atlantic Land V Inc. to pay $19,619.02 to the EPA Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling party pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), to recover past response costs.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. EPA will consider all comments received, and may withdraw or withhold its consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any written comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103, and at the following locations: Charles E. Beatley, Jr. Central Library, 5005 Duke Street, Alexandria, VA 22304–2903, telephone number (703) 519–5900; Arlington County Library, Aurora Hills Branch, 735 18th Street South, Arlington, VA 22202, telephone number (703) 228–5715; and The James M. Duncan, Jr. Public Library, 2501 Commonwealth Avenue, Alexandria, VA 22301, telephone number (703) 838–4566.

DATES: Comments must be submitted on or before July 19, 2004.

ADDRESSES: Comments should be addressed to the Docket Clerk (3RC00), U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103, and should reference the Potomac Yard CERCLA Removal Site, City of Alexandria and Arlington County, Virginia, and U.S. EPA Region III Docket No. CERC–03–2004–0173DC. The proposed settlement agreement is available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed settlement agreement can be obtained from Suzanne Canning, Regional Docket Clerk (3RCOO), U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103, telephone number (215) 814–2476.

FOR FURTHER INFORMATION CONTACT: Gwen E. Pospisil, Senior Assistant Regional Counsel, U.S. Environmental Protection Agency, Office of Regional Counsel (3RC44), 1650 Arch Street, Philadelphia, PA 19103, telephone number (215) 814–2678.

Dated: June 8, 2004.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 04–13856 Filed 6–17–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7775–2]

Sadler Drum Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into a settlement for the partial reimbursement of past response costs, pursuant to section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(h)(1), concerning the Sadler Drum Superfund Site in Mulberry, Polk County, Florida. The Agency will consider public comments on the proposed settlement until July 19, 2004. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Paula V. Batchelor, WMD–SEIMB, U.S. EPA, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303, (404) 562–8887, *Batchelor.Paula@.EPA.GOV.*

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

Dated: May 18, 2004.

Anita Davis,

Acting Chief, Superfund Enforcement & Information Management Branch, Waste Management Division, Region 4.

[FR Doc. 04–13854 Filed 6–17–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

May 11, 2004.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor

a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 17, 2004. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Les Smith at (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0179.

Title: Section 73.1590, Equipment Performance Measurements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit, Not-for-profit institutions.

Number of Respondents: 13,049.

Estimated Time per Response: 0.5–18 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 12,335 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.1590 requires licensees of AM, FM, TV, and Class A stations, except licensees of Class D non-commercial educational FM stations authorized to operate with 10 watts or less output power, to make equipment performance measurements for each main transmitter. These measurements and a description of the equipment and procedure used in making the measurements must be kept on file at the transmitter for two years and must be made available to the FCC upon request. FCC staff use the data in field investigations to identify sources of interference.

OMB Control Number: 3060–0173.

Title: Section 73.1207, Rebroadcasts.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 5,562.

Estimated Hours per Response: 0.5 hours.

Frequency of Response: Recordkeeping; On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 5,056 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.1207 requires licensees of broadcast stations to obtain written permission from an originating station prior to retransmitting any program or any part thereof. A copy of the written consent must be kept in the station's files and made available to the FCC upon request. This written consent assures the Commission that prior authorization for retransmission of a program was obtained. Section 73.1207 also requires stations that use the National Institutes of Standards and Technology (NIST) time signals to notify the NIST semiannually of use of time signals.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–13806 Filed 6–17–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

June 9, 2004.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction (PRA) comments should be submitted on or before August 17, 2004. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1064.

Title: Regulatory Fee Assessment Notifications.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 1,130.

Estimated Time per Response: .25 hours (15 minutes).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 283 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: Each year the Commission collects Congressionally-mandated regulatory fees from its regulates based on a schedule of fees that it establishes in an annual rulemaking proceeding. In the past years, the Commission pulled licensee

addresses from its databases and mailed to these licensees Public Notices that (1) announced when regulatory fees are due; and (2) provided guidance for making fee payments. For the FY 2004 regulatory season, the Commission is going to send fee assessments to cable TV operators, media services licensees, and commercial mobile radio service (CMRS) licensees so that they have an opportunity to counter, update or rectify basic license data and assessed fee amounts well before the actual due date for submission or regulatory fee payments. We will use the information to update our database.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–13807 Filed 6–17–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal of collection.

Title: Extensions of Credit to Executive Officers.

OMB Number: 3064–0108.

Estimate of Annual Burden

Number of respondents: 4,000.

Frequency of response: Occasional.

Number of responses per respondent: 2.

Total annual responses: 8,000.

Time per response: 1 hour.

Total annual burden: 8,000 hours.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 19, 2004 to both the OMB reviewer and the FDIC contact listed below.

OMB: Mark Menchik, (202) 395–3176, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FDIC: Thomas Nixon, Legal Division (202) 898–8766, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

ADDRESSES: Information about this submission, including copies of the collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The information collection takes the form of (1) a report by executive officers of insured nonmember banks to their boards of directors within 10 days of incurring any indebtedness to any other bank in an amount in excess of the amount the insured nonmember bank could lend to the officer, and (2) a report from insured nonmember banks, included with their reports of condition filed with the FDIC, on any extensions of credit made by the bank to its executive officers since the bank filed its last report of condition. The information enables the FDIC and insured nonmember banks to determine compliance with the limits and restrictions contained in Federal Reserve Board of Governors' Regulation O (12 CFR part 215, subpart A), which is made applicable to state nonmember banks by the FDIC's regulation at 12 CFR 337.3.

Dated at Washington, DC this 15th day of June, 2004.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 04–13818 Filed 6–17–04; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notice

DATE AND TIME: Thursday, June 24, 2004, 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

THE FOLLOWING ITEM HAS BEEN ADDED TO THE AGENCY: Notice of Proposed Rulemaking on Coordinated and Independent Expenditures by Party Committees (11 CFR 109.35).

PERSON TO CONTACT FOR INFORMATION: Robert W. Biersack, Acting Press Officer, telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 04–13918 Filed 6–16–04; 11:10 am]

BILLING CODE 6715–01–M

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 website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 12, 2004.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. PCNB Bancshares, Inc., Bremen, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Community National Bank, Bremen, Georgia (in organization).

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Sun Financial Corporation, St. Peters, Missouri; to acquire 98 percent of the voting shares of Citizens Home Bank, Greenfield, Missouri.

Board of Governors of the Federal Reserve System, June 14, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–13785 Filed 6–17–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. 04-13149) published on page 32549 of the issue for Thursday, June 10, 2004.

Under the Federal Reserve Bank of St. Louis heading, the entry for First Centralia Bancshares, Inc., Centralia, Kansas, and Morrill Bancshares, Merriam, Kansas, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. First Centralia Bancshares, Inc., Centralia, Kansas, and Morrill Bancshares, Merriam, Kansas; to acquire up to 77.7 percent of FBC Financial Corporation, and thereby indirectly and indirectly acquire 1st Bank Oklahoma, both of Claremore, Oklahoma, and thereby engage in operating a savings association, pursuant to section 225.28(b)(4)(ii) of Regulation Y.

Comments on this application must be received by July 6, 2004.

Board of Governors of the Federal Reserve System, June 14, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–13784 Filed 6–17–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (FTC or ''Commission'').

ACTION: Notice.

SUMMARY: The Fair and Accurate Transactions Act of 2003 (''FACTA'' or ''the Act''), which was enacted on December 4, 2003, imposes a number of rulemaking requirements on the FTC. The FTC intends to conduct consumer research to examine the comprehensibility of various forms, disclosures, and notices, required by the Act. This research will inform the Commission's decisions during the rulemaking process.

DATES: Comments must be submitted on or before August 17, 2004.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''FACTA: Paperwork Comment, [P044804]'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room H–159 (Annex P), 600 Pennsylvania Avenue, NW., Washington, DC 20580. If the comment contains any material for which confidential treatment is requested, it must be filed in paper (rather than electronic) form, and the first page of the document must be clearly labeled ''Confidential.'' [1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Lisa M. Harrison, (202) 326–3204, or William P. Golden, (202) 326–2494, Federal Trade Commission, Office of the General Counsel, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

SUPPLEMENTARY INFORMATION: On April 28, 2004, the FTC submitted a request to the Office of Management and Budget (OMB) for generic clearance of a proposed group of consumer surveys that will examine the comprehensibility of various forms, disclosures, and notices required by FACTA. The FTC asked for expedited processing of the clearance request because of the short deadline for completing the rulemakings mandated by FACTA. The FTC intends to use the consumer surveys in order to inform these rulemakings. The methodologies that may be employed for the surveys include personal interviews and/or focus groups, telephone interviews, and mall intercepts. The Commission's staff estimated that the total burden for all FACTA-related surveys would be approximately 4000 hours.

On May 12, 2004, OMB granted an expedited clearance for the request, and permitted the FTC to provide opportunity for public comment white the clearance was in effect. OMB has approved the collection of information through October 28, 2004 and has assigned OMB control number 3084–0130. The FTC is also seeking public comments on its proposal to extend the clearance through October 28, 2007. In accordance with the terms of the clearance, the FTC will submit each survey instrument to OMB for review prior to conducting the survey.

The FTC invites comments on: (1) Whether the [proposed] collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Description of the collection of information and proposed use: The FTC intends to use consumer survey research to develop and test the comprehensibility of disclosures regarding consumer rights and options that are mandated by various provisions in FACTA. The consumer surveys will involve individual interviews by telephone or focus groups and mall intercepts. For most of the surveys, the

FTC is seeking consumers with open credit card accounts. Recent statistics indicate that 75% of adult consumers have credit cards. The FTC therefore estimates that, for example, a survey using 650 respondents will require roughly 870 consumers to be screened. The FTC will ensure that the selected contractors screen potential respondents on a set of demographic characteristics that will result in a representative sample.

The FTC will contract with a research firm for each of the surveys that will utilize mall intercept and telephone surveys (including screening). For mall intercepts, the contractor will screen consumers in up to 15 shopping malls that represent diverse geographic areas of the United States. Respondents may be shown sample solicitations and ask a series of questions about the disclosures contained in the solicitations. The results will allow the FTC to examine the comprehensibility of the disclosures. In addition, some of the surveys will utilize personal interviews or focus groups to assist the FTC in developing the disclosures to be tested.

Burden Statement

Estimated annual hours burden: The surveys that the FTC proposes to conduct will use mall intercepts, telephone surveys (including screening), and, in some cases, personal interviews or focus groups. The telephone and mall intercepts will involve between 650 and 1,300 respondents and will take between one minute (for screening purposes) and 30 minutes per respondent; the focus groups and personal interviews will involve approximately 150 respondents and will take up to one hour per respondent. The annual burden imposed by each survey would range from approximately 90 hours to 900 hours for a cumulative total estimated burden of approximately 3,500 hours.

Estimated annual cost burden: The cost per respondent should be neglible. Participation is voluntary and will not require start-up, capital, or labor expenditures by respondents. The contractors retained by the FTC may pay respondents a token honorarium. The honorarium is provided as an incentive to encourage participation and to increase the survey response rate. The amount offered will be established at a level consistent with the contractor's usual practice. For shorter interviews (15 to 30 minutes), the amount will not exceed $10. For longer interviews, any fees will not exceed $40.

For each survey, staff estimates that obtaining the services of a contractor to screen potential respondents, administer the survey, and tabulate the results will cost approximately $40,000. Also, each survey will require 400 attorney, economist and research analyst hours valued at approximately $25,000. Therefore, the expected cost to the Federal Government for each survey will be approximately $65,000.

John D. Graubert,

Acting General Counsel.

[FR Doc. 04–13849 Filed 6–17–04; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

RIN 3084–AA94

Public Comment on Methodology and Research Design for Conducting a Study of the Effects of Credit Scores and Credit-Based Insurance Scores on Availability and Affordability of Financial Products

AGENCY: Federal Trade Commission.

ACTION: Notice and request for public comment.

SUMMARY: The Fair and Accurate Credit Transactions Act of 2003 (''FACT Act'' or ''Act'') requires the Federal Trade Commission (''FTC'' or ''Commission'') and the Federal Reserve Board (''Board'') to conduct a study on the effects of credit scores and credit-based insurance scores on the availability and affordability of financial products. These products include credit cards, mortgages, auto loans, and property and casualty insurance. The Act requires the FTC to seek public input about ''the prescribed methodology and research design of the study.'' As part of its efforts to fulfill its obligations under the Act, the FTC seeks public comment on how the FTC and the Board should conduct the study.

DATES: Comments must be received by August 16, 2004.

ADDRESSES: Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments should refer to ''FACT Act Scores Study, Matter No. P044804,'' to facilitate their organization. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to: Federal Trade Commission/Office of the Secretary, Room H–159 (Annex N), 600 Pennsylvania Avenue, NW., Washington, DC 20580. The FTC urges that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments that do not contain any nonpublic information may be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as a part of or as an attachment to e-mail messages directed to: *FACTAscoringstudy@ftcgov.* If a comment contains nonpublic information, it must be filed in paper (rather than electronic) form, and the first page of the document must be clearly labeled ''Confidential.'' [1]

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

FOR FURTHER INFORMATION CONTACT: Jesse Leary, Deputy Assistant Director, (202) 326–3480, Division of Consumer Protection, Bureau of Economics, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The FACT Act was signed into law on December 4, 2003. Fair and Accurate Credit Transactions Act of 2003, Public Law 108–159 (2003). In general, the Act amends the Fair Credit Reporting Act (''FCRA'') to enhance the accuracy of consumer reports and to allow consumers to exercise greater control regarding the type and amount of marketing solicitations they receive. To promote increasingly efficient national credit markets, the FACT Act also establishes uniform national standards in key areas of regulation regarding consumer report information. The Act

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must also be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

contains a number of provisions intended to combat consumer fraud and related crimes, including identity theft, and to assist its victims. Finally, the Act requires a number of studies be conducted on credit reporting and related issues.

Section 215 of the FACT Act requires the FTC and the Board, in consultation with the Office of Fair Housing and Equal Opportunity of the Department of Housing and Urban Development, to conduct a study on the effects of credit scores and credit-based insurance scores on the availability and affordability of financial products. These products include mortgages, auto loans, credit cards, and property and casualty insurance. Section 215 further requires the FTC and the Board to study: (1) ''the statistical relationship, utilizing a multivariate analysis that controls for prohibited factors under the Equal Credit Opportunity Act and other known risk factors, between credit scores and credit-based insurance scores and the quantifiable risks and actual losses;'' and (2) ''the extent to which, if any, the use of credit scoring models, credit scores, and credit-based insurance scores impact on the availability and affordability of credit to the extent information is currently available or is available through proxies, by geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, and creed, including the extent to which the consideration or lack of consideration of certain factors by credit scoring systems could result in negative or differential treatment of the protected classes, under the Equal Credit Opportunity Act, and the extent to which, if any, the use of underwriting systems relying on these models could achieve comparable results through the use of factors with less negative impact.''

The study is due December 4, 2005.

II. Request for Comments

The Act requires the FTC to seek public input about ''the prescribed methodology and research design of the study.'' As part of its efforts to fulfill its obligations under the Act, the FTC seeks public comment on how the FTC and the Board should conduct the study. Public comment is requested on all aspects of the study. In addition, the FTC seeks comment on the following questions:

1. How should the effects of credit scores and credit based insurance scores on the price and availability of mortgages, auto loans, credit cards, other credit products, and property and casualty insurance be studied? What is a reasonable methodology for measuring the price and availability of mortgages, auto loans, credit cards, other credit products, and property and casualty insurance, and the impact of credit scores and credit based insurance scores on those prices and availability?

2. An effect can often only be measured relative to a counterfactual (that is, relative to some hypothetical alternative situation). To determine the effects of credit scores on the price and availability of credit products, what is a reasonable counterfactual to the current use of credit scores? To determine the effects of credit-based insurance scores on the price and availability of property and casualty insurance, what is a reasonable counterfactual to the current use of credit-based insurance scores?

3. Paragraph (a)(2) of section 215 requires a study of ''the statistical relationship, utilizing a multivariate analysis that controls for prohibited factors under the (ECOA) and other known risk factors, between credit scores and credit-based insurance scores and the quantifiable risks and actual losses experienced by businesses.'' (The ECOA ''prohibited factors'' are race, color, religion, national origin, sex or marital status, and age.) What is an appropriate multivariate technique for studying this relationship? What data would be required to undertake such an analysis? What data are available to undertake such an analysis?

4. What is an appropriate methodology to determine whether the use of credit scores or credit based insurance scores results in ''negative or differential treatment'' of ECOA-protected classes?

5. What is an appropriate methodology to determine whether the use of specific factors in credit scores or credit based insurance scores results in ''negative or differential treatment'' of ECOA protected classes?

6. What is an appropriate methodology to determine whether there are factors that are not considered by credit scores or credit based insurance scores that result in ''negative or differential treatment''of ECOA protected classes?

7. In order to address paragraphs (a)(2) and (a)(3) of section 215, data are needed on the geography, income, ethnicity, race, color, religion, national origin, age, sex, martial status, or creed of borrowers, potential borrowers, insurance customers, or potential insurance customers. Are these data available, and if so, where?

8. If the data discussed in question 7 are not available, what proxies are available for the geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, or creed of borrowers, potential borrowers, insurance customers, or potential insurance customers?

9. If there are proxies for the geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, or creed of borrowers, potential borrowers, insurance customers, or potential insurance customers, what type of analysis would allow inferences to be drawn using the proxies instead of actual data on individual characteristics? What limitations are there to the inferences that can be drawn using proxies in place of data on individual characteristics?

10. One potential proxy for individual characteristics may be Census data about the location where a borrower or insurance customer resides. What type of analysis would allow inferences to be drawn using data about the characteristics of the location where a borrower or insurance customer resides instead of data on individual characteristics? What limitations are there to the inferences that can be drawn using data about the characteristics of the location where a borrower or insurance customer resides in place of data on individual characteristics?

Authority: Sec. 112(b), Pub. L. 108–159, 117 Stat. 1956 (15 U.S.C. 1681c–1).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 04–13848 Filed 6–17–04; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Evaluation of Parents Claiming Exemptions to School Entry Immunization Requirements, Program Announcement Number 04091; Correction

Correction: This notice was published in the **Federal Register** on May 7, 2004, volume 69, page 89, page 25591. The times and dates for the meeting have been changed and it will be a teleconference.

Telephone: The conference call number is 888–791–2132, passcode 14617.

Times and Dates: 10:30 a.m.–10:40 a.m., June 28, 2004 (open). 10:40 a.m.–12 p.m., June 28, 2004 (closed).

Contact Person for More Information: Beth Gardner, National Immunization Program, CDC, 1600 Clifton Road, NE., MS–E05, Atlanta, GA 30333, telephone (404) 639–6101.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 10, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–13767 Filed 6–17–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Factors Associated With the Uptake of Clinical Standards, Program Announcement Number 04089, and Increasing Influenza Vaccination of Long Term Care Facility Staff, Program Announcement Number 04090; Correction

Correction: This notice was published in the **Federal Register** on June 1, 2004, Volume 69, Number 105, Page 30931. The dates have been changed.

Times and Dates: 8 a.m.–8:30 a.m., June 28, 2004 (Open), 8:30 a.m.–4 p.m., June 28, 2004 (Closed).

FOR FURTHER INFORMATION CONTACT: Beth Gardner, National Immunization Program, Centers for Disease Control, 1600 Clifton Road, NE, MS–E05, Atlanta, GA 30333, Telephone (404) 639–6101.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 10, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 04–13772 Filed 6–17–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2200–N3]

Medicare Program; Meeting of the State Pharmaceutical Assistance Transition Commission—July 7, 2004

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the State Pharmaceutical Assistance Transition Commission (SPATC). Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). The SPATC will develop a proposal for addressing the unique transitional issues facing State Pharmaceutical Assistance Programs (SPAPs) and SPAP participants due to the implementation of the voluntary prescription drug benefit program under Part D of title XVIII of the Social Security Act. This notice also announces the appointment of 23 individuals to serve as members of the SPATC, including one individual to serve as chairperson.

DATES: *The Meeting:* July 7, 2004, 9 a.m.–5 p.m. e.d.s.t.

Deadline for Presentations and Comments: June 29, 2004.

Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to notify the Executive Secretary by June 29, 2004 (*see* **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: *The Meeting:* The meeting will be held at the following address: Holiday Inn, Washington-On The Hill, 415 New Jersey Avenue, NW., Washington, DC 20001, United States, toll-free 1 (800) 638–1116, telephone: 1 (202) 638–1616, fax: 1 (202) 638–0707.

Presentations and Comments: Submit formal presentations and written comments to Marge Watchorn, Executive Secretary, Center for Medicaid and State Operations, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop S2–01–16, Baltimore, MD 21244. In the interest of time, please also send an electronic copy of your presentation to *mwatchorn@cms.hhs.gov* and indicate whether you will need special equipment for your presentation.

Web site: You may access up-to-date information on this meeting at *http://www.cms.hhs.gov/faca/spatc/details.asp.*

Hotline: You may also access up-to-date information on this meeting on the CMS Advisory Committee Information Hotline, 1 (877) 449–5659 (toll free) or in the Baltimore area (410) 786–9379.

FOR FURTHER INFORMATION CONTACT: Marge Watchorn, Executive Secretary, (410) 786–4361.

SUPPLEMENTARY INFORMATION: On February 27, 2004, we published a notice (69 FR 9326) requesting nominations for individuals to serve on the State Pharmaceutical Assistance Transition Commission (SPATC). On March 5, 2004, we published a notice (69 FR 10455) announcing the establishment of the SPATC and the signing by the Secretary on March 1, 2004, of the charter establishing the SPATC. This notice announces the first public meeting of the SPATC. This notice also announces the appointment of 23 individuals to serve as members of the SPATC, including one individual to serve as chairperson.

SPATC Members: Joan Henneberry (Chairperson), Clifford Barnes, Donna Boswell, James Chase, David Clark, Jay Currie, Barbara Edwards, Nora Dowd Eisenhower, Janice Faiks, Karen Greenrose, Dr. Dewey Garner, Laurie Hines, Joseph Kelley, Mary Liveratti, Dr. Anne Marie Murphy, Julie Naglieri, Elizabeth Rohn-Nelson, Robert Power, Susan Reinhard, Sybil Richard, Marc Ryan, Linda Schofield, and Martin Schuh.

Topics of the Meeting: The Commission will discuss the unique transitional issues facing State Pharmaceutical Assistance Programs (SPAPs) and SPAP participants due to the implementation of the voluntary prescription drug benefit program under Part D of title XVIII of the Act. The Commission may discuss the need to divide into sub-groups for the purpose of focusing on particular issues within this broad subject, including a discussion of which members would serve on which sub-group.

Procedure and Agenda: This meeting is open to the public. First, the appointees will be sworn in by a Federal official. Each Commission member will then be given an opportunity to make a self-introduction.

The Commission will hear oral presentations from the public. The Commission may limit the number and duration of oral presentations to the time available. If you wish to make a formal presentation, you must notify the Executive Secretary named in the **FOR FURTHER INFORMATION CONTACT** section of this notice, and submit the following by

the deadline listed in the **DATES** section of this notice: (1) A brief statement of the general nature of the evidence or arguments you wish to present; (2) the names and addresses of proposed participants; and (3) an estimate of the time required to make the presentation. A written copy of your presentation must be provided to the Executive Secretary before offering your public comments. We will request that you declare at the meeting whether or not you have any financial involvement with manufacturers of any items or services being discussed (or with their competitors).

After the public and CMS presentations, the Commission will deliberate openly on the topic. Interested persons may observe the deliberations, but the Commission will not hear further comments during this time except at the request of the Chairperson. The Commission will also allow an open public session for any attendee to address issues specific to the topic.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 10, 2004.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 04–13786 Filed 6–17–04; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Family Violence Prevention and Services Discretionary Grants

Federal Agency Contact Name: Administration for Children and Families (ACF), Administration on Children, Youth and Families, Family and Youth Services Bureau (FYSB), Family Violence Prevention and Services Program.

Funding Opportunity Title: FY 2004 Discretionary Grants for the Family Violence Prevention and Services Program.

Announcement Type: Initial.

Funding Opportunity Number: HHS–2004–ACF–ACYF–EV–0025.

CFDA Number: 93.592.

Due Date for Applications: The due date for receipt of applications is July 19, 2004.

I. Funding Opportunity Description

Demonstration of Improved Services Delivery to Victims of Family Violence Who are Disabled.

The Administration for Children and Families, Administration on Children, Youth and Families, Family Youth Services Bureau announces the availability and request for applications for its FY 2004 Family Violence Prevention and Services discretionary grants.

Legislative Authority

The Family Violence Prevention and Services Act (the Act) was originally enacted in sections 301–313 of Title III of the ''Child Abuse Amendments of 1984'' (Pub. L. 98–457, 10/9/84). The Act was reauthorized and otherwise amended by the ''Child Abuse Prevention, Adoptions, and Family Services Act of 1988'' (Pub. L. 100–294, 4/25/88); the ''Child Abuse, Domestic Violence, Adoption, and Family Services Act of 1992'' (Pub. L. 102–295, 5/28/92); the ''Safe Homes for Women Act of 1994,'' Subtitle B of the ''Violent Crime Control and Law Enforcement Act of 1994'' (Pub. L. 103–322, 9/13/94); and the ''Child Abuse and Prevention Treatment Act Amendments of 1996'' (Pub. L. 104–235, 10/3/96); and the ''Victims of Trafficking and Violence Protection Act of 2000'' (Pub. L. 106–386, 10/28/00). The Act was most recently amended by the ''Keeping Children and Families Safe Act of 2003'' (Pub. L. 108–36).

Purpose

The purpose of the priority area is to support the collaborative planning and development of innovative, comprehensive and replicable services for responding to violence against women and men with disabilities. Projects funded under this priority area will address the needs of disabled persons in order to remove the barriers they face to accessing safety and justice. It is anticipated that some of these grants will support the initial design of collaborative initiatives and some will support efforts presently underway at a State, tribal, county or local level.

Successful applicants will be required to demonstrate collaboration between recognized domestic violence service providers or state and tribal domestic violence coalitions and agencies providing services for, or involved with, the institution, maintenance and/or development of policy on the needs of persons with disabilities who have been abused. Collaborations may also include faith-based programs working with the disabled community.

Background

The definition of abuse is generally expanded in relation to its occurrence with persons with disabilities to include neglect leading to physical harm, abandonment, desertion or neglect of duties by a caregiver, or inappropriate language or intimidation. Both males and females with disabilities are at increased risk of abuse due to reliance on their caregivers. For a disabled person, there are unique dynamics to both the power and control issues present in all abusive relationships and the actual form that abuse can manifest. The complexity of the relationship between a person who is disabled and their partner is as multi-faceted as the types of disabilities existent and the possible degrees of severity of those disabilities. Disabled people are at risk for experiencing abuse that is specifically related to their disability support needs. The fear of not having their basic needs met when assistance is not provided, fear of institutionalization; the denial of the physical or emotional pain resulting from the disability are just some particulars to the abusive relationship. Removing the battery from a power wheelchair, putting a walker out of reach, or taking a phone away can be similar to locking that person in a closet.

Because many of these forms of abuse are little known and go unrecognized, abused persons with disabilities are isolated and underserved. With no appropriate red flags, service providers inadvertently create barriers to the disclosures of such abuse. Women, and men, who disclose that they have experienced abuse need to be further assessed for factors that may place them at increased risk. For the abused, these factors silently exacerbate if the appropriate assessment and safety planning that needs to be available is not put into place.

The ability to provide services that truly address the needs of the abused disabled person is reliant on, at minimum, providing service providers with supports that are tested and accepted for use with persons who are not disabled but supports that are informed and structured to address the physical, attitudinal and programmatic barriers of abused persons.

The development of intervention techniques such as domestic violence screening questions, case management and the establishment of policies and procedures that relate to and illuminate the interconnectedness of the disability and abuse would ensure and accelerate access to essential services. Projects will

address the needs of persons with disabilities in order to remove the barriers they face through the enhancement of resource material, curricula and relevant products.

Minimum Requirements

Using the combined expertise of the domestic violence community and the community of persons with disabilities the project should:

• Propose major collaborations between domestic violence practitioners and disability organizations for the purpose of maximizing the ability of service providers to respond to a person who has the dual challenges of being abused and disabled. These collaborations should be supported through commitment and collaboration letters indicating the understanding and extent of the role of the organizations involved.

• Develop educational material that allows for recognition of abuse from both the victims' and the domestic violence service provider's point of view. This material should clarify the nature of the abuse, validate the person's experience and address the abusive environment correctly.

• Develop succinct, disability specific materials, in an easily replicated, conveniently structured and distributable format describing best practices as to the detection and intervention of abuse among the disabled. for the use of service providers.

• Develop a product dissemination strategy by which this information could best be directed to organizations and institution for maximum application to disabled persons who might be experiencing abuse.

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Program Funding: $150,000 in FY2004.

Anticipated Number of Awards: 3.

Ceiling on Amount of Individual Awards: $50,000 per project period. An application received that exceeds the upper value of the dollar range specified will be considered ''non-responsive'' and be returned to the applicant without further review.

Floor of Individual Award Amounts: None.

Average Anticipated Award Amount: $50,000 per project period.

Project Period for Awards: This announcement invites applications for project periods up to 17 months.

III. Eligibility Information

1. Eligible Applicants

Eligible applicants include State and local agencies providing services to persons with disabilities, FVPSA State grantees, State domestic violence coalitions, Federally-recognized American Indian Tribes, public and private non-profit agencies, faith-based organizations, domestic violence advocacy organizations and public and private non profit disability organizations.

Additional Information on Eligibility

Non-profit organizations applying for funding are required to submit proof of their non-profit status. Proof of non-profit status is any one of the following:

(a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code.

(b) A copy of a currently valid IRS tax exemption certificate.

(c) A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

(d) A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

(e) Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement singed by the parent organization that the applicant organization is a local non-profit affiliate.

Applications exceeding the dollar ceiling will be considered non-responsive and returned to the applicant without further review. Applications that fail to include the required non-federal share will be considered non-responsive and returned to the applicant without further review.

2. Matching

Matching funds are required for applications submitted under this program announcement.

Grantees must provide at least 25 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-federal share. The non-federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. For example, in order to meet the match requirements, a project with a total approved cost of $66,666, must provide a non-federal share of at least $16,666 (25% of total approved project cost of $66,666). Grantees will be held accountable for commitments of non-federal resources even if over the amount of the required match. Failure to provide the amount will result in disallowance of Federal funds.

Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement.

3. Other

All Applicants must have Duns & Bradstreet Number. On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires Federal grant applicants to provide a Duns and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on of after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*www.Grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Applications that fail to follow the required format will be considered non-responsive and will not be eligible for funding under this announcement.

Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement.

Applications that exceed the $50,000 ceiling will be considered non-responsive and will not be eligible for funding under this announcement.

IV. Application and Submission Information

1. Address To Request Application Package

ACYF Operations Center, c/o The Dixon Group, Inc., Attn: FV–FYSB Funding, 118 Q Street, NE., Washington, DC 20002–2132, *FYSB@dixongroup.com*, (866) 796–1591.

2. Content and Form of Application Submission

An original and two (2) copies of the application must be submitted. Applicants will not receive an acknowledgement of receipt of applications.

Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget.

You may submit your application to us in either electronic or paper format.

To submit an application electronically, please use the *www.Grants.gov* apply site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to us. Please note the following if you plan to submit your application electronically via Grants.Gov.

- Electronic submission is voluntary.
- When you enter the Grants. Gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants. Gov.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on *www.Grants.gov.*
- You must search for the downloadable application package by the CFDA number.

Private non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants'' at *http://www.acf.hhs.gov/programs/ofs/forms.htm.* Submission or lack of submission will have no effect on an applicant's chance to receive a grant award.

3. Submission Dates and Times

The closing time and date for receipt of applications is 4:30 p.m. Eastern Standard Time (EST) on July 19, 2004. Mailed or hand carried applications received after 4:30 p.m. on the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the Administration on Children, Youth and Families (ACYF) Operations Center, c/o The Dixon Group Inc., ATTN: FV–FYSB Funding, 118 Q Street, NE., Washington, DC 20002–2132. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, between Monday and Friday (excluding Federal holidays). This address must appear on the envelope/package containing the application with the note ''Attention: Administration on Children, Youth and Families (ACYF) Operations Center, c/o The Dixon Group Inc., ATTN: FV–FYSB Funding, 118 Q Street, NE., Washington, DC 20002–2132.'' Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

ACF cannot accommodate transmission of applications by fax.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

What to submit	Required content	Required form or format	When to submit
SF424, SF424a, SF424B	Per required form	May be found at *www.acf.hhs.gov/program/ofs/forms.htm.*	By application due date.
Project Summary/Abstract	Summary of application request	One page limit	By application due date.
Project Description	Responsiveness to evaluation criteria	Format described in Review and Selection section. Limit 40 pages. Size 12 font, ½'' margins..	By application due date.
Certification regarding Lobbying	Per required Form	May be found at *www.acf.hhs.gov/program/ofs/forms.htm.*	By application due date.
Environmental Tobacco Smoke Certification.	Per required Form	May be found at *www.acf.hhs.gov/program/ofs/forms.htm.*	By application due date.

Additional Forms

Private non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants'' at *www.acf.hhs.gov/programs/ofs/forms.htm.*

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per Required Form	*http://www.acf.hhs.gov/programs/ofs/form.htm*	By application due Date.

4. Intergovernmental Review

State Single Point of Contact (SPOC)

This program is covered under Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs'', and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities''. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 2003, of the most recent SPOC list, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized Indian Tribes need take no action in regard to E.O. 12372: Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a) (2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., and Washington, DC 20447.

The official list, including addresses, of the jurisdictions elected to participate in E.O. 12372 can be found on the following URL: *http://www.whitehouse.gov/omb/grants/spoc.html.*

5. Funding Restrictions

ACY will not fund any project where the role of the applicant is to serve as a conduit for funds to organizations other than the applicant. The applicant must have a substantive role in the implementation of the project for which the funding is requested. This prohibition does not bar the making of sub-grants or sub-contracting for specific services or activities needed to conduct the project.

Applicants that fail to include the required match will be considered non-responsive and will not be eligible for funding under this announcement.

6. Other Submission Requirements

Electronic Address to Submit Applications: *www.Grants.Gov.*

Please see Section IV. 2. Content and Form of Application Submission, for guidelines and requirements when submitting applications electronically.

V. Application Review Information

1. Criteria

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 25 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. This program announcement does not contain information requirements beyond those approved for ACF grant applications under OMB control number 0970–0139. 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 following are instructions on how to prepare the ''project summary/abstract'' and ''Full Project Description'' sections of the application. Note that each criterion is preceded by the generic evaluation requirement under the ACF Uniform Project Description (UPD).

Approach

Outline a plan of action describing how the proposed work will be accomplished. Account for all functions and activities described in the application and cite factors which might accelerate or decelerate your work, stating reasons for the approach you have taken. Describe any unusual features of the project such as design and or technological innovations, reductions in cost or time, or extraordinary social or community involvement.

Objectives and Need for Assistance

Clearly identify the problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated. Any relevant data should be included or referred to in the endnotes or footnotes. Demographic data and participant/beneficiary information should be included as needed.

Results or Benefits Expected

For example, describe how the increased collaboration between service agencies and their programs and the domestic violence service providers would make available an increase in effective services delivery and information to individuals who may find themselves in abusive situations.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners, contact numbers and telephone numbers, documentation of experience in the program and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

Budget and Budget Justification

Budget line item details and detailed calculations for each budget class identified on the budget information

form. Detailed calculations must include estimation methods, quantities, unit costs where applicable, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must include a breakout by the funding sources identified in Block 15 of the SF 424.

Evaluation Criteria

Approach (30 points)

The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project, and details how the proposed work will be accomplished; relates each task to the objectives and identifies the key staff member who will be the lead person; provides a chart indicating the timetable for completing each task, the lead person, and the time committed; cites factors which might accelerate or decelerate the work, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement; and provides for projections of the accomplishments to be achieved.

The extent to which, when applicable, the application describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved.

Objectives and Need for the Project (20 Points)

The extent to which the need for the project and the problems it will address have national and local significance; the applicability of the project to coordination efforts by national, Tribal, State and local governmental and non-profit agencies, and its ultimate impact on domestic violence prevention services and intervention efforts, policies and practice; the relevance of other documentation as it relates to the applicant's knowledge of the need for the project; and the identification of the specific topic or program area to be served by the project. Maps and other graphic aids may be attached. The extent to which the specific goals and objectives have national or local significance, the clarity of the goals and objectives as they relate to the identified need for and the overall purpose of the project, and their applicability to policy and practice. The provision of a detailed discussion of the objectives and of the extent to which they are realistic, specific, and achievable.

Results and Benefits (20 Points)

The extent to which the application identifies the results and benefits to be derived, the extent to which they are consistent with the objectives of the application, the extent to which the application indicates the anticipated contributions to policy, practice, and theory, and the extent to which the proposed project costs are reasonable in view of the expected results. Identify, in specific terms, the results and benefits, for target groups and human service providers, to be derived from implementing the proposed project.

Organizational Profiles (15 Points)

The extent to which the participating organizations and entities have discussed, through letters and other documentation, the proposed collaboration and cooperation. Assess the extent to which the financial and physical resources provided by the participating entities will be adequate and to what extent will the coordinating organizations participate in the day to day operations of the project.

Budget (15 Points)

Relate the proposed budget to the level of effort required to obtain the project's objectives and provide a cost/benefit analysis. Demonstrate that the project's costs are reasonable in view of the anticipated results. Applications will be evaluated on the extent to which they include a budget that is concise and provides a detailed justification of the amount of Federal funds that are requested.

2. Review and Selection Process

Initial ACYF Screening

Each application submitted to ACYF will be screened to determine whether it was received by the closing date and time.

Applications received by the closing date and time will be screened for completeness and conformity with the following requirements. Only complete applications that meet the requirements listed below will be reviewed and evaluated competitively. Other applications will be returned to the applicants with a notation that they were unacceptable and will not be reviewed.

All applications must comply with the following requirements except as noted:

ACYF Evaluation of Applications

Applications that pass the initial ACYF screening will be reviewed and rated by a panel based on the program elements and review criteria presented in relevant sections of this program announcement.

The review criteria are designed to enable the review panel to assess the quality of a proposed project and determine the likelihood of its success. The criteria are closely related to each other and are considered as a whole in judging the overall quality of an application. The review panel awards points only to applications that are responsive to the program elements and relevant review criteria within the context of this program announcement.

The ACYF Commissioner and program staff use the reviewer scores when considering competing applications. Reviewer scores will weigh heavily in funding decisions, but will not be the only factors considered.

Applications generally will be considered in order of the average scores assigned by the review panel. Because other important factors are taken into consideration, highly ranked applications are not guaranteed funding. These other considerations include, for example: The timely and proper completion by the applicant of projects funded with ACYF funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; amount and duration of the grant requested and the proposed project's consistency and harmony with ACYF goals and policy; geographic distribution of applications; previous program performance of applicants; compliance with grant terms under previous HHS grants, including the actual dedication to program of mobilized resources as set forth in project applications; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowance on previous ACYF or other Federal agency grants.

VI. Award Administration Information

1. Award Notices

The successful applicants will be notified through the issuance of a Financial Assistance Award document which sets forth the amount of funds, granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided, and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements:

45 CFR part 74 or 92.

3. Reporting Requirements

Programmatic Reports: Semi-annually and a final report is due 90 days after the end of the grant period.

Financial Reports: Semi-annually and a final report due 90 days after the end of the grant period.

All grantees are required to submit semi-annual program reports; grantees are also required to submit semi-annual financial status reports using the required financial standard form (SF–269). A format for the program report will be sent to all grantees after the awards are made.

VII. Agency Contacts

Program Office Contact: William D. Riley, Family Violence Division, 330 C Street, Rm. 2117, Switzer Building, Washington, DC 20447, E-mail: *wriley@acf.hhs.gov,* Telephone: (202) 401–5529.

Grants Management Office Contact: William Wilson, Grants Officer, Administration on Children, Youth and Families, Room 2070 Switzer Building, 330 C Street, SW., Washington, DC 20447, (202) 205–8913, E-mail: *wwilson@acf.hhs.gov.*

VIII. Other Information

Additional information about this program and its purpose can be located on the following Web site: *http://www.acf.hhs.gov/programs/fysb.*

Dated: June 9, 2004.

Frank Fuentes,

Deputy Commissioner, Administration on Children, Youth and Families.

[FR Doc. 04–13736 Filed 6–17–04; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Notice of Approval of Abbreviated New Animal Drug Application; Dexamethasone Sodium Phosphate Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's Center for Veterinary Medicine (CVM) is providing notice that it has approved an original abbreviated new animal drug application (ANADA) filed by Cross Vetpharm Group Ltd. The ANADA provides for the veterinary prescription use of dexamethasone sodium phosphate injectable solution as a rapid adrenal glucocorticoid and/or anti-inflammatory agent in horses. The applicable sections of the regulations did not require amendment.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(i)) and 21 CFR 514.105(a) and 514.106(a), CVM is providing notice that it has approved original ANADA 200–317 filed by Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland. ANADA 200–317 provides for the veterinary prescription use of DEXIUM–SP (dexamethasone sodium phosphate) Injection as a rapid adrenal glucocorticoid and/or anti-inflammatory agent in horses. Cross Vetpharm Group's DEXIUM–SP Injection is approved as a generic copy of Steris Laboratories, Inc.'s Dexamethasone Injection, approved under NADA 104–606. The ANADA is approved as of April 29, 2004. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: June 4, 2004.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 04–13790 Filed 6–17–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Blood Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 22, 2004, from 8 a.m. to 6 p.m. and on July 23, 2004, from 8 a.m. to 3 p.m.

Location: Holiday Inn Gaithersburg, Two Montgomery Village Ave., Gaithersburg, MD 20877.

Contact Person: Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM–302), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3514, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014519516. Please call the Information Line for up-to-date information on this meeting.

Agenda: On July 22, 2004, the committee will hear updates on: FDA current thinking on transfusion related acute lung inflammation (TRALI), and donor blood pressure determination. The committee will also discuss and provide recommendations on the dating of irradiated blood. In the afternoon, the committee will discuss and provide recommendations on the new standards for platelet evaluation and experience with monitoring of bacterial contamination of platelets. On July 23, 2004, the committee will hear an update on West Nile Virus. The committee will also hear presentations, discuss and provide recommendations on hepatitis B virus nucleic acid testing (HBV NAT) for mini-pools. In the afternoon, there will be an informational presentation on current trends in plasma product manufacturing.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 12, 2004. Oral

presentations from the public will be scheduled between approximately 8:35 a.m. and 9 a.m., 11 a.m. and 11:30 a.m., 2 p.m. and 2:30 p.m., and 4:30 p.m. and 5 p.m. on July 22, 2004; and between approximately 10:15 a.m. and 11:15 a.m. and 2 p.m. and 2:30 p.m. on July 23, 2004. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 12, 2004, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Linda A. Smallwood, or Pearline K. Muckelvene at 301–827–1281 at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 14, 2004.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 04–13727 Filed 6–17–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Dental Products Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Dental Products Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 13, 2004, from 8 a.m. to 5 p.m.

Location: Hilton Washington DC North/Gaithersburg, Ballroom Salons A and B, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Michael E. Adjodha, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–827–5283, ext. 123, e-mail: *mea@cdrh.fda.gov*, or FDA Advisory Committee Information Line 800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512518. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for a bone grafting material, which contains a wound-healing and revascularization agent, for treatment of dental osseous defects. Background information, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting on the Internet at *http://www.fda.gov/cdrh/panel/index.html*. Material will be posted on July 12, 2004.

Procedure: On July 13, 2004, from 8:30 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 1, 2004. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of committee deliberations and for approximately 30 minutes near the end of the deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 1, 2004, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On July 13, 2004, from 8 a.m. to 8:30 a.m., the meeting will be closed to permit FDA to present to the committee trade secret and/or confidential commercial information regarding pending and future agency issues (5 U.S.C. 552b(c)(4)).

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, 301–594–1283, ext. 113, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 14, 2004.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 04–13726 Filed 6–17–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0226]

Food and Drug Administration Modernization Act of 1997: Modifications to the List of Recognized Standards, Recognition List Number: 010

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a publication containing modifications the agency is making to the list of standards FDA recognizes for use in premarket reviews (FDA Recognized Consensus Standards). This publication, entitled ''Modifications of the List of Recognized Standards, Recognition List Number: 010'' (Recognition List Number: 010), will assist manufacturers who elect to declare conformity with consensus standards to meet certain requirements for medical devices.

DATES: Submit written or electronic comments concerning this document at any time. See section VII of this document for the effective date of the recognition of standards announced in this document.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of ''Modification to the List of Recognized Standards, Recognition List Number: 010'' to the Division of Small Manufacturers Assistance, Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your

requests, or fax your request to 301–443–8818. Submit written comments concerning this document or to recommend additional standards for recognition to the contact person (see **FOR FURTHER INFORMATION CONTACT**). Submit electronic comments by e-mail: *standards@cdrh.fda.gov*. This document may also be accessed on FDA's Internet site at *http:/www.fda.gov/cdrh/fedregin.html*. See section VI of this document for electronic access to the searchable database for the current list of ''FDA Recognized Consensus Standards,'' including Recognition List Number: 010 modifications and other standards related information.

FOR FURTHER INFORMATION CONTACT:

Carol L. Herman, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4766, ext. 156.

SUPPLEMENTARY INFORMATION:

I. Background

Section 204 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Public Law 105–115) amended section 514 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360d). Amended section 514 allows FDA to recognize consensus standards, developed by international and national organizations, for use in satisfying portions of device premarket review submissions or other requirements.

In a notice published in the **Federal Register** of February 25, 1998 (63 FR 9561), FDA announced the availability of a guidance document entitled ''Recognition and Use of Consensus Standards.'' This notice described how FDA will implement its standard recognition program and provided the initial list of recognized standards.

In **Federal Register** notices published on October 16, 1998 (63 FR 55617), July 12, 1999 (64 FR 37546), November 15, 2000 (65 FR 69022), May 7, 2001 (66 FR 23032), January 14, 2002 (67 FR 1774), October 2, 2002 (67 FR 61893), April 28, 2003 (68 FR 22391), and March 8, 2004 (69 FR 10712), FDA modified its initial list of recognized standards. These notices described the addition, withdrawal, and revision of certain standards recognized by FDA. The agency maintains hypertext markup language (HTML) and portable document format (PDF) versions of the list of FDA Recognized Consensus Standards. Both versions are publicly accessible at the agency's Internet site. See section VI of this document for electronic access information. Interested persons should review the supplementary information sheet for the standard to understand fully the extent to which FDA recognizes the standard.

II. Modifications to the List of Recognized Standards, Recognition List Number: 010

FDA is announcing the addition, withdrawal, correction, and revision of certain consensus standards the agency will recognize for use in satisfying premarket reviews and other requirements for devices. FDA will incorporate these modifications in the list of FDA Recognized Consensus Standards in the agency's searchable database. FDA will use the term ''Recognition List Number: 010'' to identify these current modifications.

In the following table, FDA describes modifications that involve: (1) The withdrawal of standards and their replacement by others, (2) the correction of errors made by FDA in listing previously recognized standards, and (3) the changes to the supplementary information sheets of recognized standards that describe revisions to the applicability of the standards.

In section III of this document, FDA lists modifications the agency is making that involve the initial addition of standards not previously recognized by FDA.

A. Anesthesia

Old Item No.	Standard	Change	Replacement Item No.
19	ISO 8382:1988, Resuscitators Intended for Use with Humans	Processes impacted, extent of recognition, relevant guidance	19
42	ISO 5360:1993, Anaesthetic vaporizers—Agent-specific filling systems	Devices affected, processes impacted, extent of recognition	42

B. General

Old Item No.	Standard	Change	Replacement Item No.
2	IEC 60601–1, Medical Electrical Equipment—Part 1: General Requirements for Safety	Contact person	2
28	IEC 60601–1–2 (Second Edition, 2001) Medical Electrical Equipment—Part 1: General Requirements for Safety; Electromagnetic Compatibility—Requirements and Tests	Contact person	28
30	ANSI/AAMI/IEC 60601–1–2:2001, Medical Electrical Equipment—Parts 1 to 2: General Requirements for Safety—Collateral Standard: Electromagnetic Compatibility—Requirements and Tests	Correct title of standard	30

C. General Hospital/General Plastic Surgery

Old Item No.	Standard	Change	Replacement Item No.
3	ASTM F754–88, Standard Specification for Implantable Polytetrafluoroethylene (PTFE) Polymer Fabricated in Sheet, Tube and Rod Shapes	Withdrawn and replaced with new version	108
4	ASTM F881–94, Standard Specification for Elastomer Facial Implants	Withdrawn and replaced with newer version	109
6	ASTM F1441–92, Standard Specification for Soft Tissue Expanders	Withdrawn and replaced with newer version	110
10	IEC 60601–2–38, Medical Electrical Equipment—Part 2: Particular Requirements for the Safety of Electrically Operated Hospital Beds	Withdrawn and replaced with newer version	111

D. In Vitro Diagnostic

Old Item No.	Standard	Change	Replacement Item No.
47	NCCLS MM2–A2 Immunoglobulin and T-Cell Receptor Gene Rearrangement Assays; Approved Guideline—Second Edition	Withdrawn and replaced with newer version	98
84	CEN 13640, Stability Testing of In Vitro Diagnostic Reagents	Correction to date of standard	84

E. Materials

Old Item No.	Title of Standard	Change	Replacement Item No.
26	ASTM F1314–01, Standard Specification for Wrought Nitrogen Strengthened 22 Chromium - 13 Nickel - 5 Manganese - 2.5 Molybdenum Stainless Steel Alloy Bar and Wire for Surgical Implants (UNS S20910)	Title change	26
39	ASTM F2052–02, Standard Test Method for Measurement of Magnetically Induced Displacement Force on medical Devices in the Magnetic Resonance Environment	Recognizing a newer version with a revised title	70
55	ASTM F2182–02a, Standard Test Method for Measurement of Radio Frequency Induced Heating Near Passive Implants During Magnetic Resonance Imaging	Recognizing a newer version	71
62	ISO 5832–1:1997, Implants for Surgery—Metallic materials—Part 1: Wrought stainless steel	Transferred from Orthopedics 62 to Materials 56	56
64	ISO 5832–3:1996, Implants for Surgery—Metallic materials—Part 3: Wrought titanium 6-aluminum 4-vanadium alloy	Transferred from Orthopedics 64 to Materials 58	58
65	ISO 5832–4:1996, Implants for Surgery—Metallic materials—Part 4: Cobalt-chromium-molybdenum casting alloy	Transferred from Orthopedics 65 to Materials 59	59
62	ISO 5832–1:1997, Implants for Surgery—Metallic materials—Part 1: Wrought stainless steel	Transferred from Orthopedics 62 to Materials 56	56
64	ISO 5832–3:1996, Implants for Surgery—Metallic materials—Part 3: Wrought titanium 6-aluminum 4-vanadium alloy	Transferred from Orthopedics 64 to Materials 58	58
65	ISO 5832–4:1996, Implants for Surgery—Metallic materials—Part 4: Cobalt-chromium-molybdenum casting alloy	Transferred from Orthopedics 65 to Materials 59	59
66	ISO 5832–5:1993, Implants for Surgery—Metallic materials—Part 5: Wrought cobalt-chromium-tungsten-nickel alloy	Transferred from Orthopedics 66 to Materials 60	60
67	ISO 5832–6:1997, Implants for Surgery—Metallic materials—Part 6: Wrought cobalt-nickel-chromium-molybdenum alloy	Transferred from Orthopedics 67 to Materials 61	61
70	ISO 5832–11:1994, Implants for Surgery—Metallic materials—Part 11: Wrought titanium 6-aluminum 7-niobium alloy	Transferred from Orthopedics 70 to Materials 63	63

Old Item No.	Title of Standard	Change	Replacement Item No.
71	ISO 5832–12:1996, Implants for Surgery—Metallic materials—Part 12: Wrought cobalt-chromium-molybdenum alloy	Transferred from Orthopedics 71 to Materials 64	64
76	ISO 6474–94, Implants for surgery—Ceramic materials based on high purity alumina	Transferred from Orthopedics 76 to Materials 66	66
84	ISO 13782:1996, Implants for surgery—Metallic materials—Unalloyed tantalum for surgical implant applications	Transferred from Orthopedics 84 to Materials 68	68
117	ISO 5832–2:1999, Implants for Surgery—Metallic Materials—Part 2: Unalloyed Titanium	Transferred from Orthopedics 117 to Materials 57	57
118	ISO 5832–9:1992, Implants for Surgery—Metallic Materials—Part 9: Wrought High Nitrogen Stainless Steel	Transferred from Orthopedics 118 to Materials 62	62
119	ISO 5834–2:1998, Implants for Surgery—Ultra-High-Molecular Weight Polyethylene—Part 2: Moulded Forms	Transferred from Orthopedics 119 to Materials 65	65
143	ISO 7153–1:1991/Amd. 1:1999, Surgical instruments—Metallic materials—Part 1: Stainless steel	Transferred from Orthopedics 143 to Materials 67	67

F. Radiology

Old Item No.	Standard	Change	Replacement Item No.
5	ANSI Ph 2.50–1983, Photography—Direct-Exposing Medical and Dental Radiographic Film/Process Systems—Determination of ISO Speed and Average Gradient	Title correction	5
7	ISO/IEC 10918–1:1994, Information Technology—Digital Compression and Coding of Continuous—Tone Still Images: Requirements and Guidelines	Title correction	7
8	IEC 60336 (R1993), X-ray Tube Assemblies for Medical Diagnosis Characteristics of Focal Spots	Title correction	8
17	NEMA MS 8–1993 (2000), Characterization of the Specific Absorption Rate for Magnetic Resonance Imaging Systems	Reaffirmation	17
22	NEMA XR 5–1992 (R1999), Measurement of Dimensions and Properties of Focal Spots of Diagnostic X-ray Tubes	Reaffirmation	22
23	NEMA XR 10–1986 (R1992, R1998), Measurement of the Maximum Symmetrical Radiation Field from a Rotating Node X-ray Tube used for Medical Diagnosis	Reaffirmation	23
24	NEMA XR 11–1993 (R1999), Test Standard for Determination of the Limiting Spatial Resolution of X-ray Image Intensifier Systems	Title correction	24
25	NEMA XR 15–1991 (R1996, R2001), Test Standard for the Determination of the Visible Entrance Field Size of an X-ray Image Intensifier System	Reaffirmation	25
26	NEMA XR 16–1991 (R1996, R2001), Test Standard for the Determination of the System Contrast Ratio and the System Veiling Glare Index of an X-ray Image Intensifier System	Reaffirmation	26
27	NEMA XR 17–1993 (R1999), Test Standard for the Measurement of the Image Signal Uniformity of an X-ray Image Intensifier System	Reaffirmation	27
28	NEMA XR 18–1993 (R1999), Test Standard for the Determination of the Radial Image Distortion of an X-ray Image Intensifier System	Reaffirmation	28
29	NEMA XR 19–1993 (R1999), Thermal and Loading Characteristics of X-ray Tubes used for Medical Diagnosis	Reaffirmation	29

Old Item No.	Standard	Change	Replacement Item No.
44	AIUM AOMS—Acoustic Output Measurement Standard for Diagnostic Ultrasound Equipment	Title correction and reaffirmation	44
46	AIUM RTD1—Standard for Real-Time Display of Thermal and Mechanical Acoustic Output Indices on Diagnostic Ultrasound Equipment Revision 1	Title correction and reaffirmation	46
48	AIUM AOL—Acoustic Output Labeling Standard for Diagnostic Ultrasound Equipment: A Standard for How Manufacturers Should Specify Acoustic Output Data	Title correction	48
61	UL 122–1999, Standard for Safety of Photographic Equipment—4th Edition	Title correction	61
66	AIUM MUS—Medical Ultrasound Safety	Title correction and reaffirmation	66
72	NEMA UD 3–1998, Revision 1, Standard for Real Time Display of Thermal and Mechanical Acoustic Output Indices on Diagnostic Ultrasound Equipment	Title correction	72
11	NEMA MS 2–2003, Determination of Two-Dimensional Geometric Distortion in Diagnostic Magnetic Resonance Images	Withdrawn and replaced with newer version	95
12	NEMA MS 3–2003, Determination of Image Uniformity in Diagnostic Magnetic Resonance Images	Withdrawn and replaced with newer version	96
77	NEMA MS–1–2001, Determination of Signal to Noise Ratio (SNR) in Diagnostic Magnetic Resonance Images	Withdrawn and replaced with newer version	97
69	NEMA MS 6–1991 (R2000), Characterization of Special Purpose Coils for Diagnostic Magnetic Resonance Images	Reaffirmation	69
3	ANSI IT1.49–1995, Photography (Films)—Medical Radiographic Cassettes/Screens/Films-Dimensions	Withdrawn and replaced with Item 98	
14	NEMA MS 5–2003, Determination of Slice Thickness in Diagnostic Magnetic Resonance Imaging	Withdrawn and replaced with newer version	99

G. Sterility

Old Item No.	Standard	Change	Replacement Item No.
76	AAMI/ANSI/ISO 10993–7:1995 (R) 2001, Biological Evaluation of Medical Devices—Part 7: Ethylene Oxide Sterilization Residuals	Deleted ''Hemodialyzers'' from Extent of Recognition	76

III. Listing of New Entries

The listing of new entries and consensus standards added as ''Modifications to the List of Recognized Standards,'' under Recognition List Number: 010, is as follows:

A. Anesthesia

Item No.	Title of Standard	Reference No. and Date
47	Ancillary devices for expired air resuscitation	AS 4259–1995
48	Standard Specification for Electrically Powered Home Care Ventilators, Part 1—Positive-Pressure Ventilators and Ventilator Circuits	ASTM F1246–91(1999)
49	Standard Specification for Suction Catheters for Use in the Respiratory Tract	ASTM F1981–99

B. General

Item No.	Title of Standard	Reference No. and Date
33	Medical Electrical Equipment—Parts 1 to 8: General requirements for safety—Collateral Standard: Alarm systems—Requirements, tests, and guidelines—General requirements and guidelines for alarm systems in medical equipment	IEC 60601–1–8:2003

C. In Vitro Diagnostic

Item No.	Title of Standard	Reference No. and Date
99	Nucleic Acid Amplification Assays for Molecular Hematopathology; Approved Guideline	NCCLS MM5–A:2000
100	In Vitro Diagnostic Test Systems—Requirements for In Vitro Whole Blood Glucose Monitoring Systems Intended for Use by Patients for Self Testing in Management of Diabetes Mellitus, First Edition	ISO 15197:2003
101	Assays of vonWillebrand Factor Antigen and Ristocetin Cofactor Activity; Approved Guideline	NCCLS H51–A:2002

D. Materials

Item No.	Title of Standard	Reference No. and Date
72	Standard Test Method for Measurement of Magnetically Induced Torque on Medical Devices in the Magnetic Resonance Environment	ASTM F2213–04

E. Radiology

Item No.	Title of Standard	Reference No. and Date
98	Medical Electrical Equipment—Dosimeters with Ionization Chambers as Used in Radiotherapy	IEC 60731—Amendment 1 2002–06

IV. List of Recognized Standards

FDA maintains the agency's current list of FDA Recognized Consensus Standards in a searchable database that may be accessed directly at FDA's Internet site at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfStandards/search.cfm*. FDA will incorporate the modifications and minor revisions described in this notice into the database, and upon publication in the **Federal Register**, this recognition of consensus standards will be effective. FDA will announce additional modifications and minor revisions to the list of recognized consensus standards, as needed, in the **Federal Register** once a year, or more often, if necessary.

V. Recommendation of Standards for Recognition by FDA

Any person may recommend consensus standards as candidates for recognition under the new provision of section 514 of the act by submitting such recommendations, with reasons for the recommendation, to the contact person (see **FOR FURTHER INFORMATION CONTACT**). To be properly considered, such recommendations should contain, at a minimum, the following information: (1) Title of the standard, (2) any reference number and date, (3) name and address of the national or international standards development organization, (4) a proposed list of devices for which a declaration of conformity to this standard should routinely apply, and (5) a brief identification of the testing or performance or other characteristics of the device(s) that would be addressed by a declaration of conformity.

VI. Electronic Access

In order to receive ''Guidance on the Recognition and Use of Consensus Standards'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number 321 followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

You may obtain a copy of ''Guidance on the Recognition and Use of Consensus Standards'' by using the Internet. CDRH maintains a site on the Internet for easy access to information including text, graphics, and files that you may download to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes the guidance as well as the current list of recognized standards and other standards related documents. After publication in the **Federal Register**, this notice announcing ''Modification to the List of Recognized Standards, Recognition List Number: 010'' will be available on the CDRH home page. You may access the CDRH home page at *http://www.fda.gov/cdrh*.

You may access ''Guidance on the Recognition and Use of Consensus Standards,'' and the searchable database for ''FDA Recognized Consensus Standards,'' through hyperlink at *http://www.fda.gov/cdrh/stdsprog.html*. This **Federal Register** notice of modifications in FDA's recognition of consensus standards will be available, upon publication, at *http://www.fda.gov/cdrh/fedregin.html*.

VII. Submission of Comments and Effective Date

Interested persons may submit to the contact person (see **FOR FURTHER INFORMATION CONTACT**) written or electronic comments regarding this document. Two copies of any mailed comments are to be submitted, except that individuals may submit one paper copy. Comments are to be identified

with the docket number found in brackets in the heading of this document. FDA will consider any comments received in determining whether to amend the current listing of ''Modifications to the List of Recognized Standards, Recognition List Number: 010.'' These modifications to the list or recognized standards are effective upon publication of this notice in the **Federal Register**.

Dated: June 2, 2004.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 04–13725 Filed 6–17–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of a Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council on June 30 and July 1, 2004.

The SAMHSA National Advisory Council meeting will be open to the public. The meeting will include the SAMHSA Administrator's Report, and discussions on Mental Health Systems Transformation, the Co-occurring Report, SAMHSA's Strategic Prevention Framework Initiative, suicide prevention, and SAMHSA's Access to Recovery Initiative. The meeting will also include a discussion of the Agency's current legislative highlights, and an update on the Interagency Coordinating Committee on the Prevention of Underage Drinking.

Attendance by the public will be limited to space available. Public comments are welcome. Please communicate with the individual listed as contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

Substantive program information, a summary of the meeting, and a roster of Council members may be obtained either by accessing the SAMHSA Council Web site, *http://www.samhsa.gov/council/council* or by communicating with the contact whose name and telephone number is listed below. The transcript for the meeting will also be available on the SAMHSA Council Web site.

Committee Name: SAMHSA National Advisory Council.

Date/Time: Wednesday, June 30, 2004, 9 a.m. to 4:45 p.m. (Open), Thursday, July 1, 2004, 9 a.m. to 12:15 p.m. (Open).

Place: Hilton Washington Embassy Row Hotel, Ambassador Room, 2015 Massachusetts Avenue, NW., Washington, DC 20036.

Contact: Toian Vaughn, Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 12C–05, Rockville, MD 20857, Telephone: (301) 443–7016; FAX: (301) 443–1450 and E-mail: *tvaughn@samhsa.gov.*

Dated: June 14, 2004.

Toian Vaughn,

Committee Management Officer, SAMHSA.

[FR Doc. 04–13791 Filed 6–17–04; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, U.S. Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: Federal Emergency Management Agency (FEMA) Mitigation Success Story Database.

Type of Information Collection: Existing collection in use without an OMB Control Number.

OMB Number: OMB No. 1660–NEW6.

Abstract: This Web-based database serves a dual purpose in providing a centralized and user-friendly venue for gaining and disseminating knowledge about effective and efficient mitigation strategies implemented in communities nationwide. By sharing information, communities and individuals can learn about available Federal programs to support implementation of mitigation projects relevant to individual conditions and characteristics.

Affected Public: State, local and tribal governments, individuals, business or other for-profit organizations, not-for profit institutions, and Federal government.

Number of Respondents: 150.

Estimated Time per Respondent: The electronic submission takes approximately 30 minutes for filling in all fields in the submission form, and approximately 1 hour to conceptualize the narrative description for a total of 1.5 hours. Respondents choosing to supply the information directly to FEMA Regional or HQ staff or to a Disaster Field Office (DFO) staff may spend up to 4 hours, which includes initial interview and follow-up sessions (when needed and agreed upon by the respondent on a voluntary basis).

Estimated Total Annual Burden Hours: 563 hours.

Frequency of Response: One time.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs at OMB, Attention: Desk Officer for the Emergency Preparedness and Response Directorate/Federal Emergency Management Agency, U.S. Department of Homeland Security, 725 17th Street, NW., Docket Library Room 10102, Washington, DC 20503. Comments must be submitted on or before July 19, 2004. In addition, interested persons may also send comments to FEMA (*see* contact information below).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Chief, Records Management, FEMA at 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address *FEMA–Information-Collections@dhs.gov.*

Dated: June 9, 2004.

Edward W. Kernan,

Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. 04–13776 Filed 6–17–04; 8:45 am]

BILLING CODE 9110–13–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1518–DR]

Iowa; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa (FEMA–1518–DR), dated May 25, 2004, and related determinations.

EFFECTIVE DATE: June 9, 2004.

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 Iowa is hereby amended to include 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, 2004:

Bremer, Butler, Cass, Clayton, Delaware, Fayette, Hancock, Humboldt, Jones, Linn, and Pocahontas Counties for Categories C through G under the Public Assistance program (already designated for Individual Assistance and debris removal (Category A) and emergency protective measures (Category B), including direct Federal assistance under the Public Assistance program.)

Adair, Allamakee, Aububon, Benton, Boone, Chickasaw, Floyd, Franklin, Grundy, Guthrie, Howard, Jasper, Kossuth, Shelby, and Winneshick Counties for Public Assistance (already designated for Individual Assistance.)

Appanoose, Fremont, Lucus, and Taylor Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–13777 Filed 6–17–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1522–DR]

West Virginia; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of West Virginia (FEMA–1522–DR), dated June 7, 2004, and related determinations.

DATES: Effective Date: June 9, 2004.

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 West Virginia is hereby amended to include Public Assistance in 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 June 7, 2004:

Braxton, Gilmer, Jackson, Logan, Mingo, Putman, Raleigh, Roane, Webster, Wirt, and Wyoming Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–13775 Filed 6–17–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1522–DR]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–1522–DR), dated June 7, 2004, and related determinations.

EFFECTIVE DATE: June 7, 2004.

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 June 7, 2004, 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 West Virginia, resulting from severe storms, flooding, and landslides on May 27, 2004, 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). I, therefore, declare that such a major disaster exists in the State of West Virginia.

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, 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 the Other Needs Assistance under Section 408 of the Stafford Act 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 Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Louis H. Botta, 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 West Virginia to have been affected adversely by this declared major disaster:

Boone, Braxton, Cabell, Calhoun, Clay, Fayette, Gilmer, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Nicholas, Putman, Raleigh, Roane, Wayne, Webster, Wirt, and Wyoming Counties for Individual Assistance.

All counties within the State of West Virginia 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, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–13778 Filed 6–17–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No.FR–4901–N–25]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: July 18, 2004.

FOR FURTHER INFORMATION CONTACT: Kathy Burruss, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-imparied (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No.88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: June 10, 2004.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 04–13551 Filed 6–17–04; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042604A]

Notice of Availability of a Draft Recovery Plan for the Gulf of Maine Distinct Population Segment (DPS) of Atlantic Salmon

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce; and U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of Availability of Draft Recovery Plan for the Gulf of Maine Distinct Population Segment (DPS) of Atlantic Salmon (*Salmo salar*).

SUMMARY: The National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS)(collectively, the Services) announce the availability for public review of the Draft Recovery Plan for the Gulf of Maine DPS of Atlantic Salmon. The Services are soliciting review and comment on the draft plan from the public and all interested parties.

DATES: The comment period for this proposal closes on September 16, 2004. The Services will consider and address all substantive comments that are received during the comment period. In addition to making this draft plan available for public review, it is simultaneously being submitted for agency and peer review. After consideration of all substantive comments received during the review period, the Recovery Plan will be submitted for final approval. Comments on the Draft Recovery Plan must be received before the closing date.

The Services have scheduled two public meetings/hearings in the State of Maine to discuss the Draft Recovery Plan with interested parties and solicit comments. Both meetings/hearings will start at 6:00 p.m. on the dates indicated:

(1) July 14, 2004. University of Maine at Machias, The Science Building Lecture Hall.

(2) July 15, 2004. Augusta Civic Center, Kennebec/Penobscot Room.

ADDRESSES: Please send written comments and materials to the Atlantic Salmon Recovery Plan Coordinator at the address provided above. In addition, the Services are accepting electronic comments (i.e., email) on the Draft Recovery Plan at the following address: *SalmonRecovery@noaa.gov*.

Persons wishing to review the Draft Recovery Plan can obtain a copy from the Atlantic Salmon Recovery Plan Coordinator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Electronic copies of the Draft Recovery Plan are also available on-line on the NMFS (*www.nmfs.noaa.gov/pr/*) and FWS (*www.fws.gov*) websites.

FOR FURTHER INFORMATION CONTACT: Mark Minton (NMFS), Atlantic Salmon Recovery Plan Coordinator (978–281–9328 extension 6534); Pat Scida (NMFS), Endangered Species Coordinator (978–281–9208); or Martin Miller (FWS), Chief, Endangered Species Division (413–253–8615).

SUPPLEMENTARY INFORMATION:

Background

Recovery Plans describe actions considered necessary for the conservation and recovery of species listed under the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), establish criteria for the downlisting or delisting of such species and estimate the time and costs required to implement recovery actions. The Act requires the development of Recovery Plans for listed species unless such a plan would not promote the recovery of a particular species. Section 4(f) of the

Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during Recovery Plan development. The Services will consider all substantive comments and information presented during the public comment period in the course of finalizing this Recovery Plan.

The Gulf of Maine DPS of Atlantic salmon was listed as endangered under the Act on December 17, 2000 (65 FR 69459). The DPS includes all persistent, naturally reproducing populations of Atlantic salmon from the Kennebec River downstream of the former Edwards Dam site, northward to the mouth of the St. Croix River. At the time of listing, there were at least eight rivers in the geographic range of the DPS known to still support wild Atlantic salmon populations (Dennys, East Machias, Machias, Pleasant, Narraguagus, Ducktrap and Sheepscot Rivers and Cove Brook). In addition to these eight rivers, there are at least 14 small coastal rivers within the historic range of the DPS from which wild salmon populations have been extirpated.

The Gulf of Maine DPS has declined to critically low levels. Adult returns have continued to decline since the listing. In 2002, total adult returns to the eight rivers still supporting wild Atlantic salmon populations within the DPS were estimated to range from 23 to 46 individuals. No adults were documented in three of the eight rivers. Juvenile abundance estimates and survival have also continued to decline. Declining smolt production has been documented in recent years, despite fry stocking.

The Recovery Plan includes prioritized actions to recover the Gulf of Maine DPS. The major areas of action are designed to stop and reverse the downward population trends of the eight wild Atlantic salmon populations and minimize the potential for human activities to result in the degradation or destruction of Atlantic salmon habitat essential to its survival and recovery. The Draft Recovery Plan identifies the following actions as necessary for the full recovery of the DPS: (1) Protect and restore freshwater and estuarine habitat; (2) prevent take in freshwater, estuarine and marine fisheries; (3) reduce predation and competition on all life stages of Atlantic salmon; (4) reduce risks from commercial aquaculture operations; (5) supplement wild populations with hatchery-reared DPS salmon; (6) conserve the genetic integrity of the DPS; (7) assess stock status of key life stages; (8) promote salmon recovery through increased public and government awareness; and (9) assess effectiveness of recovery actions and revise as appropriate.

The recovery planning process included a ''threats assessment'', which evaluated the geographic extent and the severity of threats to various life-stages of Atlantic salmon in the DPS. This evaluation resulted in the following threats being identified as high priority for action to reverse the decline of Atlantic salmon populations in the Gulf of Maine DPS: (1) Aquaculture practices which pose ecological and genetic risks; (2) acidified water and associated aluminum toxicity which decrease juvenile survival; (3) poaching of adults in DPS rivers; (4) incidental capture of adults and parr by recreational fishermen; (5) predation; and (6) excessive or unregulated water withdrawal.

Public Comments Solicited

The Services solicit written comments on the draft Recovery Plan. All substantive comments received by the date specified above will be considered prior to final approval of the Recovery Plan.

As is noted in the Recovery Plan, the National Research Council (NRC) was asked to describe what is known about the genetic makeup of Atlantic salmon in Maine and issued a report on this subject in January 2002. The NRC was also asked to assess the causes of decline and to suggest strategies for the rehabilitation of Atlantic salmon in Maine and issued a report addressing this issue on January 20, 2004. The Services' preliminary review of the NRC's January 20, 2004 report indicates that the report's findings are generally consistent with this draft Recovery Plan. However, several issues within this report warrant additional consideration as we develop a final recovery plan. The most significant of these issues include: (1) risks associated with the research and monitoring; (2) mortality as smolts transition from freshwater to the ocean; (3) potential impacts of hatchery operations; and (4) the need for a structured and inclusive risk and decision analysis process.

The Services are seeking public comment on these and other findings and recommendations in the NRC report as they relate to this Recovery Plan. It is important to note that the scope of the NRC report is broader than this Recovery Plan; the NRC report considered all Atlantic salmon populations in Maine, whereas the Recovery Plan focuses only on the Gulf of Maine DPS.

Authority

The authority for this action is section 4(f) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: May 14, 2004.

Laurie K. Allen,

Director, Office of Protected Resources, National Marine Fisheries Service.

Dated: May 12, 2004.

Marvin E. Moriarty,

Regional Director, Region 5, U.S. Fish and Wildlife Service.

[FR Doc. 04–13731 Filed 6–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bureau of Reclamation

[INT–DES–04–32]

Draft Environmental Impact Statement/ Draft Environmental Impact Report (DEIS/DEIR) for the Lower Colorado River Multi-Species Habitat Conservation Program, Section 10 Permit Application for Incidental Take, Draft Lower Colorado River Multi-Species Habitat Conservation Plan, Draft Biological Assessment, and Draft Implementing Agreement

AGENCIES: U.S. Fish and Wildlife Service, Bureau of Reclamation, Interior.

ACTION: Notice of availability and public hearings.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), this notice advises the public that the U.S. Fish and Wildlife Service (Service) has received an application for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act), for the Lower Colorado River Multi-Species Conservation Program (LCR MSCP). The requested ITP, if granted, would authorize the LCR MSCP permittees incidental take of the following federally listed and candidate species: southwestern willow flycatcher (*Empidonax traillii extimus*) (flycatcher), Yuma clapper rail (*Rallus longirostris yumanensis*) (clapper rail), desert tortoise (*Gopherus agassizii*) (tortoise), bonytail (*Gila elegans*) (bonytail), humpback chub (*Gila cypha*) (humpback), razorback sucker (*Xyrauchen texanus*) (razorback), and yellow-billed cuckoo (*Coccyzus americanus*) (cuckoo). The requested ITP would also address incidental take for 20 other species of animals and plants that are not currently federally listed or candidate species. The

proposed take would occur in Mohave, La Paz, and Yuma counties, Arizona; San Bernardino, Riverside, and Imperial counties, California; and Clark County, Nevada, as a result of water storage and delivery, power generation, and other associated water management actions on the lower Colorado River (LCR) from the full pool elevation of Lake Mead to the Southerly International Boundary with Mexico. Such actions cause effects to aquatic, marsh, and riparian habitats. The Bureau of Reclamation (Reclamation), the Service, and The Metropolitan Water District of Southern California as joint lead agencies, have issued a DEIS/DEIR to evaluate the impacts of, and alternatives for, the possible issuance of an ITP and the implementation by Reclamation of conservation measures contained in the habitat conservation plan. The participating Federal and non-Federal entities have completed the draft Lower Colorado River Multi-Species Habitat Conservation Plan (HCP) as part of the application package submitted to the Service (collectively, the ''Application'') as required by the Act for consideration of issuance of an ITP, pursuant to section 10(a)(1)(B). The Application provides measures to minimize and mitigate the effects of the proposed taking of listed, candidate, and other species. As part of the LCR MSCP, Reclamation has completed a draft Biological Assessment (BA), which includes an evaluation of the effects of its proposed ongoing discretionary LCR operations and maintenance activities and its implementation of the conservation measures described in the Reclamation Draft BA and in the HCP for the listed, candidate, and other included species.

DATES: Written comments on the DEIS/DEIR and Application documents will be accepted until close of business August 18, 2004. Public hearings will be held the following dates and times:

- July 20, 2004, 6:30 p.m., Henderson, Nevada.
- July 21, 2004, 6:30 p.m., Blythe, California.
- July 22, 2004, 6:30 p.m., Phoenix, Arizona.

ADDRESSES: These documents are voluminous, so we suggest interested parties obtain these documents by going to the LCR MSCP Web site at *http://www.lcrmscp.org.* Alternatively, persons may obtain compact disks containing electronic copies of these documents by writing to Mr. Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021, calling (602) 242–0210, or faxing (602) 242–2513; or Mr. Glen Gould, Bureau of Reclamation, P.O. Box 61470, LC–2011, Boulder City, NV 89006–1470, calling (702) 293–8702, or faxing (702) 293–8418. Finally, a limited number of printed copies will be made available, by request, at the same addresses, phone numbers, and fax numbers. Copies of the DEIS/DEIR and Application are also available for public inspection and review at the locations listed under **SUPPLEMENTARY INFORMATION** below. Comments may be submitted in writing to the above persons and fax numbers. Written and oral comments will also be accepted at the following public hearings:

- Henderson, Nevada; Henderson Convention Center, Vista Room; 200 South Water Street.
- Blythe, California; City Council Chambers, 235 North Broadway.
- Phoenix, Arizona; Arizona Department of Water Resources; 500 North Third Street.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021 or (602) 242–0210; or Mr. Glen Gould, Bureau of Reclamation, P.O. Box 61470, LC–2011, Boulder City, NV 89006–1470 or (702) 293–8702.

SUPPLEMENTARY INFORMATION: This notice advises the public that the Service and Reclamation have gathered the information necessary to: (1) Formulate alternatives and determine impacts for the DEIS/DEIR related to the potential issuance of an ITP for the LCR MSCP; and (2) develop and implement the HCP, which provides measures to minimize and mitigate the effects of incidental take of federally listed species to the maximum extent practicable.

Section 9 of the Act prohibits the ''taking'' of threatened and endangered species. However, the Service, under limited circumstances, may issue ITPs to take threatened or endangered wildlife species when such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing issuance of ITPs pursuant to the Act are published at 50 CFR parts 13 and 17. This notice is provided pursuant to section 10(c) of the Act and NEPA regulations (40 CFR 1506.6).

Preparation of the DEIS/DEIR and HCP Application pursuant to this **Federal Register** (FR) notice predated issuance of a recent decision by Judge Emmet G. Sullivan of the United States District Court for the District of Columbia in the *Spirit of the Sage Council, et al.*, v. *Norton* litigation, Civ. No. 98–1873 (June 10, 2004). Issuance of any ITPs as part of the LCR MSCP will conform to the provisions of that decision, unless modified by a court of competent jurisdiction, including the requirement that the Department of the Interior ''shall refrain from approving new ITPs or related documents containing ''No Surprise'' assurances, as defined by * * * [the] No Surprise rule'' ''pending completion of the proceeding on remand'' in the litigation.

Review and Inspection of DEIS/DEIR and Application: Copies of the DEIS/DEIR and Application are available for public inspection and review at the following locations (by appointment at government offices):

- Department of the Interior, Natural Resources Library, 1849 C. St., NW., Washington, DC 20240.
- U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., Room 4012, Albuquerque, NM 87102.
- U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021.
- Bureau of Reclamation, Lower Colorado Region, 500 Date Street, Boulder City, NV 86009–1470.
- Bureau of Reclamation, Upper Colorado Region, 125 South State Street, Room 6107, Salt Lake City, UT 84138–1102.
- Bureau of Reclamation Library, Denver Federal Center, 6th Avenue and Kipling, Building 67, Room 167, Denver, CO 80225.
- Bureau of Reclamation, Phoenix Area Office, 2222 W. Dunlap Ave., Suite 100, Phoenix, AZ 85021.
- Metropolitan Water District of Southern California, 700 N. Alameda St., Los Angeles, CA 90017.
- Government Document Service, Arizona State University, Tempe, AZ 85287.
- Yuma County Library, 350 S. 3rd Ave., Yuma, AZ 85384.
- Palo Verde Valley Library, 125 W. Chanslor Way, Blythe, CA 92225.
- Mohave County Library, 1170 Hancock Rd., Bullhead City, AZ 86442.
- Laughlin Library, 2840 South Needles Hwy., Laughlin, NV 89029.
- Clark County Library, 1401 East Flamingo Road, Las Vegas, NV 89119.
- James I. Gibson Library, 280 Water Street, Henderson, NV 89015.

Public Disclosure: Written comments become part of the public record associated with this proposed action. Accordingly, the Service and Reclamation make these comments, including names and home addresses of respondents, available for public review. Individual respondents may request that their home addresses be withheld from public disclosure, which will be honored to the extent allowable

by law. There also may be circumstances in which a respondent's identity would be withheld from public disclosure, as allowable by law. If you wish to have your name and/or address withheld, you must state this prominently at the beginning of your comments. However, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Background: The initial Notice of Intent to prepare a DEIS/DEIR and hold public scoping meetings was published in the **Federal Register** on May 18, 1999 (64 FR 27000), and a supplemental Notice of Intent was published on July 12, 2000 (65 FR 43031). A summary of comments provided during the 1999 and 2000 scoping periods, which included public meetings, as well as during public meetings held in November 2003, is provided on the Reclamation Internet Web site: *http://www.usbr.gov/lc/region/mscp.*

The LCR MSCP and the conservation program described in the HCP and the draft BA were developed in a process involving participants and stakeholders from potentially affected or interested groups on the LCR. These groups include Federal agencies, *i.e.*, U.S. Fish and Wildlife Service, Bureau of Reclamation, Bureau of Indian Affairs, National Park Service, and the Bureau of Land Management; six Tribes; the States of Arizona, California, and Nevada; and other entities within the Lower Basin States of Arizona, California, and Nevada. The groups are organized into a Steering Committee and various subject matter subcommittees that oversee the development of the LCR MSCP. Meetings of the Steering Committee are open to the public and time for public comment is included at each meeting. The LCR MSCP Web site contains information on meetings, documents, and the status of the process. Three sets of public meetings were held from 1999–2003 to explain the need for the LCR MSCP, request information on important issues for the NEPA process, receive input on the conservation program, and present alternatives. With this extensive history of public involvement, the Service does not intend to extend the public comment period beyond 60 days unless warranted by extraordinary circumstances.

The Colorado River is an important source of water and hydropower to the Lower Basin States of Arizona, California, and Nevada. Reclamation operates the large dams on the LCR for flood control, irrigation, municipal water supply, water storage, and hydropower generation and maintains the river channel through stabilization and other related actions. Each of the three Lower Basin States has an apportionment of Colorado River water they divert from the river and use for agricultural, municipal, and industrial purposes. Water diverted from the Colorado River travels as far as the cities of Los Angeles and San Diego in California, and Phoenix and Tucson in Arizona. The Colorado River is also the primary source of water for the City of Las Vegas and the greater Las Vegas area in southern Nevada. Extensive farming areas in California and Arizona, and to a lesser extent in Nevada, are also supplied with water from the Colorado River.

Operation of the facilities on the LCR by Reclamation and diversion of water by entities within the three Lower Basin States have resulted in significant changes to the physical and biological character of the LCR. Changes to present operations and water deliveries proposed by Reclamation and the states are projected to have adverse impacts to habitats and may result in incidental take of the flycatcher, clapper rail, tortoise, bonytail, humpback, razorback, and cuckoo. Habitat of the 20 non-listed species may also be adversely affected by such anticipated changes.

Proposed Action: The proposed action has two components. The first is the issuance of an ITP by the Service for covered activities on the LCR undertaken by the LCR MSCP, pursuant to section 10(a)(1)(B) of the Act. The activities that would be covered by the ITP are the water- and power-related actions, and other specific identified non-Federal actions involving the LCR. The area covered by the ITP includes Lake Mead up to its full pool elevation of 1,229 feet, Lake Mohave up to its full pool elevation of 647 feet, Lake Havasu up to its full pool elevation of 450 feet, and the LCR and its historical floodplain from the highest elevation of Lake Mead to the Southerly International Boundary with the Republic of Mexico. The requested term of the permit is 50 years. To meet the requirements of a section 10(a)(1)(B) ITP, the LCR MSCP has developed and, with the cooperation of Reclamation, will implement the conservation plan described in the Draft BA and in the HCP, which provides measures to minimize and mitigate incidental take of flycatchers, clapper rails, tortoises, bonytails, humpbacks, and razorbacks to the maximum extent practicable, and which ensures that the incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild. The conservation plan identified in the Draft BA and the HCP also addresses potential impacts on the cuckoo (a candidate species) and 20 other species of animals and plants.

The second component is the implementation of the LCR MSCP HCP by Reclamation as part of its proposed action for consultation under section 7(a)(2) of the Act for its continued proposed discretionary operations and maintenance activities on the LCR.

Alternatives: Three other alternatives being considered as part of this process are:

1. No ITP—No issuance of an ITP. This alternative would require the LCR MSCP participants to pursue individual ITP's to address incidental take resulting from their actions on the LCR or avoid taking actions that would result in incidental take. This approach would require Reclamation to consult separately on its continued proposed discretionary operations and maintenance activities on the LCR.

2. Listed Species Only—Issuance of an ITP authorizing the same covered actions by the LCR MSCP participants but only requesting incidental take coverage for the six species currently listed as endangered or threatened pursuant to the Act. This alternative includes measures to minimize and mitigate for the potential take of federally listed species.

3. Off-Site Conservation—Issuance of an ITP authorizing the same covered actions by the LCR MSCP participants and the same list of 27 species. Habitat restoration activities would occur outside of the LCR MSCP planning area in adjacent river basins. This alternative includes measures to minimize and mitigate for the potential take of federally listed species, candidate species, and unlisted species.

Dated: June 15, 2004.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 04–13864 Filed 6–17–04; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–020–1010–PO]

Notice of Public Meeting, Eastern Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior, Montana, Billings and Miles City Field Offices.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern Montana Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held July 27, 2004, in Miles City, MT beginning at 8 a.m. When determined, the meeting place will be announced in a news release. The public comment period will begin at approximately 11 a.m. and the meeting will adjourn at approximately 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Jacobsen, Public Affairs Specialist, Miles City Field Office, 111 Garryowen Road, Miles City, Montana, 59301. Telephone: (406) 233–2831.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Montana. At this meeting, topics to discuss include: Field Manager Updates; The Miles City Field Office Resource Management Plan; Weatherman Draw subcommittee update; Billings Shooting Area subcommittee update; Public Access subcommittee update; Signing issues—and other topics the council may raise.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided above.

Dated: June 8, 2004.

David McIlnay,

Field Manager.

[FR Doc. 04–13729 Filed 6–17–04; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 29, 2004.

Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 3, 2004.

Carol D. Shull,

Keeper of the National Register of Historic Places.

ALASKA

Wrangell-Peterburg Borough-Census Area

JUDITH ANN (Riverboat), Mile 12.25 Zimovia Hwy., Wrangell, 04000658

CALIFORNIA

San Francisco County

Palace of Fine Arts, 3301 Lyon St., San Francisco, 04000659

COLORADO

Bent County

Columbian School, 1026 W. 6th St., Las Animas, 04000665

Denver County

House at 1750 Gilpin Street, 1750 Gilpin St., Denver, 04000661

Larimer County

Borland, Maude Stanfield Harter, House, 610 N. Jefferson Ave., Loveland, 04000662

First United Presbyterian Church, 400 E. 4th St., Loveland, 04000664

Weld County

First Methodist Episcopal Church, 503 Walnut St., Windsor, 04000660

Greeley Masonic Temple, 829 10th Ave., Greeley, 04000663

GEORGIA

Muscogee County

High Uptown Historic District, (Columbus MRA) Roughly bounded by 2nd and 3rd Aves. between Railroad and 13th Sts., Columbus, 04000669

KANSAS

Brown County

Hiawatha National Guard Armory, (National Guard Armories of Kansas MPS) 108 N. 1st. St., Hiawatha, 04000667

Kingman County

Kingman National Guard Armory, (National Guard Armories of Kansas MPS) 111 S. Main St., Kingman, 04000666

MISSOURI

Callaway County

Downtown Fulton Historic District, Roughly bounded by 4th St., Market, 7th St. and Jefferson Ave., Fulton, 04000668

MONTANA

Yellowstone County

Armour Cold Storage, 1 S. Broadway, Billings, 04000670

NEW JERSEY

Bergen County

Demarest Railroad Depot, 38 Park St., Demarest Borough, 04000671

Middlesex County

Livingston Manor Historic District, Roughly bounded by Cleveland, Grant, Harrison, Lawrence, Lincoln, Madison and N. 2nd Aves. and River Rd., Highland Park Borough, 04000672

Passaic County

Eastside Park Historic District, Roughly bounded by 20th, Vreeland, and 11th Aves., E. 33rd St. and Mclean Blvd., Paterson, 04000673

TENNESSEE

Davidson County

Belle Meade Golf Links Subdivision Historic District, Roughly bounded by Windsor Dr., Blackburn and Pembroke Aves., Westover Dr. and Harding Pl., Nashville, 04000675

Gibson County

Medina City Hall, 115 2nd St., Medina, 04000674

UTAH

Iron County

Cedar City Historic District, Roughly bounded by 100 W. and 300 W., College Ave. and 400 S., Cedar City, 04000677

Weber County

Stone Farmstead, 301 W. 2nd St., Ogden, 04000676

Requests for *removal* have been made for the following resources:

GEORGIA

Muscogee County

Building at 1429 Second Avenue, (Columbus MRA), 1429 Second Ave., Columbus, 80001133
Building at 1520 Second Avenue, (Columbus MRA), 11520 Second Ave., Columbus, 80001134
Building at 1524 Second Avenue, (Columbus MRA), 1524 Second Ave., Columbus, 80001135
Building at 1606 Third Avenue, (Columbus MRA), 1429 Second Ave., Columbus, 80001136
Curtis, Walter W., House, (Columbus MRA), 1427 2nd Ave., Columbus, 80001160
Davis, John T., House, (Columbus MRA), 1526 3rd Ave., Columbus, 80001161
Hunt, William P., House, (Columbus MRA), 1527 2nd Ave., Columbus, 80001177
Lecroy, John, House, (Columbus MRA), 1640 3rd Ave., Columbus, 80001182
McSorley, Patrick J., House, (Columbus MRA), 1500 2nd Ave., Columbus, 80001185
Mischke, Charles, House, (Columbus MRA), 1638 3rd Ave., Columbus, 80001187
Pearce, George A., House, (Columbus MRA), 1519 2nd Ave., Columbus, 80001189
Pou, Joseph F., Jr., House, (Columbus MRA), 1528 2nd Ave., Columbus, 80001192
Price, William, House, (Columbus MRA), 1620 3rd Ave., Columbus, 80001194
Steward, John, House, (Columbus MRA), 1618 3rd Ave., Columbus, 80001203
Walton, James A., House, (Columbus MRA), 1523 2nd Ave., Columbus, 80001209

NEBRASKA

Adams County

Ringland Hall, Hastings College Campus, Hastings, 75001087

[FR Doc. 04–13738 Filed 6–17–04; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 22, 2004. Pursuant to §60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 3, 2004.

Carol D. Shull,

Keeper of the National Register of Historic Places.

MICHIGAN

Marquette County

Longyear Building, 210 North Front St., Marquette, 04000657

Wayne County

Broadway Avenue Historic District, Broadway bet. Gratiot and Grand R., Detroit, 04000656

RHODE ISLAND

Washington County

Hope Valley Historic District, Main St., Hopkinton, 04000654

SOUTH CAROLINA

Jasper County

Honey Hill—Boyd's Neck Battlefield, On Good Hope Plantation, beg approx. 2 mi. E of Ridgeland, along U.S. 336 and SC 462, E of Broad River, Ridgeland, 04000655

[FR Doc. 04–13739 Filed 6–17–04; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 5, 2004. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 3, 2004.

Carol D. Shull,

Keeper of the National Register of Historic Places.

ALASKA

Kodiak Island Borough-Census Area

Kad'yak, Address Restricted, Kodiak, 04000678

CALIFORNIA

Los Angeles County

Casa de Rosas, 2600 S. Hoover St., Los Angeles, 04000679
La Loma Bridge, Crossing the Arroyo Seco at La Loma Broad, Pasadena, 04000680

COLORADO

Larimer County

Clatworthy Place, 225 Cyteworth Rd., Estes Park, 04000681

FLORIDA

Duval County

Old Ortega Historic District, Bounded by Roosevelt Blvd., Verona Ave., St. Johns and Ortega Rivers, Jacksonville, 04000682

GEORGIA

DeKalb County

Alston, Robert A., House, 2420 Alston Dr., SE off Eastlake Rd., Atlanta, 04000683

KANSAS

Douglas County

Lawrence's Downtown Historic District, (Lawrence, Kansas MPS) Generally along Massachusetts St. bet. 6th Ave. and S. Park St., Lawrence, 04000685
North Rhode Island Street Historic Residential District, (Lawrence, Kansas MPS) 700–1144,901–1047,1201–1215 Rhode Island St., Lawrence, 04000686
Pinckney I Historic District, Roughly bounded by W. 5th St., Tennessee St., W., 6th St., and Louisiana St., Lawrence, 04000688
Pinckney II Historic District, Roughly bounded by W. 3rd St., Louisiana St., W. 4th St. and Mississippi St., Lawrence, 04000689
South Rhode Island and New Hampshire Street Historic Residential District, (Lawrence, Kansas MPS) E Rhode Island St, 1120–1340; W Rhode Island St., 1301–1345; E New Hampshire St., 1300–1346, W New Hampshire St. 1301–1347, Lawrence, 04000687

Norton County

Barbeau House, 210 E. Washington Ave., Lenora, 04000684

MAINE

Penobscot County

Cobbs Camp, South Shore of Katahdin Lake, T3R8 WELS, 04000693

MICHIGAN

Kent County

Kent County Civil War Monument, Division Ave. at Monroe Ave., Grand Rapids, 04000690
Metal Office Furniture Company (Steelcase) Plants No. 2 and 3, 401 Hall St. SW, Grand Rapids, 04000691

Marquette County

Negaunee Fire Station, 200 S. Pioneer Ave., Negaunee, 04000692

MISSOURI

Jackson County

Acme Brass and Machine Works Building, 609–611 E 17th St., Kansas City, 04000694

Newton County

First Battle of Newtonia Historic District, Jct. of MO 86 and MO 0, Newtonia, 04000697

Second Battle of Newtonia Site, Roughly an area NW, SW and SE of jct. of MO 86 and Rte 0 at Newtonia, Newtonia, 04000698

St. Francois County

East Columbia Historic District, S side of East Columbia: 14–122 E. Columbia, N side: 101–103 and 117–119 E. Columbia, Farmington, 04000699

St. Louis County

East Monroe Historic District, (Kirkwood MPS) Roughly bounded by Madison Ave., S. Holmes St., Scott Ave., and Smith St., Kirkwood, 04000695

Jefferson—Argonne Historic District, (Kirkwood MPS) Roughly defined as both sides of Jefferson Ave., the N side of Argonne bet. Taylor St. and Holmes Ave., Kirkwood, 04000696

NEW MEXICO

Chaves County

Ozark Trails Marker at Lake Arthur, Jct. of Main and Broadway Sts., Lake Arthur, 04000702

NEW YORK

Erie County

Birge—Horton House, 477 Delaware Ave., Buffalo, 04000703

Jefferson County

Bates, Cyrus, House, 7185 NY 3, Henderson, 04000710

Niagara County

Marshall, James G., House, 740 Park Place, Niagara Falls, 04000709

St. Mary's Nurses' Residence, 542 6th St., Niagara Falls, 04000711

Oneida County

Otter Lake Community Church, NY 28, Otter Lake, 04000704

Queens County

Forest Park Carousel, Woodhaven Blvd. and Myrtle Ave., Woodhaven, 04000706

Schenectady County

Glen, Abraham, House, Mohawk Ave., Scotia, 04000708

Steuben County

Canisteo Living Sign, SE side of hill, N of Cemetery Rd. off Greenwood St., Canisteo, 04000707

Tompkins County

District Number 7 School, Mill Rd. at the Park, Speedsville, 04000701

Westchester County

Stepping Stones, 62 Oak Rd., Katonah, 04000705

NORTH DAKOTA

Grand Forks County

Grand Forks Merchantile Building 1898, (Downtown Grand Forks MRA) 112–118 N. Third St., Grand Forks, 04000700

OHIO

Cuyahoga County

Bedford Historic District, Roughly bounded by Willis St., Franklin St., Broadway Ave., and Columbus Rd., Bedford, 04000712

VIRGINIA

Rappahannock County

Carder, George L., House, 456 Scrabble Rd., Castleton, 04000715

WISCONSIN

Milwaukee County

Goodwill Industries Building, 2102 W. Pierce St., Milwaukee, 04000714

Racine County

Driver, Thomas, and Sons Manufacturing Company, 134 S. Main St., 214 State St., Racine, 04000713

[FR Doc. 04–13740 Filed 6–17–04; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

California Bay-Delta Public Advisory Committee Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the California Bay-Delta Public Advisory Committee will meet on July 8, 2004. The agenda for the meeting will include consideration of subcommittee recommendations; discussion and recommendations on the 2004 Program Plans; discussion on criteria and process for the grant programs, the Finance Options Report, and the 10-year Finance Plan; a progress report on the Delta Improvements Package, surface water storage, and implementation of the CALFED Bay-Delta Program with State and Federal agency representatives.

DATES: The meeting will be held Thursday, July 8, 2004, from 9 a.m. to 5 p.m. If reasonable accommodation is needed due to a disability, please contact Pauline Nevins at (916) 445–5511 or TDD (800) 735–2929 at least 1 week prior to the meeting.

ADDRESSES: The meeting will be held at the California Bay-Delta Authority offices at 650 Capitol Mall, 5th Floor, Bay-Delta Room, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Heidi Rooks, California Bay-Delta Authority, at (916) 445–5511, or Diane Buzzard, U.S. Bureau of Reclamation, at (916) 978–5022.

SUPPLEMENTARY INFORMATION: The Committee was established to provide recommendations to the Secretary of the Interior, other participating Federal agencies, the Governor of the State of California, and the California Bay-Delta Authority on implementation of the CALFED Bay-Delta Program. The Committee makes recommendations on annual priorities, integration of the eleven Program elements, and overall balancing of the four Program objectives of ecosystem restoration, water quality, levee system integrity, and water supply reliability. The Program is a consortium of State and Federal agencies with the mission to develop and implement a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the San Francisco/Sacramento and San Joaquin Bay Delta.

Committee and meeting materials will be available on the California Bay-Delta Authority Web site at *http://calwater.ca.gov* and at the meeting. The meeting is open to the public. Oral comments will be accepted from members of the public at the meeting and will be limited to 3–5 minutes.

(Authority: The Committee was established pursuant to the Department of the Interior's authority to implement the Fish and Wildlife Coordination Act, 16, U.S.C. 661 *et seq.*, the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and the Reclamation Act of 1902, 43 U.S.C. 371 *et seq.*, and the acts amendatory thereof or supplementary thereto, all collectively referred to as the Federal Reclamation laws, and in particular, the Central Valley Project Improvement Act, Pub. L. 102–575)

Dated: June 1, 2004.

Allan Oto,

Special Projects Officer, Mid-Pacific Region.

[FR Doc. 04–13770 Filed 6–17–04; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day notice of information collection under review: Inventories, Licensed Explosives Importers, Manufacturers, Dealers, and Permittees.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork

Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until August 17, 2004. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gary Patterson, Explosives Industry Programs Branch, Room 5150, 650 Massachusetts Avenue, NW., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1)*Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Inventories, Licensed Explosives Importers, Manufacturers, Dealers, and Permittees.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF REC 5400/1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. The records show the explosive material inventories of those persons engaged in various activities within the explosives industry and are used by the government as initial figures from which an audit trail can be developed during the course of a compliance inspection or criminal investigation. Licensees and permittees shall keep records on the business premises for five years from the date a transaction occurs or until discontinuance of business or operations by licensees or permittees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 13,106 respondents will take 2 hours to complete the records.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 26,212 annual total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Deputy Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: June 10, 2004.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 04–13742 Filed 6–17–04; 8:45 am]

BILLING CODE 4410–FY–M

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: State and local training registration request.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 68, Number 146, on page 44815 on July 30, 2003, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 19, 2004. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility,
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used,
—Enhance the quality, utility, and clarity of the information to be collected, and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* State and Local Training Registration Request.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 6400.1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Other: none. Abstract: The Bureau of Alcohol, Tobacco, Firearms and Explosives provides arson and explosive investigative techniques training to State and Local investigators. The registration request form will be used by prospective students.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 500 respondents, who will complete the form within approximately 6 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 50 total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: June 10, 2004.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 04–13743 Filed 6–17–04; 8:45 am]

BILLING CODE 4410–FB–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 14, 2004.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Survivor's Form for Benefits.

OMB Number: 1215–0069.

Frequency: One-time.

Type of Response: Reporting.

Affected Public: Individuals or households.

Number of Respondents: 2,800.

Annual Responses: 2,800.

Average Response Time: 8 minutes.

Total Annual Burden Hours: 373.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $800.

Description: This collection of information is required to administer the benefit payment provisions of the Black Lung Act for survivors of deceased miners. Form CM–912 is authorized for use by the Black Lung Benefits Act 30 U.S.C. 901, *et seq.*, 20 CFR 410.221 and CFR 725.304. Completion of Form CM–912 constitutes the application for benefits by survivors and assists in determining the survivor's entitlement to benefits.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Notice of Law Enforcement Officer's Injury or Occupational Disease (CA–721); Notice of Law Enforcement Officer's Death (CA–722).

OMB Number: 1215–0116.

Frequency: On occasion.

Type of Response: Reporting.

Affected Public: Individuals or households; Business or other for-profit; and State, local, or tribal government.

Number of Respondents: 23.

Form	Annual responses	Average response time (hours)	Annual burden hours
CA–721	8	60	8
CA–722	15	90	23
Total	23		31

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $9.

Description: The Notice of Law Enforcement Officer's Injury or Occupational Disease (CA–721) and the Notice of Law Enforcement Officer's Death (CA–722) are the forms used by non-Federal law enforcement officers and their survivors to claim compensation under the Federal Employees' Compensation Act. The associated regulations are at 20 CFR 10.735.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: 29 CFR Part 575—Waiver of Child Labor Provisions for Agricultural Employment of 10 and 11 Year Old Minors in Hand Harvesting of Short Season Crops.

OMB Number: 1215–0120.

Frequency: On occasion.

Type of Response: Reporting and Recordkeeping.

Affected Public: Individuals or households and Farms.

Number of Respondents: 1.

Annual Responses: 1.

Average Response Time: 4 hours.

Total Annual Burden Hours: 4.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Background: Section 13(c)(4) of the Fair Labor Standards Act (FLSA), 29 U.S.C. 201 *et seq.*, authorizes the Secretary of Labor to grant a waiver

of child labor provisions of the FLSA for the agricultural employment of 10 and 11 year old minors in the hand harvesting of short season crops if specific requirements and conditions are met. The Act requires that all employers who are granted such waivers keep on file a signed statement of the parent or person standing in the place of the parent of each 10 and 11 year old minor, consenting to their employment, along with a record of the name and address of the school in which the minor is enrolled.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. 04–13754 Filed 6–17–04; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determination in these decisions of prevailing rates and fring benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 533 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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General Wage Determination Publication

General wage determination issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts

are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davis.bacon.fedworld.gov)* of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 10th day of June, 2004.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 04–13589 Filed 6–17–04; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (04–075)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Phoenix Systems International, Inc. of Pine Brook, NJ, has applied for an exclusive, worldwide license to practice the invention described and claimed in KSC–12666/PCT, entitled ''Concentration of Hydrogen Peroxide,'' and KSC–12664/PCT, entitled ''Emission Control System.'' Phoenix Systems International, Inc. further has applied for an exclusive license to practice the inventions described and claimed in both KSC–12458, entitled ''UV Induced Oxidation of Nitrogen Oxide'' and in KSC–12518, entitled ''Hydrogen Peroxide Catalytic Decomposition.'' Finally, Phoenix Systems International has applied for an exclusive, worldwide license to practice the invention described and claimed in KSC–12235–CIP/PCT, entitled ''High Temperature Decomposition of Hydrogen Peroxide.'' All inventions for which a license has been applied have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Patent Counsel, Assistant Chief Counsel, NASA, Mail Code CC–A, Office of the Chief Counsel, John F. Kennedy Space Center, Kennedy Space Center, FL 32899.

DATES: Responses to this notice must be received by July 6, 2004.

FOR FURTHER INFORMATION CONTACT: Randall M. Heald, Patent Counsel/Assistant Chief Counsel, NASA, Office of the Chief Counsel, John F. Kennedy Space Center, Mail Code CC–A, Kennedy Space Center, FL 32899, telephone (321) 867–7214.

Dated: June 9, 2004.

Keith T. Sefton,

Chief of Staff, Office of the General Counsel.

[FR Doc. 04–13728 Filed 6–17–04; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before August 2, 2004. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: records.mgt@nara.gov.

FAX: (301) 837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Paul M. Wester, Jr., Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 837–3120. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the

Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Food and Nutrition Service (N1–462–04–1, 4 items, 4 temporary items). Electronic copies of records created using electronic mail and word processing that are associated with investigative files accumulated by the Benefit Redemption Division. This schedule also reduces the retention period for files relating to investigations that do not result in administrative action, which were previously approved for disposal.

2. Department of Agriculture, Center for Nutrition Policy and Promotion (N1–462–04–2, 4 items, 3 temporary items). Records relating to the Family Economics and Nutrition Review Journal published by the Nutrition Policy and Analysis Staff. Included are such records as manuscripts, galley comments, acceptance and rejection letters, and routine correspondence. Also, included are electronic copies of documents created using word processing and electronic mail. Recordkeeping copies of published journals are proposed for permanent retention. Journals are published semi-annually and consist of articles pertaining to economic and nutritional issues that bear on the health and well-being of families.

3. Department of the Air Force, Agency-wide (N1–AFU–03–21, 5 items, 5 temporary items). Data, forms, and receipts used to manage room assignments, reservations, and sundry sales at base-level lodging operations. Also included are electronic copies of records created using electronic mail and word processing.

4. Department of Commerce, International Trade Administration (N1–489–04–1, 6 items, 6 temporary items). Administrative files accumulated by agency offices, including such records as working papers, files relating to proposed and final rules, and billings records. Electronic copies of records created using electronic mail and word processing are also included.

5. Department of Justice, Federal Bureau of Investigation (N1–65–04–2, 31 items, 31 temporary items). Data files and system documentation of the National Crime Information Center (NCIC) system, which is a cooperative network of documented criminal justice information hosted by the agency and used by local, State, and Federal law enforcement agencies.

6. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (N1–436–04–2, 6 items, 3 temporary items). Outputs of the Arson and Explosives Incidents System, which is used to collect, consolidate, disseminate, and analyze bombing, arson, and explosives data. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are the master data files relating to incidents and investigations, along with public use versions and related system documentation.

7. Department of Justice, Drug Enforcement Administration (N1–170–04–5, 2 items, 2 temporary items). Office of the Chief Counsel correspondence with Federal, State and local prosecutors' offices and related records concerning discovery motions. Also included are electronic copies of documents created using electronic mail and word processing.

8. Department of the Treasury, Bureau of Engraving and Printing (N1–318–04–10, 9 items, 8 temporary items). Records relating to financial management, including working papers used to prepare the Chief Financial Officer's annual report, records relating to credit cards issued to agency personnel, paper and electronic records documenting such matters as the collection and disbursement of funds, and documents required for financial statement audits. Also included are electronic copies of records created using electronic mail and word processing. Recordkeeping copies of the Chief Financial Officer's annual report are proposed for permanent retention.

9. Department of the Treasury, Financial Management Service (N1–425–04–1, 17 items, 17 temporary items). Inputs, outputs, system documentation, and master files of the Learning Management System, which is used to administer agency training programs. Also included are electronic copies of records created using electronic mail and word processing.

10. Department of the Treasury, Bureau of the Public Debt (N1–53–04–6, 3 items, 3 temporary items). Forms authorizing designated employees to conduct securities transactions. Records are used to ensure that the designated employees and their signatures are legitimate.

11. National Commission on Terrorist Attacks Upon the United States, Agency-wide (N1–148–04–1, 25 items, 4 temporary items). Electronic copies of public hearing transcripts and the Commission's live Web site with associated documentation. Also included are electronic copies of documents created using word processing. Proposed for permanent retention are recordkeeping copies of such records as the Commission's master files, Commission meeting files and public hearings, reports and studies, public correspondence, files accumulated by commissioners and staff, audio, video, and data recordings, a snapshot of the Commission's Web site, and electronic mail.

12. Tennessee Valley Authority, Human Resources (N1–142–04–6, 3 items, 3 temporary items). Regulatory inspection reports used to ensure compliance with Occupational Safety and Health Administration requirements. Also included are electronic copies of documents created using electronic mail and word processing.

Dated: June 8, 2004.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. 04–13774 Filed 6–17–04; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271; License No. DPR–28]

Entergy Nuclear Operations, Inc.; Vermont Yankee Nuclear Power Station; Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition received on April 22, 2004, the New England Coalition (petitioner) has requested that the Nuclear Regulatory Commission (NRC or the Commission) take action with regard to Vermont Yankee Nuclear Power Station (Vermont Yankee). The petitioner requests that until such time as Entergy Nuclear Operations, Inc. (Entergy or the licensee) has rendered an accurate and NRC-verified account of the location, disposition, and condition of all irradiated fuel, including fuel currently loaded in the reactor core, that the NRC order a halt to all fuel movement at Vermont Yankee.

As the basis for this request, the petitioner states that because Entergy has lost control of the spent fuel inventory at Vermont Yankee, the petitioner has no confidence that Entergy did not put leaking fuel or suspected leaking fuel assemblies back into the reactor core during this refueling outage.

The request is being treated pursuant to title 10 of the Code of Federal Regulations (10 CFR) 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, appropriate action will be taken on this petition within a reasonable time. Mr. Raymond Shadis, in his capacity as the petitioner's Staff Technical Advisor, participated in a conference call with the NRC Petition Review Board (PRB) on May 5, 2004, to discuss the petition. The results of that discussion were considered in the PRB's determination regarding the petitioner's request for immediate action, and in establishing the schedule for the review of the petition. The PRB stated that the petitioner's request to stop all fuel movement at Vermont Yankee is now moot as all fuel movement had been completed by time of receipt of the petitioner's request. During the conference call, the petitioner reaffirmed to the PRB the petition's request to stop all fuel movement but stated their understanding that at the present time the request would be limited to the spent fuel pool. The petitioner stated they wanted an order issued to the licensee to do a verification of the inventory of all the special nuclear material in the spent fuel pool that is to be verified by the NRC. A copy of the petition is available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. In addition to other publicly available records, this petition will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, using accession number ML041180245, at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 28th day of May, 2004.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 04–13752 Filed 6–17–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–305; License No. DPR–43]

In the Matter of Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Nuclear Management Company, LLC (Kewaunee Nuclear Power Plant, Unit No. 1); Order Approving Transfer of Operating Authority and Conforming Amendment

I

Wisconsin Public Service Corporation (WPSC), Wisconsin Power and Light Company (WPL), and Nuclear Management Company, LLC (NMC) (the licensees), are the holders of Facility Operating License No. DPR–43, which authorizes operation of Kewaunee Nuclear Power Plant, Unit No. 1 (Kewaunee or the facility). The facility is located at the licensees' site in Kewaunee County, Wisconsin. The license authorizes WPSC and WPL to possess, and NMC to use and operate, Kewaunee.

II

By application dated December 19, 2003, as supplemented February 18 and March 17, 2004, NMC, acting on behalf of itself and WPSC and WPL, requested approval of the transfer of Facility Operating License No. DPR–43 for Kewaunee from NMC, WPSC, and WPL to Dominion Energy Kewaunee, Inc. (Dominion Energy Kewaunee). NMC also requested approval of a conforming license amendment to reflect the transfer. The initial application and the supplements are hereinafter referred to as ''the application'' unless otherwise indicated. The application is in connection with the sale of the respective ownership interests in Kewaunee currently held by WPSC (59 percent) and WPL (41 percent) to Dominion Energy Kewaunee and the related transfer of operating authority for the facility from NMC to Dominion Energy Kewaunee. The application also requested a conforming amendment to reflect the transfer. The proposed amendment would reflect the proposed transfer of ownership and operating authority for Kewaunee to Dominion Energy Kewaunee; delete references to NMC, WPSC, and WPL in the license; change the name of Kewaunee Nuclear Power Plant to Kewaunee Power Station to reflect the name under which Dominion Energy Kewaunee plans to operate the facility, consistent with other nuclear plants owned by Dominion companies; and authorize Dominion Energy Kewaunee to possess, use, and operate Kewaunee, and to possess and use related licensed materials, under the same conditions and authorizations as in the current license.

Approval of the transfer of operating authority under the facility operating license and conforming license amendment was requested by NMC pursuant to 10 CFR 50.80 and 50.90. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on January 20, 2004 (69 FR 2734). No hearing requests or written comments were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. After reviewing the information in NMC's application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Dominion Energy Kewaunee is qualified to hold the license and that the transfer of the license to Dominion Energy Kewaunee is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission,

subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR chapter 1; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or the health and safety of the public; and the issuance of the proposed amendment will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated June 10, 2004.

III

Accordingly, pursuant to sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 50.80, *it is hereby ordered* that the transfer of the license as described herein to Dominion Energy Kewaunee, Inc., is approved, subject to the following conditions:

(1) After receipt of all required regulatory approvals of the license transfer to Dominion Energy Kewaunee, NMC and Dominion Energy Kewaunee shall inform the Director, Office of Nuclear Reactor Regulation, in writing of such receipt within 5 business days and of the date of the closing of the transfer no later than 7 business days before the date of closing. If the transfer is not completed by June 30, 2005, this Order shall become null and void, with the provision that, upon written application and for good cause shown, such date may in writing be extended.

(2) Dominion Energy Kewaunee shall take no action to cause Dominion Resources, Inc., or its successors and assigns, to void, cancel, or diminish their $60 million contingency commitment to Dominion Energy Kewaunee, the existence of which is represented in a Support Agreement in a letter to the NRC dated February 18, 2004, or cause them to fail to perform or impair their performance under the commitment, or remove or interfere with Dominion Energy Kewaunee's ability to draw upon the commitment. Also, Dominion Energy Kewaunee shall inform the NRC in writing any time that it draws upon the $60 million commitment.

(3) Dominion Energy Kewaunee is required to provide qualified decommissioning funds with a net (after tax) cash value of no less than $391.9 million for radiological decommissioning purposes. The funds will be deposited in an external trust fund to be segregated from Dominion Energy Kewaunee's other assets and outside its administrative control, as required by NRC regulations, and Dominion Energy Kewaunee shall take all necessary steps to ensure that this external trust fund is maintained in accordance with the requirements of the Order approving the transfer of the Kewaunee operating license and with the safety evaluation supporting the Order.

(4) Prior to completion of the transfer of the Kewaunee operating license, Dominion Energy Kewaunee shall provide the Director, Office of Nuclear Reactor Regulation, satisfactory documentary evidence that it has obtained the appropriate amount of insurance required of licensees under 10 CFR part 140 of the Commission's regulations.

It is further ordered that consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject license transfer is approved. The amendment shall be issued and made effective at the time the proposed transfer is completed.

This Order is effective upon issuance.

For further details with respect to this action, see the initial application datedDecember 19, 2003, and supplements dated February 18 and March 17, 2004, and the safety evaluation dated June 10, 2004 , which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and are accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (*http://www.nrc.gov*).

Dated at Rockville, Maryland, this 10th day of June, 2004.

For the Nuclear Regulatory Commission.

J. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 04–13750 Filed 6–17–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–143]

Nuclear Fuel Services, Inc., Environmental Assessment and Finding of No Significant Impact Related to Proposed License Amendment Authorizing Operations at the Oxide Conversion Building and the Effluent Processing Building at the Blended Low-Enriched Uranium Complex

AGENCY: Nuclear Regulatory Commission.

ACTION: Finding of no significant impact and environmental assessment.

FOR FURTHER INFORMATION CONTACT: Kevin M. Ramsey, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T–8A33, Washington, DC 20555–0001, telephone (301) 415–7887 and e-mail *kmr@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) staff is considering the issuance of an amendment to NRC Materials License SNM–124 to authorize processing operations in the Oxide Conversion Building (OCB) and the Effluent Processing Building (EPB) at the Blended Low-Enriched Uranium Preparation (BLEU) Complex. A notice of receipt and opportunity to request a hearing for this action was published in the **Federal Register** on December 24, 2003 (68 FR 74653). The NRC has prepared an Environmental Assessment (EA) in support of this action. Based upon the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate and, therefore, an Environmental Impact Statement (EIS) will not be prepared.

II. Environmental Assessment

Background

The Nuclear Fuel Services (NFS) facility in Erwin, TN is authorized under License SNM–124 to manufacture high-enriched nuclear reactor fuel. NFS is undertaking the BLEU Project to manufacture low-enriched nuclear reactor fuel. NFS is constructing a new complex at the Erwin site to house the operations involving low-enriched uranium. On July 27, 2003, Amendment 39 to License SNM–124 was issued to authorize storage of low-enriched uranium in the new complex. This was

the first of three amendments planned for the BLEU Project.

On January 13, 2004, Amendment 47 was issued to License SNM–124 to authorize downblending operations in the BLEU Preparation Facility. This was the second amendment planned for the BLEU Project. These operations involve the blending of high-enriched uranium with unenriched (natural) uranium to produce low-enriched uranium. Much of the downblending will be performed at other facilities, but NFS plans to perform some downblending at its facility. The BLEU Preparation Facility is located within the older complex because that complex is already authorized to handle high-enriched uranium. After the high-enriched uranium is downblended and converted to a low-enriched uranium liquid, it will be transferred from the BLEU Preparation Facility to the new complex.

On October 23, 2003, NFS requested an amendment to authorize operations in the remainder of the new BLEU complex (Ref. 5). Supplemental information was submitted by letter dated April 30, 2004 (Ref. 9). This is the third and last amendment planned for the BLEU Project. The request includes OCB operations to convert low-enriched, uranium liquid to a solid, uranium oxide powder. It also includes EPB operations to treat process effluents for disposal.

Review Scope

The purpose of this EA is to assess the environmental impacts of the proposed license amendment. It does not approve the request. This EA is limited to the proposed OCB and EPB operations at the BLEU Complex and any cumulative impacts on existing plant operations. The existing conditions and operations for the Erwin facility were evaluated by the NRC for environmental impacts in a 1999 EA related to the renewal of the NFS license (Ref. 1) and a 2002 EA related to the first amendment for the BLEU Project (Ref. 2). In addition, the 2002 EA assessed the impact of the entire BLEU Project (including the proposed operations) using information available at that time. This assessment presents up-to-date information and analysis for determining that issuance of a FONSI is appropriate and that an EIS will not be prepared.

Proposed Action

The proposed action is to amend NRC Materials License SNM–124 to authorize processing operations in the OCB and EPB. The buildings are being constructed within the new BLEU Complex at the NFS site. The operations will convert low-enriched, uranium liquid to a solid, uranium oxide powder. The uranium oxide powder will be shipped to another facility for fabrication of fuel for a commercial power reactor. The duration of the project is approximately five years. The proposed action in the amendment request is consistent with the proposed action previously assessed in the 2002 EA (Ref. 2).

The OCB operations are composed of four processes—the Feed Batch Make-Up Process, Uranium Precipitation Process, Oxide Production Process, and Uranium Recovery Process.

- The Feed Batch Make-Up Process involves the transfer of uranyl nitrate solution from the Uranyl Nitrate Building to a blend tank in the OCB. If there is any solution available from the Uranium Recovery Process, it is added also. After the solution is mixed, it is fed to the Uranium Precipitation Process.
- The Uranium Precipitation Process involves the heating and mixing of uranyl nitrate with ammonium hydroxide. This forms ammonium diuranate (ADU) precipitate. The ADU slurry is pumped to a centrifuge feed tank where the pH is adjusted. Then, the slurry is fed to a centrifuge where the solid ADU is separated from the liquid.
- The Oxide Production Process involves the drying of ADU solids in a dryer. Then, the solids are fed to a calciner (*i.e.*, rotary kiln) where hydrogen is used to reduce the ADU solids to uranium oxide powder. The powder is fed to a blender hopper where it is mixed and loaded into shipping pails.
- The Uranium Recovery Process involves the treatment of the liquid centrate from the centrifuge with filters and ion exchange resin to remove residual uranium from the liquid. The uranium is returned to the process and the remaining liquid is sent to the EPB. In addition, the Uranium Recovery Process has a dissolution system where off-specification uranium oxide powder is dissolved in nitric acid to form a uranyl nitrate solution. This solution is returned to the Feed Batch Make-Up Process.

The EPB operations are composed of three processes—the Ammonia Recovery Process, the Liquid Waste Treatment Process, and the Waste Solidification Process.

- The Ammonia Recovery Process involves the mixing of ammonium nitrate waste solution with sodium hydroxide to form ammonium hydroxide and sodium nitrate. The solution is heated and sent to a stripping column. In the stripping column, steam is used to generate ammonia vapor which is sent to a condenser. The condensed distillate is an ammonium hydroxide solution which is returned to the OCB for reuse. The stripping column bottoms are composed of a sodium nitrate solution which is sent to the Liquid Waste Treatment Process.
- The Liquid Waste Treatment Process involves the concentration of sodium nitrate waste in an evaporator. The water vapor from the evaporator is condensed, sampled, and discharged to the sanitary sewer. The evaporator bottoms are sent to the Waste Solidification Process.
- The Waste Solidification Process involves the mixing of evaporator bottoms with clay and cement. The mixture is cured and shipped to a licensed disposal facility.

Need for Proposed Action

Framatome ANP Inc. has contracted with NFS to downblend surplus high-enriched uranium material to a low-enriched uranium product. The NFS product is expected to be converted to commercial reactor fuel for a Tennessee Valley Authority (TVA) nuclear power reactor; however, the NFS proposed action is limited to the production of low-enriched, uranium oxide powder as feed material for Framatome. The BLEU Project is part of a U.S. Department of Energy (DOE) program to reduce stockpiles of surplus high-enriched uranium through re-use or disposal as radioactive waste. Re-use is considered the favorable option by the DOE because: (1) Weapons grade material is converted to a form unsuitable for nuclear weapons (addressing a proliferation concern); (2) the product can be used for peaceful purposes; and (3) the commercial value of the surplus material can be recovered (Ref. 3). An additional benefit of re-use is to avoid unnecessary use of limited radioactive waste disposal space.

Alternatives

The alternatives available to NRC are:

1. Approve the license amendment as described; or
2. No action (*i.e.*, deny the request).

Other alternatives to the proposed action are addressed in the DOE Environmental Impact Statement (Ref. 3) and are not re-analyzed in this EA.

Affected Environment

The affected environment for the proposed action and the alternative is the NFS site. The affected environment is identical to the affected environment assessed in the 2002 EA related to the first amendment for the BLEU Project

(Ref. 2). A full description of the site and its characteristics is given in the 2002 EA. Additional information can be found in the 1999 EA related to the renewal of the NFS license (Ref. 1). The NFS facility is located in Unicoi County, Tennessee, about 32 km (20 mi) southwest of Johnson City, Tennessee. The plant is about 0.8 km (0.5 mi) southwest of the Erwin city limits. The site occupies about 28 hectares (70 acres). The site is bounded to the northwest by the CSX Corporation (CSX) railroad property and the Nolichucky River, and by Martin Creek to the northeast. The plant elevation is about 9 m (30 ft) above the nearest point on the Nolichucky River.

The area adjacent to the site consists primarily of residential, industrial, and commercial areas, with a limited amount of farming to the northwest. Privately owned residences are located to the east and south of the facility. Tract size is relatively large, leading to a low housing density in the areas adjacent to the facility. The CSX railroad right-of-way is parallel to the western boundary of the site. Industrial development is located adjacent to the railroad on the opposite side of the right-of-way. The site is bounded by Martin Creek to the north, with privately owned, vacant property and low-density residences.

Effluent Releases and Monitoring

A full description of the effluent monitoring program at the site is provided in a 2002 EA related to the first amendment for the BLEU Project (Ref. 2). Additional information is available in the 1999 EA related to the renewal of the NFS license (Ref. 1). The NFS Erwin Plant conducts effluent and environmental monitoring programs to evaluate potential public health impacts and comply with the NRC effluent and environmental monitoring requirements. The effluent program monitors the airborne, liquid, and solid waste streams produced during operation of the NFS Plant. The environmental program monitors the air, surface water, sediment, soil, groundwater, and vegetation in and around the NFS Plant.

During the review of the amendment request (Ref. 5), NRC discovered that the stack constructed for the OCB was in a different location than shown in the Supplemental Environmental Report submitted by NFS in 2001 (Ref. 6). NFS confirmed that the location and height of the as-built stacks differ slightly from the descriptions provided previously. However, NFS stated that the differences do not change the results of the radiological and chemical consequence analyses (Ref. 9). The NRC agrees.

Airborne, liquid, and solid effluent streams that contain radioactive material are generated at the NFS Plant and monitored to ensure compliance with NRC regulations in 10 CFR Part 20. Each effluent is monitored at or just before the point of release. The results of effluent monitoring are reported on a semi-annual basis to the NRC in accordance with 10 CFR 70.59.

Airborne and liquid effluents are also monitored for nonradiological constituents in accordance with State discharge permits. For the purpose of this EA, the State of Tennessee is expected to set limits on effluents under its regulatory control that are protective of health and safety and the local environment. A new sewer pretreatment permit was issued to NFS by Erwin Utilities on August 26, 2003 (Ref. 9).

Environmental Impacts of Proposed Action

A full description of the environmental impacts of the proposed action is provided in a 2002 EA related to the first amendment for the BLEU Project (Ref. 2). The environmental impacts of the proposed action are consistent with the impacts in the 2002 EA.

1. Normal Operations

For the proposed action, construction and processing operations will result in the release of low levels of chemical and radioactive constituents to the environment. Based on the information provided by NFS, the safety controls to be employed for the proposed action appear to be sufficient to ensure planned operations will have no significant impact on the environment.

Radiological Impacts: For normal operations, the effluent air emissions from the OCB and the EPB will be discharged through new stacks at each building. Liquid effluents will be discharged to the sanitary sewer. While effluents from the proposed action will increase in relation to current releases, the total annual dose estimate for the maximally exposed individual from all planned effluents is less than 0.01 milliseivert (mSv) or 1 millirem (mrem). This result is well below the annual public dose limit of 1 mSv (100 mrem) in 10 CFR 20.1301, and the constraint on air emissions to the environment of 0.1 mSv (10 mrem) in 10 CFR 20.1101. OCB and EPB operations are not expected to increase the dose to workers at the NFS facility because the types and quantity of material, and the processing, will be similar to what is already licensed at the site. Surface water quality at the NFS site is currently protected by enforcing release limits and monitoring programs. No significant change in surface water impacts is expected from OCB and EPB operations. The proposed action will not discharge any effluents to the groundwater; therefore, no adverse impacts to groundwater are expected.

The proposed action involves transportation of radioactive feed material to the NFS site and transportation of radioactive waste material from the NFS site. All transportation will be conducted in accordance with the applicable NRC and U.S. Department of Transportation regulations; therefore, no adverse impacts from transportation activities are expected.

Land Use: OCB and EPB operations will be conducted in new buildings constructed on NFS-owned property that has been disturbed previously. The developed area will increase from approximately 75 to 80 percent of 69.9 acres. No adverse impact to land use is expected.

Cultural Resources: There are no National Register or Historic Places listed or eligible properties affected by the proposed action. No adverse impact to cultural resources is expected.

Biotic Resources: For biotic resources, a vacant and previously disturbed field containing no critical habitat will be used. The only Federally endangered species in Unicoi County is the Appalachian elktoe mussel (*Alasmidonta raveneliana*) near the confluence of the Nolichucky River and South Indian Creek. This location is upstream of the NFS site and, therefore, the NRC finds the proposed action is not likely to affect the species. The only Federally threatened species in Unicoi County are the small whorled pagonia (*Isotria medeoloides*) and the Virginia spiraea (*Spiraea virginiana*). A field investigation was conducted in 2002 and neither of these species was found to be present on the site of the proposed action. Therefore, the NRC finds the proposed action is not likely to affect either of these species.

2. Potential Accidents

Under accident conditions, higher concentrations of materials could be released to the environment over a short period of time. An evaluation of potential accidents is provided in section 5.1.2 of the 2002 EA (Ref. 2). In addition, detailed accident analyses have been performed by NFS in an integrated safety assessment (ISA). The NRC's detailed review of the ISA is ongoing, however preliminary findings indicate that the potential accidents

identified in the ISA are consistent with the previous evaluation. NRC finds that the safety controls to be employed in the proposed action appear sufficient to ensure planned processing will be safe.

3. Cumulative Impacts

An evaluation of cumulative impacts is provided in section 5.1.3 of the 2002 EA (Ref. 2). The evaluation considers the impacts of the proposed action with the known impacts of the existing facility. After reviewing the updated information provided by NFS, the NRC concludes that the cumulative impacts represent an insignificant change to the existing conditions in the area surrounding the NFS site.

Environmental Impacts of No Action Alternative

Under the no action alternative, NFS would not be able to carry out its contract obligations to produce a commercial product from U.S. Government surplus, weapons-usable, high-enriched uranium. Failure to fulfill its role in the DOE program could cause DOE to select other alternatives for disposition of the surplus material that may be less cost effective and incur greater environmental impacts. For example, the disposal option would incur additional costs and consume available disposal space that may be better utilized for non-reusable wastes. If NFS were not able to fulfill its contract, DOE may transfer the work to other facilities.

Based on its review, the NRC has concluded that the environmental impacts associated with the proposed action are insignificant and, therefore, do not warrant denial of the proposed license amendment. The NRC has determined that the proposed action, approval of the license amendment as described, is the appropriate alternative for selection. Based on an evaluation of the environmental impacts of the proposed license amendment, the NRC has determined that the proper action is to issue a FONSI in the **Federal Register**.

Agencies and Persons Contacted

On May 31, 2002, the NRC staff contacted the Director of the Division of Radiological Health in the Tennessee Department of Environment and Conservation (TDEC) concerning the 2002 EA (Ref. 2) and the potential impact of the BLEU Project on the environment. Upon conclusion of the consultation process, TDEC had no remaining concerns about potential environmental impacts. On March 12, 2004, the NRC staff contacted the Director of the TDEC Division of Radiological Health concerning the revised environmental impacts in this EA. On April 12, 2004, the Director responded that they had reviewed the draft EA and had no comments (Ref. 7).

On May 22, 2002, the NRC staff contacted the Tennessee Historical Commission (THC), Division of Archeology concerning the 2002 EA (Ref. 2) and the potential affect of the BLEU Project on cultural resources. The consultation concluded that no cultural resources would be affected by the proposed action. On March 11, 2004, the NRC staff contacted the THC concerning the revised environmental impacts in this EA. On March 22, 2004, the THC responded that they had reviewed the draft EA and had no comments (Ref. 8).

On June 6, 2002, the NRC staff contacted the Fish and Wildlife Service (FWS) concerning the 2002 EA (Ref. 2) and the potential affect of the BLEU Project on endangered species. The consultation concluded that no endangered species would be affected by the proposed action. On March 8, 2004, the NRC staff contacted the FWS concerning the revised environmental impacts in this EA. On April 8, 2004, the FWS responded that they had reviewed the draft EA and requested that NRC clarify the finding in the 2002 EA that the proposed action is not likely to affect any endangered or threatened species in the area. On April 27, 2004, NRC provided a revised EA with requested finding. On May 11, 2004, FWS responded that it concurred with the finding.

References

1. U.S. Nuclear Regulatory Commission, ''Environmental Assessment for Renewal of Special Nuclear Material License No. SNM–124,'' January 1999, ADAMS No. ML031150418.

2. U.S. Nuclear Regulatory Commission, ''Environmental Assessment for Proposed License Amendments to Special Nuclear Material License No. SNM–124 Regarding Downblending and Oxide Conversion of Surplus High-Enriched Uranium,'' June 2002, ADAMS No. ML021790068.

3. U.S. Department of Energy, ''Disposition of Surplus High Enriched Uranium Final Environmental Impact Statement,'' DOE/EIS–0240, Volume 1, June 1996. This document is available to the public from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

4. U.S. Nuclear Regulatory Commission, ''Environmental Assessment and Finding of No Significant Impact for the BLEU Preparation Facility,'' September 2003, ADAMS No. ML032390428.

5. B. M. Moore, Nuclear Fuel Services, Inc., Letter to U.S. Nuclear Regulatory Commission, ''License Amendment Request for the Oxide Conversion Building and the Effluent Processing Building at the BLEU Complex,'' October 23, 2003, ADAMS No. ML033420637.

6. B. M. Moore, Nuclear Fuel Services, Inc., Letter to U.S. Nuclear Regulatory Commission, ''Supplemental Environmental Report for Licensing Actions to Support the BLEU Project,'' November 9, 2001, ADAMS No. ML013330459.

7. D. Shults, Tennessee Division of Radiological Health, E-mail to K. Ramsey, U.S. Nuclear Regulatory Commission, ''Consultation on Environmental Assessment for Nuclear Fuel Services,'' April 12, 2004, ADAMS No. ML041050007.

8. H. Harper, Tennessee Historical Commission, Letter to K. Ramsey, U.S. Nuclear Regulatory Commission, ''NRC, BLEU Project/Nuclear Fuel Services, Erwin, Unicoi County,'' March 22, 2004, ADAMS No. ML040930253.

9. B. M. Moore, Nuclear Fuel Services, Inc., Letter to U.S. Nuclear Regulatory Commission, ''NFS Response to Request for Additional Information for Oxide Conversion Building and Effluent Processing Building at the BLEU Complex,'' April 30, 2004, ADAMS No. ML041280552.

10. L. Barclay, U.S. Department of Interior, Fish and Wildlife Service, Letter to U.S. Nuclear Regulatory Commission, May 11, 2004, ADAMS No. ML041450299.

III. Final Finding of No Significant Impact

Pursuant to 10 CFR part 51, the NRC staff has considered the environmental consequences of amending NRC Materials License SNM–124 to authorize operations in the OCB and EPB. On the basis of this assessment, the Commission has concluded that environmental impacts associated with the proposed action would not be significant and the Commission is making a finding of no significant impact. Accordingly, the preparation of an EIS is not warranted.

IV. Further Information

For further details, see the references listed above. Unless otherwise noted, documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O–1F21, 11555 Rockville Pike, Rockville, Maryland. In addition, documents related to this proposed action will be available electronically for public inspection from the NRC Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* (the Public Electronic Reading Room). Persons who do not have access to ADAMS, or who encounter problems accessing documents in ADAMS, should contact the PDR reference staff at (800) 397–4209 or (301) 415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 14th day of June, 2004.

For the Nuclear Regulatory Commission.

Gary S. Janosko,

Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 04–13749 Filed 6–17–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The U.S. Nuclear Regulatory Commission (NRC) has issued a revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulation, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 32 of Regulatory Guide 1.84, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,'' contains comprehensive guidance on all Section III Code Cases, including those oriented to materials and related testing in Division 1.

With the issuance of Revision 32 to Regulatory Guide 1.84, Regulatory Guide 1.85, ''Materials Code Case Acceptability, ASME Section III, Division 1,'' is being withdrawn because the guidance in Regulatory Guide 1.85 has been updated and incorporated into Revision 32 of Regulatory Guide 1.84.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. You may submit comments by any one of the following methods. Comments may be accompanied by relevant information or supporting data. Written comments may be submitted by mail to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; or they may be hand-delivered to the Rules and Directives Branch, Office of Administration, at 11555 Rockville Pike, Rockville, MD. Copies of comments received may be examined at the NRC's Public Document Room, 11555 Rockville Pike, Rockville, MD.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (*http://www.nrc.gov*). Regulatory guides are available for inspection at the NRC's Public Document Room, 11555 Rockville Pike, Rockville, MD; the PDR's mailing address is USNRC PDR, Washington, DC 20555–0001; telephone (301) 415–4737 or (800) 397–4209; fax (301) 415–3548; e-mail *pdr@nrc.gov.* Requests for single copies of draft or final regulatory guides (which may be reproduced) or placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Reproduction and Distribution Services Section, or by fax to (301) 415–2289; e-mail *distribution@nrc.gov.* Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them. (5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 10th day of June, 2004.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 04–13751 Filed 6–17–04; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Survey of Frozen Defined Benefit Pension Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation intends to request that the Office of Management and Budget approve a new collection of information under the Paperwork Reduction Act. The purpose of the information collection, which will be conducted via a mail survey, is to help the PBGC assess the extent to which the plans it insures have been frozen, the intentions of the plans' sponsors regarding those frozen plans, and the extent to which plan sponsors are considering freezing plans that are not frozen. The effect of this notice is to advise the public of, and to solicit public comment on, this proposed collection of information.

DATES: Comments should be submitted by August 17, 2004.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to Suite 340 at that address during normal business hours. Comments also may be submitted electronically through the PBGC's Web site at *http://www.pbgc.gov/paperwork*, or by fax to (202) 326–4112. The PBGC will make all comments available on its Web site, *http://www.pbgc.gov.*

Copies of the collection of information may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at Suite 240 at the above address or by visiting that office or calling (202) 326–4040 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: James L. Beller, Attorney, Office of the General Counsel, PBGC, 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 intends to request that OMB approve a mail survey designed to gather information about frozen defined benefit plans. Findings about these plans' characteristics, sponsor rationales for freezing these plans, sponsor intentions to either terminate or unfreeze these plans, and sponsor intentions to freeze plans that are not frozen will allow the PBGC to better forecast future trends in the plans it insures. In addition, the Government Accounting Office has recommended that the PBGC ''conduct a pilot study to identify frozen [defined benefit] plans it insures and assess the usefulness of information on the characteristics and consequences of plan freezes.'' This collection of information would address that recommendation.

Participation in this voluntary collection of information will put a slight burden on a very small percentage of the public. The PBGC estimates that there will be 400 respondents with an annual burden of approximately 180 hours and $5,500. 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 PBGC is specifically seeking public comment 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 estimate of burden to the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are able to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Issued in Washington, DC, this 10th day of June, 2004.

Stuart Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 04–13783 Filed 6–17–04; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 15Ba2–1 and Form MSD; SEC File No. 270–0088; OMB Control No. 3235–0083.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 15Ba2–1 under the Securities Exchange Act of 1934 (''Exchange Act'') provides that an application for registration with the Commission by a bank municipal securities dealer must be filed on Form MSD. The Commission uses the information contained in Form MSD to determine whether bank municipal securities dealers meet the standards for registration set forth in the Exchange Act, to develop a central registry where members of the public may obtain information about particular bank municipal securities dealers, and to develop statistical information about bank municipal securities dealers.

Based upon past submissions, the staff estimates that approximately 32 respondents will utilize this application procedure annually, with a total burden of 48 hours. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 15Ba2–1 is 1.5 hours. The average cost per hour is approximately $67. Therefore, the total cost of compliance for the respondents is approximately $3,216.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: June 14, 2004.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–13840 Filed 6–17–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 15Bc3–1 and Form MSDW; SEC File No. 270–93; OMB Control No. 3235–0087.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this collection of information to the Office of Management and Budget for extension and approval.

Rule 15Bc3–1 under the Securities Exchange Act of 1934 provides that a notice of withdrawal from registration with the Commission as a bank municipal securities dealer must be filed on Form MSDW.

The Commission uses the information submitted on Form MSDW in determining whether it is in the public interest to permit a bank municipal securities dealer to withdraw its registration. This information is also important to the municipal securities dealer's customers and to the public, because it provides, among other things, the name and address of a person to contact regarding any of the municipal securities dealer's unfinished business.

Based upon past submissions, the staff estimates that approximately 20 respondents in total will utilize this notice procedure annually, with a total burden of 10 hours for all respondents. The staff estimates that the average number of hours necessary for each respondent to comply with the requirements of Rule 15Bc3–1 is 0.5 hours. The average cost per hour is approximately $101. Therefore, the total cost of compliance for all respondents is $1010 ($101 × 0.5 × 20 = $1010).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: June 14, 2004.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–13841 Filed 6–17–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49850; File No. SR–BSE–2004–16]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to the Initial Allocation Plan of the Boston Options Exchange Facility

June 10, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 26, 2004, the Boston Stock Exchange (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the BSE as a ''non-controversial'' rule change pursuant to Rule 19b–4(f)(6) under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend the list of options classes approved for initial allocation on its Boston Options Exchange facility (''BOX''). The text of the proposed rule change is available at the BSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the list of securities approved for initial allocation, as set forth in Chapter XXXVII of the BSE Rules, for market makers in BOX. The list of options classes approved for initial allocation was set forth in a rule proposal detailing the initial allocation process for BOX, which was ultimately approved by the Commission on October 16, 2003.[4]

The initial allocation of approved classes, as set forth in aforementioned filing, was conducted on October 17, 2003. BOX commenced operations on February 6, 2004, after receiving approval from the Commission in January 2004. For a variety of reasons, including mergers, acquisitions, and failure to meet BOX listing standards, eighteen of the classes initially allocated to BOX participants were not listed. Those eighteen classes are as follows:

Symbol	Security
OVER	Overture Services, Inc.
BGEN	Biogen, Inc.
GMH	General Motors Class H.
CLS	Celestica, Inc.
PDG	Placer Dome, Inc.
PCS	Sprint PCS Group.
ONE	Bank One Corp.
INVN	Invision Technologies, Inc.
DYN	Dynegy, Inc.
BVF	BiovailCorp.
GG	Goldcorp, Inc.
AES	AES Corp.
PPD	Pre-Paid Legal Services, Inc.
ADCT	ADC Telecommunications, Inc.
TBS	Telebras Holders.
IDPH	IDEC Pharmaceuticals Corp.
FBF	Fleet Boston Financial Corp.
AWE	AT&T Wireless Services.

The Exchange is now seeking to replace those eighteen classes which were not originally listed with the following eighteen classes:

Symbol	Security
NT	Nortel Network Corp. Hldg. Co.
RIMM	Research in Motion Ltd.
JDSU	JDS Uniphase Corp.
NFLX	Netflix, Inc.
RJR	RJ Reynolds Tobacco Hldg, Inc.
SIRI	Sirius Satellite Radio, Inc.
X	United States Steel Corp.
CFC	Countrywide Financial Corp.
OVTI	Omnivision Technologies, Inc.
CMCSA	Comcast Corp. New.
UTSI	UT Starcom, Inc.
STX	Seagate Technology.
ET	E*Trade Financial Corp.
CREE	Cree, Inc.
CHINA	Chinadotcom Corporation.
IGT	International Game Tech.
APPX	American Pharmaceutical, Inc.
TASR	Taser International, Inc.[5]

[4] *See* Securities Exchange Act Release No. 48644 (October 16, 2003), 68 FR 60423 (October 22, 2003) (approving File No. SR–BSE–2003–13).

The Exchange notes that, according to the rules approved by the Commission for the initial allocation, certain deposits were required for all firms requesting allocations in order to ensure that participants were making legitimate allocation requests. According to the approved deposit schedule, the deposit required for 16 of the original 18 securities, which were not originally listed (as set forth above), was $300 per class. The other two classes fell into a different category, and the deposit required for them was $750 per class. Of the firms contacted to ascertain whether they sought to have their deposits returned for those securities that BOX was not able to list, each chose to have their deposits remain with BOX to offset future transaction fees.[6] Nevertheless, the Exchange is not seeking any additional deposits for the options classes it is proposing to have replace those not originally listed by BOX, as set forth above.

Moreover, the Exchange represents that BOX is well ahead of its six-month schedule of having all classes allocated to all participants that requested allocations. BOX anticipates filling all initial allocation requests by the end of June 2004. According to the Exchange, the classes proposed to replace those not originally listed will have no adverse effect on BOX's system capacity and will not affect the overall allocation schedule.

[5] The original eighteen classes, which BSE proposes to replace, were part of the initial 250 classes approved for trading on BOX based on Options Clearing Corporation (''OCC'') volume statatistics from January 2003 through June 2003. *See* Securities Exchange Act Release No. 48644 (October 16, 2003), 68 FR 60423 (October 22, 2003) (approving File No. SR–BSE–2003–13). BSE represents that the proposed replacement classes were selected based on updated OCC volume statistics. Telephone conversation between John Boese, Chief Regulatory Officer, BSE, and Frank N. Genco, Attorney, Division of Market Regulation, Commission, on June 10, 2004.

[6] BSE represents that only 15 firms had represented the 18 classes at issue. BSE further represents that all 15 firms were informed that BOX planned to replace the original 18 classes and chose to have their deposits remain with BOX to offset further transaction fees. Telephone conversation between John Boese, Chief Regulatory Officer, BSE, and Frank N. Genco, Attorney, Division of Market Regulation, Commission, on June 10, 2004.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, according to the Exchange, is not designed to permit unfair discrimination between customers, brokers, or dealers, or to regulate by virtue of any authority matters not related to the administration of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because, the foregoing proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative until 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change,[9] or such shorter time as designated by the Commission, it has become effective pursuant to section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

Although Rule 19b–4(f)(6) under the Act[12] requires that an Exchange submit a notice of its intent to file at least five business days prior to the filing date, the Commission waived this requirement at the BSE's request. The BSE has also requested that the Commission waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the Exchange to substitute the proposed classes for those that it was unable to list according to the BOX original allocation plan as set forth in chapter XXXVII of the BSE Rules. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[13] At any time within 60 days of the filing of this proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BSE–2004–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–BSE–2004–16. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BSE–2004–16 and should be submitted on or before July 9, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–13846 Filed 6–17–04; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See* letter from John Boese, Vice President and Chief Regulatory Officer, BSE, to Nancy Sanow, Assistant Director, Division, Commission, dated May 25, 2004.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] *Id.*

[13] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49852; File No. SR–NASD–2004–039]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by National Association of Securities Dealers, Inc. Relating to Reducing the Time for Chairperson Selection

June 14, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 4, 2004, National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''Dispute Resolution'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. On May 13, 2004,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

NASD filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Dispute Resolution is proposing to amend NASD Rule 10308 of the NASD Code of Arbitration Procedure (''Code'') to reduce the time allotted the parties for chairperson selection. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

10308. Selection of Arbitrators

* * * * *

(c) Striking, Ranking, and Appointing Arbitrators on Lists

* * * * *

(5) Selecting a Chairperson for the Panel

The parties shall have [15] *7* days from the date the Director sends notice of the names of the arbitrators to select a chairperson. *If the parties notify Dispute Resolution staff prior to the expiration of the original deadline that they need more time in which to reach agreement, Dispute Resolution staff will extend the time to select a chairperson for an additional 8 days.* If the parties cannot agree *within the allotted time,* the Director shall appoint a chairperson from the panel as follows:

(Remainder of rule unchanged.)

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NASD Dispute Resolution proposes to reduce the time allotted for chairperson selection in Rule 10308(c)(5) of the Code from 15 days to 7 days after the Director of Arbitration sends notice of the arbitrators to the parties.

1. Purpose

Rule 10308 sets forth the procedures for how arbitrators and chairpersons are selected for an arbitration panel. First, the arbitrators are selected for the panel and then, from this list, the parties must select a chairperson within a 15-day timeframe. Currently, Rule 10308(c)(5) states, in relevant part, that ''the parties shall have 15 days from the date the Director sends notice of the names of the arbitrators to select a chairperson.'' NASD proposes to reduce the chairperson selection period from 15 days to 7 days.[4] NASD believes the 15-day waiting period causes unnecessary delay in the selection process since Dispute Resolution staff estimates that parties fail to agree on a chairperson in nearly 80 percent of the cases. If the parties notify staff that they are negotiating to select a chairperson, but are unable to conclude the process within the allotted timeframe, staff will grant extensions to facilitate the negotiations.

NASD monitors continuously the claim filing process to determine how it can be improved and streamlined. In light of the failure of the parties to agree on a chairperson in nearly 80 percent of the cases and the delay caused by the 15-day waiting period, NASD believes that the claim filing process would become more efficient if the time required to select a chairperson were reduced. NASD believes that this proposal should provide sufficient time for the parties to reach agreement on a chairperson, if they wish to, and will allow the Initial Prehearing Conference to be scheduled more expeditiously. Further, the proposed rule change would expedite the processing of arbitrations by reducing the turnaround time for chairperson selection.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that reducing the time it takes to select a chairperson will help streamline the arbitration process and ultimately make the process more efficient.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change as amended is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an E-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2004–039 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–NASD–2004–039. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

[3] *See* letter from Mignon McLemore, Counsel, NASD, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated May 12, 2004.

[4] In cases where parties must respond to Dispute Resolution by mail, the computer system that tracks the parties' responses adds two days to the response deadline to account for mailing time, and calculates the date their response is due. Parties then receive a letter specifying the date their response is due, based on system calculations.

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2004–039 and should be submitted on or before July 9, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–13842 Filed 6–17–04; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49841; File No. SR–OCC–2003–11]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to Clearing Member Trade Assignment Processing

June 9, 2004.

On October 14, 2003, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] (''Act''), The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–OCC–2003–11) and on February 18, 2004, amended the proposed rule change. Notice of the proposal was published in the **Federal Register** on March 18, 2004.[2] The Commission received one comment letter.[3] For the reasons discussed below, the Commission is approving the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

I. Description

The proposed rule change will amend OCC's By-Laws and Rules to expand its clearing member trade assignment (''CTMA'') processing procedures, to increase OCC's initial and minimum net capital requirements, and to increase OCC's minimum clearing fund requirement for execution-only clearing members.

A. Background

CMTA processing permits one clearing member (''carrying clearing member'') to authorize another clearing member (''executing clearing member'') to direct that its exchange transactions be transferred to an account of the carrying clearing member for clearance and settlement.[4] Generally, the executing clearing member executes the transaction itself or guarantees the broker that executed the transaction and directs the transaction to be cleared into an account of the carrying clearing member through the options exchanges' systems for reporting matching trade information to OCC. A carrying clearing member does not have the ability to approve or reject such a direction before the transaction is entered into the exchanges' systems for reporting to OCC.

The matching trade information submitted by an exchange for a transaction that has been executed pursuant to a CMTA arrangement will identify both the carrying and executing clearing members by their assigned clearing numbers. OCC permits an executing clearing member to transfer transactions effected only on the exchange(s) designated by the carrying clearing member in a CMTA authorization filed with OCC. Accordingly, before a transaction is transferred to an account of the carrying clearing member for clearance, OCC's system confirms that (i) there is a valid CMTA arrangement between the carrying and executing clearing members and (ii) the exchange transaction was effected on a designated exchange. The carrying clearing member is then responsible for settling the trade and maintaining the resulting position. If their arrangement permits, a carrying clearing member may transfer the position back to the executing clearing member through OCC's systems to correct the execution member's good-faith error in identifying the carrying clearing member in the submitted trade information.[5]

OCC's CMTA facility supports two distinct types of business. First, clearing members that execute transactions for correspondent brokers use the process to transfer transactions to the correspondent brokers' clearing firms. Second, firms that execute trades for institutional and other customers with prime brokerage arrangements use the process to transfer the trades to the prime broker clearing member.

B. CMTA Rule Changes

The new OCC Rule 403 will require clearing members that are parties to a CMTA arrangement to register and provide certain details of their arrangement with OCC. Such registration will be effective when the clearing members provide matching information regarding their arrangement. Rule 403 will also establish certain actions for OCC's system to verify that a valid CMTA registration exists. Transactions that fail these checks will be transferred to a designated account or, if such designation has not been made, to the customers' account or segregated futures account of the executing clearing member, as applicable. A carrying clearing member is responsible for each transaction transferred to its account pursuant to a CMTA arrangement subject to its right to return the resulting position for certain specified reasons (as explained below). Notwithstanding that right, the carrying clearing member is responsible to effect premium or margin settlement, as applicable, on the business day after the trade was executed for any positions carried in its accounts after nightly processing.[6]

[2] Securities Exchange Act Release No. 49378 (Mar. 9, 2004), 69 FR 12190 (Mar. 15, 2004).

[3] Letter from John Berton and Georgia Bullitt, Ad Hoc CMTA Committee of the Securities Industry Association, March, 22, 2004.

[4] The CMTA facility was developed to permit carrying clearing members to clear and settle transactions effected on an exchange where they are either not a member or do not maintain a presence for trade execution.

[5] This commonly occurs if the executing clearing member has transposed digits of a carrying clearing member's clearing number causing the transaction to clear in an account of a wrong clearing member (assuming a valid CMTA arrangement exists between the executing and misidentified carrying clearing member).

[6] Certain exchanges submit matching trade information on a real time or intermittent basis during a trading day. OCC immediately processes such submissions and makes updated position information available for clearing member review throughout the day. For transactions effected on such exchanges, clearing members may be able to effect a return before OCC closes its window for the submission of returns, in which case the executing

Continued

A position transferred pursuant to a CMTA arrangement may be returned to the executing clearing member upon notice for reasons to be specified in a standard agreement.[7] The reasons that are being considered include: (i) The matching trade information did not conform to the trade information supplied to the carrying clearing member by the customer on whose behalf the trade was executed (*e.g.*, transaction was for a put option in a particular series rather than a call option); (ii) the carrying clearing member's reasonable belief that the trade involved a violation of applicable law, rule, or regulation (*e.g.*, failure to deliver a prospectus); (iii) the carrying clearing member no longer carries the account of the customer on whose behalf the trade was executed or has restricted the customer's ability to use the CMTA process; or (iv) the carrying clearing member was misidentified in the matching trade information. Returns must be completed pursuant to specified procedures by a prescribed cutoff time before trading commences on the business day after trade date. OCC will transmit certain information regarding the reasons given for a return, but will not validate the stated reasons. A position that has been assigned, exercised, or matured may not be transferred or returned under Rule 403 and will be dealt with in accordance with the provisions of the CMTA agreement between the clearing members.

A carrying clearing member may not effect a return after the prescribed cutoff time. Initiating a return after the applicable cutoff time might subject the carrying clearing member to disciplinary action. In the case of a position returned to an executing clearing member due to a misidentification of the carrying clearing member, the executing clearing member may retransfer the position to the correct carrying clearing member in order to correct the error.[8]

A registered CMTA arrangement may only be terminated as specified in Rule 403, which permits clearing members to either mutually or unilaterally terminate the arrangement.[9] Terminations by mutual agreement will be effective when OCC receives notice of termination from both clearing members. Unilateral terminations will be effective the next business day after notice of the termination has been given to OCC and the other clearing member. Transactions effected after the effective time of a termination will be treated as failed CMTAs and will be the responsibility of the executing clearing member.

Other rule changes relating to CMTAs include additional definitions of terms used in CMTA processing (*e.g.*, ''carrying clearing member'' and ''executing clearing member'') and other conforming changes.

C. Increases in Net Capital and Minimum Clearing Fund Requirements

OCC has also reassessed the risks associated with CMTA transactions. Wth the increase in the number of permissible reasons for returning a position, OCC believes that there is an increased possibility that executing clearing members, including execution-only firms, will be required to make premium or margin settlement for a position before it can be closed out or otherwise managed. To address this possibility, OCC will increase its initial and minimum net capital requirements for all clearing members and will increase the minimum clearing fund deposit for execution-only firms. Initial required net capital will be increased from $1 million to $2.5 million, and minimum net capital would be increased from $750,000 to $2 million.[10] The minimum clearing fund deposit for execution-only firms will be increased from $150,000 to $150,000 plus $15 times the firm's average daily executed volume for the preceding calendar month. The increases are being applied to all clearing members because over 80% of OCC's clearing members are eligible to use the CMTA facility.

The special net capital requirements for firms providing facilities management services and stock settlement services are being increased proportionately.[11] A firm providing such services will be required to have a minimum net capital of $4 million plus $200,000 times the number of firms over four that it services. Clearing members will be given a one-year grace period from October 1, 2003, to achieve compliance with the new requirements. However, the OCC's membership/margin committee shall have the discretion to extend that deadline to a date no later than October 1, 2006, for clearing members admitted to membership after the date of this approval order, provided that such clearing members undertake not to engage in a CMTA execution business during the period of such extention.

Execution-only clearing members pose a special risk because they do not ordinarily carry positions overnight and therefore do not ordinarily deposit margin with OCC. This means that if a position is returned to an execution-only member and if the execution-only member fails to make settlement, the only asset of the member that OCC can draw upon to liquidate the position is the member's clearing fund deposit. Accordingly, OCC will increase the minimum clearing fund requirement for execution-only members to $150,000 plus $15 times average daily executed volume for the preceding month. Execution-only firms will also be given the one-year grace period described above to comply with this new minimum.

OCC also will make conforming changes to the definitional provisions of its by-laws, qualification standards for admission, various financial responsibility rules, and the rule defining monthly contributions to the clearing fund.

II. Comment Letter

John Berton and Georgia Bullitt, on behalf of the Ad Hoc CMTA Committee of the Securities Industry Association, expressed their support for the proposed rule. Among other things, they contended that it will provide ''definitional clarity regarding the CTMA process and appropriate procedures to protect against systemic risk in connection with options clearing.''

III. Discussion

Section 17A(b)(3)(F) of the Act[12] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and

clearing member would be responsible for any premium or margin settlement.

[7] OCC clearing members have formed an ad hoc committee under the auspices of the Securities Industry Association to collaborate on a standard form agreement. That agreement is currently in draft form.

[8] There is no approval process associated with position transfers between clearing members to correct clearing errors. OCC determined not to include an approval process for such transfers based on discussions with clearing members during the development of ENCORE Release 3.0. Clearing members claimed that an approval process would be inefficient from an operational and administrative perspective, would increase system overhead, and would adversely affect their ability to review position changes on a timely basis.

[9] OCC has retained the right to terminate all CMTA arrangements of a suspended clearing member.

[10] These new capital standards are consistent with the capital requirements of other clearing organizations. For example, the Chicago Mercantile Exchange's initial net capital requirement is $2 million, while the Board of Trade Clearing Corporation is $2.5 million.

[11] Securities Exchange Act Release No. 49478 (Mar. 25, 2004), 69 FR 17258 (Apr. 1, 2004) [File No. SR–OCC–2003–09] (proposing new OCC Rule 309A).

[12] 15 U.S.C. 78q–1(b)(3)(F).

settlement of securities transactions and to assure the safeguarding of securities and funds that are in the custody or control of the clearing agency or for which it is responsible. The Commission finds that the proposed rule change is consistent with OCC's obligations under Section 17A(b)(3)(F) because it substantially clarifies the rights and responsibilities of OCC members that participate in the CMTA facility, which should help OCC promote the prompt and accurate clearance and settlement of securities transactions and also provide greater certainty and transparency over how CMTA transactions will be processed. In addition, increasing members' net capital and minimum clearing fund requirements should appropriately protect itself against the greater risk it faces as a result of its expansion of its CMTA services.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [13] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2003–11) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–13744 Filed 6–17–04; 8:45 am]

BILLING CODE 8010–01–P

[13] 15 U.S.C. 78q–1.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49843; File No. SR–PCX–2004–50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. To Extend a Temporary Waiver of Fees for Market Makers that Utilize More Than One Seat

June 10, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 26, 2004, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The PCX has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the PCX under section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to amend the Market Maker Fee portion of its Schedule of Fees and Charges (''Schedule'') in order to extend a temporary waiver of the fee for those market makers that utilize more than one seat. The text of the proposed rule change is available at the PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The purpose of this proposed rule change is to extend for an additional month the temporary waiver of the Market Maker Fee for those market makers that utilize more than one seat. The Exchange proposes to extend the temporary waiver of the Market Maker Fee for those market makers that utilize more than one seat.[4]

Under the current Schedule, all market makers are assessed a fee of $1,750 per month for each seat that such market maker holds a primary appointment. PCX Rule 6.35(g)(2) permits market makers to increase the number of issues within their primary appointments depending on the number of seats that the market maker holds. The PCX believes a market maker would benefit from additional issues as a result of holding multiple seats.

The Exchange proposes to extend the temporary waiver of the $1,750 Market Maker Fee for all market makers for each additional seat (for which the market maker holds a primary appointment) beyond the first seat held by such market maker. In other words, a market maker will only be assessed one Market Maker Fee of $1,750 per month whether the market maker utilizes one seat or multiple seats. The PCX believes that a temporary waiver of the Market Maker Fee in this limited circumstance is appropriate to encourage participation by a larger number of market makers on PCX Plus.[5] As PCX Plus continues to expand, the PCX believes that this temporary waiver will provide market makers with an incentive to take on a larger number of issues without incurring additional Market Maker Fees. Therefore, the PCX believes that the added participation will result in increased liquidity, which, in turn, will further competition. This waiver will remain in effect until June 30, 2004, or such earlier date as determined by the Exchange.

Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,[6] in general, and section 6(b)(4) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release Nos. 49207 (February 6, 2004), 69 FR 7277 (February 13, 2004) (File No. SR–PCX–2004–04); and 49631 (April 29, 2004), 69 FR 25162 (May 5, 2004) (File No. SR–PCX–2004–35).

[5] The temporary waiver of the Market Maker Fee only applies to market makers on PCX Plus, because only remote market makers on PCX Plus utilize multiple seats. *See* PCX Rule 6.35(g)(2). PCX represents that this waiver has no negative impact upon floor-based operations. Telephone conversation between Tania Blanford and Steven Matlin, Regulatory Policy, PCX, and Frank N. Genco, Attorney, Division of Market Regulation, Commission, on June 8, 2004.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [8] and subparagraph (f)(2) of Rule 19b–4 [9] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2004–50 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2004–50. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2004–50 and should be submitted on or before July 9, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–13843 Filed 6–17–04; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49828; File No. SR–PCX–2004–51]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Amending the Designated Options Examination Authority Fee on a Retroactive Basis

June 8, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2004, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its Schedule of Fees and Charges by changing the Designated Options Examination Authority (''DOEA'') fee charged to its members, effective retroactively as of January 2004.[3] The text of the proposed rule change is available at the Commission and the PCX.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Schedule of Fees and Charges to retroactively establish the DOEA fee that recently became effective pursuant to a previous PCX proposed rule change.[4] Previously, the Exchange assessed a $2000/month DOEA fee in order to recover the Exchange's costs of DOEA examinations for which it would be responsible.[5] At the time the Exchange set the original DOEA fee, it contemplated it would conduct some examinations itself and would contract with the NASD to conduct other examinations. For that reason, the Exchange adopted a flat fee of $2000/month based upon the preexisting $2000/month Designated Examination Authority (''DEA'') fee. The Exchange anticipated that the costs of the examinations, whether conducted by the NASD or by the Exchange, would be about the same as the costs of the DEA examinations.

The Exchange has relied exclusively on the NASD to conduct its DOEA examinations and as a result, amended its Schedule of Fees and Charges to change its DOEA fee from $2000/month

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On April 15, 2004, the Exchange filed an identical amendment to its Schedule of Fees and Charges, as immediately effective. *See* Securities Exchange Act Release No. 49671 (May 7, 2004), 69 FR 27665 (May 17, 2004) (File No. SR–PCX 2004–32). Because the Exchange also seeks to apply the amendment to the DOEA fee on a retroactive basis, the Exchange is submitting this proposal for notice and comment.

[4] *Id.*

[5] *See* Securities Exchange Act Release No. 47577 (March 26, 2003), 68 FR 16109 (April 2, 2003) (File No. SR–PCX 2003–03).

to a fee that would be a pass through of the costs that the Exchange pays the NASD for conducting DOEA examinations, plus a 17% administrative charge.[6] In the previous proposed rule change, the Exchange represented that the 17% percent administration fee that it proposed to charge relates directly to costs actually incurred by the Exchange in the administration of this program. The Exchange now proposes to extend this relief retroactively back to all applicable fees due since January 2004.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,[7] in general, and section 6(b)(4) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable fees among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*);
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2004–51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2004–51. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2004–51 and should be submitted on or before July 9, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–13844 Filed 6–17–04; 8:45 am]

BILLING CODE 8010–01–P

[6] *See* note 3 *supra.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49835; File No. SR–PCX–2004–52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Pacific Exchange, Inc. Relating to Preventing Locks and Crosses in PNP Orders for ITS Trade-Through Exempt Securities by Amending PCXE Rule 7.31

June 8, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 3, 2004, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), through its wholly owned subsidiary PCX Equities, Inc. (''PCXE''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend PCXE Rule 7.31 (''Orders and Modifiers''), which governs the Archipelago Exchange (''ArcaEx''), an equities trading facility of PCXE, by modifying the behavior of PNP Orders for ITS Trade-Through Exempt Securities[5] to systematically prevent such orders from locking and crossing the National Best Bid or Offer (''NBBO''). The text of the proposed rule change appears below. New text is in italics. Deleted text is in brackets.

* * * * *

Rule 7

Equities Trading

Trading Sessions

Rule 7.31(a)–(v)—No change.

(w) PNP Order (Post No Preference). A limit order to buy or sell that is to be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 204.19b–4(f)(6).

[5] *See* PCXE Rule 7.37 for the definition of ''ITS Trade-Through Exempt Securities.''

executed in whole or in part on the Corporation, and the portion not so executed is to be ranked in the Arca Book, without routing any portion of the order to another market center; provided, however, the Corporation shall cancel a PNP Order that would lock or cross the NBBO *except as provided in Rule 7.31(w)(1). The NBBO price protection provision set forth in Rule 7.37 will not apply to PNP Orders in Nasdaq securities.*

(1) PNP Orders for ITS Trade-Through Exempt Securities (as defined in Rule 7.37). PNP Orders for *ITS* Trade-Through Exempt Securities [(as defined in Rule 7.37)] will not be canceled at the time of order entry if such orders would lock or cross the NBBO. *Such orders will be ranked in the Arca Book in price, time priority with an undisplayed price and size until: (i) Such orders are executed; or (ii) such orders no longer lock or cross the NBBO at which time they would be displayed in the Arca Book and ranked based upon original price and the original order entry time. The lock and cross restrictions set forth in this rule will only apply to bids or offers included in the NBBO that are for greater than 100 shares pursuant to Rule 7.56(d)(2)(E).* PNP Orders in ITS Trade-Through Exempt Securities may be executed at a price no more than three cents ($0.03) away from the NBBO [displayed in the Consolidated Quote]. *All PNP Orders whether displayed or undisplayed will execute in price, time priority.* [The NBBO price protection provision set forth in Rule 7.37 will not apply to PNP Orders in Nasdaq securities.]

(x)–(cc)—No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, PCXE Rule 7.31(w) establishes that PNP Orders for ITS Trade-Through Exempt Securities will not be canceled at the time of order entry if the PNP Order would lock or cross the NBBO. The Exchange seeks to modify the rule to provide that PNP Orders in ITS Trade-Through Exempt Securities will not be displayed in the instance when the order will lock or cross the NBBO. In such cases, the PNP Orders would remain in the Arca Book ranked in price, time priority but will not be displayed until the order: (i) is executed; or (ii) no longer locks or crosses the NBBO at which time they would be displayed in the Arca Book and ranked based upon the original price and the original order entry time.

Pursuant to PCXE Rule 7.56(d)(2)(E), the lock/cross restrictions do not apply to 100 share markets. Thus, this proposed rule change regarding the display of PNP Orders in ITS Trade-Through Exempt Securities will apply only to bids and offers of more than 100 shares. Therefore, if the PNP Order would lock or cross a bid or offer of 100 shares, the Exchange would display the PNP Order in the Arca Book in price, time priority.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) [6] of the Act, in general, and further the objectives of section 6(b)(5),[7] in particular, because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent with provisions of section 11A(a)(1)(B) [8] of the Act, which states that new data processing and communications techniques create the opportunity for more efficient and effective market operations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange has requested that the Commission waive the 30-day operative period to implement the proposed rule change as soon as the technical changes are completed. The Commission believes that waiving the 30-day operative period is consistent with the protection of investors and the public interest because it will allow the PCX to immediately provide a mechanism to prevent Locks and Crosses in trading certain ITS securities, consistent with the ITS Plan.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78k–1(a)(1)(B).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] For purposes of waiving the operative period date of this proposal only, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*);
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2004–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2004–52. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Room. Copies of the filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2004–52 and should be submitted on or before July 9, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–13845 Filed 6–17–04; 8:45 am]

BILLING CODE 8010–01–P

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3589]

State of Arkansas

Ouachita County and the contiguous counties of Calhoun, Clark, Columbia, Dallas, Nevada, and Union in the State of Arkansas constitute a disaster area due to damages caused by severe storms and flooding that occurred on May 30, 2004. Applications for loans for physical damage may be filed until the close of business on August 13, 2004, and for economic injury until the close of business on March 14, 2005, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 14925 Kingsport Road, Fort Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.750
Homeowners without credit available elsewhere	2.875
Businesses with credit available elsewhere	5.500
Businesses and non-profit organizations without credit available elsewhere	2.750
Others (including non-profit organizations) with credit available elsewhere	4.875
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.750

The number assigned to this disaster for physical damage is 358906 and for economic damage is 9ZI100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 14, 2004.

Hector V. Barreto,

Administrator.

[FR Doc. 04–13779 Filed 6–17–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3585]

State of Indiana (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective June 11, 2004, the above numbered declaration is hereby amended to include Benton, Boone, Carroll, Cass, Clinton, Dubois, Floyd, Fountain, Fulton, Gibson, Grant, Hamilton, Hancock, Harrison, Hendricks, Howard, Jackson, Jefferson, Johnson, Lawrence, Martin, Montgomery, Morgan, Orange, Perry, Pike, Scott, Shelby, Spencer, Tippecanoe, Vanderburgh, Wabash, Warren, Warrick and White Counties as disaster areas due to damages caused by severe storms, tornadoes, and flooding occurring on May 27, 2004, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Bartholomew, Blackford, Brown, Daviess, Decatur, Delaware, Greene, Henry, Huntington, Jasper, Jennings, Knox, Kosciusko, Madison, Marshall, Monroe, Newton, Owen, Parke, Posey, Pulaski, Putnam, Ripley, Rush, Starke, Switzerland, Tipton, Vermillion, Wells and Whitley in the State of Indiana; Iroquois, Vermilion, Wabash, and White Counties in the State of Illinois; and Breckinridge, Carroll, Daviess, Hancock, Hardin, and Henderson Counties in the Commonwealth of Kentucky may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have been previously declared.

The number assigned to this disaster for economic injury is 9ZJ200 for Illinois.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 2, 2004, and for economic injury the deadline is March 3, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 14, 2004.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04–13781 Filed 6–17–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3590]

Commonwealth of Kentucky

As a result of the President's major disaster declaration on June 10, 2004, I find that Bell, Bourbon, Boyle, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Carroll, Casey, Christian, Clark, Clay, Crittenden, Edmonson, Elliott, Estill, Fayette, Floyd, Franklin, Garrard, Grayson, Hardin, Harlan, Hart, Henderson, Henry, Hopkins, Jefferson, Jessamine, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lincoln, Madison, Magoffin, Martin, McLean, Menifee, Montgomery, Morgan, Muhlenberg, Ohio, Oldham, Owen, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Scott, Shelby, Spencer, Trimble, Union, Webster, Whitley, Wolfe, and Woodford Counties in the Commonwealth of Kentucky constitute a disaster area due to damages caused by severe storms, tornadoes, flooding, and mudslides, and

occurring on May 26, 2004 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 9, 2004 and for economic injury until the close of business on March 10, 2005 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Adair, Anderson, Barren, Bath, Boyd, Carter, Daviess, Fleming, Gallatin, Grant, Green, Greenup, Hancock, Harrison, Jackson, Larue, Lewis, Livingston, Logan, Lyon, Marion, McCreary, Meade, Mercer, Metcalfe, Nelson, Nicholas, Russell, Taylor, Todd, Trigg, Warren, Washington, and Wayne in the Commonwealth of Kentucky; Clark, Floyd, Harrison, Jefferson, Perry, Posey, Spencer, Switzerland, Vanderburg, and Warrick counties in the State of Indiana; Gallatin and Hardin counties in the State of Illinois; Campbell, Claiborne, Montgomery, Scott, and Stewart counties in the State of Tennessee; Buchanan, Dickenson, Lee and Wise counties in the Commonwealth of Virginia; and Mingo and Wayne counties in the State of West Virginia.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.750
Homeowners without credit available elsewhere	2.875
Businesses with credit available elsewhere	5.500
Businesses and non-profit organizations without credit available elsewhere	2.750
Others (including non-profit organizations) with credit available elsewhere	4.875
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.750

The number assigned to this disaster for physical damage is 359011. For economic injury the number is 9ZI200 for Kentucky; 9ZI300 for Indiana; 9ZI400 for Illinois; 9ZI500 for Tennessee; 9ZI600 for Virginia; and 9ZI700 for West Virginia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 14, 2004.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04–13782 Filed 6–17–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3591]

State of Missouri

As a result of the President's major disaster declaration on June 11, 2004, I find that Adair, Andrew, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Cedar, Chariton, Clay, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Hickory, Jackson, Johnson, Knox, Linn, Livingston, Macon, Mercer, Monroe, Nodaway, Platte, Polk, Randolph, Ray, Shelby, St. Clair, Sullivan, Vernon and Worth Counties in the State of Missouri constitute a disaster area due to damages caused by severe storms, tornadoes and flooding occurring on May 18 through May 31, 2004. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 13, 2004, and for economic injury until the close of business on March 11, 2005, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 14925 Kingsport Road, Fort Worth, TX 76155–2243.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Audrain, Atchison, Barton, Boone, Camden, Clark, Dade, Dallas, Greene, Howard, Holt, Lafayette, Lewis, Marion, Morgan, Pettis, Putnam, Ralls, Saline, Schuyler, and Scotland in the State of Missouri; Decatur, Page, Ringgold, Taylor, and Wayne counties in the State of Iowa; and Atchison, Bourbon, Crawford, Doniphan, Johnson, Leavenworth, Linn, Miami, and Wyandotte counties in the State of Kansas.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.750
Homeowners without credit available elsewhere	2.875
Businesses with credit available elsewhere	5.500
Businesses and non-profit organizations without credit available elsewhere	2.750
Others (including non-profit organizations) with credit available elsewhere	4.875
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.750

The number assigned to this disaster for physical damage is 359112. For economic injury the number is 9ZI800 for Missouri; 9ZI900 for Iowa; and 9ZJ100 for Kansas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 14, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–13780 Filed 6–17–04; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Department of Homeland Security Number 1010)

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of a computer matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of a computer matching program that SSA will conduct with DHS.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice either by telefax to (410) 965–8582 or writing to the Associate Commissioner for Income Security Programs, 245 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Income Security Programs as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: June 9, 2004.

Martin H. Gerry,

Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Social Security Administration (SSA) with the Department of Homeland Security (DHS).

A. Participating Agencies

SSA and DHS.

B. Purpose of the Matching Program

The purpose of this matching program is to establish conditions under which DHS agrees to the disclosure of information regarding certain aliens who may, as a result of their current and planned absences from the United States, be subject to nonpayment of benefits in programs administered by SSA. The disclosure will provide SSA with information useful in determining claim and benefit status under both Title II and Title XVI of the Social Security Act governing Social Security Retirement, Survivors and Disability Insurance Benefits, and Supplemental Security Income, as certain persons who are outside the United States or similarly lack appropriate statutorily specified residency and citizenship/alienage status may not be paid benefits under specific statutory provisions of those titles.

C. Authority for Conducting the Matching Program

This matching operation is carried out under the authority of sections 202(n), 1611(f), and 1614(a)(1) of the Act (42 U.S.C 402(n), 1382(f) and 1382c(a)(1)) and 8 U.S.C. 1611 and 1612. Section 1631(e)(1)(B) of the Act (42 U.S.C. 1383(e)(1)(B)) requires SSA to verify declarations of applicants for and recipients of SSI payments before making a determination of eligibility or payment amount. Section 1631(f) of the Act (42 U.S.C. 1383(f)) requires Federal agencies to provide SSA with information necessary to verify SSI eligibility or benefit amounts or to verify other information related to these determinations. In addition, section 202(n)(2) of the Act specifies that the ''Secretary Of [the Department of] Homeland Security'' notify the Commissioner of Social Security when individuals are deported under specified provisions of section 237(a) of the Immigration and Nationality Act.

Categories of Records and Individuals Covered by the Matching Agreement

DHS will disclose to SSA two data files as described below:

1. Aliens Who Leave the United States Voluntarily

DHS will provide SSA with two electronic files. DHS will provide SSA with an electronic file from its Computer Linked Application Information Management System (CLAIMS) Justice/INS 013 system of records most recently published at 62 FR 59734, dated 11/04/97 which is electronically formatted for transmission to SSA. CLAIMS contains information on resident aliens who are SSI recipients and who have left or plan to leave the United States for any period of 30 consecutive days. SSA will then match the DHS CLAIMS data with: (1) Social Security Number (SSN) applicant and holder information maintained in SSA's Master Files of Social Security Number (SSN) Holders and SSN Applications, SSA/OEEAS 60–0058 most recently published at 65 FR 66279 dated 11/03/2000); and, the SSA's Supplemental Security Income Record and Special Veterans Benefits (SSR) most recently published at 66 FR 11079 SSA/OEEAS 60–0103 dated 02/21/2001.

2. Aliens Who Are Deported From the United States

DHS will also provide SSA with an electronic file containing information on deported number holders from its Deportable Alien Control System (DACS) (Justice/INS–012, full text published at 65 FR 46738, dated 07/31/2000, modified at 66 FR 66712, dated 01/22/2001), electronically formatted for transmission to SSA. DACS will eventually be succeeded by the Enforce Removal Module (EREM). After such transition, EREM will be the system of records used in the match. SSA will then match the DHS EREM data with: SSN applicant and holder information maintained in SSA's Master Files of Social Security Number (SSN) Holders and SSN Applications SSA/OEES 09–60–0058 published at 65 FR 66279 (11/03/00), the Master Beneficiary Record SSA/OEEAS 09–60–0090, most recently published at 66 FR 11080, dated 02/21/2001); and the Supplemental Security Record.

Inclusive Dates of the Match

The matching agreement for this program shall become effective no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget (OMB) or 30 days after publication of this notice in the **Federal Register** whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 04–13756 Filed 6–17–04; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice # 4710]

Industry Advisory Panel: Meeting Notice

The Industry Advisory Panel of Overseas Buildings Operations will meet on Thursday, July 15, 2004 from 9:45 until 11:45 a.m. and reconvene at 1 until 3:30 p.m. Eastern Standard Time. The meeting will be held in conference room 1105 at the Department of State, 2201 C Street NW (entrance on 23rd

Street), Washington, DC. The majority of the meeting is devoted to an exchange of ideas between the Department's Bureau of Overseas Buildings Operations senior management and the panel members on design, operations and building maintenance. Members of the public are asked to kindly refrain from joining the discussion until Director Williams opens the discussion to the public.

Because seating in Conference Room 1105 is limited to 50 seats for members of the public, we ask that you kindly e-mail your information. If you would like to attend the meeting, please respond by e-mail *IAPR@STATE.GOV* prior to July 5th. Your response should include your date of birth and social security number, which will be used by Diplomatic Security to issue a temporary pass to enter the building.

Should you have any questions, please contact me at *PinzinoLE3@state.gov* (tel: (703) 875–6872) or Michael Sprague at *Spraguema@state.gov* at (703) 875–7173.

Dated: June 4, 2004.

Charles E. Williams,

Director/Chief Operating Officer, Overseas Buildings Operations, Department of State.

[FR Doc. 04–13795 Filed 6–17–04; 8:45 am]

BILLING CODE 4710–24–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Pub. L. 104–13; Proposed Collection, Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Alice D. Witt, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–6832. (SC: 0013XYV)

Comments should be sent to the Agency Clearance Officer no later than August 17, 2004.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission.

Title of Information Collection: Power Distributor Monthly and Annual Reports to TVA.

Frequency of Use: Monthly and Annual.

Type of Affected Public: Business or Local Government.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 2,054.

Estimated Total Annual Burden Hours: 3,792.

Estimated Average Burden Hours Per Response: 1.8 hours.

Need For and Use of Information: This information collection supplies TVA with financial and accounting information to help ensure that electric power produced by TVA is sold to consumers at rates which are as low as feasible.

Jacklyn J. Stephenson,

Senior Manager, Enterprise Operations, Information Services.

[FR Doc. 04–13771 Filed 6–17–04; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular (AC) 65–25C, Aviation Maintenance Technician Awards Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed AC, and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed AC that provides guidance on the requirements for participation in the FAA Aviation Maintenance Technician (AMT) Awards Program.

DATES: Submit comments on or before September 16, 2004.

ADDRESSES: Send all comments on the proposed AC to William O'Brien, Aircraft Maintenance Division (AFS–300), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; facsimile (202) 267–5115; e-mail *william.o'brien@faa.gov.*

FOR FURTHER INFORMATION CONTACT: William O'Brien, AFS–300, at the address, facsimile, or e-mail listed above, or by telephone at (202) 267–3796.

SUPPLEMENTARY INFORMATION:

Comments Invited

The proposed AC 65–25C is available on the FAA's Regulatory Guidance Library Web site at *http://www.airweb.faa.gov/rgl*, under the Draft Advisory Circulars link. Interested persons are invited to comment on the proposed AC by submitting written data, views, or arguments as they may desire. Please identify AC 65–25C, Aviation Maintenance Technician Awards Program, and submit comments, either hardcopy or electronic, to the appropriate address listed above.

Comments may be inspected at the above address between 9 a.m. and 4 p.m. weekdays, except Federal holidays.

Issued in Washington, DC, on June 3, 2004.

James J. Ballough,

Director, Flight Standards Service.

[FR Doc. 04–13838 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Ex Parte No. 333]

Meetings of the Board, Sunshine Act

Time and Date: 10 a.m., Tuesday, June 22, 2004.

Place: The Board's Hearing Room, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423.

Status: The Board will meet to elect a Vice Chairman and to discuss among themselves the following agenda items. Although the conference is open for public observation, no public participation is permitted.

Matters to be Discussed:

STB Finance Docket No. 34495, *Buckingham Branch Railroad Company—Lease–CSX Transportation, Inc.*

STB Ex Parte No. 558 (Sub-No. 7), *Railroad Cost of Capital-2003.*

STB Finance Docket No. 34054, *Morristown & Erie Railway, Inc.—Modified Rail Certificate.*

STB Docket No. AB–308 (Sub-No. 3X), *Central Michigan Railway Company—Abandonment Exemption—in Saginaw County, MN.*

STB Docket No. AB–33 (Sub-No. 132X), *Union Pacific Railroad Company—Abandonment Exemption—in Rio Grande and Mineral Counties, CO.*

STB Docket No. AB–863X, *City of Venice—Abandonment Exemption—in Venice, IL and St. Louis, MO.*

Contact Person for More Information: A. Dennis Watson, Office of Congressional and Public Services;

Telephone: (202) 565–1596, FIRS: 1–800–877–8339.

Dated: June 15, 2004.

Vernon A. Williams,

Secretary.

[FR Doc. 04–14005 Filed 6–16–04; 3:03 pm]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 8, 2004.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before July 19, 2004 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0458.

Form Number: IRS Form 4852.

Type of Review: Extension.

Title: Substitute for Form W–2, Wage and Tax Statement, or Form 1099–R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

Description: In the absence of a Form W–2 or 1099R from the employer or payer, Form 4852 is used by the taxpayer to estimate gross wages, pensions, annuities, retirement or IA payments received as well as income or FICA tax withheld during the year. It is attached to the return for processing.

Respondents: Individuals or households, Business or other for-profit, Farms, Federal government, State, local or tribal government.

Estimated Number of Respondents: 1,500,000.

Estimated Burden Hours Respondent: 18 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 450,000 hours.

OMB Number: 1545–0597.

Form Number: IRS Form 4598.

Type of Review: Extension.

Title: Form W–2, 1098, or 1099 Not Received, Incorrect or Lost.

Description: Employers and/or payers are required to furnish Forms W–2, 1098, or 1099 to employees and other payees. This two part form is necessary for the resolution of taxpayer's complaints concerning the non-receipt of, incorrect or lost Forms W–2, 1098, or 1099.

Respondents: Individuals or households, Business or other for-profit, Farms, Federal government, State, local or tribal government.

Estimated Number of Respondents: 850,000.

Estimated Burden Hours Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 212,500 hours.

OMB Number: 1545–0796.

Form Number: IRS Form 6524.

Type of Review: Extension.

Title: Office of Chief Counsel—Application.

Description: The Chief Counsel Application form provides data we deem critical for evaluating an attorney applicant's qualifications such as LSAT score, bar admission status, type of work preference, law school, class standing. OF–306 does not provide this information.

Respondents: Individuals or households.

Estimated Number of Respondents: 3,000.

Estimated Burden Hours Respondent: 18 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 900 hours.

OMB Number: 1545–0798.

CFR Numbers: 26 CFR 31.6001–1, 26 CFR 31.6001–2, 26 CFR 31.6001–3, 26 CFR 31.6001–5, and 26 CFR 31.6001–6.

Type of Review: Extension.

Title: 26 CFR 31.6001–1: Records in General; 26 CFR 31.6001–2: Additional Records under FICA; 26 CFR 31.6001–3: Additional Records under Railroad Retirement Tax Act; 26 CFR 31.6001–5: Additional Records in Connection with Collection of Income Tax at Source on Wages; and, 26 CFR 31.6001–6: Notice by District Director Requiring Returns, Statements, or the Keeping of Records.

Description: Internal Revenue Code (IRC) section 6001 requires, in part, that every person liable for tax or for the collection of that tax keeps such records and complies with such rules and regulations as the Secretary may from time to time prescribe. 26 CFR 31.6001 has special application to employment taxes. These records are needed to ensure compliance with the Code.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal government, State, local or tribal Government.

Estimated Number of Recordkeepers: 5,676,263.

Estimated Burden Hours Recordkeeper: 5 hours, 20 minutes.

Estimated Total Recordkeeping Burden: 30,273,950 hours.

OMB Number: 1545–0807.

Regulation Project Number: LR 2013 (TD 7533) Final and EE–155–78 (TD 7896) Final.

Type of Review: Extension.

Title: LR 2013 (TD 7533) Final: Disc Rules on Procedure and Administration; Rules on Export Trade Corporations; and EE–155–78 (TD 7896) Final: Income from Trade Shows.

Description: Section 1.6071–1(b) requires that when a taxpayer files a late return for a short period, proof of unusual circumstances for late filing must be given to the District Director. Sections 1.6072(b), (c), (d), and (e) of the Internal Revenue Code (IRC) deals with the filing dates of certain corporate returns. Regulation section 1.607–2 provides additional information concerning these filing dates. The information is used to insure timely filing of corporate income tax returns.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, State, local or tribal government.

Estimated Number of Respondents: 12,417.

Estimated Burden Hours Respondent: 15 minutes.

Frequency of Response: On occasion, monthly, annually, other (as required).

Estimated Total Reporting Burden: 3,104 hours.

OMB Number: 1545–0834.

Form Number: None.

Type of Review: Extension.

Title: Regulations under Tax Conventions—Ireland.

Description: This information is needed to secure for individuals and businesses the benefits to which they are entitled under the tax convention and to facilitate the administration and enforcement of the tax laws of the United States.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 20.

Estimated Burden Hours Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 5 hours.

OMB Number: 1545–1112.

Regulation Project Number: IA–96–88 Final.

Type of Review: Extension.

Title: Certain Elections under the Technical and Miscellaneous Revenue Act of 1988 and the Redesignation of Certain Other Temporary Elections Regulations.

Description: These regulations establish various elections with respect to which immediate interim guidance on the time and manner of making the elections is necessary. These regulations enable taxpayers to take advantage of the benefits of various Code provisions.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, State, local or tribal government.

Estimated Number of Respondents: 24,305.

Estimated Burden Hours Respondent: 17 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 6,712 hours.

OMB Number: 1545–1156.

Form Number: None.

Type of Review: Extension.

Title: Records (26 CFR 1.601–1).

Description: Internal Revenue Code section 6001 requires, in part, that every person liable for tax, or for the collection of that tax, keep records and comply with such rules and regulations as the Secretary may from time to time prescribe. These records are needed to ensure proper compliance with the Code.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal government, State, local or tribal government.

Estimated Number of Recordkeepers: 1.

Estimated Burden Hours Recordkeeper: 1 hour.

Estimated Total Recordkeeping Burden: 1 hour.

OMB Number: 1545–1596.

Form Number: IRS Form 8857.

Type of Review: Revision.

Title: Request for Innocent Spouse Relief.

Description: Section 6103(e) of the Internal Revenue Code allows taxpayers to request, and IRS to grant, ''innocent spouse'' relief when: taxpayer filed a joint return with tax substantially understated; taxpayer establishes no knowledge of, or benefit from, the understatement; and it would be inequitable to hold the taxpayer liable. GAO Report GAO/GGD–97–34 recommended that IRS develop a form to make relief easier for the public to request.

Respondents: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Burden Hours Respondent:

Learning about the law or the form—18 min.

Preparing the form—29 min.

Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 57,000 hours.

OMB Number: 1545–1597.

Revenue Procedure Number: Revenue Procedure 2000–12.

Type of Review: Extension.

Title: Application Procedures for Qualified Intermediary Status under Section 1441; Final Qualified Intermediary Withholding Agreement.

Description: Revenue Procedure 2000–12 describes application procedures for becoming intermediary and the requisite agreement that a qualified intermediary must execute with the IRS.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 88,504.

Estimated Burden Hours Respondent/Recordkeeper: 2 hours, 36 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 301,018 hours.

OMB Number: 1545–1610.

Form Number: IRS Form 5500 and Schedules.

Type of Review: Extension.

Title: Annual Return/Report of Employee Benefit Plan.

Description: Form 5500 is an annual information return filed by employee benefit plans. The IRS uses this information to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.

Estimated Number of Respondents/Recordkeepers: 1,139,244.

Estimated Burden Hours Respondent/Recordkeeper:

	Pension plans		Welfare plans	
	Large	Small	Large	Small
Form 5500	1 hr., 44 min	1 hr., 6 min	1 hr., 38 min	1 hr., 5 min.
Schedule A	1 hr., 41 min	53 min	8 hr., 10 min	2 hr., 11 min.
Schedule B	6 hr., 38 min	31 min.		
Schedule C	1 hr., 17 min		52 min.	
Schedule D	10 hr., 0 min	10 hr., 0 min.		
Schedule E	3 hr., 18 min	3 hr., 18 min.		
Schedule G	11 hr., 58 min		6 hr., 28 min.	
Schedule H	7 hr., 56 min		3 hr., 22 min.	
Schedule I		1 hr., 28 min		1 hr., 28 min.
Schedule P	13 min	2 min		
Schedule R	1 hr., 0 min	30 min		
Schedule SSA	6 hr., 10 min	1 hr., 42 min.		
Schedule T	4 hr., 40 min	37 min.		

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 4,378,724 hours.

OMB Number: 1545–1613.

Regulation Project Number: REG–209446–82 Final.

Type of Review: Extension.

Title: Passthrough of Items of an S Corporation to its Shareholders.

Description: Section 1366 requires shareholders of an S corporation to take into account their pro rata share of separately stated items of the S corporation and nonseparately computed income or loss. The regulations provide guidance regarding this reporting requirement.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 1.

Estimated Burden Hours Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–1616.

Regulation Project Number: REG–115393–98 Final.

Type of Review: Extension.

Title: Roth IRAs.

Description: The regulations provide guidance on establishing Roth IRAs, contributions to Roth IRAs, converting amount to Roth IRAs, recharacterizing IRA contributions, Roth IRA distributions, and Roth IRA reporting requirements.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 3,150,000.

Estimated Burden Hours Respondent/Recordkeeper: 31 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 125,000 hours.

OMB Number: 1545–1881.

Form Number: IRS Form 8855.

Type of Review: Extension.

Title: Election to Treat a Qualified Revocable Trust as Party of an Estate.

Description: Form 8855 is used to make a section 645 election that allows a qualified revocable trust to be treated and taxed (for income tax purposes) as part of its related estate during the election period.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 5,000.

Estimated Burden Hours Respondent/Recordkeeper:

Recordkeeping—3 hr., 21 min.

Learning about the law or the form—1 hr., 5 min.

Preparing, copying, assembling, and sending the form to the IRS—1 hr., 11 min.

Frequency of Response: Other (one time).

Estimated Total Reporting/Recordkeeping Burden: 28,200 hours.

Clearance Officer: Glenn P. Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–3428.

OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 04–13793 Filed 6–17–04; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 69, No. 117

Friday, June 18, 2004

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers

Correction

In notice document 04–12187 beginning on page 31162 in the issue of Wednesday, June 2, 2004, make the following corrections:

1. On page 31164, in the table, the following entry is corrected to read as set forth below:

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
C–408–046	104–TAA–7	Sugar/EU	No petition at the Commission; Commerce service list identifies: U.S. Beet Sugar Association. Florida Sugar Marketing and Terminal Association. American Sugar Cane League. American Sugarbeet Growers Association. Florida Sugar Cane League. Rio Grande Valley Sugar Growers Association. Michigan Sugar. Amstar Sugar. Sugar Cane Growers Cooperative of Florida. Alexander & Baldwin. Michigan Farm Bureau. H&R Brokerage. Talisman Sugar. American Farm Bureau Federation. Leach Farms. A.J. Yates. Hawaiian Agricultural Research Center. United States Beet Sugar Association. United States Cane Sugar Refiners' Association.

2. On page 31166, in the table, the following entry is corrected to read as set forth below:

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
C–351–504	701–TA–249	Heavy iron construction castings/Brazil	Alhambra Foundry. Allegheny Foundry. Bingham & Taylor. Campbell Foundry. Charlotte Pipe & Foundry. Deeter Foundry. East Jordan Foundry. Le Baron Foundry. Municipal Castings. Neenah Foundry. Opelika Foundry. Pinkerton Foundry. Tyler Pipe. U.S. Foundry & Manufacturing. Vulcan Foundry.

[FR Doc. C4–12187 Filed 6–17–04; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Friday,
June 18, 2004

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1

Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 2001–24; Introduction

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

ACTION: Summary presentation of final and interim rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2001–24. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.acqnet.gov/far.*

DATES: For effective dates and comment dates, see separate documents which follow.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, at (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact the analyst whose name appears in the table below in relation to each FAR case or subject area. Please cite FAC 2001–24 and specific FAR case number(s). Interested parties may also visit our Web site at *http://www.acqnet.gov/far.*

Item	Subject	FAR case	Analyst
I	Incentives for Use of Performance-Based Contracting for Services (Interim)	2004–004	Wise.
II	Definitions Clause	2002–013	Parnell.
III	Procurement Lists	2003–013	Nelson.
IV	Determining Official for Employment Provision Compliance—Immigration and Nationality Act (INA).	2004–009	Goral.
V	Federal Supply Schedules Services and Blanket Purchase Agreements (BPAs).	1999–603	Nelson.
VI	Designated Countries—New European Communities Member States	2004–008	Davis.
VII	Buy American Act—Nonavailable Articles	2003–007	Davis.
VIII	Application of Cost Principles and Procedures and Accounting for Unallowable Costs.	2002–006	Loeb.
IX	Gains and Losses, Maintenance and Repair Costs, and Material Costs	2002–008	Loeb.
X	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

FAC 2001–24 amends the FAR as specified below:

Item I—Incentives for Use of Performance-Based Contracting for Services (Interim) (FAR Case 2004–004)

This interim rule amends the FAR to implement Sections 1431 and 1433 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136). Section 1431 enacts Governmentwide authority to treat performance-based contracts or task orders for services as commercial items if certain conditions are met, and requires agencies to report on performance-based contracts or task orders awarded using this authority. Section 1433 amends the definition of commercial item to add specific performance-based terminology and to conform to the language added by Section 1431. Contracting officers will be able to use FAR Part 12, Acquisition of Commercial Items, and Subpart 37.6, Performance-Based Contracting, for non-commercial services and treat these services as commercial services when specific conditions are met. Agencies will be required to report on performance-based contracts or task orders awarded using this authority.

Item II—Definitions Clause (FAR Case 2002–013)

This final rule revises FAR 2.201 and the clause at 52.202–1 to clarify the applicability of FAR definitions to solicitation provisions and contract clauses. The list of definitions in 52.202–1 is removed and replaced with policy stating that when a solicitation provision or contract clause uses a word or term that is defined in the FAR, the word or term has the meaning given in FAR 2.101 at the time the solicitation was issued. Certain exceptions to this policy are listed in FAR 52.202–1.

Item III—Procurement Lists (FAR Case 2003–013)

This final rule amends the FAR to clarify that the Javits-Wagner O'Day (JWOD) program becomes a mandatory source of supplies and services when the supplies or services have been added to the Procurement List maintained by the Committee for Purchase from People Who Are Blind or Severely Disabled.

Item IV—Determining Official for Employment Provision Compliance—Immigration and Nationality Act (INA) (FAR Case 2004–009)

This final rule amends FAR 9.406–2(b)(2) by revising the responsibility for determining when a contractor is not in compliance with the Immigration and Nationality Act (INA) to include both the Attorney General of the United States and the Secretary of Homeland Security.

This rule implements Executive Order 13286 published March 5, 2003, which amended Section 4 of Executive Order 12989 published February 15, 1996.

Debarring officials may now debar a contractor based on a determination by the Secretary of Homeland Security or the Attorney General of the United States.

Item V—Federal Supply Schedules Services and Blanket Purchase Agreements (BPAs) (FAR Case 1999–603)

This final rule amends the FAR in order to incorporate policies and procedures for services under Federal Supply Schedules. The rule—

- Adds a definitions section;
- Adds information regarding the Department of Veterans Affairs delegated authority to establish medical supply schedules;

• Adds language to clarify the differences between an Authorized Federal Supply Schedules (FSS) Pricelist and a FSS publication;

• Adds additional information regarding e-buy, GSA's electronic quote system for the schedules program;

• Clarifies that competition shall not be sought outside the Federal Supply Schedules;

• Adds language to make it clear that the contracting officer placing an order on another agency's behalf is responsible for applying that agency's regulatory and statutory requirements; and that the requiring activity is required to provide information on the applicable regulatory and statutory requirements to the contracting officer;

• Adds new coverage on use of statements of work when acquiring services from the schedules;

• Requires that when an agency awards a task order requiring a statement of work, that if the award is based on other than price (best value), the contracting officer shall provide a brief explanation of the basis for the award decision to any unsuccessful contractor that requests such information.

• Adds language stating that the performance period of Blanket Purchase Agreement (BPA) established under the schedules program may cross option periods on the base contracts;

• Refines guidance regarding the use of Governmentwide BPAs;

• Adds language to require the ordering activity to document the results of its BPA review;

• Adds language that encourages or reminds agencies that they can seek a price reduction at any time, not just when an order exceeds the maximum order threshold;

• Adds additional language to allow for consideration of socio-economic status when identifying the potential competitors for an order;

• Reinforces documentation requirements generally and adds new guidance addressing the documentation of orders for services and sole source orders;

• Adds new coverage to allow agencies to make payment for oral or written orders by any authorized means, including the Governmentwide commercial purchase card;

• Reserves the ordering procedures for Mandatory Use Schedules section;

• Clarifies the procedures for termination for cause and convenience; and

• Reorganizes and revises the subpart text for ease of use.

Item VI—Designated Countries—New European Communities Member States (FAR Case 2004–008)

This final rule amends the FAR to implement a determination by the United States Trade Representative (USTR) under the Trade Agreements Act that suppliers from the 10 new member states of the European Communities (EC) (*i.e.,* the European Union) are eligible to participate in U.S. Government procurement under the terms and conditions of the World Trade Organization Government Procurement Agreement (WTO GPA). This means that in acquisitions subject to the WTO GPA, the contracting officer can accept offers of eligible products from Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia without application of the Buy American Act evaluation factor.

Item VII—Buy American Act—Nonavailable Articles (FAR Case 2003–007)

This final rule amends FAR 25.104(a) to add certain food and textile items to the list of articles not available from domestic sources in sufficient and reasonably available commercial quantities of a satisfactory quality. This case is based on extensive market research by the Defense Logistics Agency. Unless the contracting officer learns before the time designated for receipt of bids in sealed bidding or final offers in negotiation that an article on the list is available domestically in sufficient and reasonably available quantities of a satisfactory quality, the Buy American Act does not apply to acquisition of these items as end products, and the contracting officer may treat foreign components of the same class or kind as domestic components.

Item VIII—Application of Cost Principles and Procedures and Accounting for Unallowable Costs (FAR Case 2002–006)

This final rule amends the FAR by revising FAR 31.204, Application of principles and procedures, to improve clarity and structure. The case was initiated as a result of comments and recommendations received from industry and Government representatives during a series of public meetings. This rule is of particular interest to contractors and contracting officers who use cost analysis to price contracts and modifications, and who determine or negotiate reasonable costs in accordance with a clause of a contract, *e.g.,* price revision of fixed-price incentive contracts, terminated contracts, or indirect cost rates.

Item IX—Gains and Losses, Maintenance and Repair Costs, and Material Costs (FAR Case 2002–008)

This final rule amends the FAR by deleting the cost principle at FAR 31.205–24, Maintenance and repair costs, because either Cost Accounting Standards (CAS) or Generally Accepted Accounting Practices (GAAP) adequately address these costs. The rule also revises the cost principles at FAR 31.205–7, Contingencies; FAR 31.205–26, Material costs; and FAR 31.205–44, Training and education costs, by improving clarity and structure, and removing unnecessary and duplicative language.

The case was initiated as a result of comments and recommendations received from industry and Government representatives during a series of public meetings. This rule is of particular interest to contractors and contracting officers who use cost analysis to price contracts and modifications, and who determine or negotiate reasonable costs in accordance with a clause of a contract, *e.g.*, price revision of fixed-price incentive contracts, terminated contracts, or indirect cost rates.

Item X—Technical Amendments

This amendment makes editorial changes at 8.003(d), 11.102, and 11.202(b), and removes sections 53.301–254 and 53.301–255.

Dated: June 10, 2004.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

Federal Acquisition Circular

Number 2001–224

Federal Acquisition Circular (FAC) 2001–24 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2001–24 are effective July 19, 2004, except for Items I, IV, VI, and X, which are effective June 18, 2004.

Dated: June 9, 2004.

Deidre A. Lee,

Director, Defense Procurement and Acquisition Policy.

Dated: June 10, 2004.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: June 8, 2004.

Tom Luedtke,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 04–13617 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 12, 37, and 52

[FAC 2001–24; FAR Case 2004–004; Item I]

RIN 9000–AJ97

Federal Acquisition Regulation; Incentives for Use of Performance-Based Contracting for Services

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

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement sections 1431 and 1433 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136). Section 1431 enacts Governmentwide authority to treat performance-based contracts or task orders for services as commercial items if certain conditions are met, and requires agencies to report on performance-based contracts or task orders awarded using this authority. Section 1433 amends the definition of commercial item to add specific performance-based terminology and to conform to the language added by section 1431.

DATES: *Effective Date:* June 18, 2004.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before August 17, 2004, to be considered in the formulation of a final rule.

ADDRESSES: Submit printed comments to General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405. Submit electronic comments via the Internet to the U.S. Government's Web site at *http://www.regulations.gov*, or to GSA's e-mailbox at *farcase.2004–004@gsa.gov.*

Please submit comments only and cite FAC 2001–24, FAR case 2004–004, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Julia Wise, Procurement Analyst, at (202) 208–1168. Please cite FAC 2001–24, FAR case 2004–004.

SUPPLEMENTARY INFORMATION:

A. Background

Section 1431 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) enacts Governmentwide authority to treat certain performance-based contracts or task orders for services as commercial items if the—

(1) Value of the contract or task order is estimated not to exceed $25,000,000;

(2) Contract or task order sets forth specifically each task to be performed and, for each task—

a. Defines the task in measurable, mission-related terms;

b. Identifies the specific end products or output to be achieved; and

c. Contains firm, fixed prices for specific tasks to be performed or outcomes to be achieved; and

(3) Source of the services provides similar services to the general public under terms and conditions similar to those offered to the Federal Government.

Implementation of section 1431 also requires agencies to collect and maintain reliable data sufficient to identify the contracts or task orders treated as contracts for commercial items using the authority of this section. The data will be collected using the Federal Procurement Data System-Next Generation (FPDS–NG). By November 24, 2006, OMB will be required to report to the Committees on Governmental Affairs and on Armed Services of the Senate and the Committees on Government Reform and on Armed Services of the House of Representatives on the implementation of Section 1431. The report shall include data on the use of such authority both Governmentwide and for each department and agency. The authority of section 1431 expires on November 24, 2013, ten years after enactment. Section 1433 also amends the definition of commercial services to conform to the language added by section 1431 by inserting performance-based terms for clarification. The implementation of sections 1431 and 1433 will—

- Revise the commercial items definition in FAR 2.101 and 52.202–1;
- Add a new record requirement for reporting commercial performance-based contracts or task orders to FAR 4.601;
- Incorporate the conditions for using FAR Part 12 for any performance-based contract or task order for services in FAR 12.102; and
- Add performance-based terms as required by section 1433, and
- Add a cross reference to FAR 12.102(g) in FAR 37.601.

The reference to the definition of performance-based contracting in the proposed language is a change from the statutory requirement. Section 1431 provides for a contract or task order to be treated as a contract for commercial items if: ''The contract or task order sets forth specifically each task to be performed and for each task—defines the task in measurable, mission-related terms; identifies the specific end products or output to be achieved; and contains firm, fixed prices for specific tasks to be performed or outcomes to be achieved.'' However, the two requirements of law regarding how tasks, products, or outputs are described are being implemented by requiring contracts or task orders to meet the definition of performance-based contracting at FAR 2.101. This language and that at 12.102 paragraphs (g)(1)(iv) and (v) and in (g)(2) are to ensure consistency with the overarching policy in FAR 37.601 that applies to performance-based contracting for services.

Section 1431 recommends that the Federal Procurement Data System (FPDS) or other reporting mechanism collect this data. The FPDS is the only Governmentwide system that can potentially collect this data. This system currently tracks performance-based contracts and task orders awarded. A petition was made to the FPDS–NG Change Control Board to incorporate a change to report data on services treated as commercial items under the conditions stated in section 1431 when using performance-based contracting techniques.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because we have changed procedures for award and

administration of contracts or task orders enabling the Government to treat certain services as commercial items when the contract or task order—

- Is entered into on or before November 24, 2013;
- Has a value of $25 million or less;
- Meets the definition of performance-based contracting at FAR 2.101;
- Includes a quality assurance surveillance plan;
- Includes performance incentives where appropriate;
- Specifies a firm-fixed price for specific tasks to be performed or outcomes to be achieved; and
- Is awarded to an entity that provides similar services to the general public under terms and conditions similar to those in the contract or task order.

Therefore, we have prepared an Initial Regulatory Flexibility Analysis that is summarized as follows:

The rule (1) amends the commercial items definition in FAR 2.101 and 52.202–1; (2) adds a new record requirement for reporting commercial performance-based contracts or task orders to FAR 4.601; (3) incorporates the conditions for using FAR Part 12 for any performance-based contract or task order for services in FAR 12.102; and (4) adds performance-based terms as required by section 1433, and (5) adds a cross reference to FAR 12.102(g) in FAR 37.601. The rule will apply to all large and small entities that seek award of performance-based service contracts that are not commercial services as defined by FAR 2.101 and 52.202–1. Although these changes were made to implement section 1431 and 1433 of the National Defense Authorization Act for Fiscal Year 2004 (P.L. 108–136), the impact of these changes are positive and may provide (1) new contracting opportunities to small businesses that otherwise would not have been available if their services did not meet the definition of commercial item in FAR 2.101 and 52.202–1; and (2) contracting flexibility for the acquisition community when using PBC techniques.

The FAR Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR Parts 2, 4, 12, 37, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, *et seq.* (FAC 2001–24, FAR case 2004–004), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to implement sections 1431 and 1433 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) which became effective November 24, 2003. However, pursuant to Public Law 98–577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 2, 4, 12, 37, and 52

Government procurement.

Dated: June 10, 2004.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 4, 12, 37, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 4, 12, 37, and 52 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 in paragraph (b) in the definition ''Commercial item'' by revising the introductory text of paragraph (6) to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

Commercial item means—

* * * * *

(6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without an established catalog or market price for a specific service performed or a specific outcome to be achieved. For purposes of these services—

* * * * *

PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.601 by adding paragraph (d)(6) to read as follows:

4.601 Record requirements.

* * * * *

(d) * * *

(6) Contracts or task orders treated as commercial items pursuant to 12.102(g).

* * * * *

PART 12—ACQUISITION OF COMMERCIAL ITEMS

■ 4. Amend section 12.102 by adding paragraph (g) to read as follows:

12.102 Applicability.

* * * * *

(g)(1) In accordance with section 14313 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) (41 U.S.C. 437), the contracting officer also may use Part 12 for any acquisition performance-based contracting for services that does not meet the definition of commercial item in FAR 2.101, if the contract or task order—

(i) Is entered into on or before November 24, 2013;

(ii) Has a value of $25 million or less;

(iii) Meets the definition of performance-based contracting at FAR 2.101;

(iv) Includes a quality assurance surveillance plan;

(v) Includes performance incentives where appropriate;

(vi) Specifies a firm-fixed price for specific tasks to be performed or outcomes to be achieved; and

(vii) Is awarded to an entity that provides similar services to the general public under terms and conditions similar to those in the contract or task order.

(2) In exercising the authority specified in paragraph (g)(1) of this section, the contracting officer should tailor paragraph (a) of the clause at FAR 52.212–4 as may be necessary to ensure the contract's remedies adequately protect the Government's interests.

PART 37—SERVICE CONTRACTING

■ 5. Revise section 37.601 to read as follows:

37.601 General.

(a) Performance-based contracting methods are intended to ensure that required performance quality levels are achieved and that total payment is related to the degree that services performed or outcomes achieved meet contract standards. Performance-based contracts or task orders—

(1) Describe the requirements in terms of results required rather than the methods of performance of the work;

(2) Use measurable performance standards (*i.e.*, in terms of quality, timeliness, quantity, etc.) and quality assurance surveillance plans (see 46.103(a) and 46.401(a));

(3) Specify procedures for reductions of fee or for reductions to the price of a fixed-price contract when services are not performed or do not meet contract requirements (see 46.407); and

(4) Include performance incentives where appropriate.

(b) See 12.102(g) for the use of Part 12 procedures for performance-based contracting.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Amend section 52.202–1 by revising the date of the clause and the introductory text of paragraph (c)(6) of the clause to read as follows:

52.202–1 Definitions.

* * * * *

Definitions (Jun 2004)

* * * * *

(c) * * *

(6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without an established catalog or market price for a specific service performed or a specific outcome to be achieved. For purposes of these services—

* * * * *

[FR Doc. 04–13618 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2 and 52

[FAC 2001–24; FAR Case 2002–013; Item II]

RIN 9000–AJ83

Federal Acquisition Regulation; Definitions Clause

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to clarify the applicability of FAR definitions to solicitation provisions and contract clauses.

DATES: *Effective Date:* July 19, 2004.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Jeritta Parnell, Procurement Analyst, at (202) 501–4082. Please cite FAC 2001–24, FAR case 2002–013.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the FAR to delete the list of definitions from the clause at FAR 52.202–1 and to replace the list with general policy regarding the applicability of FAR definitions to solicitation provisions and contract clauses.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 69 FR 2988, January 21, 2004. Three comments were received from one respondent. The first two comments requested clarification as to whether the second and third sentences of FAR 2.201 and Alternate I of the clause at FAR 52.202–1 are being deleted. This text has been deleted, and the proposed and final rules reflect this. The third comment suggested correcting the Web address in FAR 52.202–1. We agree. The Web address has been changed. The proposed rule has been converted to a final rule with this change and other minor editorial changes.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the principle of how definitions apply is already expressed in FAR Part 2. Since this principle is not as clearly expressed in the FAR Part 52 clauses, the rule repeats the principle in a clause to clarify this issue for offerors and contractors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2 and 52

Government procurement.

Dated: June 10, 2004.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 2 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2 and 52 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Revise section 2.201 to read as follows:

2.201 Contract clause.

Insert the clause at 52.202–1, Definitions, in solicitations and contracts that exceed the simplified acquisition threshold.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Revise section 52.202–1 to read as follows:

52.202–1 Definitions.

As prescribed in 2.201, insert the following clause:

Definitions (Jul 2004)

(a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless—

(1) The solicitation, or amended solicitation, provides a different definition;

(2) The contracting parties agree to a different definition;

(3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or

(4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(b) The FAR Index is a guide to words and terms the FAR defines and shows where each

definition is located. The FAR Index is available via the Internet at *http://www.acqnet.gov* at the end of the FAR, after the FAR Appendix.

(End of clause)

52.213–4 [Amended]

■ 4. Amend section 52.213–4 by removing ''(May 2004)'' from the clause heading and from paragraph (a)(2)(vi) of the clause and adding ''(Jul 2004)'' in their place.

■ 5. In section 52.244–6, revise the date of the clause; and in paragraph (a) of the clause revise the definition ''Commercial item'' to read as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (Jul 2004)

(a) * * *

Commercial item has the meaning contained in Federal Acquisition Regulation 2.101, Definitions.

* * * * *

[FR Doc. 04–13619 Filed 6–17–04; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8 and 52

[FAC 2001–24; FAR Case 2003–013; Item III]

RIN 9000–AJ82

Federal Acquisition Regulation; Procurement Lists

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to clarify the point that the Javits-Wagner-O'Day (JWOD) program becomes a mandatory source when the supplies or services have been added to the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled. The rule also updates the address for the Committee for Purchase From People Who Are Blind or Severely Disabled.

DATES: *Effective Date:* July 19, 2004.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAC 2001–24, FAR case 2003–013. The TTY Federal Relay Number for further information is 1–800–877–8973.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the FAR to clarify that the Javits-Wagner-O'Day (JWOD) program becomes a mandatory source of supplies and services when the supplies or services have been added to the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled (the Committee). A Web site for the ''Procurement List'' is added, and the address for the Committee has also been updated. These changes are necessary to correct confusion and avoid misuse of mandatory source authority.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 68 FR 69262, December 11, 2003. One source, the International Safety Equipment Association (ISEA), submitted comments on the proposed rule. The Councils concluded that the proposed rule should be converted to a final rule, with only an editorial change at FAR 8.714 to update address information and a clarification at FAR clause 52.208–9. A summary of the comments and the disposition follows:

Comment: The respondent recommended that a new provision be added to FAR 8.002 exempting personal protective equipment from requirements of that part.

Response: The Councils do not concur. The proposed change is outside the scope of the FAR case. Further, the FAR does not provide for particular product exemptions. Decisions to add a product or service to the Procurement List are made on a case-by-case basis by the Committee for Purchase From People Who Are Blind or Severely Disabled, following the notice-and-comment rulemaking provisions of the Administrative Procedure Act in accordance with 41 U.S.C. 47(a)(2).

Comment: The respondent recommended that the JWOD program provide for exceptions similar to those provided at FAR 8.606 for purchases from Federal Prison Industries (FPI).

Response: The Councils do not concur. First, the proposed change is outside the scope of the FAR case. Secondly, 41 U.S.C. 47(d) identifies the Committee as the entity responsible for rules and regulations necessary to carry out the JWOD program. The Committee's statute and regulations do not provide for FPI-like exceptions, but do provide for purchase exceptions appropriate for JWOD, which are implemented in the FAR.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule clarifies that the Javits-Wagner-O'Day (JWOD) program becomes a mandatory source of supplies and services when the supplies or services are added to the Procurement List. While we have made changes to clarify when a supply or service becomes a mandatory JWOD source, we have not substantively changed procedures for award and administration of contracts.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 8 and 52

Government procurement.

Dated: June 10, 2004.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 8 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 8 and 52 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 2. Amend section 8.002 by revising paragraphs (a)(1)(iv) and (a)(2)(i) to read as follows:

8.002 Priorities for use of Government supply sources.

(a) * * *

(1) * * *

(iv) Supplies which are on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled (see Subpart 8.7);

* * * * *

(2) *Services.* (i) Services which are on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled (see Subpart 8.7);

* * * * *

8.004 [Amended]

■ 3. Amend section 8.004 by removing from the first sentence the words ''available from'' and adding ''on the Procurement List maintained by'' in its place.

■ 4. Amend section 8.703 by revising the first paragraph to read as follows:

8.703 Procurement list.

The Committee maintains a Procurement List of all supplies and services required to be purchased from JWOD participating nonprofit agencies. The Procurement List may be accessed at: *http://www.jwod.gov/procurementlist.* Questions concerning whether a supply item or service is on the Procurement List may be submitted at Internet e-mail address *info@jwod.gov* or referred to the Committee offices at the following address and telephone number: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, VA 22202–3259, (703) 603–7740.

* * * * *

■ 5. Amend section 8.714 by revising paragraph (b) to read as follows:

8.714 Communications with the central nonprofit agencies and the Committee.

* * * * *

(b) Any matter requiring referral to the Committee shall be addressed to the Executive Director of the Committee, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, VA 22202–3259.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Amend section 52.208–9 by revising the date of the clause, by redesignating paragraph (c) as paragraph (a) and revising the first sentence of paragraph (a) to read as follows:

52.208–9 Contractor Use of Mandatory Sources of Supply or Services.

* * * * *

Contractor Use of Mandatory Sources of Supply or Services (Jul 2004)

(a) Certain supplies or services to be provided under this contract for use by the Government are required by law to be obtained from nonprofit agencies participating in the program operated by the Committee for Purchase From People Who Are Blind or Severely Disabled (the Committee) under the Javits-Wagner-O'Day Act (JWOD) (41 U.S.C. 48). * * *

* * * * *

[FR Doc. 04–13620 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 9

[FAC 2001–24; FAR Case 2004–009; Item IV]

RIN 9000–AJ98

Federal Acquisition Regulation; Determining Official for Employment Provision Compliance—Immigration and Nationality Act (INA)

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) by revising the responsibility for determining when a contractor is not in compliance with the Immigration and Nationality Act (INA) to include both the Attorney General and the Secretary of Homeland Security, pursuant to Executive Order 13286 published March 5, 2003.

DATES: *Effective Date:* June 18, 2004.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Craig Goral, Procurement Analyst, at (202) 501–3856. Please cite FAC 2001–24, FAR case 2004–009.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 9.406–2(b)(2) by revising the responsibility for determining when a contractor is not in compliance with INA to include both the Attorney General and the Secretary of Homeland Security pursuant to Executive Order (E.O.) 13286 published March 5, 2003. E.O. 13286 amended Section 4 of E.O. 12989, published February 15, 1996, by adding, along with the Attorney General, the Secretary of Homeland Security as the responsible authority for determining when a contractor is not in compliance with the INA. Pursuant to this amendment, it is necessary to revise FAR 9.406–2(b)(2) to reflect this change.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR Part 9 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2001–24, FAR case 2004–009), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 9

Government procurement.

Dated: June 10, 2004.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 9 as set forth below:

PART 9—CONTRACTOR QUALIFICATIONS

■ 1. The authority citation for 48 CFR part 9 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 9.406–2 by revising paragraph (b)(2) to read as follows:

9.406–2 Causes for debarment.

* * * * *

(b) * * *

(2) A contractor, based on a determination by the Secretary of Homeland Security or the Attorney General of the United States, that the contractor is not in compliance with Immigration and Nationality Act employment provisions (see Executive Order 12989, as amended by Executive Order 13286). Such determination is not reviewable in the debarment proceedings.

* * * * *

■ 3. Amend section 9.406–4 by revising the third sentence of paragraph (b) to read as follows:

9.406–4 Period of debarment.

* * * * *

(b) * * * Debarments under 9.406–2(b)(2) may be extended for additional periods of one year if the Secretary of Homeland Security or the Attorney General determines that the contractor continues to be in violation of the employment provisions of the Immigration and Nationality Act. * * *

* * * * *

[FR Doc. 04–13621 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8, 38, and 53

[FAC 2001–24; FAR Case 1999–603; Item V]

RIN 9000–AJ63

Federal Acquisition Regulation; Federal Supply Schedules Services and Blanket Purchase Agreements (BPAs)

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to incorporate policies for services and to strengthen the procedures for establishing Blanket Purchase Agreements under the Federal Supply Schedules.

DATES: *Effective Date:* July 19, 2004.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAC 2001–24, FAR case 1999–603. The TTY Federal Relay Number for further information is 1–800–877–8973.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 68 FR 19294, April 18, 2003, with request for comments. Thirty-four respondents submitted public comments. A discussion of the comments is provided below. The differences between the proposed rule and final rule are addressed in the Councils' response to comments 1 through 9. General changes made to FAR Subpart 8.4 by this rulemaking are provided in the list below. Of particular note, the rule—

- Adds language to make it clear that the contracting officer placing an order on another agency's behalf is responsible for applying that agency's regulatory and statutory requirements; and that the requiring activity is required to provide information on the applicable regulatory and statutory requirements to the contracting officer;
- Adds new coverage on use of statements of work when acquiring services from the schedules;
- Requires that when an agency awards a task order requiring a statement of work, that if the award is based on other than price (best value), the contracting officer shall provide a brief explanation of the basis for the award decision to any unsuccessful contractor that requests such information;
- Refines guidance regarding the use of Governmentwide BPAs;
- Adds language to require the ordering activity to document the results of its BPA review; and
- Reinforces documentation requirements generally and adds new guidance addressing the documentation of orders for services and sole source orders.

In addition, the rule also—

- Adds a definitions section;
- Adds information regarding the Department of Veterans Affairs delegated authority to establish medical supply schedules;
- Adds language to clarify the differences between an Authorized Federal Supply Schedules (FSS) Pricelist and a FSS publication;
- Adds additional information regarding e-Buy, GSA's electronic quote system for the schedules program;
- Clarifies that competition shall not be sought outside the Federal Supply Schedules;
- Adds language stating that the performance period of Blanket Purchase Agreements (BPA) established under the schedules program may cross option periods on the base contracts;
- Adds language that encourages or reminds agencies that they can seek a price reduction at any time, not just when an order exceeds the maximum order threshold;
- Adds additional language to allow for consideration of socio-economic status when identifying the potential competitors for an order;
- Adds new coverage to allow agencies to make payment for oral or written orders by any authorized means, including the Governmentwide commercial purchase card;
- Reserves the ordering procedures for Mandatory Use Schedules section;
- Clarifies the procedures for termination for cause and convenience; and
- Reorganizes and revises the subpart text for ease of use.

B. Summary and Discussion of Significant Public Comments

1. *Comment: Ordering offices need not seek further competition.* Several respondents stated that the phrase ''Ordering offices shall not seek further competition'' is confusing or misleading. In addition, the requirement that agencies need not seek further competition, synopsize the requirement, or consider small business programs when placing orders or issuing Blanket Purchase Agreements under the schedule ordering procedures did not seem fair.

Councils' response: Partially concur. The Councils determined that although the language was clear, an additional explanation would be added. The Councils clarified the language at 8.404(a) to indicate that ordering activities need not seek competition outside of the Federal Supply Schedules. Agencies must follow the procedures of Subpart 8.4 to ensure compliance with the requirement for full and open competition as implemented under the Multiple Award Schedules program.

2. *Comment: Use of the term ''appropriate number.''* Concern was raised regarding the use of the term ''appropriate number'' at FAR 8.404–1(d)(1) and FAR 8.404–2(c)(2)(ii) of the proposed rule. The term ''appropriate number'' pertains to the number of

contractors to be considered or contacted as part of the order evaluation and placement process. In general, the respondents were concerned that the language was too vague and did not provide sufficient guidance as to the number of contractors that should be considered or contacted. Further, there was a recommendation that ''an appropriate number'' be changed to state a specific number or delete the requirement.

Councils' response: The Councils partially concur. The rule identifies factors that ordering activities might consider in determining the appropriate number of additional schedule contractors to consider. The intent is to leave it to the discretion of the contracting officer to determine the number of additional contractors to be considered or contacted. The recommendation that a specific number of contractors be identified in place of an ''appropriate number'' would unnecessarily limit the discretion of the contracting officer. A final note, proposed rule FAR 8.404–1(d)(1) is renumbered in the final rule as FAR 8.405–1(d)(1). Proposed rule FAR 8.404–2(c)(2)(ii) is renumbered FAR 8.405–2(c)(3)(i) in the final rule.

3. *Comment: Price reductions.* A respondent commented that the ordering procedures should be revised to remind agencies that price reductions could be requested at any time for any size order.

Councils' response: Concur. Language was added to the final rule at FAR 8.404(d) reminding agencies that they can ask for price reductions prior to placing an order.

4. *Comment: Quality Assurance Surveillance Plans.* Several respondents raised concerns regarding the guidance on the use of Quality Assurance Surveillance Plans (QASP). The respondents felt that QASP should be required for all service orders regardless of whether the Statement of Work (SOW) is performance based or not. In addition, another respondent indicated that the proposed rule contains two different sections pertaining to QASP, which is redundant and confusing (see 8.404–2(c)(1) and (c)(4) of the proposed rule).

Councils' response: The Councils generally agreed with the observation that the mention of QASPs in two different places was, in fact, redundant and confusing. As a result, the rule was revised to include a reference to FAR Subpart 37.6. See FAR 8.405–2(b) of the final rule. With regard to the suggestion that QASPs be required for all service orders regardless of type, the Councils rejected this suggestion. There is no FAR requirement that QASPs be developed for all service orders. The FAR only requires the development of QASPs for performance-based service orders.

5. *Comment: Blanket Purchase Agreements.* Several respondents commented that the requirement for each agency to be a signatory when establishing a multi-agency BPA was confusing.

Councils' response: The Councils agreed that the requirement for each agency using a multi-agency BPA to be a signatory to the BPA was unnecessary. The Councils revised the language to state that the agencies and their requirements must be identified in the BPA. The purpose of this change was two-fold; it eliminated the requirement that each agency actually sign the BPA while at the same time ensuring that the planned potential users of the BPA are reflected by including the user agencies' estimated requirements. Additionally, including information regarding the various agencies' estimated requirements fosters better pricing and enhances competition.

The Councils also added a new paragraph at 8.405–3(c) regarding the duration of BPAs. Over time, it has become apparent that additional guidance was needed on the length of BPAs. The underlying schedule contracts include a clause that allows BPAs to extend for the life of the contract. The supplemental guidance in the final rule advises agencies that a BPA should generally run for no longer than five years. However, BPAs may exceed five years to meet agency program requirements. The guidance further provides that a BPA can extend beyond the current term of the contract so long as there are option periods remaining on the underlying contract that, if exercised, will cover the BPA's period of performance. The rule requires that an ordering activity review the BPA at least once per year.

6. *Comment: Small business.* Several respondents raised concerns regarding the ability of agencies to focus their consideration of contractors and their competitions for orders on small businesses. In particular, the Federal Office of Small Disadvantaged Business Utilization (OSDBU) Directors Interagency Council commented that the rule of two should apply to schedule orders and that all orders between $2,500 and $100,000 be restricted to small businesses. In addition, another respondent stated that the language regarding the applicability of Part 19 of the FAR needed to be clarified. Another respondent suggested that a 10 percent price evaluation advantage be given to small businesses when agencies are placing orders.

Councils' response: The Councils do not concur with the comment that the rule of two should apply to orders under the schedules program. Further, the Councils do not concur with the suggestion that all orders under $100,000 be set-aside for small business. The Councils concluded that these suggestions would fundamentally alter the schedules program in terms of the efficiency and effectiveness of the overall program by increasing the administrative burden on agencies without having demonstrated that the changes would, in fact, benefit small business over the long term. In addition, the basic statutory authority for the program provides that contracts and orders be open to all sources. Creating a set-aside for all such orders would be inconsistent with the program's basic operating authorities. In addition, the Councils, for the same general reasons, do not agree with the request for a 10 percent evaluation preference for small business.

However, the Councils did examine ways in which the rule could foster even greater small business participation than that which already exists. The Councils added language at FAR 8.405–5(b) that provides that ''Ordering activities may consider socio-economic status when identifying contractor(s) for consideration or competition for award of an order or BPA.'' This language provides the flexibility for agencies to conduct their market research focusing on small business concerns and providing them greater opportunity to compete for orders.

The Councils also clarified the language at FAR 8.405–5(a) regarding the applicability of FAR Part 19 and added language that reminds agencies that when reporting an order for purposes of credit towards their socio-economic goals, the ordering agency may only take credit if the awardee meets the size standard that corresponds to the work performed.

7. *Comments: Documentation requirements.* Several respondents indicated that the documentation requirements at FAR 8.404–6 of the proposed rule were confusing.

Councils' response: The Councils agreed with these comments and revised the rule accordingly. The Councils moved the documentation for services requiring a statement of work from the end of the section to the beginning consolidating minimum documentation requirements for services under FAR 8.405–7(a) and (b) of the final rule. In addition, the sole source document

requirements were placed in a separate heading at FAR 8.405–6 of the final rule. A final note, proposed rule FAR 8.404–6 is renumbered in the final rule as FAR 8.405–7.

8. *Comment: Inspection and acceptance*. One respondent raised significant concerns regarding the inspection and acceptance guidance at FAR 8.405–3 of the proposed rule. The respondent commented that the new provisions regarding the inspection rights of the Government for services were overly broad and unduly burdensome. The provisions provided in part that the Government had the right to inspect services performed at any time and any place, including the contractor's facilities. The respondent indicated that inspection and acceptance are typically negotiated based on the type of service to be provided and are not left so open-ended in the Government's favor.

Councils' response: The Councils essentially agreed with the respondent's observations. As a result, the Councils revised the final rule at FAR 8.406–2(b) to state that inspection shall be in accordance with the contract and order terms. The order terms can be negotiated as part of a Quality Assurance Surveillance Plan for an order.

9. *Comment: Remedies for inadequate performance*. One respondent raised several concerns regarding the remedies for inadequate performance guidance included in the proposed rule. In cases where a contractor fails to correct earlier nonperformance of an order, FAR 8.405–4(c) of the proposed rule provided, in part, that the contracting office could reduce the order price to reflect the contractor nonperformance. The respondent commented that FAR 8.405–4(c) of the proposed rule would inappropriately grant agencies the unilateral right to reduce the order price without any mechanisms by which the contracting officer determines the amount of any such price reduction or any mechanism by which the contractor could challenge such a price reduction.

Councils' response: The Councils agreed with this comment. The Councils replaced the term ''inadequate performance'' in the heading with ''nonconformance'' and revised the rule at FAR 8.406–3(a) to state that the ordering activity shall take appropriate action for nonconformance in accordance with the inspection and acceptance clause of the contract as supplemented by the order.

10. *Comment: Outline factors to consider for services*. Section 8.404–1(c) outlines factors to consider when comparing schedule contractors, which mainly apply to supplies. Recommend that a factor be added for services.

Councils' response: Do not concur. The language of section 8.405–1(c) is sufficient for purposes of a best value evaluation of basic services such as repair, maintenance, and installation. Section 8.405–1 lists various factors as examples of what may be considered in determining best value. The list is written to be inclusive and not exclusive. Therefore, agencies have the discretion to consider any other factor that may be important to their best value decision. In addition, the ordering procedures for services requiring a statement of work require that agencies include the evaluation criteria for selection in the Request for Quotation. Under these ordering procedures, the agencies have the discretion to develop the evaluation criteria that will best meet their needs in determining best value for their requirements.

11. *Comment: Other direct costs*. One respondent commented that the ordering procedures should include guidance regarding the acquisition and evaluation of other direct costs as part of an order.

Councils' response: The Councils agree that this is an area that may need additional guidance. However, GSA is currently reviewing the structure for other direct costs under its contracts and will be developing additional training and guidance in this area for agencies. Upon completion of this review, the Councils may revisit the issue as a follow-up to the final rule.

12. *Comment: Time-and-materials and labor-hour orders*. Several respondents raised concerns regarding the lack of clear guidance on the use of time-and-materials or labor-hour orders. The general comment was that the rule failed to fully address whether an order could be issued on a time-and-material or labor-hour basis and the circumstances when the use of such order types was appropriate. In addition, one respondent raised a concern regarding a potential conflict between the FAR and GSA ordering procedures regarding the type of contract that may be used for commercial items. Yet another respondent commented that time-and-materials contracts should not be used unless impossible to estimate accurately the extent or duration of the work or anticipate costs reasonably when placing the order.

Councils' response: The Councils agree with the comments that this area requires additional guidance. Currently, the Councils are working on a number of FAR cases to implement various sections of the Services Acquisition Reform Act of 2003 (Title XIV of Public Law 108–136). The rule resulting from one of these FAR cases will implement Section 1432 (Authorization of additional commercial contracts types), which addresses the use of time-and-material and labor-hour contracts for commercial services. When Section 1432 has been implemented, the Councils will address the time-and-materials/labor-hour issue as it pertains to the Multiple Award Schedules Program as a follow-up to the final rule.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule. The Councils prepared a Final Regulatory Flexibility Analysis (FRFA), and it reads as follows:

This Final Regulatory Flexibility Analysis has been prepared in accordance with 5 U.S.C. 604.

1. Statement of need for, and objectives of, the rule. The Multiple Award Schedules (MAS) program, directed and managed by the General Services Administration (GSA), provides Federal agencies with a simplified process for obtaining commercial supplies and services at prices associated with volume buying. For much of its history, the MAS focused on the sale of products. In recent years, however, GSA has sought to facilitate broad access to service contractors. This general transformation of the schedules program has coincided with a trend in Federal procurement towards acquiring managed solutions from the marketplace. The amount of services acquisition from the MAS has grown steadily as agencies increasingly turn to schedule contractors to meet their needs.

To assist its customers, GSA developed ''special ordering procedures'' that address the acquisition of services. However, because FAR Subpart 8.4 has remained primarily geared towards products, agencies have been inconsistent in adhering to certain basic acquisition requirements when buying services off the MAS, such as in their use of statements of work, effective pricing of orders, application of competition, and proper documentation of award decisions.

The purpose of the rule is to significantly improve the application of acquisition basics on MAS purchases for services and reinforce sound MAS practices generally. To achieve this result, the rule is amending the Federal Acquisition Regulation to incorporate policies for services and to strengthen the procedures for establishing Blanket Purchase Agreements under the Federal Supply Schedules.

2. Summary of significant issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis (IRFA),

a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments. An Initial Regulatory Flexibility Analysis was not performed because the proposed rule did not have significant economic impact on a substantial number of small entities. Thirty-four respondents submitted public comments in response to the proposed rule. None of the comments received identified or addressed any adverse impact on small businesses.

However, the final rule does makes an amendment to the FAR that could foster even greater small business participation than that which already exists. The amendment provides the flexibility for agencies to conduct their market research focusing on small business concerns and providing them greater opportunity to compete for orders.

The rule also reminds agencies that when reporting an order for purposes of credit towards their socio-economic goals, the ordering agency may only take credit if the awardee meets the size standard that corresponds to the work performed. This final rule is intended to be beneficial in expanding small business access to an increased number of orders. We see no negative impact on small businesses.

3. Description of, and an estimate of the number of, small entities to which the rule will apply or an explanation of why no such estimate is available. This rule will apply to all large and small business concerns under the Federal Supply Schedule Program. Although the rule pertains to internal Government procedures, it may increase the number of orders for supplies and services placed by the Government with small business concerns. The net effect of the rule is unknown at this time.

As of fiscal year 2003, according to statistical data maintained by GSA's Federal Supply Service, out of a population of 14,169 national scope schedule contracts, 11,300 Federal Supply Schedule contracts are in effect with small business concerns. Approximately 80 percent of the schedule contractors are small business concerns. In fiscal year 2003, small business schedule contractors received approximately $9 billion, or 36 percent of total schedule sales. Whereas, in 2002, 8,963 small businesses held contracts out of a population of 11,426 national scope schedule contracts. Small business sales in 2002 were $7.2 billion, or 34 percent of total schedule sales. The number of small businesses holding Federal Supply Schedules increased 26 percent and sales increased 26.4 percent.

The procedures give small business contractors the opportunity to fairly compete within the broader universe of schedule contractors. These changes ensure that ordering activities have the broad discretion and effective and flexible business solutions to meet agency requirements.

4. Description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record. There are no projected reporting, recordkeeping, or other compliance requirements.

5. Description of steps the agency has taken to minimize significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each of the other significant alternatives to the rule considered by the agency was rejected. There are no known significant alternatives that will accomplish the objectives of the rule. No alternatives were proposed during the public comment period. The impact of the rule is unknown at this time. The rule could benefit small business concerns holding schedule contracts by permitting those concerns to compete for awards that offer products and services that meet the needs of the requiring agency.

The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 8, 38, and 53

Government procurement.

Dated: June 10, 2004.

Ralph De Stefano,

Acting Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 8, 38, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 8, 38, and 53 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 2. Revise Subpart 8.4 to read as follows:

Subpart 8.4—Federal Supply Schedules

Sec.

8.401 Definitions.
8.402 General.
8.403 Applicability.
8.404 Use of Federal Supply Schedules.
8.405 Ordering procedures for Federal Supply Schedules.
8.405–1 Ordering procedures for supplies, and services not requiring a statement of work.
8.405–2 Ordering procedures for services requiring a statement of work.
8.405–3 Blanket purchase agreements (BPAs).
8.405–4 Price reductions.
8.405–5 Small business.
8.405–6 Sole source justification and approval.
8.405–7 Documentation.
8.405–8 Payment.
8.406 Ordering activity responsibilities.
8.406–1 Order placement.
8.406–2 Inspection and acceptance.
8.406–3 Remedies for nonconformance.
8.406–4 Termination for cause.
8.406–5 Termination for the Government's convenience.
8.406–6 Disputes.

8.401 Definitions.

As used in this subpart—

Ordering activity means an activity that is authorized to place orders, or establish blanket purchase agreements (BPA), against the General Services Administration's (GSA) Multiple Award Schedule contracts. A list of eligible ordering activities is available at *http://www.gsa.gov/schedules* (click ''For Customers Ordering from Schedules'' and then ''Eligibility to Use GSA Sources'').

Multiple Award Schedule (MAS) means contracts awarded by GSA or the Department of Veterans Affairs (VA) for similar or comparable supplies, or services, established with more than one supplier, at varying prices. The primary statutory authority for the MAS program is derived from both Title III of the Administrative Services Act of 1949 (41 U.S.C. 251, *et seq.*) and Title 40 U.S.C., Public Buildings, Property and Works.

Requiring agency means the agency needing the supplies or services.

Schedules e-Library means the on-line source for GSA and VA Federal Supply Schedule contract award information. Schedules e-Library may be accessed at *http://www.gsa.gov/elibrary*.

Special Item Number (SIN) means a group of generically similar (but not identical) supplies or services that are intended to serve the same general purpose or function.

8.402 General.

(a) The Federal Supply Schedule program is also known as the GSA Schedules Program or the Multiple Award Schedule Program. The Federal Supply Schedule program is directed and managed by GSA and provides Federal agencies (see 8.002) with a simplified process for obtaining commercial supplies and services at prices associated with volume buying. Indefinite delivery contracts are awarded to provide supplies and services at stated prices for given periods of time. GSA may delegate certain responsibilities to other agencies (*e.g.*, GSA has delegated authority to the VA to procure medical supplies under the VA Federal Supply Schedules program). Orders issued under the VA

Federal Supply Schedule program are covered by this subpart. Additionally, the Department of Defense (DoD) manages similar systems of schedule-type contracting for military items; however, DoD systems are not covered by this subpart.

(b) GSA schedule contracts require all schedule contractors to publish an ''Authorized Federal Supply Schedule Pricelist'' (pricelist). The pricelist contains all supplies and services offered by a schedule contractor. In addition, each pricelist contains the pricing and the terms and conditions pertaining to each Special Item Number that is on schedule. The schedule contractor is required to provide one copy of its pricelist to any ordering activity upon request. Also, a copy of the pricelist may be obtained from the Federal Supply Service by submitting a written e-mail request to *schedules.infocenter@gsa.gov* or by telephone at 1–800–488–3111. This subpart, together with the pricelists, contain necessary information for placing delivery or task orders with schedule contractors. In addition, the GSA schedule contracting office issues Federal Supply Schedules publications that contain a general overview of the Federal Supply Schedule (FSS) program and address pertinent topics. Ordering activities may request copies of schedules publications by contacting the Centralized Mailing List Service through the Internet at *http://www.gsa.gov/cmls*, submitting written e-mail requests to *CMLS@gsa.gov*; or by completing GSA Form 457, FSS Publications Mailing List Application, and mailing it to the GSA Centralized Mailing List Service (7SM), P.O. Box 6477, Fort Worth, TX 76115. Copies of GSA Form 457 may also be obtained from the above-referenced points of contact.

(c)(1) GSA offers an on-line shopping service called ''GSA Advantage!'' through which ordering activities may place orders against Schedules. (Ordering activities may also use GSA Advantage! to place orders through GSA's Global Supply System, a GSA wholesale supply source, formerly known as ''GSA Stock'' or the ''Customer Supply Center.'' FAR Subpart 8.4 is not applicable to orders placed through the GSA Global Supply System.) Ordering activities may access GSA Advantage! through the GSA Federal Supply Service Home Page (*http://www.gsa.gov/fss*) or the GSA Federal Supply Schedule Home Page at *http://www.gsa.gov/schedules*.

(2) GSA Advantage! enables ordering activities to search specific information (*i.e.*, national stock number, part number, common name), review delivery options, place orders directly with Schedule contractors and pay for orders using the Governmentwide commercial purchase card.

(d) *e-Buy*, GSA's electronic Request for Quotation (RFQ) system, is a part of a suite of on-line tools which complement GSA Advantage!. E-Buy allows ordering activities to post requirements, obtain quotes, and issue orders electronically. Ordering activities may access e-Buy at *http://www.ebuy.gsa.gov*. For more information or assistance on either GSA Advantage! or e-Buy, contact GSA at Internet e-mail address *gsa.advantage@gsa.gov*.

(e) For more information or assistance regarding the Federal Supply Schedule Program, review the following Web site: *http://www.gsa.gov/schedules*. Additionally, for on-line training courses regarding the Schedules Program, review the following Web site: *http://fsstraining.gsa.gov*.

(f) For administrative convenience, an ordering activity contracting officer may add items not on the Federal Supply Schedule (also referred to as open market items) to a Federal Supply Schedule blanket purchase agreement (BPA) or an individual task or delivery order only if—

(1) All applicable acquisition regulations pertaining to the purchase of the items not on the Federal Supply Schedule have been followed (*e.g.*, publicizing (Part 5), competition requirements (Part 6), acquisition of commercial items (Part 12), contracting methods (Parts 13, 14, and 15), and small business programs (Part 19));

(2) The ordering activity contracting officer has determined the price for the items not on the Federal Supply Schedule is fair and reasonable;

(3) The items are clearly labeled on the order as items not on the Federal Supply Schedule; and

(4) All clauses applicable to items not on the Federal Supply Schedule are included in the order.

8.403 Applicability.

(a) Procedures in this subpart apply to—

(1) Individual orders for supplies or services placed against Federal Supply Schedules contracts; and

(2) BPAs established against Federal Supply Schedule contracts.

(b) GSA may establish special ordering procedures for a particular schedule. In this case, that schedule will specify those special ordering procedures. Unless otherwise noted, special ordering procedures established for a Federal Supply Schedule take precedence over the procedures in 8.405.

8.404 Use of Federal Supply Schedules.

(a) *General*. Parts 13 (except 13.303–2(c)(3)), 14, 15, and 19 (except for the requirement at 19.202–1(e)(1)(iii)) do not apply to BPAs or orders placed against Federal Supply Schedules contracts (but see 8.405–5). BPAs and orders placed against a MAS, using the procedures in this subpart, are considered to be issued using full and open competition (see 6.102(d)(3)). Therefore, when establishing a BPA (as authorized by 13.303–2(c)(3)), or placing orders under Federal Supply Schedule contracts using the procedures of 8.405, ordering activities shall not seek competition outside of the Federal Supply Schedules or synopsize the requirement.

(b) The contracting officer, when placing an order or establishing a BPA, is responsible for applying the regulatory and statutory requirements applicable to the agency for which the order is placed or the BPA is established. The requiring agency shall provide the information on the applicable regulatory and statutory requirements to the contracting officer responsible for placing the order.

(c) *Acquisition planning*. Orders placed under a Federal Supply Schedule contract—

(1) Are not exempt from the development of acquisition plans (see subpart 7.1), and an information technology acquisition strategy (see Part 39);

(2) Must comply with all FAR requirements for a bundled contract when the order meets the definition of ''bundled contract'' (see 2.101(b)); and

(3) Must, whether placed by the requiring agency, or on behalf of the requiring agency, be consistent with the requiring agency's statutory and regulatory requirements applicable to the acquisition of the supply or service.

(d) *Pricing*. Supplies offered on the schedule are listed at fixed prices. Services offered on the schedule are priced either at hourly rates, or at a fixed price for performance of a specific task (*e.g.*, installation, maintenance, and repair). GSA has already determined the prices of supplies and fixed-price services, and rates for services offered at hourly rates, under schedule contracts to be fair and reasonable. Therefore, ordering activities are not required to make a separate determination of fair and reasonable pricing, except for a price evaluation as required by 8.405–2(d). By placing an order against a schedule contract using the procedures in 8.405, the ordering activity has

concluded that the order represents the best value (as defined in FAR 2.101) and results in the lowest overall cost alternative (considering price, special features, administrative costs, etc.) to meet the Government's needs. Although GSA has already negotiated fair and reasonable pricing, ordering activities may seek additional discounts before placing an order (see 8.405–4).

8.405 Ordering procedures for Federal Supply Schedules.

Ordering activities shall use the ordering procedures of this section when placing an order or establishing a BPA for supplies or services. The procedures in this section apply to all schedules.

8.405–1 Ordering procedures for supplies, and services not requiring a statement of work.

(a) Ordering activities shall use the procedures of this subsection when ordering supplies and services that are listed in the schedules contracts at a fixed price for the performance of a specific task, where a statement of work is not required (*e.g.*, installation, maintenance, and repair).

(b) *Orders at or below the micro-purchase threshold.* Ordering activities may place orders at, or below, the micro-purchase threshold with any Federal Supply Schedule contractor that can meet the agency's needs. Although not required to solicit from a specific number of schedule contractors, ordering activities should attempt to distribute orders among contractors.

(c) *Orders exceeding the micro-purchase threshold but not exceeding the maximum order threshold.* Ordering activities shall place orders with the schedule contractor that can provide the supply or service that represents the best value. Before placing an order, an ordering activity shall consider reasonably available information about the supply or service offered under MAS contracts by surveying the GSA Advantage! on-line shopping service, or by reviewing the catalogs or pricelists of at least three schedule contractors (see 8.405–5). In addition to price, when determining best value, the ordering activity may consider, among other factors, the following:

(1) Past performance.

(2) Special features of the supply or service required for effective program performance.

(3) Trade-in considerations.

(4) Probable life of the item selected as compared with that of a comparable item.

(5) Warranty considerations.

(6) Maintenance availability.

(7) Environmental and energy efficiency considerations.

(8) Delivery terms.

(d) *Orders exceeding the maximum order threshold.* Each schedule contract has a maximum order threshold established on a SIN-by-SIN basis. Although a price reduction may be sought at any time, this threshold represents the point where, given the dollar value of the potential order, the ordering activity shall seek a price reduction. In addition to following the procedures in paragraph (c) of this section and before placing an order that exceeds the maximum order threshold or establishing a BPA (see 8.405–3), ordering activities shall—

(1) Review the pricelists of additional schedule contractors (the GSA Advantage! on-line shopping service can be used to facilitate this review);

(2) Based upon the initial evaluation, seek price reductions from the schedule contractor(s) considered to offer the best value (see 8.404(d)); and

(3) After seeking price reductions (see 8.405–4), place the order with the schedule contractor that provides the best value. If further price reductions are not offered, an order may still be placed.

8.405–2 Ordering procedures for services requiring a statement of work.

(a) *General.* Ordering activities shall use the procedures in this subsection when ordering services priced at hourly rates as established by the schedule contracts. The applicable services will be identified in the Federal Supply Schedule publications and the contractor's pricelists.

(b) *Statements of Work (SOWs).* All Statements of Work shall include the work to be performed; location of work; period of performance; deliverable schedule; applicable performance standards; and any special requirements (*e.g.*, security clearances, travel, special knowledge). To the maximum extent practicable, agency requirements shall be performance-based statements (see subpart 37.6).

(c) *Request for Quotation procedures.* The ordering activity must provide the Request for Quotation (RFQ), which includes the statement of work and evaluation criteria (*e.g.*, experience and past performance), to schedule contractors that offer services that will meet the agency's needs. The RFQ may be posted to GSA's electronic RFQ system, e-Buy (see 8.402(d)).

(1) *Orders at, or below, the micro-purchase threshold.* Ordering activities may place orders at, or below, the micro-purchase threshold with any Federal Supply Schedule contractor that can meet the agency's needs. The ordering activity should attempt to distribute orders among contractors.

(2) *For orders exceeding the micro-purchase threshold, but not exceeding the maximum order threshold.* (i) The ordering activity shall develop a statement of work, in accordance with 8.405–2(b).

(ii) The ordering activity shall provide the RFQ (including the statement of work and evaluation criteria) to at least three schedule contractors that offer services that will meet the agency's needs.

(iii) The ordering activity should request that contractors submit firm-fixed prices to perform the services identified in the statement of work.

(3) *For proposed orders exceeding the maximum order threshold or when establishing a BPA.* In addition to meeting the requirements of 8.405–2(c)(2), the ordering activity shall—

(i) Provide the RFQ (including the statement of work and evaluation criteria) to additional schedule contractors that offer services that will meet the needs of the ordering activity. When determining the appropriate number of additional schedule contractors, the ordering activity may consider, among other factors, the following:

(A) The complexity, scope and estimated value of the requirement.

(B) The market search results.

(ii) Seek price reductions.

(4) The ordering activity shall provide the RFQ (including the statement of work and the evaluation criteria) to any schedule contractor who requests a copy of it.

(d) *Evaluation.* The ordering activity shall evaluate all responses received using the evaluation criteria provided to the schedule contractors. The ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable. Place the order, or establish the BPA, with the schedule contractor that represents the best value (see 8.404(d)). After award, ordering activities should provide timely notification to unsuccessful offerors. If an unsuccessful offeror requests information on an award that was based on factors other than price alone, a brief explanation of the basis for the award decision shall be provided.

8.405–3 Blanket purchase agreements (BPAs).

(a)(1) *Establishment.* Ordering activities may establish BPAs under any schedule contract to fill repetitive needs for supplies or services. BPAs may be

established with one or more schedule contractors. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPAs and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). In determining how many BPAs to establish, consider—

(i) The scope and complexity of the requirement(s);

(ii) The need to periodically compare multiple technical approaches or prices;

(iii) The administrative costs of BPAs; and

(iv) The technical qualifications of the schedule contractor(s).

(2) Establishment of a single BPA, or multiple BPAs, shall be made using the same procedures outlined in 8.405–1 or 8.405–2. BPAs shall address the frequency of ordering, invoicing, discounts, requirements (*e.g.* estimated quantities, work to be performed), delivery locations, and time.

(3) When establishing multiple BPAs, the ordering activity shall specify the procedures for placing orders under the BPAs.

(4) Establishment of a multi-agency BPA against a Federal Supply Schedule contract is permitted if the multi-agency BPA identifies the participating agencies and their estimated requirements at the time the BPA is established.

(b) *Ordering from BPAs*—(1) *Single BPA.* If the ordering activity establishes one BPA, authorized users may place the order directly under the established BPA when the need for the supply or service arises.

(2) *Multiple BPAs.* If the ordering activity establishes multiple BPAs, before placing an order exceeding the micro-purchase threshold, the ordering activity shall—

(i) Forward the requirement, or statement of work and the evaluation criteria, to an appropriate additional number of BPA holders, as established in the BPA ordering procedures; and

(ii) Evaluate the responses received, make a best value determination (see 8.404(d)), and place the order with the BPA holder that represents the best value.

(3) *BPAs for hourly rate services.* If the BPA is for hourly rate services, the ordering activity shall develop a statement of work for requirements covered by the BPA. All orders under the BPA shall specify a price for the performance of the tasks identified in the statement of work.

(c) *Duration of BPAs.* BPAs generally should not exceed five years in length, but may do so to meet program requirements. Contractors may be awarded BPAs that extend beyond the current term of their GSA Schedule contract, so long as there are option periods in their GSA Schedule contract that, if exercised, will cover the BPA's period of performance.

(d) *Review of BPAs.* (1) The ordering activity that established the BPA shall review it at least once a year to determine whether—

(i) The schedule contract, upon which the BPA was established, is still in effect;

(ii) The BPA still represents the best value (see 8.404(d)); and

(iii) Estimated quantities/amounts have been exceeded and additional price reductions can be obtained.

(2) The ordering activity shall document the results of its review.

8.405–4 Price reductions.

In addition to seeking price reductions before placing an order exceeding the maximum order threshold (see 8.405–1(d)), or in conjunction with the annual BPA review, there may be other reasons to request a price reduction. For example, ordering activities should seek a price reduction when the supply or service is available elsewhere at a lower price, or when establishing a BPA to fill recurring requirements. The potential volume of orders under BPAs, regardless of the size of individual orders, offers the opportunity to secure greater discounts. Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order.

8.405–5 Small business.

(a) Although the mandatory preference programs of Part 19 do not apply, orders placed against schedule contracts may be credited toward the ordering activity's small business goals. For purposes of reporting an order placed with a small business schedule contractor, an ordering agency may only take credit if the awardee meets a size standard that corresponds to the work performed. Ordering activities should rely on the small business representations made by schedule contractors at the contract level.

(b) Ordering activities may consider socio-economic status when identifying contractor(s) for consideration or competition for award of an order or BPA. At a minimum, ordering activities should consider, if available, at least one small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, women-owned small business, or small disadvantaged business schedule contractor(s). GSA Advantage! and Schedules e-Library at *http://www.gsa.gov/fss* contain information on the small business representations of Schedule contractors.

(c) For orders exceeding the micro-purchase threshold, ordering activities should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.

8.405–6 Sole source justification and approval.

Orders placed under Federal Supply Schedules are exempt from the requirements in Part 6. However, ordering activities shall—

(a) Procure sole source requirements under this subpart only if the need to do so is justified in writing and approved at the levels specified in paragraph (b) of this section; and

(b) Prepare sole source justifications using the information at 6.303–2, modified to cite that the acquisition is conducted under the authority of Section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 501).

(1) For proposed orders exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold, the ordering activity contracting officer may solicit from one source, if the ordering activity contracting officer determines that the circumstances deem only one source is reasonably available (*e.g.*, urgency, exclusive licensing agreement, industrial mobilization). The contracting officer shall approve the justification unless a higher approval level is established in accordance with agency procedures.

(2) For proposed orders exceeding the simplified acquisition threshold, but not exceeding $500,000, the ordering activity contracting officer's certification that the justification is accurate and complete to the best of the ordering activity contracting officer's knowledge and belief will serve as approval, unless a higher approval level is established in accordance with agency procedures.

(3) For a proposed order exceeding $500,000, but not exceeding $10 million, the competition advocate for the procuring activity, designated pursuant to 6.501, or an official described in 6.304(a)(3) or (a)(4) must approve the justification. This authority is not delegable.

(4) For a proposed order exceeding $10 million but not exceeding $50 million, the head of the procuring activity or an official described in 6.304(a)(3)(i) or (ii) shall approve the

justification. This authority is not delegable.

(5) For a proposed order exceeding $50 million, the official described in 6.304(a)(4) shall approve the justification. This authority is not delegable, except as provided in 6.304(a)(4).

8.405–7 Documentation.

(a) *Minimum documentation.* The ordering activity shall document—

(1) The contracts considered, noting the contractor from which the supply or service was purchased;

(2) A description of the supply or service purchased;

(3) The amount paid; and

(4) If applicable, the circumstances and rationale for restricting consideration of schedule contractors to fewer than that required in 8.405–1 or 8.405–2 (see 8.405–6). Justifications for such restrictions may include—

(i) Only one source is capable of responding due to the unique or specialized nature of the work;

(ii) The new work is a logical follow-on to an existing order provided that the original order was placed in accordance with 8.405–1 or 8.405–2 (excluding orders placed previously under sole source requirements);

(iii) The item is peculiar to one manufacturer. A brand name item, available on various schedule contracts, is an item peculiar to one manufacturer; or

(iv) An urgent and compelling need exists and following the ordering procedures would result in unacceptable delays.

(b) *Additional documentation for services.* In addition to the documentation requirements of paragraph (a) of this section, when acquiring services using the procedures at 8.405–2, the ordering office shall also document—

(1) The evaluation methodology used in selecting the contractor to receive the order;

(2) The rationale for any tradeoffs in making the selection;

(3) The price reasonableness determination required by 8.405–2(d); and

(4) The rationale for using other than—

(i) A firm-fixed price order; or

(ii) A performance-based order.

8.405–8 Payment.

Agencies may make payments for oral or written orders by any authorized means, including the Governmentwide commercial purchase card.

8.406 Ordering activity responsibilities.

8.406–1 Order placement.

Ordering activities may place orders orally (except for services requiring a statement of work (SOW)) or use Optional Form 347, an agency-prescribed form, or an established electronic communications format to order supplies or services from schedule contracts. The ordering activity shall place an order directly with the contractor in accordance with the terms and conditions of the pricelists (see 8.402(b)). Prior to placement of the order, the ordering activity shall ensure that the regulatory and statutory requirements of the requiring agency have been applied. Orders shall include the following information in addition to any information required by the schedule contract:

(a) Complete shipping and billing addresses.

(b) Contract number and date.

(c) Agency order number.

(d) F.o.b. delivery point; *i.e.*, origin or destination.

(e) Discount terms.

(f) Delivery time or period of performance.

(g) Special item number or national stock number.

(h) A statement of work for services, when required, or a brief, complete description of each item (when ordering by model number, features and options such as color, finish, and electrical characteristics, if available, must be specified).

(i) Quantity and any variation in quantity.

(j) Number of units.

(k) Unit price.

(l) Total price of order.

(m) Points of inspection and acceptance.

(n) Other pertinent data; *e.g.*, delivery instructions or receiving hours and size-of-truck limitation.

(o) Marking requirements.

(p) Level of preservation, packaging, and packing.

8.406–2 Inspection and acceptance.

(a) *Supplies.* (1) Consignees shall inspect supplies at destination except when—

(i) The schedule contract indicates that mandatory source inspection is required by the schedule contracting agency; or

(ii) A schedule item is covered by a product description, and the ordering activity determines that the schedule contracting agency's inspection assistance is needed (based on the ordering volume, the complexity of the supplies, or the past performance of the supplier).

(2) When the schedule contracting agency performs the inspection, the ordering activity will provide two copies of the order specifying source inspection to the schedule contracting agency. The schedule contracting agency will notify the ordering activity of acceptance or rejection of the supplies.

(3) Material inspected at source by the schedule contracting agency, and determined to conform with the product description of the schedule, shall not be reinspected for the same purpose. The consignee shall limit inspection to kind, count, and condition on receipt.

(4) Unless otherwise provided in the schedule contract, acceptance is conclusive, except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

(b) *Services.* The ordering activity has the right to inspect all services in accordance with the contract requirements and as called for by the order. The ordering activity shall perform inspections and tests as specified in the order's quality assurance surveillance plan in a manner that will not unduly delay the work.

8.406–3 Remedies for nonconformance.

(a) If a contractor delivers a supply or service, but it does not conform to the order requirements, the ordering activity shall take appropriate action in accordance with the inspection and acceptance clause of the contract, as supplemented by the order.

(b) If the contractor fails to perform an order, or take appropriate corrective action, the ordering activity may terminate the order for cause or modify the order to establish a new delivery date (after obtaining consideration, as appropriate). Ordering activities shall follow the procedures at 8.406–4 when terminating an order for cause.

8.406–4 Termination for cause.

(a)(1) An ordering activity contracting officer may terminate individual orders for cause. Termination for cause shall comply with FAR 12.403, and may include charging the contractor with excess costs resulting from repurchase.

(2) The schedule contracting office shall be notified of all instances where an ordering activity contracting officer has terminated for cause an individual order to a Federal Supply Schedule contractor, or if fraud is suspected.

(b) If the contractor asserts that the failure was excusable, the ordering activity contracting officer shall follow the procedures at 8.406–6, as appropriate.

(c) If the contractor is charged excess costs, the following apply:

(1) Any repurchase shall be made at as low a price as reasonable, considering the quality required by the Government, delivery requirement, and administrative expenses. Copies of all repurchase orders, except the copy furnished to the contractor or any other commercial concern, shall include the notation:

Repurchase against the account of ____ [*insert contractor's name*] under Order ____ [*insert number*] under Contract ____ [*insert number*].

(2) When excess costs are anticipated, the ordering activity may withhold funds due the contractor as offset security. Ordering activities shall minimize excess costs to be charged against the contractor and collect or set-off any excess costs owed.

(3) If an ordering activity is unable to collect excess repurchase costs, it shall notify the schedule contracting office after final payment to the contractor.

(i) The notice shall include the following information about the terminated order:

(A) Name and address of the contractor.

(B) Schedule, contract, and order number.

(C) National stock or special item number(s), and a brief description of the item(s).

(D) Cost of schedule items involved.

(E) Excess costs to be collected.

(F) Other pertinent data.

(ii) The notice shall also include the following information about the purchase contract:

(A) Name and address of the contractor.

(B) Item repurchase cost.

(C) Repurchase order number and date of payment.

(D) Contract number, if any.

(E) Other pertinent data.

(d) Only the schedule contracting officer may modify the contract to terminate for cause any, or all, supplies or services covered by the schedule contract. If the schedule contracting officer has terminated any supplies or services covered by the schedule contract, no further orders may be placed for those items. Orders placed prior to termination for cause shall be fulfilled by the contractor, unless terminated for the convenience of the Government by the ordering activity contracting officer.

8.406–5 Termination for the Government's convenience.

(a) An ordering activity contracting officer may terminate individual orders for the Government's convenience. Terminations for the Government's convenience shall comply with FAR 12.403.

(b) Before terminating orders for the Government's convenience, the ordering activity contracting officer shall endeavor to enter into a ''no cost'' settlement agreement with the contractor.

(c) Only the schedule contracting officer may modify the schedule contract to terminate any, or all, supplies or services covered by the schedule contract for the Government's convenience.

8.406–6 Disputes.

(a) *Disputes pertaining to the performance of orders under a schedule contract.* (1) Under the Disputes clause of the schedule contract, the ordering activity contracting officer may—

(i) Issue final decisions on disputes arising from performance of the order (but see paragraph (b) of this section); or

(ii) Refer the dispute to the schedule contracting officer.

(2) The ordering activity contracting officer shall notify the schedule contracting officer promptly of any final decision.

(b) *Disputes pertaining to the terms and conditions of schedule contracts.* The ordering activity contracting officer shall refer all disputes that relate to the contract terms and conditions to the schedule contracting officer for resolution under the Disputes clause of the contract and notify the schedule contractor of the referral.

(c) *Appeals.* Contractors may appeal final decisions to either the Board of Contract Appeals servicing the agency that issued the final decision or the U.S. Court of Federal Claims.

(d) *Alternative dispute resolution.* The contracting officer should use the alternative dispute resolution (ADR) procedures, to the maximum extent practicable (see 33.204 and 33.214).

PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING

■ 3. Revise section 38.000 to read as follows:

38.000 Scope of part.

This part prescribes policies and procedures for contracting for supplies and services under the Federal Supply Schedule program, which is directed and managed by the General Services Administration (see Subpart 8.4, Federal Supply Schedules, for additional information). GSA may delegate certain responsibilities to other agencies (*e.g.*, GSA has delegated authority to the Department of Veterans Affairs (VA) to procure medical supplies under the VA Federal Supply Schedules Program). The VA Federal Supply Schedules Program is covered by this subpart. Additionally, the Department of Defense manages a similar system of schedule contracting for military items; however, the Department of Defense systems are not a part of the Federal Supply Schedule program.

■ 4. Amend section 38.101 by revising paragraph (a) to read as follows:

38.101 General.

(a) The Federal Supply Schedule program, pursuant to 41 U.S.C. 259(b)(3)(A), provides Federal agencies with a simplified process of acquiring commercial supplies and services in varying quantities while obtaining volume discounts. Indefinite-delivery contracts are awarded using competitive procedures to firms. The firms provide supplies and services at stated prices for given periods of time, for delivery within a stated geographic area such as the 48 contiguous states, the District of Columbia, Alaska, Hawaii, and overseas. The schedule contracting office issues Federal Supply Schedule publications that contain a general overview of the Federal Supply Schedule (FSS) program and address pertinent topics.

* * * * *

PART 53—FORMS

53.213 [Amended]

■ 5. Amend section 53.213 in paragraph (f)(4) by removing ''8.405–2'' and adding ''8.406–1'' in its place.

[FR Doc. 04–13622 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25, and 52

[FAC 2001–24; FAR Case 2004–008; Item VI]

RIN 9000–AJ96

Federal Acquisition Regulation; Designated Countries—New European Communities Member States

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council

(Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement a determination by the United States Trade Representative (USTR) under the Trade Agreements Act that suppliers from the 10 new member states of the European Communities (EC) (*i.e.*, the European Union) are eligible to participate in U.S. Government procurement under the terms and conditions of the World Trade Organization Government Procurement Agreement (WTO GPA).

DATES: *Effective Date:* June 18, 2004.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Cecelia Davis, Procurement Analyst, at (202) 219–0202. Please cite FAC 2001–24, FAR case 2004–008.

SUPPLEMENTARY INFORMATION:

A. Background

As of May 1, 2004, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia have joined the EC. The EC has notified the other WTO GPA parties of its intention that the WTO GPA is binding on the new EC Member States as of May 1, 2004. The USTR has determined under the Trade Agreements Act that suppliers from these countries are eligible to participate in U.S. Government procurement under the terms and conditions of the WTO GPA (69 FR 25654, May 7, 2004). Therefore, these countries have been added to the list of designated countries at FAR 25.003, 52.225–5, and 52.225–11, as well as the list of countries subject to the WTO GPA at FAR 22.1503 and 52.222–19. Corresponding changes have also been made to the clause dates in the list of clauses at 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR Parts 22, 25, and 52 in accordance with 5 U.S.C. 610.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 22, 25, and 52

Government procurement.

Dated: June 10, 2004.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 22, 25, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 22, 25, and 52 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 2. Amend section 22.1503 by revising paragraph (b)(4) to read as follows:

22.1503 Procedures for acquiring end products on the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor.

* * * * *

(b) * * *

(4) Aruba, Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or the United Kingdom and the anticipated value of the acquisition is $175,000 or more (see 25.403(b)).

* * * * *

PART 25—FOREIGN ACQUISITION

25.003 Definitions.

■ 3. Amend section 25.003 in the definition ''Designated country'' by adding, in alphabetical order, the countries ''Cyprus'', ''Czech Republic'', ''Estonia'', ''Hungary'', ''Latvia'', ''Lithuania'', ''Malta'', ''Poland'', ''Slovak Republic'', and ''Slovenia''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.212–5 [Amended]

■ 4. Amend section 52.212–5 by revising the date of the clause to read ''(Jun 2004)''; and by removing ''(Jan 2004)'' from paragraphs (b)(15) and (b)(24) of the clause and adding ''(Jun 2004)'' in their place.

52.213–4 [Amended]

■ 5. Amend section 52.213–4 by revising the date of the clause to read ''(Jun 2004)''; and by removing (Jan 2004)'' from paragraph (b)(1)(i) of the clause and adding ''(Jun 2004)'' in its place.

■ 6. Amend section 52.222–19 by revising the date of the clause and paragraph (a)(4) of the clause to read as follows:

52.222–19 Child Labor—Cooperation with Authorities and Remedies.

* * * * *

Child Labor—Cooperation With Authorities and Remedies—(Jun 2004)

(a) * * *

(4) Aruba, Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or the United Kingdom and the anticipated value of the acquisition is $175,000 or more.

* * * * *

52.225–5 [Amended]

■ 7. Amend section 52.225–5 by revising the date of the clause to read ''(Jun 2004)''; and in paragraph (a) of the clause, in the definition ''Designated country'', by adding, in alphabetical order, the countries ''Cyprus'', ''Czech Republic'', ''Estonia'', ''Hungary'', ''Latvia'', ''Lithuania'', ''Malta'', ''Poland'', ''Slovak Republic'', and ''Slovenia''.

52.225–11 [Amended]

■ 8. Amend section 52.225–11 by revising the date of the clause to read ''(Jun 2004)''; and in paragraph (a) of the clause, in the definition ''Designated country'', by adding, in alphabetical order, the countries ''Cyprus'', ''Czech Republic'', ''Estonia'', ''Hungary'', ''Latvia'', ''Lithuania'', ''Malta'', ''Poland'', ''Slovak Republic'', and ''Slovenia''.

[FR Doc. 04–13623 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 25

[FAC 2001–24; FAR Case 2003–007; Item VII]

RIN 9000–AJ72

Federal Acquisition Regulation; Buy American Act—Nonavailable Articles

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to add certain food and textile items to the list of articles not available from domestic sources in sufficient and reasonably available commercial quantities of a satisfactory quality.

DATES: Effective Date: July 19, 2004.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Cecelia Davis, Procurement Analyst, at (202) 219–0202. Please cite FAC 2001–24, FAR case 2003–007.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 68 FR 54296, September 16, 2003. The proposed rule amended FAR 25.104(a), adding certain food and textile items to the list of articles not available from domestic sources in sufficient and reasonably available commercial quantities of a satisfactory quality.

The Councils received two responses to the proposed rule. One respondent opposed the rule because she does not think that the ''American public'' needs or wants these items. She believes that if we do not produce these items in the United States, then we should do without them. The Councils nonconcur with this comment. The Defense Logistics Agency has provided support for the need for these items and demonstrated non-availability. The Buy American Act does not require that we ''do without'' items that are domestically nonavailable.

The second respondent fully supported the proposed rule. In addition, they provided a list of additional food items that are nonavailable in the United States. Evaluation of this additional list is outside the scope of this case.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the items being added to the list are not available from domestic sources.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 25

Government procurement.

Dated: June 10, 2004.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 25 as set forth below:

PART 25—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 25 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 25.104 in paragraph (a) by adding, in alphabetical order, the articles ''Bamboo shoots,'' ''Goat hair canvas,'' ''Grapefruit sections, canned,'' ''Modacrylic fur ruff,'' and ''Water chestnuts,'' to read as follows:

25.104 Nonavailable articles.

(a) * * *

* * * * *

Bamboo shoots

* * * * *

Goat hair canvas

Grapefruit sections, canned

* * * * *

Modacrylic fur ruff.

* * * * *

Water chestnuts.

* * * * *

[FR Doc. 04–13624 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 2001–24; FAR Case 2002–006; Item VIII]

RIN 9000–AJ65

Federal Acquisition Regulation; Application of Cost Principles and Procedures and Accounting for Unallowable Costs

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to revise FAR 31.204, Application of principles and procedures, to improve clarity and structure.

DATES: *Effective Date:* July 19, 2004.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Edward Loeb, Policy Advisor, at (202) 501–0650. Please cite FAC 2001–24, FAR case 2002–006.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at (68 FR 28108) on May 22, 2003, with request for comments. The rule proposed to amend FAR 31.204, Application of principles and procedures, and FAR 31.201–6, Accounting for unallowable costs. Nine respondents submitted comments; however, no comments related to FAR 31.204. Therefore, the Councils concluded that the proposed rule should be converted to a final rule without changes.

The proposed FAR rule also included proposed revisions to FAR 31.201–6, Accounting for unallowable costs. Due to significant changes made as a result of public comments received, the Councils have decided that the proposed revisions to FAR 31.201–6 will be published as a second proposed rule in a **Federal Register** notice under new FAR case 2004–006.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Public Comments

There were no public comments received on section 31.204.

C. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive, fixed-price basis, and do not require application of the cost principles and procedures discussed in this rule. For FY 2003, only 2.4 % of all contract actions were cost contracts awarded to small business.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 10, 2004.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 31 as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 1. The authority citation for 48 CFR part 31 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 31.204 in the first sentence of paragraph (a) by removing ''shall be allowed'' and adding ''are allowable'' in its place; by revising paragraph (b); and by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

31.204 Application of principles and procedures.

* * * * *

(b)(1) For the following subcontract types, costs incurred as reimbursements or payments to a subcontractor are allowable to the extent the reimbursements or payments are for costs incurred by the subcontractor that are consistent with this part:

(i) Cost-reimbursement.

(ii) Fixed-price incentive.

(iii) Price redeterminable (*i.e.*, fixed-price contracts with prospective price redetermination and fixed-ceiling-price contracts with retroactive price redetermination).

(2) The requirements of paragraph (b)(1) of this section apply to any tier above the first firm-fixed-price subcontract or fixed-price subcontract with economic price adjustment provisions.

(c) Costs incurred as payments under firm-fixed-price subcontracts or fixed-price subcontracts with economic price adjustment provisions or modifications thereto, for which subcontract cost analysis was performed are allowable if the price was negotiated in accordance with 31.102.

* * * * *

[FR Doc. 04–13625 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 2001–24; FAR Case 2002–008; Item IX]

RIN 9000–AJ69

Federal Acquisition Regulation; Gains and Losses, Maintenance and Repair Costs, and Material Costs

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) by deleting the cost principle regarding maintenance and repair costs, and revising the cost principles regarding contingencies, material costs, and training and education costs. The rule revises the cost principles by improving clarity and structure, and removing unnecessary and duplicative language. The revisions are intended to amend the FAR regarding contract cost principles and procedures in light of the evolution of generally accepted accounting principles (GAAP), the advent of acquisition reform, and experience gained from implementation of the FAR regarding contract cost principles and procedures.

DATES: *Effective Date:* July 19, 2004.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Edward Loeb at (202) 501–0650. Please cite FAC 2001–24, FAR case 2002–008.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 68 FR 40466, July 7, 2003, with request for comments. Three respondents submitted comments on the proposed FAR rule. A discussion of the comments related to FAR 31.205–24 and 31.205–26 are provided below. The Councils considered all comments and concluded that the proposed rule should be converted to a final rule, with minor changes to the proposed rule. Differences between the proposed rule and final rule are discussed in Section B, Comment 2, below.

In addition to the above, the proposed FAR rule also included proposed revisions to FAR 31.205–16, Gains and losses on disposition or impairment of depreciable property or other capital assets. Due to significant changes made as a result of public comments received, the Councils have decided that the proposed revisions to the FAR 31.205–16 cost principle will be published as a second proposed rule in a **Federal Register** notice under FAR case 2004–005.

B. Public Comments

FAR 31.205–24, Maintenance and Repair Costs

1. *Comment:* The respondent agrees that the cost principle can be removed from the FAR.

Councils' response: Concur.

FAR 31.205–26, Material Costs

2. *Comment:* One respondent agreed with the deletion of the FAR 31.205–26 wording as proposed because generally accepted accounting principles (GAAP) adequately cover the topic. A second respondent was concerned with the deletions in paragraphs (a) and (c) that deal with the allowability of material costs and the allowability of reasonable adjustments between book and physical inventory. The second respondent was concerned that the part of the FAR that delineates allowable versus unallowable cost would omit these statements of material cost allowability; the respondent believes these statements should be retained to avoid confusion and disputes.

Councils' response: Partially concur. The Councils generally believe that affirmative statements of allowability are not value-added in a cost principle. For this reason, the Councils do not believe it is necessary to retain the last sentence in paragraph (a), which simply states that material costs are allowable subject to the requirements of paragraphs (b) through (e) of the cost principle. The Councils recognize that there are instances in which it is desirable to retain the coverage if users might apply another cost principle and improperly disallow a particular type of cost. However, the Councils do not believe this situation exists for FAR 31.205–26.

The current paragraph (c) requires that adjustments for differences in physical and book inventories relate to the period of contract performance. The Councils had recommended deleting this provision and, thereby, relying upon GAAP. However, based on the public input, it appears there are significant concerns that reliance solely upon GAAP could result in potential disputes. The Councils, therefore, now believe that the language in paragraph (c) should be retained. The Councils recognize that this provision provides protection to both the contractor and the Government by specifically permitting reasonable adjustments for inventory differences while also requiring that such adjustments relate to the period of contract performance.

3. *Comment:* A respondent noted that reference to FAR 31.205–26(e) in paragraph (k) of FAR 31.205–11, Depreciation, and in FAR 15.208, Submission, modification, revision, and withdrawal of proposals, needs to be revised to reflect the reordering and renumbering of the FAR 31.205–26 cost principle.

Councils' response: Since the Councils have reinstated paragraph (c), as noted in the response to Comment 1, above, the original paragraph numbering for paragraph (e) is retained and there is no need to revise FAR 31.205–11 or FAR 15.208. Notwithstanding, the Councils note that paragraph (k) of FAR 31.205–11 was deleted by FAC 2001–18, dated December 11, 2003.

C. Regulatory Planning and Review

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

D. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive, fixed-price basis, and do not require application of the cost principles and procedures discussed in this rule. For fiscal year 2003, only 2.4 percent of all contract actions were cost contracts awarded to small businesses.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 10, 2004.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 31 as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 1. The authority citation for 48 CFR part 31 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. In section 31.205–7, revise the last sentence in paragraph (c)(2) to read as follows:

31.205–7 Contingencies.

* * * * *

(c) * * *

(2) * * * (See, for example, 31.205–6(g) and 31.205–19.)

31.205–24 [Removed and Reserved]

■ 3. Remove and reserve section 31.205–24.

■ 4. Revise section 31.205–26 to read as follows:

31.205–26 Material costs.

(a) Material costs include the costs of such items as raw materials, parts, subassemblies, components, and manufacturing supplies, whether purchased or manufactured by the contractor, and may include such collateral items as inbound transportation and in-transit insurance. In computing material costs, the contractor shall consider reasonable overruns, spoilage, or defective work (unless otherwise provided in any contract provision relating to inspecting and correcting defective work).

(b) The contractor shall—

(1) Adjust the costs of material for income and other credits, including available trade discounts, refunds, rebates, allowances, and cash discounts, and credits for scrap, salvage, and material returned to vendors; and

(2) Credit such income and other credits either directly to the cost of the material or allocate such income and other credits as a credit to indirect costs. When the contractor can demonstrate that failure to take cash discounts was reasonable, the contractor does not need to credit lost discounts.

(c) Reasonable adjustments arising from differences between periodic physical inventories and book inventories may be included in arriving at costs; provided such adjustments relate to the period of contract performance.

(d) When materials are purchased specifically for and are identifiable solely with performance under a contract, the actual purchase cost of those materials should be charged to the contract. If material is issued from stores, any generally recognized method of pricing such material is acceptable if that method is consistently applied and the results are equitable.

(e) Allowance for all materials, supplies and services that are sold or transferred between any divisions, subdivisions, subsidiaries, or affiliates of the contractor under a common control shall be on the basis of cost incurred in accordance with this subpart. However, allowance may be at price when—

(1) It is the established practice of the transferring organization to price interorganizational transfers at other

than cost for commercial work of the contractor or any division, subsidiary or affiliate of the contractor under a common control; and

(2) The item being transferred qualifies for an exception under 15.403–1(b) and the contracting officer has not determined the price to be unreasonable.

(f) When a commercial item under paragraph (e) of this subsection is transferred at a price based on a catalog or market price, the contractor—

(1) Should adjust the price to reflect the quantities being acquired; and

(2) May adjust the price to reflect the actual cost of any modifications necessary because of contract requirements.

31.205–44 [Amended]

■ 5. Amend section 31.205–44 in paragraph (f) by removing ''31.205–24,''.

[FR Doc. 04–13626 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8, 11 and 53

[FAC 2001–24; Item X]

Federal Acquisition Regulation; Technical Amendment

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

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to update an address and remove the illustrations of Standard Forms 254 and 255 (which became obsolete on June 8, 2004) from the FAR.

DATES: *Effective Date:* June 18, 2004.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. Please cite FAC 2001–24, Technical Amendments.

List of Subjects in 48 CFR Parts 8, 11 and 53

Government procurement.

Dated: June 10, 2004.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 8, 11 and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 8, 11 and 53 is revised to read as follows:

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

8.003 [Amended]

■ 2. Amend section 8.003 in paragraph (d) by removing from the address ''Suite 4528'' and adding ''Suite 3229'' in its place.

PART 11—DESCRIBING AGENCY NEEDS

11.102 [Amended]

■ 3. Amend section 11.102 by removing ''DoD 4120.3–M'' each time it appears and adding ''DoD 4120.24–M'' in its place.

11.202 [Amended]

■ 4. Amend section 11.202 in paragraph (b) by removing ''DoD 4120.3–M'' and adding ''DoD 4120.24–M'' in its place.

PART 53—FORMS

53.301–254 and 53.301–255 [Removed]

■ 5. Remove sections 53.301–254 and 53.301–255.

[FR Doc. 04–13627 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2001–24 which amend the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared.

Interested parties may obtain further information regarding these rules by referring to FAC 2001–24 which precedes this document. These documents are also available via the Internet at *http://www.acqnet.gov/far.*

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 2001–24

Item	Subject	FAR Case	Analyst
*I	Incentives for Use of Performance-Based Contracting for Services (Interim)	2004–004	Wise.
II	Definitions Clause	2002–013	Parnell.
III	Procurement Lists	2003–013	Nelson.
IV	Determining Official for Employment Provision Compliance—Immigration and Nationality Act (INA).	2004–009	Goral.
*V	Federal Supply Schedules Services and Blanket Purchase Agreements (BPAs)	1999–603	Nelson.
VI	Designated Countries—New European Communities Member States	2004–008	Davis.
VII	Buy American Act—Nonavailable Articles	2003–007	Davis.
VIII	Application of Cost Principles and Procedures and Accounting for Unallowable Costs.	2002–006	Loeb.
IX	Gains and Losses, Maintenance and Repair Costs, and Material Costs	2002–008	Loeb.

LIST OF RULES IN FAC 2001–24—Continued

Item	Subject	FAR Case	Analyst
X	Technical Amendments.		

Item I—Incentives for Use of Performance-Based Contracting for Services (Interim) (FAR Case 2004–004)

This interim rule amends the FAR to implement Sections 1431 and 1433 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136). Section 1431 enacts Governmentwide authority to treat performance-based contracts or task orders for services as commercial items if certain conditions are met, and requires agencies to report on performance-based contracts or task orders awarded using this authority. Section 1433 amends the definition of commercial item to add specific performance-based terminology and to conform to the language added by section 1431. Contracting officers will be able to use FAR Part 12, Acquisition of Commercial Items, and Subpart 37.6, Performance-Based Contracting, for non-commercial services and treat these services as commercial services when specific conditions are met. Agencies will be required to report on performance-based contracts or task orders awarded using this authority.

Item II—Definitions Clause (FAR Case 2002–013)

FAR 2.201 and the clause at 52.202–1 are revised to clarify the applicability of FAR definitions to solicitation provisions and contract clauses. The list of definitions in 52.202–1 is removed and replaced with policy stating that, when a solicitation provision or contract clause uses a word or term that is defined in the FAR, the word or term has the meaning given in FAR 2.101 at the time the solicitation was issued. Certain exceptions to this policy are listed in FAR 52.202–1.

Item III—Procurement Lists (FAR Case 2003–013)

This final rule amends the FAR to clarify that the Javits-Wagner O'Day (JWOD) program becomes a mandatory source of supplies and services when the supplies or services have been added to the Procurement List maintained by the Committee for Purchase from People Who Are Blind or Severely Disabled.

Item IV—Determining Official for Employment Provision Compliance--Immigration and Nationality Act (INA) (FAR Case 2004–009)

This final rule amends FAR 9.406–2(b)(2) by revising the responsibility for determining when a contractor is not in compliance with the Immigration and Nationality Act (INA), to include both the Attorney General of the United States and the Secretary of Homeland Security.

This rule implements Executive Order 13286 published March 5, 2003, which amended Section 4 of Executive Order 12989 published February 15, 1996.

Debarring officials may now debar a contractor based on a determination by the Secretary of Homeland Security or the Attorney General of the United States.

Item V—Federal Supply Schedules Services and Blanket Purchase Agreements (BPAs) (FAR Case 1999–603)

This final rule amends the FAR in order to incorporate policies and procedures for services under Federal Supply Schedules. The rule—

- Adds a definitions section;
- Adds information regarding the Department of Veterans Affairs delegated authority to establish medical supply schedules;
- Adds language to clarify the differences between an Authorized Federal Supply Schedules (FSS) Pricelist and a FSS publication;
- Adds additional information regarding e-buy, GSA's electronic quote system for the schedules program;
- Clarifies that competition shall not be sought outside the Federal Supply Schedules;
- Adds language to make it clear that the contracting officer placing an order on another agency's behalf is responsible for applying that agency's regulatory and statutory requirements; and that the requiring activity is required to provide information on the applicable regulatory and statutory requirements to the contracting officer;
- Adds new coverage on use of statements of work when acquiring services from the schedules;
- Requires that when an agency awards a task order requiring a statement of work, that if the award is based on other than price (best value), the contracting officer shall provide a brief explanation of the basis for the award decision to any unsuccessful contractor that requests such information.
- Adds language stating that the performance period of Blanket Purchase Agreement (BPA) established under the schedules program may cross option periods on the base contracts;
- Refines guidance regarding the use of Governmentwide BPAs;
- Adds language to require the ordering activity to document the results of its BPA review;
- Adds language that encourages or reminds agencies that they can seek a price reduction at any time, not just when an order exceeds the maximum order threshold;
- Adds additional language to allow for consideration of socio-economic status when identifying the potential competitors for an order;
- Reinforces documentation requirements generally and adds new guidance addressing the documentation of orders for services and sole source orders;
- Adds new coverage to allow agencies to make payment for oral or written orders by any authorized means, including the Governmentwide commercial purchase card;
- Reserves the ordering procedures for Mandatory Use Schedules section;
- Clarifies the procedures for termination for cause and convenience; and
- Reorganizes and revises the subpart text for ease of use.

Item VI—Designated Countries New European Communities Member States (FAR Case 2004–008)

This final rule amends the FAR to implement a determination by the United States Trade Representative (USTR) under the Trade Agreements Act that suppliers from the 10 new member states of the European Communities (EC) (*i.e.*, the European Union) are eligible to participate in U.S. Government procurement under the terms and conditions of the World Trade Organization Government Procurement Agreement (WTO GPA). This means that in acquisitions subject to the WTO GPA, the contracting officer can accept offers of eligible products from Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania,

Malta, Poland, the Slovak Republic, and Slovenia without application of the Buy American Act evaluation factor.

Item VII—Buy American Act—Nonavailable Articles (FAR Case 2003–007)

This final rule amends Federal Acquisition Regulation (FAR) 25.104(a) to add certain food and textile items to the list of articles not available from domestic sources in sufficient and reasonably available commercial quantities of a satisfactory quality. This case is based on extensive market research by the Defense Logistics Agency. Unless the contracting officer learns before the time designated for receipt of bids in sealed bidding or final offers in negotiation that an article on the list is available domestically in sufficient and reasonably available quantities of a satisfactory quality, the Buy American Act does not apply to acquisition of these items as end products, and the contracting officer may treat foreign components of the same class or kind as domestic components.

Item VIII—Application of Cost Principles and Procedures and Accounting for Unallowable Costs (FAR Case 2002–006)

This final rule amends the Federal Acquisition Regulation (FAR) by revising FAR 31.204, Application of principles and procedures, to improve clarity and structure. The case was initiated as a result of comments and recommendations received from industry and Government representatives during a series of public meetings. This rule is of particular interest to contractors and contracting officers who use cost analysis to price contracts and modifications, and who determine or negotiate reasonable costs in accordance with a clause of a contract, *e.g.*, price revision of fixed-price incentive contracts, terminated contracts, or indirect cost rates.

Item IX—Gains and Losses, Maintenance and Repair Costs, and Material Costs (FAR Case 2002–008)

This final rule amends the FAR by deleting the cost principle at FAR 31.205 24, Maintenance and repair costs, because either Cost Accounting Standards (CAS) or Generally Accepted Accounting Practices (GAAP) adequately address these costs. The rule also revises the cost principles at FAR 31.205–7, Contingencies; FAR 31.205–26, Material costs; and FAR 31.205–44, Training and education costs, by improving clarity and structure, and removing unnecessary and duplicative language.

The case was initiated as a result of comments and recommendations received from industry and Government representatives during a series of public meetings. This rule is of particular interest to contractors and contracting officers who use cost analysis to price contracts and modifications, and who determine or negotiate reasonable costs in accordance with a clause of a contract, *e.g.*, price revision of fixed-price incentive contracts, terminated contracts, or indirect cost rates.

Item X—Technical Amendments

This amendment makes editorial changes at 8.003(d), 11.102, and 11.202(b), and removes sections 53.301–254 and 53.301–255.

Dated: June 10, 2004.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

[FR Doc. 04–13628 Filed 6–17–04; 8:45 am]

BILLING CODE 6820–EP–P

Federal Register

Friday,
June 18, 2004

Part III

General Services Administration

48 CFR Part 509

General Services Acquisition Regulation; Debarment, Suspension, and Ineligibility; Proposed Rule

GENERAL SERVICES ADMINISTRATION

48 CFR Part 509

GSAR 2004–G502

RIN 3090–AH97

General Services Acquisition Regulation; Debarment, Suspension, and Ineligibility

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Proposed rule with request for comments.

SUMMARY: The General Services Administration (GSA) is proposing to amend the General Services Acquisition Regulation (GSAR) to add an additional procedure to the decision-making process for the debarment and suspension of parties.

DATES: Interested parties should submit comments in writing on or before August 17, 2004 to be considered in the formulation of a final rule.

ADDRESSES: Submit printed comments to General Services Administration, Regulatory Secretariat (MVA), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405. Submit electronic comments via the Internet to the U.S. Government's rulemaking website at *http://www.regulations.gov*, or to GSA's e-mailbox at *gsarcase.2004–G502@gsa.gov*.

Please submit comments only and cite GSAR case 2004–G502 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ernest Woodson, Procurement Analyst, at (202) 501–3775, or by e-mail at *ernest.woodson@gsa.gov*. Please cite GSAR case 2004–G502.

SUPPLEMENTARY INFORMATION:

A. Background

GSAR 509.406–3(d) and 509.407–3 provide the decision-making processes for determining whether parties should be suspended or proposed for debarment, including contractors, principles, and affiliates. The procedures supplement Federal Acquisition Regulation (FAR) Subpart 9.4, Debarment, Suspension, and Ineligibility, that prescribes policies and procedures governing the suspension and debarment of contractors who are determined not to be responsible by Federal agencies. It is the Government's policy to solicit offers from, award contracts to, award task or delivery orders against existing contracts, and consent to subcontracts with responsible contractors only. The serious nature of suspension or debarment requires that agencies impose the sanctions only in the public interest for the Government's protection. Suspension or debarment is not to be imposed as punishment for prior bad acts.

The proposed rule would provide parties who are being considered for suspension or debarment with a Show Cause Notice. Currently, there is no requirement to notify a contractor that GSA is considering a suspension or debarment action. In some recent cases, contractors obtained information through leaked information to the press about recommendations to suspend or debar them, giving them the advantage of being able to come in and talk to the GSA Suspension/Debarment Official, while others found out that they were being considered for suspension/debarment when they received either the suspension or the proposed debarment by mail or fax. It is important to note that GSA encourages any of its private sector partners to come in and discuss with the Suspension/Debarment Official instances they have discovered where their responsibility may be placed in question and what steps they have taken to remedy the situation. We encourage a proactive approach by our industry partners in dealing with matters that put their responsibility in question.

The Show Cause Notice would be sent before issuance of a Notice of Suspension or a Notice of Proposed Debarment except in those cases where the government would be harmed by waiting any period of time to suspend or propose the debarment of the contractor. The additional period of time will not impact a party's right to respond to a Notice of Suspension or a Notice of Proposed Debarment within 30 calendar days after its receipt; these two notices trigger placement of a party on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, but the Show Cause Notice would not.

By providing the additional time period, GSA intends to give parties who are being considered for possible suspension or debarment, the ability to informally respond to allegations that affect the responsibility of the contractor.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The General Services Administration does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the proposed rule primarily supplements existing GSAR procedures that provide the decision-making process for determining the suspension or debarment of parties. One hundred and thirteen contractors were suspended or debarred by GSA in 2003, and this included both large and small businesses. GSA will consider comments from small entities concerning the affected GSAR Subpart 509.4 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite GSAR case 2004–G502, in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the GSAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 509

Government procurement.

Dated: June 10, 2004.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy.

Therefore, GSA proposes changes to 48 CFR part 509 as set forth below:

PART 509—DEBARMENT, SUSPENSION, AND ELIGIBILITY

1. The authority citation for 48 CFR part 509 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Amend section 509.406–3 by redesignating paragraphs (d)(2) and (d)(3) as (d)(3) and (d)(4), by adding a new paragraph (d)(2), and in newly designated (d)(3) by redesignating (d)(3)(i) through (iv) as (d)(3)(ii) through (v), and adding a new (d)(3)(i) to read as follows:

509.406–3 Procedures.

* * * * *

(d) *Decision-making process.* * * *

(2) The debarring official must provide a Show Cause Notice to each party being considered for debarment, before issuing a Notice of Proposed Debarment. However, a Show Cause Notice need not be provided if—

(i) The debarring official, in her/his sole discretion, has determined that any delay in issuing the Notice of Proposed Debarment would cause imminent harm to the Government; or,

(ii) A suspension is already in effect.

(3) * * *

(i) May informally respond to a Show Cause Notice, but has no obligation to do so.

* * * * *

509.407–3 [Amended]

3. Amend 509.407–3(b)(2)(ii) by removing the reference ''509.406–3(d)(3)'' and adding ''509.406–3(d)(4)'' in its place.

[FR Doc. 04–13762 Filed 6–17–04; 8:45 am]

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