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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 04–103–1]

Brucellosis in Swine; Add Arkansas, Louisiana, and Michigan to List of Validated Brucellosis-Free States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of swine by adding Arkansas, Louisiana, and Michigan to the list of validated brucellosis-free States. We have determined that Louisiana and Arkansas meet the criteria for classification as validated brucellosis-free States. We are also adding Michigan to the list of validated brucellosis-free States as it is currently considered a validated brucellosis-free State, but was inadvertently omitted from the list. This action relieves certain restrictions on the interstate movement of breeding swine from Arkansas and Louisiana and confirms Michigan's current status as a validated brucellosis-free State.

DATES: This interim rule is effective on November 18, 2004. We will consider all comments that we receive on or before January 18, 2005.

ADDRESSES: You may submit comments by any of the following methods:

- EDOCKET: Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate this document.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 04–103–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 04–103–1.
- E-mail: Address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 04–103–1'' on the subject line.
- Agency Web site: Go to *http://www.aphis.usda.gov/ppd/rad/cominst.html* for a form you can use to submit an e-mail comment through the APHIS Web site.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. John Korslund, Staff Veterinarian (Swine Health), Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–5914.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease caused by bacteria of the genus *Brucella.* The disease mainly affects cattle, bison, and swine, but goats, sheep, horses, and even humans are susceptible. In its principal animal hosts, it causes loss of young through spontaneous abortion or birth of weak offspring, reduced milk production, and infertility. There is no economically feasible treatment for brucellosis in livestock. In humans, brucellosis initially causes flu-like symptoms, but the disease may develop into a variety of chronic conditions, including arthritis. Humans can be treated for brucellosis with antibiotics.

The brucellosis regulations in 9 CFR part 78 (referred to below as the regulations) contain specific provisions for cattle, bison, and swine. Under the regulations, States, herds, and individual animals are classified according to their brucellosis status. Interstate movement requirements for animals are based upon the disease status of the individual animals or the herd or State from which the animal originates.

We are amending § 78.43 of the regulations, which lists validated swine brucellosis-free States, to include Arkansas, Louisiana, and Michigan. A State may apply for validated brucellosis-free status when: (1) Any herd found to have swine brucellosis during the 2-year qualification period preceding the application has been depopulated. More than one finding of a swine brucellosis-infected herd during the qualification period disqualifies the State from validation as brucellosis-free; and (2) during the 2-year qualification period, the State has completed surveillance, annually, by either complete herd testing, market swine testing, or statistical analysis.

Breeding swine originating from a validated brucellosis-free State or herd may be moved interstate without having been tested with an official test for brucellosis within 30 days prior to interstate movement, which would otherwise be required.

After reviewing their brucellosis program records, we have concluded that Arkansas and Louisiana meet the criteria for classification as validated brucellosis-free States. Therefore, we are adding Arkansas and Louisiana to the list of validated brucellosis-free States in § 78.43. This action relieves certain restrictions on the interstate movement of breeding swine from Louisiana and Arkansas.

We are also adding Michigan to the list of validated brucellosis-free States. In practice, Michigan is already being

treated as a validated brucellosis-free State, as that State was previously determined to meet the criteria for classification as a validated brucellosis-free State. However, following that determination, we inadvertently neglected to add Michigan to the list in § 78.43. We are therefore correcting this omission by adding Michigan to the list of validated brucellosis-free States.

Immediate Action

Immediate action is warranted to remove restrictions that are no longer necessary on the interstate movement of swine from Louisiana and Arkansas, as well as to confirm Michigan's current status as a validated brucellosis-free State. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (*see* **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

We are amending the brucellosis regulations concerning the interstate movement of swine by adding Arkansas, Louisiana, and Michigan to the list of validated brucellosis-free States. As of January 1, 2004, 45 States, plus Puerto Rico and the U.S. Virgin Islands, were classified as validated brucellosis-free States. The States of Arkansas and Louisiana have been classified as Stage II States, but now meet the requirements for being listed as Stage III (validated brucellosis-free) States. Michigan is already considered a validated brucellosis-free State, but was inadvertently omitted from the list of validated brucellosis-free States in the regulations.

In 2003, there were approximately 1,000 hog and pig operations in Arkansas, with a total of 310,000 swine. The average value per head of swine in Arkansas was $64 with a reported cash value of approximately $19.8 million. In the same year, there were approximately 580 hog and pig operations in Louisiana, with a total of 20,000 swine. The average value per head of swine in Louisiana was $71 with a reported cash value of approximately $1.42 million. Arkansas and Louisiana, combined, account for less than 1 percent of the total value of hogs and pigs produced in the United States. The small business size standards for hogs and pigs, as identified by the Small Business Administration using North American Industry Classification System codes, is $750,000 or less in annual receipts. It is estimated that 74 percent of the hog and pig operations in Arkansas and nearly 100 percent of the hog and pig operations in Louisiana are small businesses.

This interim rule will grant swine producers in Arkansas and Louisiana validated brucellosis-free status. The rule will benefit breeding stock owners who will no longer have to incur the cost of brucellosis testing on sows and other breeding stock. The estimated cost of brucellosis testing ranges from $7.50 to $15 per animal, which includes veterinary and handling fees. Breeding stock was estimated at 79,079 swine and 4,062 swine for Arkansas and Louisiana, respectively. It is estimated that the proportion of hogs and pigs used or to be used for breeding by small entities is approximately 57.8 percent and 100 percent of the total breeding stock in Arkansas and Louisiana, respectively. The estimated number of hogs and pigs used or to be used for breeding purposes by small entities in Arkansas is 45,708 swine; the total cost savings for small entities in Arkansas would range from $342,810 to $685,620 if all those swine were to be moved interstate. The estimated number of hogs and pigs used or to be used for breeding purposes by small entities in Louisiana is 4,062 swine; the total cost savings for small entities in Louisiana would range from $30,465 to $60,930 if all those swine were to be moved interstate.

As of October 2004, the national average value of a sow was $207 per head. Thus, cost savings associated with suspending brucellosis testing for breeding swine to be moved interstate from Arkansas and Louisiana is roughly between 3.6 and 7.2 percent of the value of the animal.

Arkansas and Louisiana have been classified as Stage II States requiring annual testing of the breeding stock in its swine operations. However, Arkansas and Louisiana have met the requirements to be listed as validated brucellosis-free States. Michigan, currently considered a validated brucellosis-free State, is currently not listed in the regulations due to an oversight. This interim rule reclassifies Arkansas, Louisiana, and Michigan as validated brucellosis-free States. The change in the status of Arkansas and Louisiana would lead to cost savings to the breeding segment of swine production ranging from 3.6 to 7.2 percent of the value of the breeding herd if all breeding swine were to be moved interstate. APHIS does not expect cost savings of this magnitude to have a significant economic impact on affected small entity producers. The interim rule will have no effect on Michigan, as it has already been operating as a validated brucellosis-free State. This rule will not result in any additional costs for affected small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

■ 1. The authority citation for part 78 continues to read as follows:

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

§ 78.43 [Amended]

■ 2. Section 78.43 is amended by adding, in alphabetical order, the words,

''Arkansas,'' ''Louisiana,'' and ''Michigan,''.

Done in Washington, DC, this 12th day of November 2004.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–25600 Filed 11–17–04; 8:45 am]

BILLING CODE 3410–34–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 40, 41, and 145

Confidential Information and Commission Records and Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission is amending its regulations to specify which portions of an application for registration as a derivatives transaction execution facility (DTEF) or derivatives clearing organization (DCO), or for designation as a contract market (DCM), will be public. The amendments also implement a procedure requiring registered entities to submit a cover sheet for all rule submissions. Additionally, the Commission is updating its regulations under the Freedom of Information Act (FOIA) to implement expedited processing and increased time limits; revise the schedule of fees for FOIA requests; and correct certain provisions concerning publicly available records.

DATES: Effective December 20, 2004.

ADDRESSES: You may submit comments by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.*
- Mail/Hand Deliver: Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

E-mail: *secretary@cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, Assistant Secretary to the Commission for FOIA Matters, (202) 418–5096, electronic mail: *edonovan@cftc.gov,* or David Steinberg, Attorney Advisor, (202) 418–5102, electronic mail: *dsteinberg@cftc.gov,* Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

A. Public Availability of Applications Submitted by DTEFs, DCOs, and DCMs

On July 28, 2004, the Commission requested comment from the public regarding its proposal to specify that the following portions of DTEF, DCO, and DCM applications are publicly available:[1] transmittal letter, proposed rules, the applicant's regulatory compliance chart, documents establishing the applicant's legal status (*e.g.*, corporate charters), and documents setting forth the applicant's governance structure.[2] The proposed change to § 40.8 addresses the absence in the Commission's regulations of any guidance to applicants or the public about the availability of the applications.

In response to this proposal, the Commission received comment letters from the Chicago Mercantile Exchange (''CME'') and the Chicago Board of Trade (''CBOT'') (collectively, ''exchanges''). Both exchanges noted strong support for the rule proposal, but requested that the Commission expand the proposal to make additional information public as a matter of course. The Commission has carefully considered the comments from the exchanges and does not believe the proposal should be expanded at this time. First, the exchanges contend that the Commission should ensure the public has the opportunity to comment meaningfully on the salient operational features of the proposed exchange, as well as any proposed plans that could adversely impact market integrity, such as payment for order flow or internalization plans. The CBOT also believes that applicant plans to allow or encourage trading off the centralized market should be public. The Commission understands the importance of interested parties being able to comment meaningfully on this information. The Commission notes that applicant plans regarding payment for order flow or internalization plans are either submitted in the rules section of the proposed application or may be part of the applicant's future plans filed separately from the application. Applicant plans for trading off the centralized market are also submitted in the rules section of the proposal. Rules are defined in § 40.1 and are already generally considered public information. Consequently, the Commission does not believe it is necessary to separately list this information in § 40.8(a).

Second, both exchanges assert that information concerning outsourcing arrangements upon which the applicant tends to rely should be made public. The CME notes that to the extent that an applicant proposes to outsource any of its operational, self-regulatory, or clearing functions, the public cannot provide the Commission with useful comments regarding the applicant's proposed compliance with the Commodity Exchange Act's core principles or designation criteria unless the key provisions are made public. Again, the Commission recognizes the importance of interested parties being able to comment on a proposed application, but must balance this with the intent of the applicant to protect commercially sensitive information. Outsourcing arrangements often include compliance and surveillance techniques and the public release of this information could cause competitive harm to the applicant. The Commission notes that § 40.8(a) is not intended to limit which applicant information will be released, but to specify the portions of an application that are automatically public and therefore would not be granted confidential treatment under any circumstances. Therefore, even though the Commission does not specify outsourcing information in § 40.8(a), portions of this material in a redacted form could still be made public if requested under the Freedom of Information Act. The Commission also notes that the rule states that any portion of the application not covered by a request for confidential treatment will also be made public. The Commission is committed to providing transparency in the application process and will continue to evaluate whether additional information should be included in § 40.8(a).

B. Appendix D—Submission Cover Sheet and Instructions and Public Availability of Rule Submissions

The Commission proposed to amend the part 40 and 41 regulations requiring DTEFs, DCOs, and DTEFs to attach a Commission-generated submission cover sheet with all self-certified rules,[3] self-certified products,[4] rules submitted for Commission approval,[5] products submitted for Commission approval,[6] notifications of rule amendments,[7] and

[1] 69 FR 44981.

[2] The rule proposal indicated that the identical sections of applications seeking designation or registration as a DCM or DTEF under section 6(a) of the CEA would be publicly available.

[3] Commission Regulations 40.6(a) and 41.24.

[4] Commission Regulations 40.2 and 41.23.

[5] Commission Regulations 40.4(a) and 40.5.

[6] Commission Regulation 40.3.

[7] Commission Regulation 40.6(c).

non-material agricultural rule changes.[8] This cover sheet will assist Commission staff in preparing and maintaining the accuracy of the submissions being published on the Commission's website. The Commission also proposed adding appendix D to part 40 to include a copy of the submission cover sheet along with step-by-step instructions for completing and returning the form to the Commission. Although the Commission did not receive any public comments regarding this proposal, the Commission is amending the instructions in appendix D by adding an instruction to ensure that registered entities are fully aware that completing and returning the cover sheet to the Commission does not obviate the responsibility to comply with the other filing requirements for the underlying rule or rule amendment. The Commission has observed, during the past year of requesting the cover sheet, that some rule submissions have not been accompanied by all of the required components of the rule filing.

C. Freedom of Information Act Amendments

The Commission did not receive any comments regarding the proposed amendments to 17 CFR part 145. Therefore, all of the proposed amendments are being adopted in the final rules.

II. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* (2000), requires that agencies, in proposing regulations, consider the impact of those regulations on small entities. The regulations discussed herein would affect contract markets and other registered entities. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations in accordance with the RFA.[9] In its previous determinations, the Commission has concluded that DCMs, DTEFs, and DCOs are not small entities for purposes of the RFA.[10]

The Commission has previously determined, pursuant to 5 U.S.C. 605(b), that part 145 regulations do not have a significant economic impact on a substantial number of small entities. Because they do not impose regulatory obligations on commodity professionals and small commodity firms and because the changes will improve public access to Commission records and information, the Commission does not expect the regulations to have a significant economic impact on a substantial number of small entities.

In the proposed rules, the Commission solicited comment on whether the rules as proposed would have a significant impact on a substantial number of small entities. The Commission received no comments in response to this request. The Commission hereby determines that the rules, as adopted herein, will not have a significant impact on a substantial number of small entities. Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the amendments will not have a significant impact on a substantial number of small entities.

B. Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995,[11] the Commission submitted a copy of the proposed rule amendments to the Office of Management and Budget for its review. The Commission did not receive any public comments relative to its analysis of paperwork burdens associated with this rulemaking.

C. Cost-Benefit Analysis

Section 15(a) of the Act, as amended by section 119 of the CFMA, requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, section 15(a) as amended does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the regulation outweigh its costs. Rather, section 15(a) simply requires the Commission to ''consider the costs and benefits'' of its action.

Section 15(a) of the Act further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The Commission published an analysis of costs and benefits when it proposed the rule amendments that have now been adopted.[12] It did not receive any public comments pertaining to the analysis.

List of Subjects

17 CFR Part 40

Commodity futures, Contract markets, Designation application, Reporting and recordkeeping requirements.

17 CFR Part 41

Security futures.

17 CFR Part 145

Freedom of information.

■ For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR parts 40, 41, and 145 as follows:

PART 40—PROVISIONS COMMON TO CONTRACT MARKETS, DERIVATIVES TRANSACTION EXECUTION FACILITIES AND DERIVATIVES CLEARING ORGANIZATIONS

■ 1. The authority for part 40 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 5, 6, 6c, 7, 7a, 8 and 12a, as amended by appendix E of Pub. L. 106–554, 114 Stat. 2763A–365.

■ 2. Section 40.2 is revised to read as follows:

§ 40.2 Listing products for trading by certification.

To list a new product for trading, to list a product for trading that has become dormant, or to accept for clearing a product (not traded on a designated contract market or a registered derivatives transaction execution facility), a registered entity must file with the Secretary of the Commission at its Washington, DC, headquarters no later than the close of business of the business day preceding the product's listing or acceptance for clearing, either in electronic or hard copy form, a copy of the submission cover sheet in accordance with the instructions in appendix D to this part, a copy of the product's rules, including its terms and conditions, or the rules establishing the terms and conditions of products that make them acceptable for clearing, and a certification by the registered entity that the trading product or other instrument, or the clearing of the trading product or other instrument, including any rules establishing the

[8] Commission Regulation 40.4(b).

[9] 47 FR 18618–18621 (Apr. 30, 1982).

[10] 47 FR 18618, 18619 (April 30, 1982) (discussing contract markets); 66 FR 42256, 42268 (August 10, 2001) (discussing DTEFs); 66 FR 45605, 45609 (August 29, 2001) (discussing DCOs).

[11] Pub. L. 104–13 (May 13, 1995).

[12] 69 FR 44981 at 44984 (July 28, 2004).

terms and conditions of products that make them acceptable for clearing, complies with the Act and regulations thereunder.

■ 3. Section 40.3 is amended by revising paragraphs (a)(4) and (a)(5) and by adding paragraph (a)(6) to read as follows:

§ 40.3 Voluntary submission of new products for Commission review and approval.

(a) * * *

(4) The submission identifies with particularity information in the submission (except for the product's terms and conditions which are made publicly available at the time of submission) that will be subject to a request for confidential treatment and supports that request for confidential treatment with reasonable justification;

(5) The submission includes the fee required under appendix B to this part; and

(6) The submission includes a copy of the submission cover sheet in accordance with the instructions in appendix D to this part.

* * * * *

■ 4. Section 40.5 is amended by revising paragraphs (a)(1)(vi) and (a)(1)(vii) and by adding paragraph (a)(1)(viii) to read as follows:

§ 40.5 Voluntary submission of rules for Commission review and approval.

(a) * * *

(1) * * *

(vi) Identify any Commission regulation that the Commission may need to amend, or sections of the Act or Commission regulations that the Commission may need to interpret in order to approve the proposed rule. To the extent that such an amendment or interpretation is necessary to accommodate a proposed rule, the submission should include a reasoned analysis supporting the amendment to the Commission regulation or the interpretation;

(vii) Identify with particularity information in the submission (except for a product's terms and conditions, which are made publicly available at the time of submission) that will be subject to a request for confidential treatment and support that request for confidential treatment with reasonable justification; and

(viii) Include a copy of the submission cover sheet in accordance with the instructions in appendix D to this part.

* * * * *

■ 5. Section 40.6 is amended by revising paragraphs (a)(3)(iv) and (a)(3)(v) and adding paragraph (a)(3)(vi) to read as follows:

§ 40.6 Self-certification of rules by designated contract markets and registered derivatives clearing organizations.

(a) * * *

(3) * * *

(iv) A brief explanation of any substantive opposing views not incorporated into the rule;

(v) A certification by the entity that the rule complies with the Act and regulations thereunder; and

(vi) A copy of the submission cover sheet in accordance with the instructions in appendix D to this part.

* * * * *

■ 6. Section 40.8 is amended by redesignating the current paragraph as paragraph (b) and by adding new paragraph (a) to read as follows:

§ 40.8 Availability of public information.

(a) The following sections of all applications to become a registered entity will be public: transmittal letter, proposed rules, the applicant's regulatory compliance chart, documents establishing the applicant's legal status, documents setting forth the applicant's governance structure, and any other part of the application not covered by a request for confidential treatment.

* * * * *

Appendix C to Part 40 [Added and Reserved]

■ 6a. Appendix C to part 40 is added and reserved.

■ 7. Appendix D is added to read as follows:

Appendix D to Part 40—Submission Cover Sheet and Instructions

A properly completed submission cover sheet must accompany all rule submissions submitted by a designated contract market, registered derivatives clearing organization, or registered derivatives transaction execution facility and forwarded either in hard copy form or electronically to the Secretary of the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 or electronically to *submissions@cftc.gov* in a format specified by the Secretary of the Commission. Each submission should include the following:

1. *Identifier Code (optional)*—If applicable, the exchange or clearing organization Identifier Code at the top of the cover sheet. Such codes are commonly generated by the exchanges or clearing organizations to provide an identifier that is unique to each filing (*e.g.*, NYMEX Submission 03–116).

2. *Date*—The date of the filing.

3. *Organization*—The name of the organization filing the submission (*e.g.*, CBOT).

4. *Filing as a*—Check the appropriate box for a designated contract market (DCM), derivatives clearing organization (DCO), or derivatives transaction execution facility (DTEF).

5. *Type of Filing*—Indicate whether the filing is a rule amendment or new product and the applicable category under that heading.

6. *Rule Numbers*—For rule filings only, identify rule number(s) being adopted or modified in the case of rule amendment filings.

7. *Description*—For rule or rule amendment filings only, enter a brief description of the new rule or rule amendment. This narrative should describe the substance of the submission with enough specificity to characterize all essential aspects of the filing.

8. *Other Requirements*—Comply with all filing requirements for the underlying proposed rule or rule amendment. The filing of the submission cover sheet does not obviate the responsibility to comply with any applicable filing requirement (*e.g.*, rules submitted for Commission approval under § 40.5 must be accompanied by an explanation of the purpose and effect of the proposed rule along with a description of any substantive opposing views).

A sample of the required submission cover sheet follows.

BILLING CODE 6351–01–P

SUBMISSION COVER SHEET

Exchange Identifier Code (optional) _____ **Date** _____

ORGANIZATION

FILING AS A: ☐ **DCM** ☐ **DCO** ☐ **DTEF**

TYPE OF FILING

- **Rule Amendments**
  - ☐ Self-Certification Under Reg. 40.6(a) or 41.24
  - ☐ Commission Approval Requested Under Reg. 40.5 or 40.4 (a)
  - ☐ Notification of Rule Amendment Under Reg. 40.6(c)
  - ☐ Non-Material Agricultural Rule Change Determination Under Reg. 40.4(b)
- **New Products**
  - ☐ Self-Certification Under Reg. 40.2 or 41.23
  - ☐ Commission Approval Requested Under Reg. 40.3

RULE NUMBERS

DESCRIPTION (Rule Amendments Only)

BILLING CODE 6351–01–C

PART 41—SECURITY FUTURES PRODUCTS

■ 8. The authority citation for part 41 continues to read as follows:

Authority: Sections 206, 251 and 252, Pub. L. 106–554, 114 Stat. 2763, 7 U.S.C. 1a, 2, 6f, 6j, 7a–2, 12a; 15 U.S.C. 78g(c)(2).

■ 9. Section 41.23 is amended by revising paragraphs (a)(4) and (a)(5) and by adding paragraph (a)(6) to read as follows:

§ 41.23 Listing of security futures products for trading.

(a) * * *

(4) Includes a certification that the terms and conditions of the contract comply with the additional conditions for trading of § 41.25;

(5) If the board of trade is a designated contract market pursuant to section 5 of the Act or a registered derivatives transaction execution facility pursuant to section 5a of the Act, it includes a certification that the security futures product complies with the Act and rules thereunder; and

(6) Includes a copy of the submission cover sheet in accordance with the instructions in appendix D of part 40.

* * * * *

■ 10. Section 41.24 is amended by revising paragraphs (a)(3) and (a)(4) and by adding paragraph (a)(5) to read as follows:

§ 41.24 Rule amendments to security futures products.

(a) * * *

(3) Includes a certification that the designated contract market or registered derivatives clearing organization has filed the rule or rule amendment with the Securities and Exchange Commission, if such a filing is required;

(4) If the board of trade is a designated contract market pursuant to section 5 of the Act or is a registered derivatives clearing organization pursuant to section 5b of the Act, it includes the documents and certifications required to be filed with the Commission pursuant to § 40.6 of this chapter, including a certification that the security futures product complies with the Act and rules thereunder; and

(5) Includes a copy of the submission cover sheet in accordance with the instructions in appendix D of part 40.

* * * * *

PART 145—COMMISSION RECORDS AND INFORMATION

■ 11. The authority citation for part 145 continues to read as follows:

Authority: Pub. L. 99–570, 100 Stat. 3207, Pub. L. 89–554, 80 Stat. 383, Pub. L. 90–23, 81 Stat. 54, Pub. L. 93–502, 88 Stat. 1561–1564 (5 U.S.C. 552); Sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (5 U.S.C. 4a(j)); unless otherwise noted.

■ 12. Section 145.7 is amended by revising the first sentence of paragraph (h)(3), by redesignating paragraph (j) as paragraph (i)(7), and by adding a new paragraph (j) to read as follows:

§ 145.7 Requests for Commission records and copies thereof.

* * * * *

(h) * * *

(3) The Assistant Secretary, or his or her designee, will issue an initial determination with respect to a FOIA request within twenty business days after receipt by the Assistant Secretary. * * *

* * * * *

(j) *Expedited processing.* A request may be given expedited processing if the requester demonstrates a compelling need for the requested records. For purposes of this provision, the term ''compelling need'' means: That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged federal government activity. A requester who seeks expedited processing must demonstrate a compelling need by submitting a statement that is certified by the requester to be true and correct to the best of that person's knowledge and belief. The Assistant Secretary, or his or her designee, will determine whether to provide expedited processing, and notice of the determination will be provided to the requester, within ten days after the date of the request. If the request for expedited processing is denied, the requester may file an appeal with the Office of General Counsel within ten days of the date of the denial by the Assistant Secretary. The Office of General Counsel will respond to the appeal within ten days after the date of the appeal.

■ 13. Section 145.9 is amended by revising paragraph (e)(2) to read as follows:

§ 145.9 Petition for confidential treatment of information submitted to the Commission.

* * * * *

(e) * * *

(2) The period for filing a detailed written justification may be extended upon request and for good cause shown.

* * * * *

■ 14. Appendix A is amended by revising paragraph (a)(2), the heading of paragraph (b), paragraphs (b)(2) and (b)(3), and adding paragraph (b)(13) to read as follows:

Appendix A to Part 145—Compilation of Commission Records Available to the Public

* * * * *

(a) * * *

(2) Weekly Advisory (solely available on the Commission's Web site at *http://www.cftc.gov/cftc/cftcpressoffice.htm).*

* * * * *

(b) *Office of the Secretariat (Public reading area with copying facilities available).* * * *

(2) Terms and conditions of proposed contracts.

(3) Registered entity filings relating to rules as defined in § 40.1 of this chapter, unless covered by a request for confidential treatment.

* * * * *

(13) Publicly available portions of applications to become a registered entity including the transmittal letter, proposed rules, proposed bylaws, corporate documents, any overview or similar summary provided by the applicant, any documents pertaining to the applicant's legal status and governance structure, including governance fitness information, and any other part of the application not covered by a request for confidential treatment.

* * * * *

■ 15. Appendix B is amended by revising paragraphs (a)(1), (a)(2), (a)(3), (a)(5), (a)(6) and (b) to read as follows:

Appendix B to Part 145—Schedule of Fees

(a) * * *

(1) $4.75 for each quarter hour spent by clerical personnel in searching for or reviewing records.

(2) When a search or review cannot be performed by clerical personnel, $10.25 for each quarter hour spent by professional personnel in searching or reviewing records.

(3) When searches require the expertise of a computer specialist, staff time for programming and performing searches will be charged at $10.25 per quarter hour. For searches of records stored on personal computers used as workstations by Commission staff and shared access network servers, the computer processing time is included in the search time for the staff member using the workstation as set forth in paragraph (a) of this appendix.

* * * * *

(5) For copies of materials other than paper records, the requester will be charged the actual cost of materials and reproduction, including the time of clerical personnel at a rate of $4.75 per quarter hour.

(6) When a request has been made and granted to examine Commission records at an office of the Commission other than the office in which the records are routinely maintained, the requester:

(i) Will reimburse the Commission for the actual cost of transporting the records; and

(ii) Will be charged at a rate of $4.75 for each quarter hour spent by clerical personnel in preparing the records for transit.

* * * * *

(b) *Waiver or reduction of fees.* Fees will be waived or reduced by the Commission if:

(1) The fee is less than or equal to $10.00, the approximate cost to the Commission of collecting the fee; or,

(2) If the Commission determines that the disclosure of the information is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

* * * * *

Appendix D [Removed]

■ 16. Appendix D is removed.

Issued in Washington, DC, on November 12, 2004, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–25613 Filed 11–17–04; 8:45 am]

BILLING CODE 6351–01–P

POSTAL SERVICE

39 CFR Part 501

Authorization to Manufacture and Distribute Postage Meters

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule provides contact information for submission of questions or comments and all notification, plans, and reports directed by regulation throughout 39 CFR Part 501—Authorization to Manufacture and Distribute Postage Meters.

DATES: This rule is effective November 18, 2004.

FOR FURTHER INFORMATION CONTACT: Wayne Wilkerson, manager of Postage Technology Management, at 1735 N. Lynn Street, Rosslyn, VA 22209 by phone at (703) 292–3691 or by fax at (703) 292–4073.

SUPPLEMENTARY INFORMATION: Title 39, *Code of Federal Regulations* (CFR) Part 501, Sections 501.1 through 501.30 provide Federal rules and regulations governing the manufacture and distribution of postage meters. These sections reference requirements that must be submitted to Postal Service™ or Postage Technology Management without identification of contact information for submission of requirements or inquiries. Section 501.1 gives the contact information for Postage Technology Management, the Postal Service office responsible for authorization.

List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

The Amendment

■ For the reasons set out in the preamble, the Postal Service is amending 39 CFR part 501 as follows:

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS

■ 1. The authority citation for part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Pub. L. 95–452, as amended), 5 U.S.C. App. 3.

■ 2. Add § 501.1(f) to read as follows:

§ 501.1 Postage evidencing system/infrastructure authorization.

* * * * *

(f) The Postal Service functional area charged with administering authorization as described in this part 501 is the Postage Technology Management program office. All submissions cited throughout all sections of 39 CFR part 501 are to be made to this office in person or via U.S. mail to 1735 N. Lynn Street Room 5011, Rosslyn, VA 22209–6370 or via fax to 703–292–4073. Inquiries may be made via telephone to 703–292–3691, and information updates may be found on the U.S. Postal Service Web page at *www.usps.com/postagesolutions/flash.htm.*

Neva Watson,

Attorney, Legislative.

[FR Doc. 04–25558 Filed 11–17–04; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040429134–4135–01; I.D. 111004C]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #17—Adjustment of the Commercial Salmon Fishery from the Oregon-California Border to Humboldt South Jetty, California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure; request for comments.

SUMMARY: NMFS announces that the commercial salmon fishery in the area from the Oregon-California Border to Humboldt South Jetty, CA was modified to close at midnight on Friday, September 17, 2004. This action was necessary to conform to the 2004 management goals. The intended effect of this action is to allow the fishery to operate within the seasons and quotas as specified in the 2004 annual management measures.

DATES: Closure effective 2359 hours local time (l.t.), September 17, 2004, after which the fishery will remain closed until opened through an additional inseason action for the west coast salmon fisheries, which will be published in the **Federal Register**, or until the effective date of the next scheduled open period announced in the 2005 annual management measures. Comments will be accepted through December 3, 2004.

ADDRESSES: Comments on this action must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206–526–6376; or Rod McInnis, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; or faxed to 562–980–4018. Comments can also be submitted via e-mail at the *2004salmonIA17.nwr@noaa.gov* address, or through the internet at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments and include the docket number in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140.

SUPPLEMENTARY INFORMATION: The NMFS Regional Administrator closed the commercial salmon fishery in the area from the Oregon-California Border to Humboldt South Jetty, CA, effective at midnight on Friday, September 17, 2004. On September 15, the Regional Administrator determined that available catch and effort data indicated that the quota of 6,000 chinook salmon would be reached by midnight on Friday, September 17, 2004.

Automatic season closures based on quotas are authorized by regulations at 50 CFR 660.409(a)(1).

In the 2004 annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), NMFS

announced the commercial fishery for all salmon except coho in the area from the Oregon-California Border to Humboldt South Jetty, CA, would openSeptember 1 through the earlier of September 30 or a 6,000 chinook quota.

On September 15, 2004, the Regional Administrator consulted with representatives of the Pacific Fishery Management Council and California Department of Fish and Game. Information related to catch to date, the chinook catch rate, and effort data indicated that it was likely that the chinook quota would be reached by September 17. As a result, the State of California recommended, and the Regional Administrator concurred, that the area from the Oregon-California Border to Humboldt South Jetty, CA close effective at midnight on Friday, September 17, 2004. All other restrictions that apply to this fishery remained in effect as announced in the 2004 annual management measures.

The Regional Administrator determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason action recommended by the state. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishers of the above described action was given prior to the date the action was effective by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

This action does not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of this action was provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agency have insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data are collected to determine the extent of the fisheries, and the time the fishery closure must be implemented to avoid exceeding the quota. Because of the rate of harvest in this fishery, failure to close the fishery upon attainment of the quota would allow the quota to be exceeded, resulting in fewer spawning fish and possibly reduced yield of the stocks in the future. For the same reasons, the AA also finds good cause to waive the 30–day delay in effectiveness required under U.S.C. 553(d)(3).

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 12, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–25638 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040429134–4135–01; I.D. 111004B]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #16—Adjustment of the Recreational Fishery from the U.S.-Canada Border to Cape Alava, Washington

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Reopening of a fishing season; request for comments.

SUMMARY: NMFS announces the recreational salmon fishery in the area from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea) was modified to reopen effective Friday, September 10, 2004, through the earlier of September 19 or a modified subarea quota of 30,750 coho. This action was necessary to conform to the 2004 management goals.

DATES: Reopening effective 0001 hours local time (l.t.) September 10, 2004, until the chinook quota or coho quota are taken, or 2359 hours l.t., September 19, 2004; after which the fishery will remain closed until opened through an additional inseason action for the west coast salmon fisheries, which will be published in the **Federal Register**, or until the effective date of the next scheduled open period announced in the 2005 annual management measures. Comments will be accepted through December 3, 2004.

ADDRESSES: Comments on this action must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206–526–6376; or Rod McInnis, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; or faxed to 562–980–4018. Comments can also be submitted via e-mail at the *2004salmonIA16.nwr@noaa.gov* address, or through the internet at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments, and include [Docket number and/or RIN number] in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140.

SUPPLEMENTARY INFORMATION: The NMFS Regional Administrator (RA) reopened the recreational salmon fishery in the area from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea), effective Friday, September 10, 2004, through the earlier of September 19 or a modified subarea quota of 30,750 coho. On September 9 the Regional Administrator had determined the available catch and effort data indicated that enough fish remained within the coho and chinook quotas to allow additional days of fishing.

All other restrictions remained in effect as announced for 2004 ocean salmon fisheries and previous inseason actions. This action was necessary to conform to the 2004 management goals. Recision of automatic season closures are authorized by regulations at 50 CFR 660.409(a)(2).

In the 2004 annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), NMFS announced the recreational fishery in the area from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea) would open June 27 through the earlier of September 19 or a 21,050 coho subarea quota, with a subarea guideline of 3,700 chinook.

Inseason Action #10 reallocated 40,000 coho from Queets River to Leadbetter Point, WA (Westport Subarea) quota effective August 13, 2004, by transferring the coho on an impact neutral basis, to the coho quota in the subarea from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea), which increased the Neah Bay Subarea quota by 6,600 coho (69 FR 54047, September 7, 2004).

The recreational salmon fishery in the area from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea) was modified by Inseason Action ı13 to close at midnight on Thursday, September 2, 2004. To allow for the Neah Bay Subarea to remain open until September 2, 3,100 coho were transferred to the Neah Bay coho quota on an impact neutral basis from the Queets River to Leadbetter Point, WA (Westport Subarea), coho quota.

On September 9, 2004, the RA consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife by conference call. Information related to catch to date, the coho and chinook catch rates, and effort data indicated that the Neah Bay Subarea catch was lower than was anticipated, and that enough fish remained within the coho and chinook quotas to allow additional days of fishing. As a result, on September 9 the states recommended, and the RA concurred, that Neah Bay Subarea reopen effective Friday, September 10, 2004, and continue through the earlier of September 19 or a modified subarea quota of 30,750 coho. All other restrictions that applied to this fishery remained in effect as announced in the 2004 annual management measures and previous inseason action notices.

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason action recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishers of the already described regulatory action was given, prior to the date the action was effective, by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

This action does not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory action was provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modification had to be implemented in order to allow fishers access to the available fish at the time the fish were available. A delay in effectiveness of this action would unnecessarily limit fishers appropriately controlled access to available fish during the scheduled fishing season because this action rescinds an automatic closure. For the same reasons, the AA also finds good cause to waive the 30–day delay in effectiveness required under U.S.C. 553(d)(3).

This action is authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 12, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–25639 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040429134–4135–01; I.D. 111004A]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #15—Adjustments of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, Oregon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure and Modification of fishing seasons; request for comments.

SUMMARY: NMFS announces that the commercial salmon fishery in the subarea from the Queets River, WA to Cape Falcon OR, was projected to reach its 10,000 coho quota and was closed effective at midnight on Tuesday, September 7, 2004. In addition, regulations for the commercial salmon fishery in the subarea from the U.S.-Canada Border to the Queets River, were modified to open the fishery September 8 through the earlier of September 15, or a subarea quota of 8,000 marked coho, with a landing and possession limit of 125 chinook per vessel for the 8–day open period. These actions were necessary to conform to the 2004 management goals.

DATES: Closure of the area from the Queets River, WA to Cape Falcon, OR, effective 2359 hours local time (l.t.) September 7, 2004; the area from the U.S.-Canada Border to the Queets River, WA, was reopened effective 0001 hours l.t. September 8, 2004, until the chinook quota or coho quota is taken, or 2359 hours l.t., September 15, 2004; after which the fishery will remain closed until opened through an additional inseason action for the west coast salmon fisheries, which will be published in the **Federal Register**, or until the effective date of the next scheduled open period announced in the 2005 annual management measures. Comments will be accepted through December 3, 2004.

ADDRESSES: Comments on these actions must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206–526–6376; or Rod McInnis, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long

Beach, CA 90802–4132; or faxed to 562–980–4018. Comments can also be submitted via e-mail at the *2004salmonIA15.nwr@noaa.gov* address, or through the internet at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments, and include [Docket number and/or RIN number] in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140.

SUPPLEMENTARY INFORMATION: The NMFS Regional Administrator (RA) closed the commercial salmon fishery in the subarea from the Queets River, WA to Cape Falcon, OR, effective at midnight on Tuesday, September 7, 2004. In addition, the commercial salmon fishery in the subarea from the U.S.-Canada Border to the Queets River, was modified to open September 8 through the earlier of September 15, or a subarea quota of 8,000 marked coho, with a landing and possession limit of 125 chinook per vessel for the eight-day open period. On September 7, 2004, the Regional Administrator determined the available catch and effort data indicated that the adjusted subarea quota of 10,000 coho salmon for the subarea from the Queets River, WA to Cape Falcon, OR would be reached. The data also indicated the restriction for the subarea from the U.S.-Canada Border to the Queets River to be open only from Wednesday through Sunday could be modified so the area could remain open for 8 days until the end of the scheduled season without exceeding any conservation objectives established preseason.

All other restrictions remained in effect as announced for 2004 ocean salmon fisheries and previous inseason actions. These actions were necessary to conform to the 2004 management goals. Automatic season closures based on quotas are authorized by regulations at 50 CFR 660.409(a)(1). Modification of quotas and/or fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i). Modification of the species that may be caught and landed during specific seasons and the establishment or modification of limited retention regulations are authorized by regulations at 50 CFR 660.409(b)(1)(ii).

In the 2004 annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), NMFS announced the commercial fishery for all salmon in the area from the U.S.-Canada Border to Cape Falcon, OR would open July 8 through the earlier of September 15, or a 14,700–chinook preseason guideline, or a 67,500–coho quota. The 67,500–coho quota included a subarea quota of 8,000 coho for the area between the U.S.-Canada border and the Queets River, WA. The fishery was scheduled to be open Thursday through Monday prior to August 11, and Wednesday through Sunday thereafter, with the restriction that no vessel may possess, land, or deliver more than 125 chinook for each 5–day open period.

The fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified by Inseason Action ι5 to open July 8 and close at midnight on July 12, 2004, then to reopen on July 16 through midnight on July 19, 2004, with the provision that no vessel may possess, land, or deliver more than 100 chinook for each open period (69 FR 43345, July 20, 2004). The fishing season was modified to slow the chinook catch rate and avoid exceeding the chinook quota. The fishery was scheduled to be reevaluated by an inseason conference call on July 14, and any further adjustments announced.

The fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified by Inseason Action ι6 to a revised landing provision that no vessel may possess, land, or deliver more than 125 chinook for the open period of July 16 through July 19, 2004 (69 FR 51609, August 20, 2004). The fishery then reverted back to the regulations as announced preseason for 2004 ocean salmon fisheries and was scheduled to continue until the chinook quota or coho quota were taken, or September 15, which ever was earlier. Consistent with the preseason schedule the fishery was reopened on July 22, with an open cycle of Thursday through Monday prior to August 11, and Wednesday through Sunday thereafter, and a landing and possession limit of 125 chinook per vessel per each 5–day open period.

The commercial salmon fishery in the area from the Queets River to Cape Falcon, OR was modified by Inseason Action ι11 effective September 1, 2004, to allow for the retention of all legal sized coho with a landing provision that no vessel may possess, land, or deliver more than 500 coho for each 5–day open period until the earlier of September 15 or a quota of 10,000 coho (69 FR 63333, November 1, 2004). Unmarked coho could only be possessed and landed in the area from the Queets River to Cape Falcon. In addition, 20,000 coho from the quota of the commercial fishery from the U.S.-Canada Border to Cape Falcon was traded for 5,000 chinook from the recreational salmon fishery from the Queets River to Leadbetter Point, WA (Westport Subarea) guideline.

On September 7, 2004, the RA consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife by conference call. Information related to catch and effort data indicated that it was likely that the commercial salmon fishery in the subarea from the Queets River, WA, to Cape Falcon, OR, would reach its 10,000 coho quota by midnight. The data also indicated the restriction for the subarea from the U.S.-Canada Border to the Queets River to be open only from Wednesday through Sunday could be modified so the area could remain open for 8 days until the end of the scheduled season without exceeding any conservation objectives established preseason. As a result, on September 7 the states recommended, and the RA concurred, that the commercial salmon fishery in the area from the Queets River to Cape Falcon be closed effective at midnight on September 7, 2004, and that the commercial salmon fishery in the subarea from the U.S.-Canada Border to the Queets River, be modified to open September 8 through the earlier of September 15, or a subarea quota of 8,000 marked coho, with a landing and possession limit of 125 chinook per vessel for the eight-day open period. All other restrictions that apply to these fisheries remained in effect as announced in the 2004 annual management measures and previous inseason actions.

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishers of the above described regulatory actions were given, prior to the time the action was effective, by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

These actions do not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice

and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions were provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies have insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data are collected to determine the extent of the fisheries, and the time the fishery closure must be implemented to avoid exceeding the quota, or the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were available. Because of the rate of harvest in this fishery, failure to close the fishery upon attainment of the quota would allow the quota to be exceeded, resulting in fewer spawning fish and possibly reduced yield of the stocks in the future. In addition, the action also relieved a restriction by modifying a subarea regulation to be open 7 days per week instead of 5 days per week, thus providing additional harvest opportunity. For the same reasons, the AA also finds good cause to waive the 30–day delay in effectiveness required under U.S.C. 553(d)(3).

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 12, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–25642 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 69, No. 222

Thursday, November 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.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket Nos. 1994P–0390 and 1995P–0241]

Food Labeling: Nutrient Content Claims, General Principles; Health Claims, General Requirements and Other Specific Requirements for Individual Health Claims; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening for 60 days the comment period for the proposed rule entitled ''Food Labeling: Nutrient Content Claims, General Principles; Health Claims, General Requirements and Other Specific Requirements for Individual Health Claims'' (60 FR 66206, December 21, 1995) (the 1995 proposal). In that document, FDA proposed to amend its existing nutrient content claims and health claims regulations to provide additional flexibility in the use of these claims on food products. FDA reopened the comment period for the 1995 proposal to seek comment on the proposed amendments to permit unqualified health claims on certain foods that do not contain 10 percent or more of one of certain required nutrients, the proposed amendments to provide criteria that FDA would consider in determining whether to grant an exemption from disqualifying nutrient levels related to unqualified health claims of certain nutrients, and the proposed amendments to retain the word ''may'' or ''might'' in unqualified health claims. In addition, FDA sought comment on the proposed use of unlisted synonyms and abbreviated health claims. The comment period for the 1995 proposal closed on July 6, 2004. FDA is reopening the comment period again in response to four requests for additional time to submit comments to FDA.

DATES: Submit written or electronic comments by January 18, 2005.

ADDRESSES: You may submit comments, identified by Docket Nos. 1994P–0390 and 1995P–0241, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.
- E-mail: *fdadockets@oc.fda.gov*. Include Docket Nos. 1994P–0390 and 1995P–0241 in the subject line of your e-mail message.
- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions]: Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the agency name and Docket No(s). or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket numbers, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ritu Nalubola, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2371.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 21, 1995, FDA proposed to amend its existing regulations on nutrient content claims and health claims to provide additional flexibility in the use of these claims on food products. Specifically, FDA proposed the following: (1) To allow additional synonyms for nutrient content claims without specific preclearance by the agency (i.e., unlisted synonyms), (2) to permit health claims on certain foods that do not currently qualify to bear a claim because they do not contain 10 percent of one or more of certain required nutrients, (3) to permit the use of shortened versions of authorized health claims (i.e., abbreviated health claims) under certain circumstances, (4) to eliminate and/or make optional some of the specific health claim elements required by regulation, and (5) to provide criteria that FDA would consider in determining whether to grant an exemption from disqualifying nutrient levels to permit some foods to bear an unqualified health claim even though they contain high levels of one or more of certain nutrients. FDA proposed these amendments in response to petitions submitted by the National Food Processors Association (NFPA) (Docket No. 1994P–0390) and the American Bakers Association (ABA) (Docket No. 1995P–0241). FDA requested comments on the 1995 proposal by March 20, 1996, which was later extended to July 18, 1996 (61 FR 11793, March 22, 1996). The comment period was reopened in 1997 to obtain comment on an FDA study and two consumer research studies submitted by industry (62 FR 3635, January 24, 1997), and then extended to allow interested persons more time to review the studies and submit comments (62 FR 11129, March 11, 1997).

In the **Federal Register** of May 4, 2004 (69 FR 24541), FDA reopened for 60 days the comment period for the 1995 proposal. In the May 4, 2004, notice reopening the comment period, FDA noted that since the publication of the 1995 proposal, FDA established a task force for the Consumer Health Information for Better Nutrition Initiative (the task force). The purpose of the initiative is to make available more and better information about conventional foods and dietary supplements to help American

consumers improve their health and decrease their risk of contracting diseases by making sound dietary choices. The task force issued a final report on July 10, 2003 (68 FR 41387, July 11, 2003), which recommended that FDA seek public comment on several topics related to qualified health claims (i.e., claims that do not meet the significant scientific agreement (SSA) standard of evidence required by the Federal Food, Drug, and Cosmetic Act and FDA regulations to evaluate the scientific validity of health claims) and unqualified health claims (i.e., health claims that are supported by SSA and authorized by FDA by regulation). Some of the topics identified in the task force report were specifically addressed in the 1995 proposal. FDA reopened the comment period on the 1995 proposal to seek comment on these topics, which include the following: (1) The proposed amendments to permit unqualified health claims on certain foods that do not contain 10 percent or more of one of certain required nutrients; (2) the proposed amendments to provide criteria that FDA would consider in determining whether to grant an exemption from disqualifying nutrient levels related to unqualified health claims of certain nutrients; and (3) the proposed amendments to retain the word ''may'' or ''might'' in unqualified health claims to describe the relationship between a substance and a disease or health-related condition. In addition, FDA sought comment on the proposed use of unlisted synonyms and abbreviated health claims. Specifically, for unlisted synonyms (i.e., terms not defined by regulation), FDA repeated its request for data or other information demonstrating that unlisted synonyms that are anchored to defined terms in nutrient content claims are reasonably understood by consumers to be synonyms of the defined terms. FDA also sought comments on the petition process in 21 CFR 101.69(n) for synonyms and examples of synonyms that industry may be seeking to use. For abbreviated health claims, FDA sought comments and requested data or other information regarding whether abbreviated health claims would mislead consumers.

Following publication of the May 4, 2004, notice reopening the comment period, FDA received four requests for an extension of the comment period to allow interested persons additional time to comment. Two of the requests were submitted by NFPA and ABA, the petitioners. The requesters asserted that more time is needed, given the complexity of the issues, to thoroughly review the specific elements of the 1995 proposal. Some requesters further supported their requests for additional time by noting that more than 7 years have passed since the 1995 proposal was last considered in comments and FDA's May 4, 2004, notice reopening the comment period. NFPA and ABA, which are trade associations, specifically stated that, over the intervening years, many of their member companies' representatives who were responsible for consideration of the technical aspects of the 1995 proposal have left their companies and have been replaced by staff that are less familiar with the 1995 proposal, subsequent comments, and underlying petitions. In addition, NFPA and ABA asserted that because the character of their membership has changed and current members may advocate different views of the issues raised in the 1995 proposal and in comments on the 1995 proposal received through 1997, additional time is needed to ensure that all members' concerns are addressed to accurately comment and respond to FDA. Another requester, also a trade association, also requested more time to ensure that all of its members' concerns are addressed to accurately comment and respond to FDA.

FDA has considered the requests for additional time to submit comments and, because the comment period for the 1995 proposal closed on July 6, 2004, FDA is again reopening the comment period on the 1995 proposal for an additional 60 days to provide interested persons an opportunity to comment on the issues identified herein and in FDA's May 4, 2004, notice reopening the comment period for the 1995 proposal.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments in response to FDA's request for comments and available data or other information identified in FDA's May 4, 2004, notice reopening the comment period on the 1995 proposal. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Identify comments with the docket numbers found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 8, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–25529 Filed 11–17–04; 8:45 am]

BILLING CODE 4160–01–S

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM2004–1; Order No. 1424]

Definition of Postal Service

AGENCY: Postal Rate Commission.

ACTION: Proposed rule.

SUMMARY: This document addresses a proposal to add a definition of the term ''postal service'' to the rules of practice. This proposal is prompted by the Postal Service's action with respect to nonpostal initiatives. There is often controversy and uncertainty regarding the postal character of the services provided under those initiatives. The proposed definition is intended to provide guidance to the Postal Service and the general public concerning services that are subject to sections 3622 and 3623 of the Postal Reorganization Act.

DATES: 1. Deadline for filing initial comments: December 15, 2004.

2. Deadline for filing reply comments: January 12, 2004.

ADDRESSES: File all documents referred to in this order electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, (202) 789–6818.

SUPPLEMENTARY INFORMATION:

Regulatory History

69 FR 3288, January 23, 2004.
69 FR 11353, March 10, 2004.

I. Introduction and Summary

In Order No. 1389, the Commission proposed to amend its rules of practice and procedure to include a definition of the term ''postal service.''[1] The postal character of a spate of relatively new services initiated unilaterally by the Postal Service is uncertain and the issue whether a service is postal or nonpostal has become increasingly controversial. Consequently, the Commission proposed to codify a definition of the term ''postal service'' in its rules to provide guidance to the Postal Service and the public for evaluating what falls within the scope of sections 3622 and

[1] *See* Proposed Rulemaking Concerning Amendment to the Rules of Practice and Procedure, PRC Order No. 1389, January 16, 2004.

3623 of the Postal Reorganization Act (PRA).

Specifically, the Commission proposed to amend its rules by including the following definition: *Postal service* means the delivery of letters, printed matter, or packages weighing up to 70 pounds, including acceptance, collection, processing, transmission, or other services supportive or ancillary thereto.[2] Interested persons were invited to submit comments on the proposed rule.

No commenter, including the Postal Service, challenges the Commission's authority to adopt a definition of the term postal service. Under the Postal Service's construction of the Act, however, adopting a definition would essentially be an empty gesture since it contends that the Commission lacks the authority to determine the scope of its own jurisdiction. Under its theory, any service or product it unilaterally declares not to be a postal service is beyond the Commission's jurisdiction.[3] Thus, under its interpretation, the Postal Service becomes the arbiter of all things postal.

The Commission rejects the claim that it cannot determine the scope of its own jurisdiction. The law on this point is well settled. ''[T]he agency entitled to deference in the interpretation of 39 U.S.C. 3622–24 is the Rate Commission—not the Postal Service—as it is the Rate Commission which is charged with making recommended decisions on changes in rates and mail classification.'' [4] Unilateral Postal Service actions do not determine the scope of the Commission's jurisdiction over postal services. Management's initial characterization of a service as postal or not, a prerequisite under the Act, is not dispositive of the Commission's jurisdiction. Analysis of the statute, legislative history, and precedent confirms that the Postal Service is not free to engage in unfettered commercial activities under the guise that they are nonpostal.

In its comments, the Postal Service argues that the Commission's definition of the term postal services imposes no limits on its authority under the Act.[5] The Commission does not disagree. The proposed rule in no way restricts the types of services, postal or otherwise, that the Postal Service may wish to offer. It is free to offer whatever services it chooses subject to the requirements of the Act. For those that are postal services, within the meaning of the proposed rule, the Postal Service has an obligation to request a recommended decision before commencing service or charging rates. Nothing in the proposed rule affects the lawfulness of Postal Service products or services that are *not* postal.[6]

While most commenters support the idea that the term postal service be defined, there is no unanimity on the definition. The diversity of views expressed has helped crystallize the Commission's thinking about the issues. It is apparent that continuation of the status quo is not in the public interest. On numerous, recent occasions, parties have challenged the legitimacy of the Postal Service's claim that various services, offered unilaterally pursuant to section 404(a)(6), are not postal services. The jurisdictional implications of these services, which have become increasingly controversial, are most efficaciously addressed by rule rather than on an ad hoc basis. Comments by competitors demonstrate that many of these services offered unilaterally by the Postal Service have a substantial public effect. Accordingly, the Commission believes that it is appropriate to include a definition of the term postal service in its rules.

Based on a thorough consideration of the comments, however, the Commission has determined not to adopt either its initial proposal or any suggested in the comments. Instead, the Commission concludes that it would be preferable to define the term postal service by reference to the Postal Service's statutory duties rather than as initially proposed or as specifically suggested by any commenter. The rule proposed herein represents an improvement over that proposed in Order No. 1389 since it makes the Service's ''postal service'' duties the touchstone of the definition rather than any specific activities the Postal Service may or may not perform.

The revised definition reads as follows: *Postal service* means the receipt, transmission, or delivery by the Postal Service of correspondence, including, but not limited to, letters, printed matter, and like materials; mailable packages; or other services supportive or ancillary thereto. Because the definition focuses on the Postal Service's statutory functions, the proposed definition is distinguishable from that proposed in Order No. 1389. A major distinction is that the revised definition covers certain electronic services offered by the Postal Service, a result urged by several commenters. The Commission's decision to include certain electronic services is grounded on the statute and legislative history, both of which contemplate the use of technological advances in the provision of postal services. Nevertheless, inclusion of these services in the definition should not be read as a conclusion that all such services are jurisdictional; only such services that entail correspondence become postal services.

In lieu of adopting the foregoing definition now, the Commission will provide interested persons an opportunity to comment on the revised proposed rule. While not required under the Administrative Procedure Act, the additional comment period is deemed appropriate to assure that the impact of the rule is carefully considered and fully understood. Comments are due December 15, 2004. Reply comments may be filed on or before January 12, 2005.

II. Background

Two rulemakings pending before the Commission are companion proceedings, designed to define postal services on the one hand, Docket No. RM2004–1, and reporting requirements for nonpostal services on the other, Docket No. RM2004–2. In Order No. 1389, against the backdrop of an array of new services offered unilaterally by the Postal Service, the Commission reviewed both judicial and Commission precedent concerning the meaning, for jurisdictional purposes, of the term postal service.[7] This review demonstrated that the postal character of these new services was unsettled, causing needless confusion and increasing controversy. Consequently, to address the issue, the Commission proposed to define the term postal service and provided interested persons an opportunity to comment on the proposed definition.[8]

[2] *Id.* at 12.

[3] *See* Initial Comments of the United States Postal Service, March 15, 2004, at 2–3 (Postal Service Initial Comments).

[4] *United Parcel Service* v. *U.S. Postal Service,* 604 F.2d 1370, 1381 (3rd Cir. 1979), cert. denied, 446 U.S. 957 (1980).

[5] Postal Service Initial Comments at 3.

[6] To clarify, the Commission takes no position on services offered by the Postal Service that fall outside the proposed definition.

[7] *See* PRC Order No. 1389, *supra,* at 1–8.

[8] *Id.* at 12–16.

Seven sets of initial comments [9] and four sets of reply comments [10] were filed. These comments, addressed in detail below, advocate a variety of different perspectives. Four, the Association for Postal Commerce (PostCom),[11] the Office of the Consumer Advocate and Consumer Action (OCA/CA), United Parcel Service (UPS), and the Postal Service, suggest revisions to the Commission's proposed definition. Two, Parcel Shippers Association (PSA) and Pitney Bowes, Inc. (Pitney Bowes), endorse the proposed definition, albeit for different reasons; and one, Lifetime Addressing, supports OCA/CA's proposal.

The principal legal issues in this proceeding are the Postal Service's contention that the Commission lacks authority to determine the scope of its own jurisdiction and OCA/CA's claim that nonpostal services mean only those services provided by the Postal Service on behalf of other government agencies.

Docket No. RM2004–2, like this proceeding an outgrowth of Docket *2003, was initiated to consider the effects, if any, of non-jurisdictional services on jurisdictional rates.[12] Nonpostal services are a subset of non-jurisdictional services. In tandem, the two rulemakings are complementary, addressing opposite sides of the same coin.

In this proceeding, OCA/CA, citing the interrelationship between the two dockets, urge the Commission to define the term nonpostal (as they interpret it) in this proceeding, essentially preempting the proposed amendment to rule 54 in Docket No. RM2004–2.[13] In addition, OCA/CA propose that the Commission not employ the term nonpostal to identify services subject to the proposed reporting requirements in Docket No. RM2004–2.[14]

Lastly, since this proceeding commenced, two complaints have been filed with the Commission alleging that the Postal Service is providing postal services without first obtaining a recommended decision from the Commission.[15] While not bearing directly on this proceeding, these complaints, particularly Docket No. C2004–2, underscore the continuing controversy and uncertainty surrounding the Postal Service's unilateral actions.

III. Commission Authority

Section 3603 of the PRA authorizes the Commission to adopt ''rules and regulations and establish procedures, subject to chapters 5 and 7 of Title 5, and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this chapter.'' 39 U.S.C. 3603. No commenter disputes the Commission's authority to adopt a definition of the term postal service. The Postal Service, however, construes the Act in a manner that renders the exercise largely meaningless.

As a preface to its comments on the proposed rule, the Postal Service, referencing its comments in Docket *2003, reiterates its position that the Commission lacks authority to determine the scope of its own jurisdiction under Chapter 36 of the PRA.[16] It asserts that ''the Postal Service would not in any way be bound by [the proposed] definition'' concerning its determination of whether a service is postal or nonpostal.[17] Under this theory, its unilateral declaration of whether any product or service is or is not a postal service is determinative. Thus, under the Postal Service's interpretation, the Commission's jurisdiction is based not on its own consideration of the facts as applicable to the rate and classification factors of the Act, but rather on what the Postal Service unilaterally determines to be postal. The Postal Service's position is wholly without merit.

The Commission concludes that it has the primary responsibility for interpreting whether services offered or proposed by the Postal Service are subject to chapter 36 of the Act.[18] The Postal Service, but no other commenter, disagrees.[19] This dichotomy prompts several observations. The Postal Service argues that a Commission definition of the term postal service imposes no limits on its authority under the Act.[20] The Commission does not disagree. The rule in no way restricts the types of service, postal or otherwise, that the Postal Service may wish to offer. The Postal Service is free to offer whatever services or products it wishes subject to the strictures of the Act. However, for those that are postal services, as defined by the Commission, the Postal Service has an obligation to obtain a recommended decision before commencing a service or charging the public.

The Act mandates that the Postal Service, to the extent it wishes to provide a postal service, submit a request to the Commission for a recommended decision on changes in the mail classification schedule. Management's initial characterization of a service as postal or not neither deprives the Commission of jurisdiction over postal services nor precludes Commission review, on complaint or otherwise, for purposes of determining its statutory jurisdiction. Such review does not impinge on management's prerogatives in a manner not contemplated by the Act. ''The very existence and function of the Postal Rate Commission bespeaks a limitation on postal management's freedom.'' [21]

Furthermore, it is well settled that in matters involving rates and mail classifications the Commission's interpretation is entitled to deference. Federal courts have rejected the Postal Service's argument that its

[9] Comments of Lifetime Addressing, Inc. Pursuant to Commission Order No. 1389, March 16, 2004 (Lifetime Addressing Comments); Office of the Consumer Advocate and Consumer Action Comments on Proposed Amendment to the Commission's Rules of Practice and Procedure, March 15, 2004 (Joint Initial Comments); Comments of the Parcel Shippers Association to the Proposed Rulemaking Concerning Amendment to the Rules of Practice and Procedure, March 15, 2004 (PSA Comments); Comments of Pitney Bowes Inc., March 15, 2004 (Pitney Bowes Comments); PostCom Comments on Proposed Rulemaking Concerning Amendment to the Rules of Practice and Procedure, March 1, 2004 (PostCom Initial Comments); Comments of United Parcel Service in Support of Proposed Rule, March 9, 2004 (UPS Comments); Postal Service Initial Comments, *supra,* March 15, 2004.

[10] Reply Comments of Lifetime Addressing, Inc., April 15, 2004 (Lifetime Addressing Reply Comments); Office of the Consumer Advocate and Consumer Action Reply Comments on Proposed Amendment to the Commission's Rules of Practice and Procedure, April 15, 2004 (Joint Reply Comments); PostCom Reply Comments on the Proposed Rulemaking Concerning the Definition of ''Postal Service,'' April 15, 2004 (PostCom Reply Comments); and Reply Comments of the United States Postal Service, April 15, 2004 (Postal Service Reply Comments).

[11] PostCom's suggestion was offered as an alternative to its principal recommendation that the Commission not adopt a definition of the term postal service in this proceeding. PostCom Initial Comments at 1–2.

[12] *See* PRC Order No. 1394, March 5, 2004.

[13] Joint Initial Comments, *supra,* at 15.

[14] *Ibid.*

[15] *See* Complaint on Electronic Postmark, Docket No. C2004–2 and Complaint on Stamped Stationery, Docket No. C2004–3.

[16] Postal Service Initial Comments at 1–2.

[17] *Id.* at 3; *see also* Postal Service Reply Comments at 8–9.

[18] *See, e.g.,* PRC Op. R74–1, Vol. 2, Appendix F; PRC Op. R76–1, Vol. 1, at 263 *et seq.,* and Vol. 2, Appendix F; PRC Order No. 1239, May 3, 1999, at 9–14; *see also United Parcel Service* v. *U.S. Postal Service,* 604 F.2d 1370, 1381 (3rd Cir. 1979), *cert. denied,* 446 U.S. 957 (1980).

[19] *See* Postal Service Initial Comments at 2. As a general matter, the Postal Service referred to its comments in Docket *2003 in lieu of restating its position.

[20] *Id.* at 3. In comments in Docket *2003, the Postal Service cast the argument, in part, as the Commission's authority to determine the legal status of nonpostal services. Comments of United States Postal Service on Consumer Action Petition, Docket *2003, January 30, 2003, at 12–13.

[21] *United Parcel Service* v. *U.S. Postal Service,* 455 F. Supp. 857, 869 (E.D. Pa. 1978), *aff'd,* 604 F.2d 1370 (3d Cir. 1979), *cert. denied,* 446 U.S. 957 (1980).

interpretation of the Act deserves deference. ''[I]t was recognized there, [in *NAGCP* v. *USPS,* 569 F.2d 570 (DC Cir. 1976)] as we do here, that the agency entitled to deference in the interpretation of 39 U.S.C. 3622–24 is the Rate Commission—not the Postal Service—as it is the Rate Commission which is charged with making recommended decisions on changes in rates and mail classification.'' [22]

Moreover, the Postal Service's construction ignores a wealth of judicial precedent addressing the division of responsibility under the Act between the Postal Service and the Commission that makes it plain that rate and classification authority vests with the Commission. For example, in *National Association of Greeting Card Publishers* v. *U.S. Postal Service,* 462 U.S. 810, 821 (1983), the Supreme Court found:

> Although the Postal Reorganization Act divides ratemaking responsibility between two agencies, the legislative history demonstrates 'that ratemaking * * * authority [was] vested primarily in [the] Postal Rate Commission.' S. Rep. No. 91–912, p. 4 (1970) (Senate Report); *see Time, Inc.* v. *USPS,* 685 F.2d 760, 771 (CA2 1982); *Newsweek, Inc.* v. *USPS,* 663 F.2d, at 1200–1201; *NAGCP III,* 197 U.S. App. DC, at 87, 607 F.2d, at 401. The structure of the Act supports this view. While the Postal Service has final responsibility for guaranteeing that total revenues equal total costs, the Rate Commission determines the proportion of the revenue that should be raised by each class of mail. In so doing, the Rate Commission applies the factors listed in § 3622(b). Its interpretation of that statute is due deference. *See Time, Inc.* v. *USPS,* 685 F.2d, at 771; *United Parcel Service, Inc.* v. *USPS,* 604 F. 2d 1370, 1381 (CA3 1979), *cert. denied,* 446 U.S. 957 (1980).

Specifically mindful of the bifurcation of authority under the Act, the court, in *United Parcel Service, supra,* concluded: [23]

> The Commission's existence insures that an agency independent of the Postal Service will provide for public notice and hearing input of those affected by the proposed action and full and on the record, *see* 39 U.S.C. § 3624(a), consideration of pertinent factors and congressionally imposed goals before certain types of decisions are made.

IV. The Provision of Postal Services Is the Service's Core Mission

A. Grants of Authority Under the Act

Although the PRA does not define the term ''postal services,'' it is clear that ''postal services'' are central to the Postal Service's mission. The point is underscored by the very first section of the Act: ''The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people.'' 39 U.S.C. 101(a). The Postal Service is explicitly directed to ''plan, develop, promote, and provide adequate and efficient postal services at fair and reasonable rates and fees.'' 39 U.S.C. 403(a).

The Postal Service performs a variety of activities; some clearly relate to its obligation to provide postal services, while others do not. Some have jurisdictional implications; others do not. By statute, the Postal Service has a monopoly over the carriage of letters. 39 U.S.C. 601.[24] The monopoly, however, does not limit ''postal services'' provided by the Service to the carriage of letters (or services ancillary thereto). Incontestably, the Postal Service's carriage of mail not subject to the monopoly, such as packages and printed matter, is a ''postal service.'' Merely because such mail is outside the scope of the monopoly does not render such service ''nonpostal.'' [25]

The Postal Service's authority to engage in other activities also informs the scope of its core mission regarding postal services. These include authority to provide special, philatelic, international, and nonpostal services. It is well settled that special services, authorized by section 404(a)(6) of the Act, are postal services subject to the Commission's rate and classification jurisdiction. In *Associated Third Class Mail Users* v. *U.S. Postal Service,* 405 F. Supp. 1109 (D.D.C. 1975) (*ATCMU*), the court (J. Sirica) enjoined the Postal Service's unilateral attempt to increase fees for certain special services.[26] The Postal Service argued that the phrase ''fee or fees for postal services'' in section 3622 applied only to certain annual mailing or permit fees and not to special services. In rejecting the Postal Service's argument that section 404(a)(6) authorized it to proceed without first requesting a recommended decision from the Commission, the court held that ''the term 'postal services' was meant to embrace also those special and other services which are the subject of this litigation.'' [27] The court's finding that the special and other services were postal services was based on the ''common meaning'' of the term.[28] This finding was colored by two considerations. First, it observed that, with the possible exception of money orders, ''nearly all of these other services are very closely related to the delivery of mail.'' [29] Second, the court held, ''[i]t is also clear that the fees set for these services have substantial public effect.'' [30]

The Court of Appeals, without adopting all of its reasoning, found the district court's interpretation of the Act persuasive. *National Association of Greeting Card Publishers* v. *U.S. Postal Service,* 569 F.2d 570, 595 (DC Cir. 1976), *vacated on other grounds,* 434 U.S. 884 (1977) (*NAGCP I*). The DC Circuit's discussion is instructive on several levels. First, it agreed that a ''plain reading'' of section 3622 is proper, concluding that '' 'postal services' as used there is a generic term and was meant to include all the special services here at issue.'' [31] Second, finding the Postal Service's construction of the Act ''wholly unconvincing,'' the court held, ''[b]ut most of all, any reasonable examination of the purposes of the Act discloses Congress' implicit design that the distinct functions of service provision and rate adjustment be divided between the Postal Service and the Rate Commission.'' [32] Third, the court also relied on the legislative history to conclude that repeal of the Postmaster General's prior authority to establish special service fees unilaterally was not inadvertent.[33]

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[22] *United Parcel Service* v. *U.S. Postal Service,* 604 F.2d 1370, 1381 (3d Cir. 1979), *cert. denied,* 446 U.S. 957 (1980). Regarding the general principle that an agency's interpretation of its jurisdiction is entitled to deference, *see Chevron U.S.A., Inc.* v. *Natural Resources Defense Council,* 467 U.S. 837, 842–44 (1984); *Transmission Access Policy Study Group* v. *Federal Energy Regulatory Commission,* 225 F.3d 667, 694 (DC Cir. 2000) (''It is the law of this circuit that the deferential standard of [*Chevron*] applies to an agency's interpretation of its own statutory jurisdiction.''); and *Oklahoma Natural Gas Company* v. *Federal Energy Regulatory Commission,* 28 F.3d 1281, 1283 (DC Cir. 1994).

[23] *United Parcel Service, supra,* 455 F. Supp. at 869.

[24] Prior to the passage of the Private Express Statutes in 1845, intercity delivery services were offered by private carriers, principally railroads and steamboats. Private carriers operated within cities until barred by the Postal Code of 1872. *Cato Handbook for Congress, http://www.cato.org/pubs/handbook/hb105–34.html.*

[25] While no party suggests to the contrary, Parcel Shippers Association, perhaps out of caution, addresses the point, expressing relief that the Commission's proposed definition encompasses packages. PSA Comments at 2.

[26] The special services included, among others, insurance, registry, forwarding and return service, furnishing of mailing list corrections, return receipt, prepayment of postage, and money orders. *ATCMU* at 1115.

[27] *Id.* at 1118.

[28] *Id.* at 1117. (''As indicated above, this interpretation appears to accord quite well with the common meaning of the term 'postal services.' '')

[29] *Id.* at 1115. Observing that the majority of money orders sold at post offices were sent by mail, the court concluded that ''[t]herefore, it appears safe to say that all of these services would be considered 'postal services' in ordinary parlance.''

[30] *Ibid.*

[31] *NAGCP I* at 596–97.

[32] *Id.* at 597.

[33] *Id.* at 597–98.

Finally, at the outset of its discussion, the court suggests an alternate theory available to the district court. Noting that the Commission ''advances an interpretation of the Act quite at odds with that of the Service and fully in accord with the conclusion reached by the district court,'' the Court of Appeals states that ''[t]he district court, in short, without expressly stating so might simply have deferred to the long-held and reasonable interpretation given the statute by the very agency whose jurisdiction is at issue.'' [34]

The Commission's first substantive opportunity to address the jurisdictional implications of various special and other services occurred in Docket No. R76–1 following the *ATCMU* opinion.[35] While it discussed in detail the principles governing the scope of its jurisdiction regarding the services at issue in a separate appendix,[36] the Commission briefly restated its conclusions, providing a succinct definition.

> Special postal services—that is, those which fall within the ambit of § 3622—are services other than the actual carriage of mail but supportive or auxiliary thereto. They enhance the value of service rendered under one of the substantive mail classes by providing such features as added security, added convenience or speed, indemnity against loss, correct information as to the current address of a recipient, etc.[37]

Although none of the three remaining specific grants of power is defined in the Act, two are readily distinguishable because each is limited by the types of service that could possibly be offered. Philatelic services, section 404(a)(5), relate exclusively to philately; international mail, section 407, exclusively involves service between or among countries. There is no real controversy over what each service entails or, for that matter, whether either could be considered a jurisdictional postal service.[38] That is not the case concerning the Postal Service's authority to provide nonpostal services.

B. OCA/CA's Definition of the Term Nonpostal Is Flawed

Parties dispute the meaning of the term as well as the Postal Service's authority to provide certain services without prior Commission review. OCA/CA argue that ''nonpostal'' is a term of art under the statute limited to services provided by the Postal Service to other governmental agencies for which it is reimbursed.[39] They ask the Commission to reconsider its prior determinations that '' 'nonpostal' products and services can be commercial in nature.'' [40]

In support of their position, OCA/CA cite the preexisting statute, the Kappel Commission Report, *The United States Postal Service* by Gerald Cullinan, and *ATCMU*. OCA/CA begin by pointing to section 2303 of former title 39, which references ''nonpostal services, such as the sale of documentary stamps for the Department of the Treasury.'' They argue that this reference indicates, as manifest by the legislative history, that the term ''nonpostal'' is limited to services provided by the Postal Service to other governmental agencies.[41] As confirmation, they cite the Kappel Commission Report's mention of nonpostal services within its larger discussion of ''public service'' costs.[42] In addition, OCA/CA rely on the discussion of ''nonpostal functions'' found in *The United States Postal Service*.[43] Cullinan indicates that during World War I, the Post Office performed various war-related nonpostal functions, including selling Liberty bonds, war savings certificates, and registering enemy aliens.[44] In addition to these major nonpostal functions, the Post Office, over time, assumed various minor Federal functions as well. These included: alien address reporting, sale of U.S. savings bonds, sale of documentary and migratory-bird stamps, maintenance of wanted posters issued by the Federal Bureau of Investigation, and receiving and transmitting funds for volunteer charities such as the March of Dimes.[45]

Lastly, OCA/CA cite as most significant Judge Sirica's comment concerning the likely meaning of the term nonpostal.[46] Prefacing his comment with the observation that the exact meaning of nonpostal was uncertain, Judge Sirica stated that it likely encompassed activities such as selling U.S. savings bonds, maintaining an information service for civil service exams for government jobs, and conducting examinations for the Civil Service Commission.[47]

Relatively early in its institutional history, the Commission characterized certain services provided by the Postal Service as nonpostal. Once the jurisdictional issue over special services was joined in Docket No. R76–1, the Postal Service submitted a lengthy list of services it provided apart from the carriage of mail.[48]

The list included an assortment of services provided by the Postal Service, including those styled as follows:

- Domestic ancillary services, *e.g.*, address correction, certified mail, insurance;
- International ancillary services, *e.g.*, inquiry fee, storage charges, registry;
- Special user charges, *e.g.*, on-site meter settings, sale of philatelic products, photocopying service;
- Services performed for other government agencies, *e.g.*, passport applications, food stamps, civil defense;
- Community type services, *i.e.*, bulletin boards and postmasters in Alaska as notaries public; and
- Services for which a charge could be made, *e.g.*, demurrage charge, meter license.

Prior to considering the jurisdictional status of each service, the Commission distinguished between services provided by the Postal Service to the public and those it performed for other federal agencies. The Commission indicated that the latter included services such as ''the distribution of migratory bird hunting stamps, the registration of aliens, and various forms of assistance to the Civil Service Commission.'' [49] Concerning such services, the Commission concluded that ''[i]t is clear that they are in no sense 'postal' services, and we conclude that they are outside the ambit of § 3622.'' [50]

The Commission assessed each service based on its relationship to the

[34] *Id.* at 595, n.110.

[35] Previously, the Commission had addressed and asserted its jurisdiction over changes in fees for special services in Docket No. R74–1. *See* PRC Op. R74–1, Vol. 2, Appendix F.

[36] *See* PRC Op. R76–1, Vol. 2, Appendix F.

[37] PRC Op. R76–1, Vol. 1, at 266–67 (footnote omitted).

[38] In Docket No. R76–1, the Commission found that the sale of philatelic products was not within its jurisdiction. PRC Op. R76–1, Vol. 2, Appendix F at 19–20; *see also* PRC Order No. 1075, September 11, 1995. Likewise, the Commission's rate jurisdiction does not extend to international mail. PRC Op. R76–1, Vol. 2, Appendix F at 17; PRC Op. R90–1, Vol. 1, para. 2105; *see also Air Courier Conference of America/International Committee* v. *U.S. Postal Service,* 959 F.2d 1213 (3rd Cir. 1992).

[39] Joint Initial Comments, *supra,* at 9. PostCom appears to agree with this position although not with OCA/CA's proposal. PostCom Reply Comments, *supra,* at 3–4.

[40] Joint Initial Comments at 9; *see also id.* at 11–12, and 15.

[41] *Id.* at 10.

[42] *Ibid.* In its discussion of public service costs (subsidies), the Kappel Commission included ''unreimbursed non-postal services'' which it described as ''some relatively small but widespread services rendered to other Government agencies (*e.g.*, providing space for Civil Service examinations).'' Kappel Commission Report at 137.

[43] Joint Initial Comments at 10.

[44] G. Cullinan, *The United States Postal Service* (1973) at 196.

[45] *Id.* at 198.

[46] Joint Initial Comments at 11.

[47] *ATCMU, supra,* at 1117, n.3.

[48] Docket No. R76–1, Tr. 4/503–08.

[49] PRC Op. R76–1, Vol. 2, Appendix F at 2.

[50] *Ibid.*

carriage of mail. ''Those which can fairly be said to be ancillary to the collection, transmission, or delivery of mail are postal services within the meaning of § 3622.'' [51] Among other things, the Commission found several special user charges were not jurisdictional, including the sale of philatelic products, photocopy service, record retrieval, the sale of postal related products, and vending stands and vending machines.[52] In addition, the Commission disclaimed jurisdiction over community type services, specifically characterizing the provision of notary public services as ''clearly non-postal.'' [53]

The Commission's consideration of box rentals (lockbox service) in Docket R76–1 merits particular mention because, in addition to arguing that lockbox service was a special or similar service wholly within its authority, the Postal Service contended that box rentals were not ''postal services'' within the meaning of section 3622.[54] The Postal Service argued that lockbox service simply enabled a customer to use Postal Service property pursuant to a rental agreement. It characterized lockboxes as '' 'a premium service to any customer who, for his own convenience, desires more than basic free delivery.' '' [55] Furthermore, stating that the Commission's authority ''extends only to 'postal services' '' and characterizing the complaint as limited to postal services, the Postal Service asserted that the Commission lacked authority to hear the complaint.[56] Rejecting the Postal Service's argument, the Commission found that box rentals are closely related to the delivery of mail and, further, satisfy the criteria established for jurisdictional special services.[57]

In addition to its analysis in Docket No. R76–1 Appendix F, the Commission summarized its findings in the main body of its opinion, stating that ''[m]any of these services are clearly nonpostal in character.'' [58] Thus, early on, the Commission found that its jurisdiction did not extend to what it characterized as nonpostal services, including in that rubric services other than those provided to other governmental agencies. OCA/CA would have the Commission adopt a narrow definition of the term limited to services performed by the Postal Service for other government agencies. Any other service provided by the Postal Service would, according to OCA/CA, be a postal service and thus subject to the Commission's rate and classification jurisdiction.

The Commission is unpersuaded by the arguments advanced by OCA/CA.[59] To be sure, nonpostal includes services provided by the Postal Service for other agencies, but even if limited as suggested by OCA/CA, the result would not cause all other activities to necessarily be considered postal. Historically, the Postal Service has performed various minor, miscellaneous services, including photocopying and community type services (maintaining bulletin boards and notaries public). Any claim that these services were postal would be tenuous at best. Rather, such services are provided more as a convenience to postal patrons than as commercial endeavors. Thus, for example, copying service may be available in a post office lobby as a minor benefit to mailers, enabling them to copy miscellaneous papers prior to mailing, *e.g.*, tax returns.

The result urged by OCA/CA, that any service provided by the Postal Service that is not nonpostal (under their interpretation) would be subject to the Commission's jurisdiction, cannot be reconciled with the Act. Section 404(a)(6) authorizes the Postal Service ''to provide, establish, change, or abolish special nonpostal or similar services.'' 39 U.S.C. 404(a)(6). OCA/CA's interpretation would render the phrase ''similar services'' surplusage. If nonpostal is restricted to services provided only to other government agencies, no other service could be ''similar,'' thereby making it meaningless.

Conceptually, under the OCA/CA's interpretation, the Commission would be charged with recommending rates for any service or product that is not provided exclusively to other governmental agencies. Thus, they would have the Commission recommend rates for miscellaneous minor services, such as photocopying, as well as those having no evident connection to the Postal Service's core mission.[60] The Commission does not read the statute so broadly. Had Congress intended to define ''postal service'' as urged by OCA/CA it would have been more explicit. Certainly, at a minimum, Congress would have been less obtuse than to do so by negative inference.

C. Postal Services Are Not Defined by the Postal Service's Interpretation of the Term Nonpostal

At the other end of the spectrum, the Postal Service's support for the proposition that it is authorized to engage in unlimited commercial, nonpostal activities is also unconvincing.[61] First, it argues that section 411 authorizes the provision of services involving other government agencies. The Postal Service contends that since section 411 does not use the term nonpostal section 404(a)(6) must refer ''at least to services other than those encompassed by section 411.'' [62] The Commission agrees that the two sections refer to different services. It does not follow, however, that the Postal Service may unilaterally make available to the public whatever commercial service (or product) it may wish.

Section 411, which is entitled ''Cooperation with Other Government Agencies,'' concerns the bilateral arrangements between the Postal Service and other federal agencies.[63]

[51] *Id.* at 3.

[52] *Id.* at 18–25.

[53] *Id.* at 25. The Commission also found that international ancillary services were beyond its jurisdiction. *Id.* at 17. It did not substantively address the final category, services for which a charge could be made. *Id.* at 25–26.

[54] PRC Op. R76–1, Vol. 1 at 281–82. The Postal Service's unilateral fee increase for box rentals was the subject of a separate complaint filed in July 1975. *See* Complaint of Stephen Moses, Docket No. C76–1. In its answer to the complaint, the Postal Service advanced similar arguments to those considered and rejected by the court in *ATCMU.* Docket No. C76–1 was terminated with the issues raised by the complaint transferred to the rate proceeding, Docket No. R76–1. PRC Order No. 85, October 9, 1975.

[55] PRC Op. R76–1, Vol. 1 at 282 (footnote omitted).

[56] United States Postal Service Answer to Complaint, Docket No. C76–1, August 11, 1975, at 3–4.

[57] PRC Op. R76–1, Vol. 1, at 282–83.

[58] *Id.* at 266.

[59] To some degree, OCA/CA appear to operate under the misimpression that the Commission has concluded that the Postal Service may engage in commercial nonpostal activities. *See* Joint Initial Comments at 9. (''Regrettably, therefore, OCA and CA must ask the Commission to reconsider its determination that 'nonpostal' products and services can be commercial in nature.'') In Order No. 1389, the Commission expressly took no position on the Postal Service's claim that it had authority to provide commercial nonpostal services. PRC Order No. 1389, January 16, 2004, at 10. The phrase ''commercial nonpostal activities'' was used in Order No. 1394 solely to clarify the term ''nonpostal service,'' not as an acknowledgement of their validity. PRC Order No. 1394, March 5, 2004, at 11.

[60] Without prejudging the issue, but based on representations to date, the Unisite Antenna program, which involves leasing space for wireless communications towers located on postal property, would appear to be such an example.

[61] While the Commission's jurisdiction does not extend to nonpostal services, it is necessary to address the Postal Service's interpretation because of its jurisdictional implications concerning postal services.

[62] Comments of United States Postal Service on Consumer Action Petition, *supra*, at 15.

[63] Section 411 provides as follows: ''Executive agencies within the meaning of section 105 of title 5 and the Government Printing Office are authorized to furnish property, both real and

Continued

These are services provided to or received from other agencies. Support for this is found in the statute and implementing regulations. Sections 403 and 409 specifically reference section 411, providing examples of the types of bilateral arrangements permitted under the latter. For example, section 409(d) provides that the ''Department of Justice shall furnish, under section 411 of this title, the Postal Service such legal representation as it may require[.]'' Similarly, section 403(a) permits the Postal Service, pursuant to sections 406 (concerning postal services at armed forces installations) and 411, to enter into arrangements concerning its duty to receive, transmit, and deliver non-domestic armed forces mail.

The regulations implementing section 411, 39 CFR 259.1, indicate that it is the Postal Service's policy to cooperate with other federal agencies when it will reduce the overall costs to the government. For its part, the Postal Service states that assistance will be provided ''when the knowledge and abilities of postal employees are helpful.'' 39 CFR 259.1(a). It is notable that the Postal Service uses the term ''nonpostal'' to describe section 411 arrangements in its implementing regulations. 39 CFR 259.1(b). ''The Postal Service establishes reasonable fees and charges for nonpostal services performed for agencies of the Federal as well as State governments.'' ''Nonpostal'' fairly characterizes the nature of these services and its use in these regulations undercuts the Postal Service's argument that the use of the term ''nonpostal'' in section 404(a)(6), but not section 411, is significant.

Overwhelmingly, available information supports the conclusion that, at a minimum, nonpostal services encompass services performed ''mainly for other Government agencies (*e.g.*, sale of documentary stamps, provision of custodial services for building space occupied by other Government agencies).'' [64] As discussed above, the Postal Service has historically performed other public service-type services, which, while not performed for another government agency, may reasonably be considered nonpostal in nature. Surely, in passing the PRA, Congress was aware of the Postal Service's extensive history of providing these various nonpostal services.

The Postal Service's assertion that because Congress did not, in section 404(a)(6), ''explicitly exclude any type of service,'' [65] it may unilaterally engage in whatever commercial, nonpostal activities it chooses is utterly unconvincing.

By the Postal Service's logic, section 404(a)(6) authorizes it to engage in *any* type of commercial, nonpostal activity. Thus, it could operate, for example, donut shops or car dealerships as they are obviously nonpostal. The Postal Service's position, like that it espoused regarding special services, is premised on a ''curious construction'' of the term as well as the Act.[66]

Congress' ''failure'' to ''explicitly exclude any type of service'' cannot reasonably be interpreted as authorizing the Postal Service to engage in an unlimited variety of commercial, nonpostal activities.[67] Rather, against the historical backdrop, it is the *absence* of any authority to engage in services other than traditional activities that is telling. Had Congress intended such a sea change in the meaning of the term nonpostal surely it would have elaborated on the point. It did not. And what scant legislative history exists supports a narrow reading of the term, one consistent with the historical perspective.

In discussing what became section 404 of the Act, the House Report states: ''This section catalogs the specific powers of the Postal Service, which powers, in conjunction with the general powers granted in section [401], are to be used to carry out postal service duties.'' [68] Significantly, there is no mention of expanding the Postal Service's authority regarding nonpostal services. Instead, the only emphasis concerning the Postal Service's powers is that they be ''used in carrying out postal service duties.'' Plainly, nothing in section 404 or the legislative history suggests that the Postal Service may unilaterally undertake to offer a broad range of services to the public.

Stating that it relies on more than ''section 404(a)(6) to authorize the establishment of nonpostal services,'' the Postal Service alludes to its ''statutory mission and functions.'' [69] As support, the Postal Service cites generally to its ''duty to provide mail services'' and ''incidental services appropriate to its functions and in the public interest.'' [70] It concludes that ''these provisions'' authorize it ''to develop mail and related services that contribute to a coherent, effective postal system.'' [71]

The foregoing is a confounding rationale for the proposition advanced. The Postal Service attempts to justify its expansive interpretation of its authority to offer commercial, nonpostal services by reference to its postal duties and authority. Its argument is not persuasive. The Postal Service's undeniable authority to provide *postal* services, including related supporting activities, cannot legitimately be read to expand its limited statutory authority to provide *nonpostal* services. The two are unconnected.

The Postal Service's obligation to provide *postal* services has no bearing on its authority to provide nonpostal services. As a matter of policy, the Postal Service is to be ''operated as a basic and fundamental service'' and ''have as its basic function the obligation to provide *postal* services to bind the Nation together through the personal, educational, literary, and business correspondence of the people.'' [72] Its general duties include planning, developing, promoting, and providing adequate and efficient *postal* services at reasonable rates.[73] It has a universal service obligation.[74] It is obliged to receive, transmit, and deliver ''written and printed matter, parcels, and like materials and provide such other services incidental *thereto* as it finds appropriate to its functions and in the public interest.'' [75] In addition, it is

personal, and personal and nonpersonal services to the Postal Service, and the Postal Service is authorized to furnish property and services to them. The furnishing of property and services under this section shall be under such terms and conditions, including reimbursability, as the Postal Service and the head of the agency concerned shall deem appropriate.''

[64] Kappel Commission Report, Annex II, at 6–7; *id.* at 6–9 and 6–10; *see also* Kappel Commission Report at 136–138; and section 2303(a)(3) of former title 39, Pub. L. 86–682, September 2, 1960.

[65] Comments of United States Postal Service on Consumer Action Petition, *supra*, at 15.

[66] *NAGCP I*, *supra*, 569 F.2d at 596.

[67] It is the Postal Service's assertion that it has authority to engage in commercial, nonpostal services. The Commission takes no position on that contention other than as relates to commercial, communication services (or products) or those ancillary thereto which could, upon consideration, be classified as postal.

[68] H.R. Rep. No. 1104, 91st Cong., 2nd Sess. 33 (1970), *reprinted in* 1970 U.S. Code Cong. & Admin. News, Vol. 2, 3682 (hereinafter H.R. Rep. No. 91–1104 with page cites to U.S.C.C.A.N.).

[69] Comments of United States Postal Service on Consumer Action Petition, *supra,* at 16.

[70] *Id.* at 16–17.

[71] *Id.* at 17.

[72] 39 U.S.C. 101(a) (emphasis added). See also H.R. Rep. No. 91–1104, *supra*, at 3668. (''The Postal Service is—first, last and always—a public service.'')

[73] 39 U.S.C. 403(a) (emphasis added).

[74] 39 U.S.C. 101(a).

[75] 39 U.S.C. 403(a) (emphasis added). In its argument above, the Postal Service excises the term ''thereto'' when referring to its authority to provide incidental services. The omission is not inconsequential. When read in context, the phrase ''services incidental thereto'' means that the incidental, which is to say subordinate or nonessential, services relate to the Postal Service's duty to provide mail services. This clause allows for ancillary and mail-related activities, but it does not authorize activities unrelated to providing postal services.

charged with, among other things, providing types of mail service to meet the public's needs.[76]

The Act also grants the Postal Service certain general and specific powers to carry out these duties. The general powers enable the Postal Service to function as a business, an enumeration necessary since, under the Act, it would no longer operate as an executive department of the federal government.[77] The specific powers relate, for the most part, to matters involving postal operations, *e.g.*, the handling of mail, payment of postage, the need for post offices, and investigating postal offenses.[78]

In contrast to the overriding emphasis on the Postal Service's obligations regarding postal services, the Act contains but two references to nonpostal services, sections 404(a)(6) and 2003(b)(1).[79] Certainly, Congress was aware that historically the Postal Service provided sundry nonpostal or nonmail services. Section 2303 of former title 39 specifically refers to nonpostal services, illustratively citing the sale of documentary stamps for the Department of the Treasury. As chronicled by Cullinan, the Post Office Department (POD), over time, performed numerous, miscellaneous nonpostal functions such as: Alien address reporting, selling U.S. savings bonds, maintaining ''wanted'' posters issued by the Federal Bureau of Investigation, and witnessing the marking of absentee ballots.[80]

When the POD offered a commercial service unrelated to the mails it was based on specific congressional authorization, namely by an amendment to its then-existing statutory authority. The principal example is the postal savings system, which Congress established in 1910 and discontinued in 1966.[81] In contrast, the PRA contains no explicit authorization enabling the Postal Service to offer commercial, nonpostal services.

In filings subsequent to its comments on the petition in Docket *2003, the Postal Service elaborates on its assertion regarding its authority to provide commercial, nonpostal services, principally by quoting two sentences from the House Report on H.R. 17070. Before examining those excerpts, two preliminary observations are in order. First, as a general matter, the Postal Service's philosophy regarding nonpostal services is that it ''only develops products and services to meet the needs of postal patrons[.]'' [82] Assuming the Service is referring to postal patrons in their capacity as consumers of postal products and not as a general description of all United States residents, the incongruity is apparent—products and services designed to meet the demands of postal patrons would appear, *ipso facto*, to be postal.

Second, in its Report on Nonpostal Initiatives, the Postal Service again alludes to its mandate regarding postal services to support its unilateral offering of various ''nonpostal'' services. It states: ''To fulfill its universal service mandate and mission, the Postal Service must find ways to use existing resources to generate new revenue.'' [83] This statement, by itself, is unobjectionable, but it does not justify the unilateral offering of an unfettered range of commercial services as nonpostal. In the final analysis, the Postal Service can point to no statutory language supporting its expansive view of the term nonpostal.[84]

The two excerpts from the House Report on H.R. 17070 are apparently cited for the proposition that the Postal Service can engage in whatever nonpostal activities it may wish. As approbation, such reliance is misplaced. The Postal Service quotes the following sentence as justifying its expansive definition of the term nonpostal: ''The Postal Service is empowered to engage in research and development programs directed toward the expansion of present postal services and development of new services responsive to the evolving needs of the United States.'' [85] This one sentence, part of a larger discussion summarizing the bill, is preceded by statements underscoring the Postal Service's *postal* obligations, namely to develop adequate and efficient postal service, to maintain its universal service obligation, and to provide effective postal service in rural and urban communities.[86] It is followed immediately by a recitation of some of the Postal Service's specific powers, as reflected in section 404 of the Act, notably however, without any reference to its authority to provide special, nonpostal or similar services.[87] Thus, in context, the quoted language is simply part of an abbreviated recitation of the Postal Service's postal duties. Moreover, the specific language is nothing more than a variation of a basic purpose of the bill, namely to ''[e]nable the *postal* service to continue to provide—and extend and improve upon—the present quality and scope of postal service * * *.[88] Thus, it was Congress' expectation that research and development would produce improvements in the present and future communications services provided to postal patrons.

While only inferred by its comments, the Postal Service apparently interprets the phrase ''new services'' to mean nonpostal. If so, this construction is wholly without support. The entire discussion is framed in terms of the Postal Service's postal obligations; there is no mention of its nonpostal authority, even when the subject turns to the Postal Service's specific powers; and finally, it would suggest, contrary to the carefully crafted balance reflected in the Act, that Congress granted the Postal Service *carte blanche* to engage in whatever ''new services'' it may wish without any opportunity for regulatory review or public input.

Nor does the second passage from the House Report provide any support for the Postal Service's interpretation of the term nonpostal. The sentence relied on reads as follows: ''H.R. 17070 envisions a national postal service that is forever searching for new markets and new ways by which the communications needs of the American people may be served.'' [89] This statement is included in a discussion concerning procedures for changes in *postal service* under H.R. 17070, which provided for review of such changes by the regulatory body,

[76] 39 U.S.C. 403(b)(2).

[77] 39 U.S.C. 401. These general powers include, for example, the power to sue and be sued, to contract, to determine its own system of accounts, and to acquire property.

[78] 39 U.S.C. 404. To the extent the Postal Service may rely on section 401(a)(10) for authority to engage in commercial, nonpostal activities, the Commission believes such reliance to be misplaced.

[79] The latter provides that revenues from postal and nonpostal services are to be deposited in the Postal Service Fund.

[80] *The United States Postal Service, supra*, at 196–99.

[81] *See* Act of June 25, 1910, ch. 386, 36 Stat. 814 and Act of March 28, 1966, 80 Stat. 92; *see also* The *United States Postal Service, supra*, at 193–95.

[82] Answer of the United States Postal Service, Docket No. C2004–2, April 26, 2004, Attachment A at 1.

[83] Report on Nonpostal Initiatives, Docket *2003, March 10, 2003, at 1 (Report on Nonpostal Initiatives).

[84] In a similar vein, the Postal Service's desire ''to leverage its existing resources as efficiently as possible'' is entirely in keeping with its duties to provide postal services and to operate in a more business-like fashion. But, again, under the Act, this desire does not necessarily mean that it is free to undertake unilaterally to offer competitive, commercial services.

[85] Report on Nonpostal Initiatives, *supra*, at 1; citing H.R. Rep. No. 1104, 91st Cong. 2nd Sess. 9 (1970) at 3657; *see also* Answer of the United States Postal Service, Docket No. C2004–2, April 26, 2004, Attachment A at 1.

[86] H.R. Rep. No. 91–1104, *supra*, at 3657.

[87] *Ibid.*

[88] *Id.* at 3650.

[89] Report on Nonpostal Initiatives, *supra*, at 1; citing H.R. Rep. No. 1104, 91st Cong. 2nd Sess. 20 (1970) at 3668–69; *see also* Answer of the United States Postal Service, Docket No. C2004–2, April 26, 2004, Attachment A at 2.

namely the Postal Regulatory Board.[90] The discussion makes it clear that while the Postal Service, as a public service, should be operated ''on a businesslike basis,'' H.R. 17070 provided a mechanism for public input in the form of regulatory review.

In establishing the Postal Service on a businesslike basis, H.R. 17070 provides significant assurance that the postal management will in fact be responsive to the people to a greater degree than has heretofore been known. But in addition, H.R. 17070 contains specific provisions requiring justification and review of changes in service. Following procedures comparable to those for proposed rate changes, operating management would submit proposals relating to changes in service to the Rate Board with public notice and opportunity for comment. The Board would have discretion as to whether to hold public hearings. Written submissions would be permitted in any case.[91]

Again, there is no suggestion in this discussion (or elsewhere) that the ''new markets and new ways by which the communications needs of the America people may be served'' refer to anything other than postal services as they may evolve over time.[92] The heading for the entire discussion is ''Procedures for changes in postal service''.[93] Moreover, that the ''communications needs'' refers to postal services is confirmed by the House Report's description of section 101(a) of H.R. 17070, concerning the ''postal policy'' underlying what became the Act.[94] ''[T]he United States Postal Service shall be operated as a basic communication service provided to all the people by the Government of the United States[.]'' [95]

Furthermore, the Postal Service's construction is flawed for another reason. It fails to consider the independent role reserved for the Commission under the Act. In *United Parcel Service*, *supra*, the court observed: [96]

Management was vested in the Postal Service, rate and classification supervision in the Postal Rate Commission. We recognize and weigh heavily the congressional goal of greater managerial flexibility, but also recognize another congressional purpose that finds its incarnation in the Postal Rate Commission. The Commission's existence insures that an agency independent of the Postal Service will provide for public notice and hearing input of those affected by the proposed action and full and on the record, *see* 39 U.S.C. 3624(a), consideration of pertinent factors and congressionally imposed goals before certain types of decisions are made.

In ceding its ratemaking authority, Congress established procedures for the review of Postal Service rate, classification, and service changes. Among other things, it was mindful of the need for the Commission to consider competitive concerns.[97] The Act thus reflects a careful balance between allowing the Postal Service to operate in a more business-like manner (and free of politics) while affording the public reasonable protections, including the opportunity for public input. In contrast to this carefully constructed scheme, the Postal Service interprets nonpostal expansively to justify the provision of any type of service to the public, commercial or not, that it classifies as not postal. Section 404(a)(6) is simply too thin a reed to support such a reading. It suggests that Congress would be unconcerned with the competitive implications of putative nonpostal services, while, at the same time, it expressly considered them concerning postal matters. A fair reading of section 404(a)(6) within the context of the Act suggests that the term nonpostal has a more limited reach.

D. Flamingo Industries Did Not Address the Meaning of the Term Nonpostal

In their initial comments, OCA/CA assert that the Supreme Court's statements in *Flamingo Industries* [98] concerning nonpostal lines of business operated by the Postal Service and its predecessor the Post Office Department are irrelevant to issues in this proceeding.[99] Among other things, OCA/CA contend that the Court used the term ''nonpostal'' in a non-technical sense and further that the authorities it cites do not support the statements made.[100] In its Reply Comments, the Postal Service notes, without elaboration, the Court's observation that ''[t]he Postal Service does operate nonpostal lines of business, for which it is free to set prices independent of the Commission, and in which it may seek profits to offset losses in the postal business.'' [101]

The question presented in *Flamingo Industries* was whether the Postal Service is a ''person'' under Federal antitrust laws. In holding that the Postal Service is not a person separate from the United States itself, the Court relied, in large measure, on the Service's statutory designation as ''an 'independent establishment of the executive branch of the Government of the United States.' '' [102] In support of its conclusion, the Court cited the Postal Service's ''nationwide, public responsibilities'' that distinguish it from private enterprise, including its breakeven requirement, universal service obligation, and national security responsibilities. The Court also noted that the Postal Service possesses powers more characteristic of Government than private enterprise including its statutory monopoly, the power of eminent domain, and the power to conclude international postal agreements.[103] Further, the Court observed that because the Postal Service lacked the power to set prices, ''[i]t lacks the prototypical means of engaging in anticompetitive behavior.'' [104] The Court concluded that these ''public characteristics and responsibilities indicate [the Postal Service] should be treated under the antitrust laws as part of the Government of the United States, not a market participant separate from it.'' [105]

The Court then proceeded to discuss the Postal Service's ''nonpostal lines of business,'' [106] an issue that arose only because, in its brief to the Court, *Flamingo Industries* raised the collateral argument that the Postal Service was authorized to engage in commercial activities, citing section 404(a)(6).[107] It offered this argument, notably without any analysis of the term nonpostal, in support of its ultimate position that the Postal Service should be perceived as a person subject to federal antitrust laws, contending that such activities demonstrate that the Postal Service operates like private industry in the commercial world.

[90] H.R. Rep. No. 91–1104, *supra*, at 3668.

[91] *Ibid.* Based on the record, the Board would issue an initial decision that would become final unless modified or revoked by the Commission on Postal Costs and Revenues.

[92] As with the prior excerpt, one can only infer that the Postal Service interprets the phrase ''new markets and new ways'' to mean nonpostal. For the reasons discussed above, if that is its position, it, too, is wholly unsupported. Examples of new markets and new ways to communicate were manifest shortly after passage of the Act in the form of Electronic Computer Originated Mail and Mailgrams.

[93] H.R. Rep. No. 91–1104, *supra*, at 3668 (emphasis in original).

[94] *Id.* at 3671.

[95] *Ibid.*

[96] United Parcel Service, *supra*, 455 F. Supp. at 869.

[97] *See* 39 U.S.C. 3622(b)(4) and (b)(5).

[98] *United States Postal Service* v. *Flamingo Industries (USA) Ltd.*, 540 U.S. 736 (2004) (*Flamingo Industries*).

[99] Joint Initial Comments at 13–15.

[100] *Id.* at 13–14. Given their proposed definition of the term nonpostal, OCA/CA take issue with the Court's statement that the Postal Service may set prices and earn profits on some products or services offered to the public. *Id.* at 14–15.

[101] Postal Service Reply Comments, *supra*, at 6, citing *Flamingo Industries*, slip op. at 10.

[102] *Flamingo Industries*, slip op. at 9.

[103] *Id.* at 10.

[104] *Ibid.*

[105] *Ibid.*

[106] *Id.* at 10–11.

[107] *See* Brief for Respondents, Case No. 02–1290, September 15, 2003, at 22–23.

The Court's observations concerning the Postal Service's ''nonpostal lines of business'' were not offered as dispositive of the meaning of the term nonpostal. Nor, parenthetically, does the Postal Service contend this. Rather, the observations, largely *dicta* in character, simply indicate that the (unspecified) lines of business do not demonstrate that the Postal Service should be viewed as separate from the Government under antitrust laws. Thus, other than perhaps as suggested by Pitney Bowes, *Flamingo Industries* has no bearing on issues before the Commission in this proceeding.[108]

In sum, nothing in either the statute or the legislative history provides support for the Postal Service's position. Prior to the enactment of the PRA, the Post Office Department's provision of miscellaneous nonpostal services was well recognized. In the main, the Post Office Department served as a surrogate for the government providing relatively minor services unrelated to the mails. Nor is it insignificant that the legislative history of the Act contains no substantive discussion of the term ''nonpostal.'' Against this considerable backdrop, it is unreasonable to suggest that the simple reference to ''nonpostal'' in section 404(a)(6) can be read to empower the Postal Service to offer unilaterally to the public whatever service, commercial or otherwise, it might wish. Such a reading is too at odds with the statute, legislative history, and historical operations to be credible. Had Congress intended something more, it would have been explicit, as it was when it detailed the Postal Service's postal functions.

Recognizing that the differences between its and the Commission's interpretations may need to be resolved judicially, the Postal Service states that until that happens the Commission ''cannot authoritatively impose its own formulation and interpretation on the Postal Service's conduct[.]'' [109] That is neither the intent nor purpose of the rule. The Commission properly is acting to clarify the scope of its own jurisdiction. To reiterate, the Postal Service remains free to offer whatever services are consistent with its statutory mandate. Nothing in the rule affects the lawfulness of the Postal Service initiatives that are not postal. As the Commission has noted previously, it lacks equitable powers to enjoin Postal Service actions. Thus, the lawfulness of Postal Service's nonpostal activities is not an issue before the Commission.[110] However, the prices for postal services must be set in accordance with section 3624.

V. Definition of the Term Postal Service

Early consideration of what constituted a ''postal service'' was limited perforce to hard copy mail. That, after all, simply reflected the state of Postal Service operations at the time. One of the issues now before the Commission is whether services relying on new technology, such as electronic services, fall within the ambit of postal services under the Act. As elaborated on below, the Commission concludes that those services in which the Postal Service receives, transmits, or delivers correspondence constitute postal services. This conclusion is drawn from the Act and its legislative history.

Section 403 sets out the general duties of the Postal Service, beginning with the duty to ''plan, develop, promote, and provide adequate and efficient postal services at fair and reasonable rates and fees.'' [111] It is required to ''receive, transmit, and deliver * * * written and printed matter, parcels, and like materials and provide such other services incidental thereto as it finds appropriate to its functions and in the public interest.'' [112] Its responsibilities also include maintaining an efficient delivery system and providing types of service to meet the needs of different users.[113]

There are no limitations inherent in these broad general duties, or elsewhere in the Act, which would suggest that the Postal Service should not consider technological advances when carrying out its functions. Section 101(a) instructs that the Postal Service ''shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people.'' In describing this section, the House Report states that the ''Postal Service shall be operated as a basic communications service provided to all the people by the Government of the United States[.]'' [114] The policy that the Postal Service is to be operated as ''a basic communications service'' can only be fulfilled if the Postal Service can avail itself, consistent with the Act, of technological innovations effecting communications. The Act does not require the Postal Service to ignore innovations, and to remain, in essence, the equivalent to the best buggy whip manufacturer it can be.

The House Report confirms that Congress envisioned that postal services would change over time as influenced by, among other things, technological, economic, and social growth. In reforming the then-existing postal system, Congress intended to ''[c]reate a lasting foundation for a modern, dynamic, and viable postal institution that is both equipped and empowered at all times to satisfy the postal requirements of the future technological, economic, cultural, and social growth of the Nation.'' [115]

Comments by competitors raise legitimate concerns about the Postal Service's unilateral offering of commercial, ''nonpostal'' services.[116] These comments demonstrate that many of these services have a substantial public effect. Congress envisioned that a ''modern, dynamic, and viable postal institution'' would satisfy the Nation's postal needs by harnessing technological and economic changes. In short, not surprisingly, Congress anticipated that postal services would evolve over time. Moreover, by bifurcating the authority under the Act between the Commission and the Postal Service, Congress provided a mechanism to ensure that legitimate public interests would continue to be protected. As described by the court in *United Parcel Service, supra*, the Commission ''was designed as a sort of sunshine mechanism to avoid undue political influence and to assure the public is heard from and the public interest represented before rate, classification, and significant service changes are made.'' [117]

The careful balancing of authorities between the Commission and the Postal Service under the Act reflects Congress' concern that the public be adequately protected once congressional control of the Post Office Department was relinquished. In light of the safeguards built into the Act, there was no pressing need to define the term ''postal service,'' particularly since, as discussed above, the entire thrust of the Act concerns the

[108] In its comments, Pitney Bowes contends that in reaching its conclusion that the Postal Service was not subject to federal antitrust laws the Court relied, in part, on the Commission's role in providing regulatory review of services and products offered by the Postal Service. Thus, according to Pitney Bowes, ''there is all the more reason to assure that the Commission's oversight remains strong and effective.'' Pitney Bowes Comments, *supra*, at 3, n.1.

[109] Postal Service Initial Comments at 4.

[110] *See, e.g.*, PRC Order No. 724, December 2, 1986, at 11; PRC Order No. 1239, May 3, 1999, at 13.

[111] 39 U.S.C. 403(a).

[112] *Ibid.*

[113] 39 U.S.C. 403(b)(1) and (b)(2).

[114] H.R. Rep. No. 91–1104, *supra*, at 3671.

[115] *Id.* at 3650.

[116] *See, e.g.*, Pitney Bowes Comments, *supra*, at 2–4, UPS Comments, *supra*, at 1–2, and Lifetime Addressing Comments, *supra*, at 2.

[117] *United Parcel Service*, *supra*, 455 F. Supp. at 869.

Postal Service's postal mission.[118] The need only arises now, as discussed in Order No. 1389, because the spate of recent services introduced unilaterally by the Postal Service has created uncertainty and controversy regarding the postal character of those services. Codifying the term in the Commission's rules should alleviate those problems by providing guidance to the Postal Service and the public concerning services that are subject to sections 3622 and 3623 of the Act. As a general matter, the Commission concludes that services offered by the Postal Service that provide an alternative to more traditional mail services, such as electronic communication services, would fall within the proposed definition. With that elaboration, the Commission proposes to adopt new rule 5(s) to read as follows: *Postal service* means the receipt, transmission, or delivery by the Postal Service of correspondence, including, but not limited to, letters, printed matter, and like materials; mailable packages; or other services supportive or ancillary thereto.

This definition employs statutorily linked terms descriptive of the Postal Service's duties and mission. The Postal Service has a duty to plan, develop, and provide adequate and efficient postal services. To fulfill that duty, it is required to ''receive, transmit, and deliver * * * written and printed matter, parcels, and like materials[.]'' [119] As its ''basic function,'' it is obligated ''to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people.'' [120] Neither its duties nor obligations are predicated on preconceived notions of what ''postal services'' might be. Nor are they framed by reference to mail or the then existing mailstream, *e.g.*, letters, publications, etc. Rather, the statute uses generic terms to describe application of the Postal Service's mission to ''correspondence'' and ''written and printed matter, parcels, and like materials.'' As evidenced by the legislative history, the statute anticipates the influence of technological, economic, and social change on the provision of postal services. Accordingly, it is appropriate to utilize the statutorily derived terms.

The benefit of focusing on the statutory functions of the Postal Service can be shown through the following hypothetical. Assume the Postal Service assigns every American a permanent e-mail address, and charges individuals an annual fee to access e-mails sent to those addresses. The Service would be accepting, transmitting and delivering business and personal correspondence. Under the proposed definition this would be a postal service, even though no tangible hard copy changed hands. The private express statutes do not, and should not apply to e-mail, but the Postal Service would be competing with private firms and its own products in a healthy industry, and its rates and fees should be fair and nondiscriminatory.

The terms of the proposed definition are easily understood and their meaning clear. The term ''receipt'' is the act of receiving something; ''transmission'' covers the act of transmitting, that is sending or conveying something to a destination or recipient; and ''delivery'' is the act of transferring, turning over, or making available the item(s) transmitted to the recipient. Collectively, these terms encompass the related activities associated with postal services, *e.g.*, acceptance, collection, verification, and processing.

It is appropriate to reflect electronic services in the definition of the term postal service. Postal services have continually evolved over time with changes in technology. For example, stagecoaches, which were initially used to transport the mails, were supplanted by railroads which, in turn, gave way to trucks and airplanes. In considering the evolutionary effects of technology, the Commission has observed: [121]

> It is not merely that these technological advances provided for improved service, rather they gave rise to wholly new forms of ''postal service.'' Examples include airmail service, Express Mail services, as well as electronic mail. In addition, technology has given rise to many new types of special postal services such as Confirm, and delivery and signature confirmation.

Indeed, the Postal Service has recognized the role of technology in shaping the nature of postal services. Commenting on its Electronic Computer Originated Mail (E–COM) proposal in Docket No. MC78–3, the Postal Service characterized its entry into the electronic mail field as ''a natural progression of technology,'' by using ''electronics to move the mail'' instead of a surface or air carrier.[122] Moreover, regarding its proposal, the Postal Service maintained the position that E–COM messages, while in electronic form, were deemed '' 'in the mails.' '' [123] Similarly, concerning Mailing Online Service, a Postal Service witness characterized the bits of electronic data that would ultimately be reduced to hard copy messages ''as mail pieces.'' [124] There are other contemporaneous indications that the Postal Service has considered electronic service offerings as an extension of traditional mail services. For example, upon review of new products offered by the Postal Service, the General Accounting Office reported that the Postal Service ''views its entry into the electronic commerce market as an extension of its core business—the delivery of traditional mail. According to Service officials, electronic mail has the same attributes as traditional mail * * *.'' [125]

The Postal Service use of technology to develop new types of postal service is entirely consistent with its statutory mandate ''to provide postal services to bind the Nation together'' by ''provid[ing] prompt, reliable, and efficient services to patrons in all areas * * *.'' [126] The Postal Service's central mission is to ''plan, develop, promote, and provide adequate and efficient postal services * * *.'' [127] Furthermore, it is instructed to ''promote modern and efficient operations'' while refraining from any practice ''which restricts the use of new equipment or devices which may reduce the cost or improve the quality of postal services[.]'' [128] Consistent with these mandates, the Postal Service has employed technology in the pursuit of more efficient and modern postal services.

This rulemaking is not the appropriate forum for the Commission

[118] This represents a marked contrast to postal legislation currently pending before Congress. The Senate bill, S. 2468, limits the term ''postal service'' to physical deliveries whereas the House bill, H.R. 4341, employs the phrase ''carriage of.'' Both would delete current section 404(a)(6), with the Senate bill appearing to preclude all such services other than under section 411, while the House bill would grandfather service provided as of May 12, 2004.

[119] 39 U.S.C. 403(a).

[120] *Id.* § 101(a).

[121] PRC Order No. 1389, January 16, 2004, at 8.

[122] Initial Brief of the United States Postal Service, Docket No. MC78–3, November 9, 1979, at 9. In that proceeding, the Postal Service argued that ''E–COM service fits squarely within the scheme of transmitting messages envisioned by the Postal Reorganization Act. * * * The E–COM proposal keeps pace with advances in technology * * * by utilizing electronics to move mail, instead of utilizing [a surface or air carrier].'' *Ibid.*

[123] PRC Op. MC78–3, December 17, 1979, at 172 (footnote omitted).

[124] Docket No. MC98–1, Tr. 7/1718.

[125] General Accounting Office Report, Development and Inventory of New Products, GAO/GGD–99–15 (November 24, 1998) at 36. *See also* 61 FR 42,219 (1996) (Electronic services ''will provide security and integrity to electronic correspondence and transactions, giving them attributes usually associated with First-Class Mail.'')

[126] 39 U.S.C. 101(a).

[127] 39 U.S.C. 403(a); *see also* 39 U.S.C. 403(b)(2) (The Postal Service shall ''provide types of mail service to meet the needs of different categories of mail and mail users.'')

[128] 39 U.S.C. 2010.

to address the jurisdictional status of specific services, such as those identified in Consumer Action's petition, that the Commission has not had an opportunity to consider fully. To provide some guidance as to the application of the new rule, however, the Commission will, for illustrative purposes, refer to several services no longer offered by the Postal Service.

In Docket No. C99–1, the complainant contended that the Postal Service was providing a new service, Post Electronic Courier Service (Post ECS), in violation of the Act.[129] Post ECS service, a pilot program available only to licensees, offered an all-electronic means of transmitting documents securely via the Internet. Briefly, licensees could transmit documents to a Postal Service Electronic Commerce Server whereupon the Postal Service would notify the addressee by e-mail that the document was available at a specified URL address. To retrieve the document, the addressee would access the site, enter the appropriate password, and, if desired, download the document.

The Postal Service moved to dismiss the complaint arguing, first, that the Commission lacked authority to determine the status of the service as either postal or nonpostal, and second that, even assuming the Commission had authority to determine the status of Post ECS service, the complaint should be dismissed as beyond the Commission's authority because the service is neither postal nor domestic.[130] The Commission denied the motion, finding that its mail classification authority empowered it to review the status of services proposed or offered by the Postal Service.[131] Nor was the Commission persuaded, based on the record developed to that point, that the service did not include domestic operations or that it was nonpostal. Ultimately, however, the issue whether Post ECS was, or was not, a postal service was not reached as the complaint was subsequently dismissed as moot.[132]

Recognizing that the proceeding concluded without benefit of a hearing, but assuming that Post ECS service included some wholly domestic transactions, all indications suggest that Post ECS would be a postal service under the new rule. In that proceeding, the Commission did not find it dispositive that service did not entail hard copy mail.[133] As the Commission noted in Order No. 1239, ''a colorable claim [was made] that [Post ECS service] not only is very closely related to the carriage of mail, it is the delivery of mail because it accomplishes by electronic means all the functions that would otherwise be performed by conveying a physical message or document.'' [134]

The Postal Service offers various ways to receive and pay bills. These currently include First-Class Mail, Priority Mail, and Express Mail. Until earlier this year, it also offered online payment services, consisting of USPS eBillPay, USPS Send Money, and USPS Pay@Delivery.[135] These services were discontinued May 1, 2004.[136]

USPS eBillPay enabled customers to receive, review, and pay their bills via the Postal Service's Web site. The Postal Service described it as an all electronic service, except for any payments mailed at standard rates of postage.[137] It would appear that USPS eBillPay operated simply as a surrogate for more traditional means of receiving and paying bills. Some payments utilized the mails. In this regard, there are obvious parallels to money orders, currently a jurisdictional special service. Thus, under the statute, based on currently available information, this service would likely be considered a postal service.[138]

In the recent past, the Postal Service offered a stored value card, LibertyCash, for use in purchasing postage and related products. Consideration was also given to the possibility of using it as a means to provide refunds to postal customers.[139] Apparently, the Postal Service did not charge a separate fee for the card, but only the value of the postage encoded on it. The card is no longer offered for sale.[140] Based on publicly available information, it would appear that LibertyCash was designed to give postal patrons a different payment option for purchasing postage or related products. Recognizing that the outcome would be dependent on the facts, two scenarios can be hypothesized for illustrative purposes. On the one hand, the card may have properties analogous to an advance deposit account, some of which are subject to an annual accounting fee recommended by the Commission. In that case, it likely would be viewed as an ancillary postal service. On the other hand, the card may have characteristics more analogous to a gift card, available to purchase Postal Service merchandise (mugs, etc.) as well as postage. In that event, it likely would not be considered an ancillary postal service.

VI. The Parties' Comments Regarding the Proposed Rule

The breadth of comments received in response to the proposed rulemaking was useful in the Commission's deliberations. They range from a suggestion that the Commission do nothing to one defining postal services based on a narrow meaning of the term nonpostal. Each of the comments has been carefully considered. In the final analysis, the Commission determination not to adopt either the proposed rule or variations suggested by commenters is predicated on its conclusion that it would be preferable to link the definition of the term ''postal service'' to the Postal Service's statutory duties rather than by reference to specific activities that the Postal Service may or may not perform.

Of the seven sets of initial comments received, four suggest revisions to the proposed rule. Each is addressed below. Two of the remaining three commenters support the proposed rule, although for different reasons. In brief comments, the Parcel Shippers Association endorses the proposed rule, expressing its support for the treatment of the delivery of packages as a core postal service.[141] Pitney Bowes advocates that the Postal Service should focus on its core mission, which it describes as maintaining universal physical mail service.[142] To the extent that the Postal Service engages in non-core activities, Pitney Bowes argues that regulatory oversight is imperative given the Postal Service's statutorily defined monopoly

[129] *See* Complaint of United Parcel Service, Docket No. C99–1, October 5, 1998. UPS's complaint was based on three claims: (a) That the service may only be established pursuant to sections 3622 and 3623 of the Act; (b) that the provision of the service at no charge violates sections 3622(b)(3) and 3622(b)(4); and (c) that Post ECS represents a change in the nature of postal services affecting service on a nationwide or substantially nationwide basis.

[130] Motion of the United States Postal Service to Dismiss, Docket No. C99–1, November 5, 1998.

[131] PRC Order No. 1239, May 3, 1999, at 12.

[132] PRC Order No. 1352, November 6, 2002. The Postal Service terminated Post ECS service and moved to dismiss the complaint as moot.

[133] PRC Order No. 1239, supra, at 15–21.

[134] *Id.* at 19 (emphasis in original).

[135] Report on Nonpostal Initiatives, *supra*, at 8–9.

[136] *http://www.usps.com/paymentservices/ops_discontinued.htm; see also* Update to Report on Nonpostal Initiatives, Docket *2003, November 14, 2003.

[137] Report on Nonpostal Initiatives, *supra*, at 9.

[138] Moreover, these efforts by the Postal Service to harness technology are precisely what the statute has in mind with respect to postal services, namely to plan, develop, and provide adequate and efficient postal services and to bind the nation together through, in these instances, business correspondence. The Commission's rules provide various options for expedited review of such proposals. *See* 39 CFR 3001.67 *et seq.* and 3001.161 *et seq.*

[139] Report on Nonpostal Initiatives, *supra*, at 5.

[140] Update to Report on Nonpostal Initiatives, *supra*, at 1.

[141] PSA Comments at 1–2.

[142] Pitney Bowes Comments at 1.

and service obligation.[143] While it would prefer a legislative solution to the issue, Pitney Bowes endorses the proposed rule as sufficiently expansive to ensure necessary regulatory oversight.[144]

The last of the remaining commenters, Lifetime Addressing, asserts that ''[t]he public interest is best served by a broad definition of jurisdiction.'' [145] In addition, it contends that the proper role for the Postal Service, as a government entity, is to deliver physical mail, not to provide services available from the private sector.[146] In its reply comments, Lifetime Addressing urges the Commission to adopt a broad definition of the term ''postal service'' to protect the public interest and endorses the definitions proposed by OCA/CA.[147]

Postal Service comments. Conceptually, the Postal Service does not oppose including a definition of the term postal service in the Commission's rules, characterizing it as ''a logical addition to the rules.'' [148] The Postal Service suggests the rule would be improved if it referenced *NAGCP I*, ostensibly to clarify that the effect of the definition is ''merely to restate prevailing law.'' [149] In addition, the Postal Service would define postal service to mean ''the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery, or other services supportive or ancillary thereto.'' [150] This alternative differs from the Commission's in several respects.

First, the Postal Service proposes to define postal service in terms of ''carriage of'' mail rather than ''delivery of'' mail, arguing that ''as far back as Docket No. R76–1 * * * [the Commission] has focused on the ''carriage of mail.'' [151] The Commission will not adopt this suggestion as it appears to overlook that the term ''carriage of mail'' is shorthand for the collection, transmission, and delivery of mail matter.[152] Hence, including the ''carriage of'' terminology in the definition of postal service would not serve to clarify its meaning. To the extent the Postal Service was posing a definition that overly emphasizes the delivery function, the definition proposed herein avoids that concern.

Second, the Postal Service would eliminate reference to the maximum weight of packages, noting that the statutory maximum was deleted in 1982.[153] It proposes that, in lieu of including a set maximum weight limit, the definition simply refer to ''mailable'' packages.[154] This is a useful suggestion and will be incorporated into the definition. The virtue of the proposal is its simplicity. It incorporates the concept of eligibility while eliminating the need to make conforming changes to the definition should the maximum weight limit be revised subsequently.[155]

Third, in a revision to the definition it originally proposed, the Postal Service would delete reference to ''transmission.'' [156] This revision was prompted by PostCom's suggested alternative to the proposed rule. For the reasons discussed below, the Commission declines to adopt it.

PostCom comments. PostCom contends that the Commission should not proceed with this rulemaking, citing indications that the Postal Service may have curtailed its ''nonpostal'' activities and potential legislative reform.[157] Alternatively, it suggests a definition limiting postal services to physical deliveries, ''including acceptance, collection, verification, sorting and transportation, and directly related services and functions.'' [158]

The initial appeal of its argument that the Commission do nothing wanes on consideration.[159] Doing nothing would perpetuate the status quo, a result that, under the circumstances, is not in the public interest. Further, the mere prospect of relief via potential legislative reform is insufficient to dissuade the Commission from addressing this controversy. The need to define the term arises precisely because uncertainty exists whether what the Postal Service calls ''initiatives'' are ''postal services.'' Those filing complaints with the Commission contesting this point are entitled to a reasoned response. The proposed rule is intended to provide guidance to the Postal Service and the public concerning services that fall within the ambit of sections 3622 and 3623 of the Act.

PostCom's alternative proposal is designed to remove ''electronic delivery mechanisms'' from the definition.[160] Among other things, PostCom proposes to substitute the term ''transportation'' for ''transmission,'' expressing concern that ''transmission'' may be construed to include electronic rather than only physical delivery.[161] The Commission will not adopt PostCom's proposed alternative definition. As discussed above, the current statute contemplates that the Postal Service will avail itself of technological advances in providing postal services. The term ''transmission'' derives from the statute and has been used historically by the Commission. Among its general duties, the Postal Service ''shall receive, transmit, and deliver throughout the United States, its territories and possessions, * * * written and printed matter, parcels, and like materials * * *.'' 39 U.S.C. 403(a). Furthermore, the Commission has employed the term ''transmission'' for almost 30 years. In Docket No. R76–1, the Commission determined that special postal services were those ''ancillary to the collection, transmission, or delivery of mail.'' [162] It is a standard invoked in other proceedings as well. *See* PRC Order No. 1128, July 30, 1996, at 10; PRC Order No. 1145, December 16, 1996, at 8; and PRC Order No. 1239, May 3, 1999, at 16 and 19.

Nor will the Commission adopt PostCom's suggestion to substitute ''directly related services and functions'' for ''other services supportive or ancillary thereto.'' While PostCom is mildly critical of the terms ''ancillary'' and ''supportive,'' it offers no support for the term ''directly related'' other than to assert that it is ''more precise.'' [163] Again, the terms used in the proposed rulemaking trace to Docket No. R76–1 where the Commission described special services as ancillary to

[143] *Id.* at 2–3.

[144] *Id.* at 3–4.

[145] Lifetime Addressing Comments at 2.

[146] *Ibid.*

[147] Lifetime Addressing Reply Comments at 2. Lifetime Addressing filed a motion for late acceptance of its initial comments. Motion for Late Acceptance of Comments of Lifetime Addressing, Inc., March 16, 2004. The motion is granted.

[148] Postal Service Initial Comments at 3.

[149] *Id.* at 4–5, citing *NAGCP I, supra*, 569 F.2d at 595–98.

[150] Postal Service Reply Comments at 3.

[151] Postal Service Initial Comments at 5.

[152] PRC Op. R76–1, Vol. 1, at 266, n.1. The use of the conjunctive does not imply that the term is contingent on all three functions being performed by the Postal Service. As the Commission explained, ''[a] special postal service is thus one which is ancillary to one or more of these three steps.'' *Ibid.*

[153] Postal Service Initial Comments at 5.

[154] *Ibid.*

[155] The same would not be the case concerning PostCom's proposed definition, which contains no reference to maximum weight or mailability. PostCom Initial Comments at 4. PostCom's suggestion has rate and classification implications and could, if adopted, create some confusion concerning the eligibility to mail items in excess of 70 pounds.

[156] Postal Service Reply Comments at 3.

[157] PostCom Initial Comments at 1–2.

[158] *Id.* at 4.

[159] In its reply comments, PostCom states its belief that a comprehensive definition of the term ''postal services'' can only be undertaken by Congress. PostCom Reply Comments at 1. Even accepting this statement at face value, however, does not negate the Commission's responsibilities under the current statute.

[160] PostCom Initial Comments at 4.

[161] *Ibid.*

[162] PRC Op. R76–1, Vol. 2, Appendix F at 3.

[163] PostCom Initial Comments at 4–5.

the collection, transmission, or delivery of mail.[164] Restating its conclusions, the Commission described special services as ''supportive or auxiliary'' to the collection, transmission or delivery of mail because they enhance the value of service of one of the substantive classes of mail.[165]

The Postal Service, which opposes PostCom's suggestion, confirms that the Commission's proposed language ''tracks the approach used consistently for decades.'' [166] In sum, PostCom's suggestion represents no improvement over the long-used terms.

OCA/CA comments. As discussed above, OCA/CA propose a revamped definition of the term postal service based on the view that postal services are any service or product retailed by the Postal Service that is not provided to another government entity. Accordingly, they propose to define postal service in terms of activities undertaken by the Postal Service that, for example, significantly affect the cost or value of existing services, put significant Postal Service revenues at risk, or have a significant adverse effect on the existing market.[167] They also propose that the Commission's rules be amended to include a definition of nonpostal service, namely, services provided by the Postal Service on behalf of other governmental agencies.[168] In addition, OCA/CA discuss various services offered by the Postal Service, including de facto services, pilot tests, strategic alliances, and electronic services, which they believe should be deemed to be postal services.[169]

OCA/CA list a set of conditions which would trigger a finding that a Postal Service activity is subject to sections 3622 and/or 3623. For example, an activity would be deemed a postal service if one of the following conditions applies: (a) It significantly affects the intrinsic cost of an existing class, subclass or rate category or the relative costs of existing classes, subclasses or rate categories; (b) it grants a significant preference to any person; or (c) it deviates significantly from established methods of providing a service.[170] This set of conditions offers, at best, a cumbersome means for identifying a postal service and, in any event, is not free from ambiguity. A conclusion that a particular activity is a postal service or not would be dependent on a factual inquiry, *e.g.*, whether the activity had a significant effect on an existing rate category, Postal Service revenues, or a competitor, etc.

This would appear to be a problematic way to define the term postal service. Interested persons would have to speculate how the Commission might view the nexus between the Postal Service activity and its impact on other services, classes of mail, or entities. Because of this, it would be unlikely to reduce uncertainty, a major goal of this rulemaking.

OCA/CA also propose to include a definition of the term nonpostal in the Commission's rules and further urge the Commission not to employ the term ''nonpostal'' as proposed in a companion proceeding, Docket No. RM2004–2.[171] The Commission finds it unnecessary to define the term nonpostal in this proceeding. The need only arises under OCA/CA's proposal because the term nonpostal defines, by negative implication, the term postal service. Likewise, the request that the Commission refrain from using the term nonpostal in proposed rule 54(h)(1)(i) need not be addressed in this proceeding. The Commission will consider that issue in Docket No. RM2004–2, where OCA/CA have also raised it.

Finally, OCA/CA discuss other services which they believe qualify as postal services and urge the Commission to encompass these services in its rules.[172] They identify the following types of services:

(a) De facto classification and service changes implemented without a recommended decision from the Commission. As examples, OCA/CA cite a new carrier pickup service and Electronic Tracking Confirmation service.[173]

(b) Pilot tests, described as experimental services, but including trials or other types of tests. They suggest that the definition of the term postal service include ''changes to the rates or terms of service for any mailer that deviates from the classification language contained in the DMCS or from the evidentiary record that established the terms of service[.]'' [174]

(c) Services provided through a strategic alliance or contract with one or more parties. As an example, OCA/CA cite NetPost CardStore. They contend that the Service's ''interactions and representations to the public are the main determinant for concluding that a service or product offered through a partnership arrangement that leverages the Postal Service's ''brand'' is a Chapter 36 ''postal service.'' [175]

(d) Electronic services. They advocate that the rule explicitly state that services provided in whole or in part by electronic means are postal services.[176]

In its reply comments, the Postal Service ''urges the Commission to refrain from addressing the merits of CA/OCA's arguments and conclusions regarding any current or future Postal Service activities'' cautioning that any attempt to do so ''would be prejudicial, unwise, and potentially invalid.'' [177]

OCA/CA's discussion of various services offered by the Postal Service is germane to consideration of the term postal service. This does not mean, however, that this rulemaking is the appropriate forum for determining whether a specific service mentioned is a postal service or not. Facts necessary to make that determination are not available on this record. Moreover, it is unclear which services or their permutations the Postal Service continues to offer.

Nonetheless, the Commission anticipates that the Postal Service will file the appropriate requests for a recommended decision to the extent that services of this type fall within the rule ultimately adopted.[178]

The Postal Service's apparent increasing use of alliances with private sector companies to provide services to the public merits brief mention. Such arrangements are not determinative of whether a service is or is not a postal service. That determination is dependent on the nature of the service provided. To the extent it substitutes for traditional mail service or is offered in fulfillment of the Postal Service's core mission, it may reasonably be considered to be a postal service. Illustratively, two examples may clarify the point. Pay@Delivery, a service no longer offered by the Postal Service, provided for the release of the buyer's funds to the seller after delivery via Priority Mail is confirmed by Delivery Confirmation. As a variation of collect on delivery, this service would appear to have the hallmarks of a postal service. On the other hand, any connection of

[164] PRC Op. R76–1, Vol. 2, Appendix F at 3.

[165] PRC Op. R76–1, Vol. 1, at 266–67. While this restatement uses the term ''auxiliary,'' an acceptable meaning of that term, as PostCom recognizes, is ancillary. *See* PostCom Initial Comments at 5. (''The plain meaning of the term 'ancillary' implies services which are auxiliary or subordinate to other postal services provided.'')

[166] Postal Service Reply Comments at 2.

[167] Joint Initial Comments at Appendix A.

[168] *Ibid.*

[169] *Id.* at 6–8; 23–39.

[170] *Id.* at Appendix A.

[171] *Id.* at 15.

[172] *Id.* at 6.

[173] *Id.* at 23–32.

[174] *Id.* at 34–35. They indicate that such changes would constitute de facto classification changes subject to the Commission's jurisdiction. *Id.* at 35.

[175] *Id.* at 37.

[176] *Id.* at 38–39.

[177] Postal Service Reply Comments at 9.

[178] Previously, the Postal Service evaluated postal services in terms of processing of mail. A new service not involving mail is characterized as nonpostal. Report on Nonpostal Initiatives at 4. Implicitly, this evaluation is predicated only on hard copy mail. The Postal Service should reassess its conclusions in light of the rule ultimately adopted herein.

First-Class Phone Cards to postal service would appear to be tenuous at best.[179]

United Parcel Service comments. UPS proposes that the term postal service be defined to mean ''the acceptance, collection, processing, transmission, or delivery of letters, printed matter, or packages weighing up to 70 pounds (including, but not limited to, partially or wholly electronic services), and other services supportive or ancillary thereto.'' [180] This proposal differs from that advanced by the Commission in Order No. 1389 in two ways. First, UPS reads the Commission's proposed definition as possibly contingent on actual delivery by the Postal Service. Consequently, UPS would define postal service to encompass the various activities performed by the Postal Service, *e.g.*, acceptance, transmission, etc., to preclude the argument that such services, if provided by the Postal Service exclusive of delivery, are not postal services. Second, UPS would explicitly include services that are either wholly or partially electronic.[181]

UPS raises a valid, if largely theoretical, point. Its alternative, however, could be construed as overly broad. Entities other than the Postal Service collect, process, and transmit mail prior to its deposit with the Postal Service. The definition suggested by UPS would expand the term postal service to include activities performed by entities, such as presort bureaus and consolidators, not subject to the Commission's jurisdiction. Inserting the phrase ''by the Postal Service'' after the term ''delivery'' would foreclose this construction and, as so modified, would represent an improvement over the definition proposed by the Commission. In lieu of adopting this language, however, the Commission concludes, for reasons previously discussed, that it would be preferable to define the term postal service based on statutorily derived terms.

VII. Comments

Because it declines to adopt either its initially proposed rule or those suggested by any commenter, the Commission concludes that it would be appropriate to provide any interested person an opportunity to comment on the revised proposed rule. Accordingly, comments are due December 15, 2004. Reply comments may be filed on or before January 12, 2005. It is the Commission's expectation to review such comments expeditiously and thereafter amend its rules as may be appropriate.

Ordering Paragraphs

It is ordered:

1. The Commission proposes to amend its Rules of Practice and Procedure by inserting new rule 5(s), 39 CFR 3001.5(s) as follows: *Postal service* means the receipt, transmission, or delivery by the Postal Service of correspondence, including, but not limited to, letters, printed matter, and like materials; mailable packages; or other services supportive or ancillary thereto.

2. Interested persons may submit comments by no later than December 15, 2004. Reply comments may also be filed and are due no later than January 12, 2005.

3. The Motion for Late Acceptance of Comments of Lifetime Addressing, Inc., March 16, 2004, is granted.

4. Proposed revisions suggested by commenters not adopted herein are deemed denied.

5. The Secretary shall arrange for publication of this Order in the **Federal Register**.

Dated: November 12, 2004.

By the Commission.

Steven W. Williams,

Secretary.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal service.

For the reasons discussed above, the Commission proposes to amend 39 CFR part 3001 as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b); 3603; 3622–24; 3661, 3663.

Subpart A—Rules of General Applicability

2. Amend § 3001.5 by adding new paragraph(s) to read as follows:

§ 3001.5 Definitions.

* * * * *

(s) *Postal service* means the receipt, transmission, or delivery by the Postal Service of correspondence, including, but not limited to, letters, printed matter, and like materials; mailable packages; or other services supportive or ancillary thereto.

[FR Doc. 04–25567 Filed 11–17–04; 8:45 am]

BILLING CODE 7710–FW–P

[179] As the name suggests, this card is simply a prepaid phone card. The card, which is a product of an alliance between the Postal Service and AT&T, is sold at postal facilities.

[180] UPS Comments at 2.

[181] *See id.* at 2–4.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 041108311–4311–01; I.D. 110204B]

RIN 0648–AR52

Fisheries of the Northeastern United States; Proposed 2005, 2006, and 2007 Fishing Quotas for Atlantic Surfclams, Ocean Quahogs, and Maine Mahogany Ocean Quahogs

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes quotas for the Atlantic surfclam, ocean quahog, and Maine mahogany ocean quahog fisheries for 2005–2007. Regulations governing these fisheries require NMFS to publish the proposed specifications for the 2005–2007 fishing years and seek public comment on such proposed measures. The intent of this action is to propose allowable harvest levels of Atlantic surfclams and ocean quahogs from the Exclusive Economic Zone and an allowable harvest level of Maine mahogany ocean quahogs from Atlantic waters north of 43 50' N. lat.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on December 20, 2004.

ADDRESSES: Written comments on the proposed specifications should be sent to:

- Email /mailbox address: The mailbox address for providing email comments is 0648AR52@noaa.gov. Include in the subject line of the email the following document identifier: ''Comments on Surfclam/Ocean Quahog Proposed Specifications.''
- Federal e-Rulemaking Portal: *www.Regulations.gov*
- Mail address for mailing paper,disk, or CD-ROM comments: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Mark on the outside of the envelope,''Comments on Surfclam/Ocean Quahog Proposed Specifications.''
- Fax number: Facsimile (fax) to (978) 281–9135. Comments on this proposed rule may be submitted via email.

Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis

(EA/RIR/IRFA), and the Essential Fish Habitat Assessment, are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. A copy of the EA/RIR/IRFA is accessible via the Internet at *http:/www.nero.gov/ro/doc/nr.htm*.

FOR FURTHER INFORMATION CONTACT: Brian R. Hooker, Fishery Policy Analyst, 978–281–9220.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surfclam and Ocean Quahog Fisheries (FMP) requires that NMFS, in consultation with the Mid-Atlantic Fishery Management Council (Council), specify quotas for surfclams and ocean quahogs on an annual basis from a range that represents the optimum yield (OY) for each fishery. It is the policy of the Council that the levels selected allow sustainable fishing to continue at that level for at least 10 years for surfclams and 30 years for ocean quahogs. In addition to this constraint, the Council policy also considers the economic impacts of the quotas. Regulations implementing Amendment 10 to the FMP (63 FR 27481, May 19, 1998), added Maine ocean quahogs (locally known as mahogany quahogs) to the management unit and provided that a small artisanal fishery for ocean quahogs in the waters north of 43° 50′ N. lat. has an annual quota with an initial amount of 100,000 Maine bu (35,240 hectoliters (hL)) within a range of 17,000 to 100,000 Maine bu (5,991 hL to 35,240 hL). As specified in Amendment 10, the Maine mahogany ocean quahog quota is allocated separately from the quota specified for the ocean quahog fishery. Regulations implementing Amendment 13 to the FMP (68 FR 69970, December 16, 2003) established the ability to set multi-year quotas. An evaluation, in the form of an annual quota recommendation paper, will be conducted by the Council every year to determine if the multi-year quota specifications remains appropriate. The fishing quotas must be in compliance with overfishing definitions for each species. In proposing these quotas, the Council considered the available stock assessments, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected fishing effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council staff.

NMFS is taking this opportunity to implement clarifications to the Atlantic surfclam and ocean quahog regulations. Sections 648.70(a), and 648.71(a) and (a)(2), removes references to the dates on which the initial allocation of surfclams and ocean quahogs shall be determined, and removes references to the dates on which the proposed and final rules for the annual specifications must be specified and published in the **Federal Register** by the Regional Administrator. References to these dates are not necessary in regulatory text. Additionally, a latitudinal coordinate identifying the ''Boston Foul Ground'' in section § 648.73(a)(1) is corrected through re-insertion of a digit that was dropped in a previous rulemaking. These administrative revisions are minor, non-substantive changes and do not change operating practices in the fishery.

The proposed quotas for the 2005–2007 Atlantic surfclam, ocean quahog, and Maine mahogany ocean quahog fisheries are shown in the table below. The status quo level of 2004 for Maine ocean quahog and surfclams is proposed to be maintained for 2005–2007, but the ocean quahog quota would be increased incrementally by 20 percent over the three-year period.

PROPOSED 2005–2007 SURFCLAM/OCEAN QUAHOG QUOTAS[1]

	2005		2006		2007	
	bu	hL	bu	hL	bu	hL
[2]Surfclams	3.400	1.810	3.400	1.810	3.400	1.810
[2]Ocean Quahogs	5.333	2.840	5.666	3.016	6.000	3.194
[3]Maine Ocean Quahogs	100,000	35,240	100,000	35,240	100,000	35,240

[1] Numerical values in table are in millions
[2] 1 bushel = 1.88 cubic ft. = 53.24 liters
[3] 1 bushel = 1.2445 cubic ft. = 35.24 liters

Surfclams

In 1999, the Council expressed its intention to increase the surfclam quota to OY over a period of 5 years (OY = 3.4 million bushels (181 million L)). The proposed 2005–2007 status quo surfclam quota was developed after reviewing the results of the 37th Northeast Regional Stock Assessment Workshop (SAW 37) for surfclams, held in 2003. This recommendation is consistent with the following SAW 37 recommendation: ''Although the stock is above Bmsy, uncertainty in the current level of and future trend in biomass suggest that substantial increases in catch levels are not advised.'' Furthermore, as of the 2002 fishing year the surfclam stock in the EEZ is not overfished and overfishing is not occurring. Industry reports that the current demand for clam products is very strong, with processors describing an inability to fill all orders due to a lack of clams. However, information reported by industry in their vessel trip reports has shown a steady reduction in the landings per unit of effort (LPUE), an important indicator that the annual quota is approaching the OY for the resource. Another factor in the low LPUE is that the majority of the surfclam catch continues to be derived from one area (northern New Jersey). Based on the information and advice from the most recent assessment for surfclams, the Council is recommending, and NMFS is proposing, to maintain the status quo for the 2005–2007 quotas of 3.4 million bushels (181 million L). This quota represents the maximum allowable quota under the FMP.

Ocean Quahogs

The 2005–2007 quotas for ocean quahogs, which reflect a 20–percent increase above status quo, are based on results from the 2004 assessment conducted by the 38th Northeast Regional Stock Assessment Workshop (SAW 38) for ocean quahogs, held in January 2004. The assessment for ocean quahogs found that the current biomass is high, and the resource surveyed from southern New England to southern Virginia is not overfished and overfishing is not occurring as of the 2002 fishing year. As a result, the Council concluded that an increase in the quota is warranted. An additional reason for the recommended increase in

ocean quahog quota over the next 3 years is the continued low surfclam quota in New Jersey state waters from historically high levels. In response, the Council wants to support increased access to ocean quahogs. The best scientific advice currently available suggests that an increase in quota would be sustainable. Based on this advice, the Council is recommending, and NMFS is proposing, an ocean quahog quota for 2005 of 5.333 million bushels (284 million L), a 2006 quota of 5.666 million bushels (301.6 million L), and a 2007 quota of 6.0 million bushels (319.4 million L). In addition, the Council is recommending, and NMFS is proposing, no change to the Maine ocean quahog quota from the 2004 level of 100,000 Maine bushels (35,240 hL). Amendment 10 to the FMP allows an annual quota of 100,000 Maine bushels (35,240 hL), and specifies that a quota over 100,000 Maine bushels (35,240 hL) can be recommended only if a survey of the Maine ocean quahog stock warrants such an increase. However, a survey of this area has not been completed.

The Atlantic surfclam and ocean quahog quotas are specified in standard bushels of 53.24 L per bushel, while the Maine mahogany ocean quahog quota is specified in ''Maine'' bushels of 35.24 L per bushel. Because Maine ocean quahogs are the same species as ocean quahogs, both fisheries are assessed under the same ocean quahog overfishing definition. When the two quota amounts (ocean quahog and Maine ocean quahog) are added, the total allowable harvest is still lower than the level that would result in overfishing for the entire stock.

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an IRFA in section 8.0 of the RIR that describes the economic impacts this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, the objectives and the legal basis for this action are contained in the **SUPPLEMENTARY INFORMATION** section of this Proposed Rule. This action does not duplicate, overlap, or conflict with any other Federal rules. A summary of the IRFA follows:

Vessels

In 2003, a total of 50 vessels reported harvesting surfclams or ocean quahogs from Federal waters under an Individual Transferable Quota (ITQ) system. Average 2003 gross income for surfclam harvesters was $1,089,417 per vessel, and $865,204 per vessel for ocean quahog harvesters. In the small artisanal fishery for ocean quahogs in Maine, 35 vessels reported harvests in the clam logbooks, with an average value of $139,890 per vessel. All of these vessels fall within the definition of a small entity. The proposed rule would maintain the 2004 status quo level for the surfclam quota, increase the ocean quahog quota by 20 percent over three years, and maintain the 2004 status quo level for the Maine ocean quahog quota. The direct impacts of any quota adjustment would be felt by the entities holding surfclam and/or ocean quahog quota allocations. The actual number of individuals or businesses holding the quota allocations will be lower than indicated below since each holder will often maintain multiple allocations. The analysis of alternatives for each fishery contains a ''no action'' alternative as required by the National Environmental Policy Act. The ''no action'' alternatives would allow unlimited harvests from the surfclam, ocean quahog, and Maine ocean quahog resources, and would be in violation of National Standard 1 of the Magnuson-Stevens Fishery Management and Conservation Act, thus these alternatives are not discussed here as reasonable alternatives.

The Council identified three surfclam quota alternatives in addition to the ''no-action'' alternative. The preferred alternative of 3.400 million bu (181 million L) for 2005–2007, an alternative with 45.6 percent decrease to 1.85 million bu (98.49 million L), and an alternative with a 4.4 percent decrease to 3.25 million bu (173.02 million L) were analyzed. The minimum allowable quota specified in the current OY range is 1.850 million bu (98.5 million L) of surfclams. A 45.6 percent reduction in quota of would have a substantially negative impact on overall ex-vessel revenues equaling a $215,363 decrease per allocation. Adoption of the 4.4 percent decrease in quota would represent a $20,781 reduction per allocation. However, given the current biological status of the surfclam resource, the Council does not believe that a quota reduction is warranted at this time. In summation, the Council determined that the 45.6 percent reduction would significantly negatively impact revenues and a smaller 4.4 percent reduction is not warranted as the stock is not overfished and overfishing is not occurring. The preferred alternative is the 2004 status quo, thus it would have no impact on revenues.

The Council analyzed four ocean quahog quota alternatives in addition to the ''no-action'' alternative. The preferred alternative of a 20 percent increase over three years, an alternative with a 20 percent (1.0 million bu (53.25 million L)) decrease, an alternative with the 2004 status quo of 5.0 million bushels (266.18 million L), and an alternative with a 20 percent (1.0 million bu (53.24 million L)) increase in one year were analyzed. The minimum allowable quota specified in the current OY range is 4.000 million bu (212.94 million L) of ocean quahogs. Adoption of a 4.0 million bu (212.94 million L) quota would represent a 20 percent decrease from the current quota. This alternative would take the most conservative approach to managing the fishery that is currently available to the Council, but would result in the fewest economic benefits available to the ocean quahog fishery. Given the current biological status of the quahog resource, the Council concluded that a quota reduction is not warranted. Adoption of the 2004 status quo quota would have no impact on revenues for small entities. A 20 percent increase in quota in the first year would move directly to the maximum quota allowed in the FMP, and, if fully utilized would equate to a $102,180 increase per allocation. However, the Council was concerned that the industry does not currently have a market available to absorb a large increase in landings that quickly. Additionally, due to uncertainty in the recent stock assessment the Council is recommending a gradual increase, with annual reviews to confirm its appropriateness. Although two alternatives would allow for increased revenues, the Council recommends a gradual 20 percent increase over three years, rather than the 20 percent increase in the first year.

The quota for Maine mahogany ocean quahogs is specified at a maximum 100,000 bu (35,240 hL). The FMP specifies that upward adjustments to the quota would require a scientific survey and stock assessment of the Maine mahogany ocean quahog resource. However, no survey or assessment has been conducted. The Council considered two alternative quotas for the Maine mahogany ocean quahog fishery, in addition to the preferred alternative of 100,000 Maine bushels (35,240 hL), including 50,000 Maine bushels and 92,500 Maine bushels (17,620 and 32,596 hL). Any quota the Council would have recommended below the 1999 landing level of 93,938 Maine bu (33,104 hL) would have resulted in a decrease in revenues to individual vessels.

Processors

In 2003, there were 9 processors that participated in the surfclam and ocean quahog fisheries, plus 10 companies that bought ocean quahogs directly from vessels from within the State of Maine. Of the nine processors, approximately six are responsible for the vast majority of purchases in the ex-vessel market and sale of processed clam products in appropriate wholesale markets. Impacts to surfclam and ocean quahog processors would most likely mirror the impacts of the various quotas to vessels as discussed above. Revenues earned by processors would be derived from the wholesale market for clam products, and since a large number of substitute products (i.e., other food products) are available, the demand for processed clam products is likely to be price-dependent.

Allocation Holders

As of September 2004, surfclam allocation holders totaled 82, while 56 firms or individuals held ocean quahog allocation. If the recommended quotas are accepted, i.e., status quo for surfclams, a 20 percent increase over three years for ocean quahogs, and no change from the 2003 quota for Maine mahogany ocean quahogs, it is likely that impacts to allocation holders or buyers would be minimal. Theoretically, increases in quota would most likely benefit those who purchase quota (through lower prices (values)) and negatively impact sellers of quota because of reduction in value. Decreases in quota would most likely have an opposite effect.

Reporting and Recordkeeping Requirements

This proposed rule would not impose any new reporting, recordkeeping, or other compliance requirements. Therefore, the costs of compliance would remain unchanged.

Dated: November 12, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.70, paragraph (a)(1) is revised to read as follows:

§ 648.70 Annual individual allocations.

(a) * * *

(1) Each fishing year, the Regional Administrator shall determine the initial allocation of surfclams and ocean quahogs for the next fishing year for each allocation holder owning an allocation pursuant to paragraph (a)(2) of this section. For each species, the initial allocation for the next fishing year is calculated by multiplying the allocation percentage owned by each allocation owner as of the last day of the previous fishing year in which allocation owners are permitted to permanently transfer allocation percentage pursuant to paragraph (b) of this section (i.e., October 15 of every year), by the quota specified by the Regional Administrator pursuant to § 648.71. The total number of bushels of allocation shall be divided by 32 to determine the appropriate number of cage tags to be issued or acquired under § 648.75. Amounts of allocation 0.5 or smaller created by this division shall be rounded downward to the nearest whole number, and amounts of allocation greater than 0.5 created by this division shall be rounded upward to the nearest whole number, so that allocations are specified in whole cages. These allocations shall be made in the form of an allocation permit specifying the allocation percentage and the allocation in bushels and cage tags for each species. An allocation permit is only valid for the entity for which it is issued. Such permits shall be issued on or before December 15, to allow allocation owners to purchase cage tags from a vendor specified by the Regional Administrator pursuant to § 648.75(b).

* * * * *

3. In § 648.71, paragraphs (a) introductory text and (a)(2) are revised as follows:

§ 648.71 Catch quotas.

(a) *Establishing quotas.* Beginning in 2005, the amount of surfclams or ocean quahogs that may be caught annually by fishing vessels subject to these regulations will be specified for a 3–year period by the Regional Administrator. The initial 3–year specification will be based on the most recent available survey and stock assessments for Atlantic surfclams and ocean quahogs. Subsequent 3–year specifications of the annual quotas will be accomplished in the third year of the quota period, unless the quotas are modified in the interim pursuant to § 648.71(b). The amount of surfclams available for harvest annually must be specified within the range of 1.85 to 3.4 million bu (98.5 to 181 million L) per year. The amount of ocean quahogs available for harvest annually must be specified within the range of 4 to 6 million bu (213 to 319.4 million L).

* * * * *

(2) *Public review.* Based on the recommendation of the MAFMC, the Regional Administrator shall publish proposed surfclam and ocean quahog quotas in the **Federal Register**. Comments on the proposed annual quotas may be submitted to the Regional Administrator within 30 days after publication. The Assistant Administrator shall consider all comments, determine the appropriate annual quotas, and publish the annual quotas in the **Federal Register** each year. The quota shall be set at that amount that is most consistent with the objectives of the Atlantic Surfclam and Ocean Quahog FMP. The Regional Administrator may set quotas at quantities different from the MAFMC's recommendations only if he/she can demonstrate that the MAFMC's recommendations violate the national standards of the Magnuson-Stevens Act and the objectives of the Atlantic Surfclam and Ocean Quahog FMP and other applicable law.

4. In § 648.73, paragraph (a)(1) is revised as follows:

§ 648.73 Closed areas.

(a) * * *

(1) *Boston Foul Ground.* The waste disposal site known as the ''Boston Foul Ground'' and located at 42° 25′36″ N. lat., 70° 35′00″ W. long., with a radius of 1 nautical mile in every direction from that point.

* * * * *

[FR Doc. 04–25640 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 69, No. 222

Thursday, November 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 Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that U.S. Patent Numbers 6,475,527, issued on November 5, 2002 and 6,761,911, issued on July 13, 2004, both entitled ''Use of chlorate ion or preparations thereof for reduction of food borne pathogens'', are available for licensing and that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Eka Chemicals, Inc. of Marietta, Georgia, an exclusive license to these patents.

DATES: Comments must be received within ninety (90) calendar days of the date of publication of this Notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: (301) 504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to these patents are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license these patents as Eka Chemicals, Inc. of Marietta, Georgia has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. 04–25601 Filed 11–17–04; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–101–3]

Environmental Impact Statement; Petition for Deregulation of Genetically Engineered Glyphosate-Tolerant Creeping Bentgrass

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement and proposed scope of study; reopening of comment period.

SUMMARY: We are reopening the comment period for our notice that advises the public that the Animal and Plant Health Inspection Service intends to prepare an environmental impact statement as part of its consideration of a petition received from Monsanto Company and The Scotts Company for a determination of nonregulated status for a glyphosate-tolerant creeping bentgrass (*Agrostis stolonifera*). This action will allow interested persons additional time to prepare and submit comments. We are also announcing our intent to hold a public meeting to promote further public involvement in the development of the environmental impact statement. The location and date of the public meeting will be announced in a future issue of the **Federal Register**.

DATES: We will consider all comments that we receive on or before December 2, 2004.

ADDRESSES: You may submit comments by any of the following methods:

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 03–101–2, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–101–2.
- E-mail: Address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–101–2'' on the subject line.
- Agency Web site: Go to *http://www.aphis.usda.gov/ppd/rad/cominst.html* for a form you can use to submit an e-mail comment through the APHIS Web site.

Reading Room: You may read any comments that we receive on this docket in our reading room. The Reading Room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal Reading Room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Susan M. Koehler, BRS, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1238; (301) 734–4886.

SUPPLEMENTARY INFORMATION: On April 14, 2003 APHIS received a petition (APHIS Petition No. 03–104–01p) from Monsanto Company (St. Louis, MO) and The Scotts Company (Gervais, OR) (Monsanto/Scotts), requesting deregulation of a creeping bentgrass (*Agrostis stolonifera* L., synonym *A. palustris* Huds.) that has been genetically engineered for tolerance to the herbicide glyphosate. The Monsanto/Scotts petition states that the subject creeping bentgrass, designated as event ASR368, should not be regulated by APHIS because it does not present a plant pest risk. (The petition is available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/03_10401p.pdf.*)

In a notice published in the **Federal Register** on January 5, 2004 (69 FR 315–317, Docket No. 03–101–1), APHIS announced the receipt of the Monsanto/Scotts petition and solicited comments

on whether the subject creeping bentgrass would present a plant pest risk. We solicited comments concerning our notice for 60 days, ending March 5, 2004.

On September 24, 2004, APHIS published in the **Federal Register** (69 FR 57257 57260, Docket No. 03–101–2) a notice advising the public of our decision to prepare an environmental impact statement (EIS) as part of our consideration of petition 03–104–01p. Our decision was based on several factors: (1) Data associated with the petition, (2) a report prepared by the Weed Science Society of America on the weed management implications associated with the potential deregulation and commercialization of glyphosate-tolerant and glufosinate-tolerant creeping bentgrass varieties, (3) our preliminary risk assessment (available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/03_10401p.pdf*), and (4) public comments received in response to our January 5, 2004, notice.

Pursuant to the regulations of the Council on Environmental Quality in 40 CFR 1501.4(d), APHIS has initiated the scoping process as mandated by National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), beginning with the January 5, 2004, **Federal Register** notice. The comment period for our September 24, 2004, notice of intent closed on October 24, 2004. We are reopening the comment period for an additional 2 weeks from the date of this notice to give interested parties additional time to respond. We will also consider all comments we received between the October 24, 2004, close of the original comment period and the date of this notice.

APHIS has also decided to hold a public meeting to encourage additional public participation in the EIS scoping process. The date and location of the public meeting will be announced on the APHIS Web site (*http://www.aphis.usda.gov/brs/brs_meetings.html*) and in a future **Federal Register** notice.

Comments that provide information relevant to the scope identified in the September 24, 2004, **Federal Register** notice or that identify other potentially significant environmental issues or alternatives that should be examined in the context of the EIS process would be especially helpful. All comments that we received in response to the January 5, 2004, notice will be included as part of this scoping process and need not be resubmitted. We will fully consider all the comments received in response to the January 5, 2004, notice; the comments received on our September 24, 2004, notice of intent; and the comments received at the future public meeting in developing a final scope of study and in preparing the draft EIS. When the draft EIS is completed, we will publish a notice in the **Federal Register** announcing its availability and inviting the public to comment on it. Following our consideration of the comments received, APHIS will prepare a final EIS; its availability will also be announced in the **Federal Register** along with a 30-day public comment period, after which the Record of Decision will be issued.

Done in Washington, DC, this 12th day of November 2004.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E4–3249 Filed 11–17–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS) today accepted petitions filed by the Louisiana Shrimp Association, P.O. Box 1088, Grand Isle, Louisiana 70358, for trade adjustment assistance. The association represents shrimpers in the state of Louisiana. The Administrator will determine within 40 days whether or not imports of shrimp and prawns contributed importantly to a decline in domestic producer prices of 20 percent or more during the marketing period beginning January 2003 and ending December 2003. If the determination is positive, all shrimpers who land and market their shrimp in Louisiana will be eligible to apply to the Farm Service Agency for technical assistance at no cost and for adjustment assistance payments.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov.*

Dated: November 4, 2004.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 04–25602 Filed 11–17–04; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), re-certified the trade adjustment assistance (TAA) petition that was filed by the South Carolina Shrimpers' Association and the South Carolina Growers Association on behalf of shrimpers and shrimp farmers. The petition was initially certified on November 10, 2003. Shrimpers and shrimp farmers who market their catch in South Carolina will be eligible to apply for fiscal year 2005 benefits during a 90-day period beginning on November 29, 2004. The application period closes on February 28, 2005.

SUPPLEMENTARY INFORMATION: Upon investigation, the Administrator determined that continued increases in imports of like or directly competitive products contributed importantly to a decline in the average landed price of shrimp in South Carolina by 40.9 percent during the 2003 marketing period (January–December 2003), compared to the 1997–2001 base period. Eligible producers may request technical assistance from the Extension Service at no cost and receive an adjustment assistance payment, if certain program criteria are satisfied. Producers in fiscal year 2005 who did not receive technical assistance under the fiscal year 2004 TAA program must obtain the technical assistance from the Extension Service by May 31, 2005, in order to be eligible for financial payments.

Producers of raw agricultural commodities wishing to learn more about TAA and how they may apply should contact the Department of Agriculture at the addresses provided below for General Information.

Producers Certified as Eligible for TAA, Contact: Farm Service Agency service centers.

For General Information About TAA, Contact: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov.*

Dated: November 8, 2004.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 04–25603 Filed 11–17–04; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comment, (4) Selection of New Chairman, (5) New Members Welcome, (6) Review of Walk in the Woods Project, (7) General Discussion, (8) Next Agenda.

DATES: The meeting will be held on December 9, 2004 from 9 a.m. and end at approximately 12 p.m.

ADDRESSES: The meeting will be held at the Lincoln Street School, Conference Room A, 1135 Lincoln Street, Red Bluff, CA. Individuals wishing to speak or propose agenda items must send their names and proposals to Jim Giachino, DFO, 825 N. Humboldt Ave., Willows, CA 95988.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, P.O. Box 164, Elk Creek, CA 95939. (530) 968–5329; e-mail *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by December 5, 2004 will have the opportunity to address the committee at those sessions.

Dated: November 12, 2004.

James F. Giachino,

Designated Federal Official.

[FR Doc. 04–25604 Filed 11–17–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, National Ocean Service, Commerce.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the San Francisco (California) Bay Conservation and Development Commission Coastal Management Program; the Louisiana Coastal Management Program; the North Inlet/Winyah Bay National Estuarine Research Reserve, South Carolina; and the Elkhorn Slough National Estuarine Research Reserve, California.

The Coastal Zone Management Program evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended, (CZMA) and regulations at 15 CFR Part 923, Subpart L. The National Estuarine Research Reserve evaluations will be conducted pursuant to sections 312 and 315 of the CZMA and regulations at 15 CFR Part 921, Subpart E and Part 923, Subpart L.

The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document or Reserve final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, state and local agencies and members of the public. Public meetings will be held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations and the dates, local times, and locations of the public meetings during the site visits.

The San Francisco (California) Bay Conservation and Development Commission Coastal Management Program evaluation site visit will be held February 7–11, 2005. One public meeting will be held during the week. The public meeting will be on Wednesday, February 9, 2005, at 7 p.m., at the Bay Conservation and Development Commission offices, McAteer-Petris Conference Room, 26th Floor, 50 California Street, San Francisco, California.

The Louisiana Coastal Management Program evaluation site visit will be held March 21–25, 2005. One public meeting will be held during the week. The public meeting will be held on Wednesday, March 23, 2005, at 7 p.m., at the Louisiana Department of Natural Resources, Griffon Room, LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

The North Inlet/Winyah Bay National Estuarine Research Reserve, South Carolina, evaluation site visit will be held January 31–February 4, 2005. One public meeting will be held during the week. The public meeting will be held on Tuesday, February 1, 2005, at 5:30 p.m. at the Kimbel Lodge at Hobcaw Barony, Highway 17 North, Georgetown, South Carolina.

The Elkhorn Slough National Estuarine Research Reserve, California, evaluation site visit will be held March 21–25, 2005. One public meeting will be held during the week. The public meeting will be held on Wednesday, March 23, 2005, at 7:00 p.m. at the Elkhorn Slough Reserve Visitors' Center, 1700 Elkhorn Road, Watsonville, California.

Copies of states' most recent performance reports, as well as OCRM's notifications and supplemental request letters to the state, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the last public meeting held for that Program. Please direct written comments to Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, Silver Spring, Maryland 20910. When the evaluations are completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, Silver Spring, Maryland 20910, (301) 713–3155, extension 118.

(Federal Domestic Assistance Catalog No. 11.419)

Coastal Zone Management Program Administration.

Dated: November 9, 2004.

Eldon Hout,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 04–25608 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Channel Islands National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Channel Islands National Marine Sanctuary (CINMS) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): Research alternate, Recreation (non-consumptive), Recreation (non-consumptive) alternate, Public At-Large, Public At-Large alternate, Business, Conservation, and Commercial Fishing. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve 2-year terms, pursuant to the Council's Charter.

DATES: Applications are due by December 4, 2004.

ADDRESSES: Application kits may be obtained from Jacklyn Kelly, Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, CA 93109–2315. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Jacklyn Kelly, Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, CA 93109–2315, 805–966–7107, extension 371, *jacklyn.kelly@noaa.gov.*

SUPPLEMENTARY INFORMATION: The CINMS Advisory Council was originally established in December 1998 and has a broad representation consisting of 21 members, including ten government agency representatives and eleven members from the general public. The Council functions in an advisory capacity to the Sanctuary Manager. The Council works in concert with the Sanctuary Manager by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Manager in achieving the goals of the Sanctuary program. Specifically, the Council's objectives are to provide advice on: (1) Protecting natural and cultural resources, and identifying and evaluating emergent or critical issues involving Sanctuary use or resources; (2) identifying and realizing the Sanctuary's research objectives; (3) identifying and realizing educational opportunities to increase the public knowledge and stewardship of the Sanctuary environment; and (4) assisting to develop an informed constituency to increase awareness and understanding of the purpose and value of the Sanctuary and the National Marine Sanctuary Program.

Authority: 16 U.S.C. 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429, Marine Sanctuary Program)

Dated: November 10, 2004.

Daniel J. Basta

Director, National Marine Sanctuary Program, National Ocean Services, National Oceanic and Atmospheric Administration.

[FR Doc. 04–25606 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Florida Keys National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Florida Keys National Marine Sanctuary (FKNMS or Sanctuary) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): Maritime Heritage; South Florida Ecosystem Restoration; South Florida Ecosystem Restoration (alternate); Citizen-at-Large, Upper Keys (alternate); Commercial fishing, Marine/Tropical (alternate); Charter Fishing, Sports (alternate) and Conservation & Environment (2). Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and the length of residence in the area affected by the Sanctuary. The Conservation & Environment seat has the additional requirement that the applicants are employed by accredited non-profit organizations and live in Monroe County or Dade County. Applicants who are chosen as members should expect to serve 3-year terms, pursuant to the Council's Charter.

DATES: Applications are due by December 3, 2004.

ADDRESSES: Application kits may be obtained from Fiona Wilmot, Florida Keys National Marine Sanctuary, P.O. Box 500368, Marathon, FL 33050. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Fiona Wilmot at the above address or (305) 743–2437, ext. 27 or *Fiona.Wilmot@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Council provides information for Sanctuary Managers on a wide variety of issues. The 20 member Council of stakeholders reflects the larger community from which it is drawn and meets bimonthly. Smaller working groups meet as necessary on specific topics.

Authority: 16 U.S.C. 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429, Marine Sanctuary Program)

Dated: November 10, 2004.

Daniel J. Basta,

Director, National Marine Sanctuary Program, National Ocean Services, National Oceanic and Atmospheric Administration.

[FR Doc. 04–25607 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012903A]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Conducting Oil and Gas Exploration Activities in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Intent to prepare an Environmental Impact Statement; notice of public meetings; and request for scoping comments.

SUMMARY: NMFS has received a request from the U.S. Minerals Management Service (MMS), U.S. Department of the Interior, for regulations to authorize the take, by harassment, of small numbers of marine mammals incidental to seismic surveys during oil and gas exploration activities by the U.S. oil and

gas industry in the Gulf of Mexico (GOM). By this document, NMFS announces: (1) its intention to prepare an Environmental Impact Statement (EIS); (2) commencement of its scoping process under the National Environmental Policy Act (NEPA); (3) a request for public comment on the scope of the EIS; and (4) times, dates, and locations for public scoping meetings.

DATES: Written comments and information must be received no later than December 22, 2004. Two public scoping meetings are scheduled as follows:

1. December 3, 2004, 9 a.m. - approximately 12 noon, New Orleans, LA.
2. December 16, 2004, 9 a.m. - approximately 12 noon, Silver Spring, MD.

ADDRESSES: The public scoping meetings will be held at the following locations:

1. New Orleans: Location to be determined. This meeting will be held on the day following the Marine Mammal Commission's (MMC) Fourth Plenary Meeting of the Advisory Committee on Acoustic Impacts on Marine Mammals. The scoping meeting location will be provided during the MMC meeting.
2. Silver Spring: Silver Spring Metro Center, NOAA Science Center, 1301 East-West Highway, Silver Spring, MD 20910.

Submit written comments to Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226. The mailbox address for providing e-mail comments is *PR1.012903A@noaa.gov*. E-mail comments sent to other addresses may not be timely received for consideration. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, NMFS, 301–713–2289, ext 128.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*)(MMPA) directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted for periods of 5 years or less if the Secretary finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and regulations are prescribed setting forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stocks, and requirements pertaining to the monitoring and reporting of such taking.

On December 20, 2002, MMS petitioned NMFS for rulemaking under section 101(a)(5)(A) of the MMPA to authorize any potential ''take,'' by ''harassment,'' of sperm whales (Physeter macrocephalus) incidental to conducting seismic surveys during oil and gas exploration activities in the GOM. ''Take'' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill. Except for certain activities not pertinent here, ''harassment'' means

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

NMFS published a notice of receipt of the MMS application on March 3, 2003 (68 FR 9991). MMS submitted a revised petition to include the incidental take of other species of marine mammals, such as the Bryde's whale, several species of dolphins and beaked whales on September 26, 2004. On July 30, 2004, MMS completed its Final Programmatic Environmental Assessment (Final PEA) on this action and made that document available to the public at *http://www.gomr.mms.gov/homepg/regulate/environ/nepa/2004–054.pdf*

Notice of Intent

The comment period on the NMFS' notice of receipt of the MMS application was extended until April 16, 2003 (see 68 FR 16262, April 3, 2003). During the public comment period, NMFS received comments recommending preparation of a Draft EIS under NEPA on this action. NMFS has considered this request and determined that it will prepare an EIS for its proposed rulemaking governing authorizations to take marine mammals incidental to oil and gas seismic surveys in the GOM. This decision is based on a combination of factors: (1) public concern over impacts of oil and gas exploration activities on the marine environment, which includes marine mammals; (2) proposed use of computer modeling as one of two methods for calculating incidental take levels for marine mammals and sea turtles for a geographic area where multiple seismic sources may be operating simultaneously; (3) incorporation of a scientifically-based risk assessment for marine mammals; (4) possible use of energy criteria rather than the current pressure criteria to calculate marine mammal take levels, especially to calculate potential multiple exposures; and (5) incorporation of new acoustic guidelines for assessing impacts of sound on marine mammals.

Description of the Specified Activity

Marine geophysical seismic surveys are conducted to obtain information on surface and near-surface geology (high-resolution surveys) and on subsurface structures and formations (seismic surveys and vertical seismic profile (VSP) surveys).

Typical seismic surveying operations tow an array of airguns (the seismic sound source) and a streamer (signal receiver cable) behind the vessel, 5–10 m (16.4–32.8 ft) below the sea surface. The airgun array produces a burst of underwater sound by releasing compressed air into the water column that creates an acoustic energy pulse. The release of compressed air every several seconds creates a regular series of strong acoustic impulses separated by silent periods lasting 7–16 seconds, depending on survey type and depth to the target formations. Airgun arrays are designed to focus the sound energy downward. Acoustic signals are reflected off the subsurface sedimentary layers and recorded near the water surface by hydrophones spaced within the streamer cables. Some surveys employ ocean-bottom seismometers as the receiving instrument. Vessel speed is typically 4.5–6 knots (about 4–8 mph) with gear deployed.

Three-Dimensional (3–D) seismic surveying enables a more accurate assessment of potential hydrocarbon reservoirs to optimally locate exploration and development wells, and minimize the number of wells required to develop a field. State-of-the-art interactive computer mapping systems can handle much denser data coverage than older 2–D seismic surveys. Multiple-source and multiple-streamer technologies are used for 3–D seismic surveys. A typical 3–D survey might employ a dual array of 18 guns per array. Each array might emit a 3,000 cubic-inch burst of compressed air at 2,000 kilojoule (kJ) of acoustic energy for each burst. The hydrophone

streamer array might consist of 6–8 parallel cables, each 6–8 km (3.7–5 mi) long, spaced 75 m (246 ft) apart. A series of 3–D surveys collected over time (4–D seismic survey) is used for reservoir monitoring and management (the movement of oil, gas, and water in the reservoirs can be observed over time). Seismic surveys may span one day, weeks, or months. MMS has requested an authorization under the MMPA for the incidental harassment (Level A and Level B) of marine mammals during 2–D and 3–D seismic surveys, high-resolution surveys, and VSP surveys.

For management purposes MMS has divided the Northern GOM into three planning areas: Eastern, Central and Western. In general, Federal waters offshore Florida and Alabama are in the Eastern Planning Area, Federal waters offshore Mississippi and Louisiana are in the Central Planning Area, and Federal waters offshore Texas are in the Western Planning Area. For seismic exploration, about 1300 blocks in the Western and Central Planning Areas have not yet been surveyed with 3–D seismic techniques (R. Brinkman, MMS GOM Region, pers comm, 2004). It is assumed that a lower level of new seismic survey activity will occur in the Eastern Planning Area relative to the other two areas (i.e. the vast majority of survey activities are expected in the Central and Western Planning Areas). Industry interest in the Eastern GOM has historically been limited to the westernmost portions of the planning area and is usually defined by MMS' 5–Year Leasing Plan (MMS, 2002).

The Federal waters of the GOM are inhabited by a diverse assemblage of marine mammal species. When seismic surveys are conducted acoustic energy is introduced into Gulf waters that may adversely impact marine mammals in the vicinity of the activity. The potential adverse impacts to marine mammals are detailed in MMS' 2004 Final PEA. In general, loud underwater noise has the potential to harass, injure, and possibly cause the mortality of marine mammals. While the serious injury or mortality of marine mammals is believed to be unlikely, especially due to the implementation of mitigation measures to protect marine mammals (see Mitigation), NMFS' Draft EIS will investigate and discuss the potential for injury and mortality.

MMS is seeking regulations under the MMPA governing the possible harassment and non-serious injury of several species of marine mammals in the GOM as a result of seismic surveys as described in MMS (2004). The MMPA regulations are requested by MMS on the behalf of the offshore oil and gas industry and seismic contractors operating within the GOM. NMFS expects that seismic vessel owners will obtain Letters of Authorization, in accordance with 50 CFR 216.106, to incidentally take marine mammals under the requested regulations.

Potential Effects of Seismic Activities on Marine Mammals

The effects of sounds from airgun arrays might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance and perhaps temporary or permanent hearing impairment (Richardson *et al.* 1995). In addition, intense acoustic events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions.

Using sperm whales as an example, this species spends large amounts of time at depth and uses low frequency sound to communicate and navigate. Therefore, sperm whales are considered to be sensitive to the marine acoustic environment and may respond to sound emissions in many ways. Reactions to acoustic emissions may include, but are not limited to, cessation of vocalizations, disruption of feeding and dive behaviors, physical avoidance of noisy areas and temporary or permanent hearing impairment if the noise is strong enough and/or if the animal is in close proximity to the sound source. Such impairment could have the potential to diminish the individual's chance for survival or potential for reproduction. Tolerance of noise is often demonstrated, but this does not necessarily mean that the animals are unaffected by noise. Also, adverse levels of noise might interrupt or decrease feeding activity, social interactions, or parenting. Responses to seismic activity causing adverse effects to individuals and cow/calf pairs, reproduction, feeding, or causing temporary or permanent threshold shifts in hearing may negatively impact GOM marine mammal stocks if the disruptions are extended. There are no documented data on auditory-induced physical effects of underwater seismic noise on sperm whales or other marine mammals. There is observational evidence that sperm whales may be temporarily displaced away from areas where seismic operations are underway. MMS believes that sperm whales are not being significantly displaced from the northern GOM due to seismic surveys. NMFS notes, however, that no data have been provided to support this statement. At this time it is unknown whether sperm whale site fidelity in the GOM reflects low sensitivity to seismic noise or a high motivation to remain in the area in spite of this noise. Details of seismic noise and its potential impact on marine mammals have been described in MMS (2004) and will be addressed in the NMFS Draft EIS.

In the absence of species-specific data on auditory impacts for marine mammals, a received sound pressure level of 180 dB re 1 μPa (rms) or greater has been used by NMFS as a threshold for concern about temporary and/or permanent hearing impairment (Level A Harassment). This criterion, which will be included in the Draft EIS analysis, was developed as a result of public workshops held in 1998 (HESS, 1999) and 1999 (NMFS, 1999). However, this criterion does not consider the frequency component, nature of the sound source, the hearing sensitivities of different cetacean species and other relevant factors. NMFS expects that the Draft EIS will employ the latest scientific information to estimate Level A Harassment impacts on marine mammals in the GOM.

A spreading loss equation of 20 log R is recommended by Richardson *et al.* (1995) for calculating underwater transmission loss in deep water. NMFS believes a spreading loss equation of 15 log R or less may be more appropriate for shallow water areas of the GOM where the horizontal propagation range reaches approximately 1.0 times the water depth. Using a spreading equation of 15 log(R), the 180–dB re 1 μPa (rms) isopleth in surface and near-surface waters occurs at approximately 295 m (968 ft) from a standard airgun array (4550 in^3, 240 dB re 1 μPa 0–pk; 230 dB re 1 μPa rms). Similarly, the 180 dB re 1 μPa (rms) isopleth vertically below the seismic source is calculated to be 6.3 km (3.4 nm). By means of a Gulf-wide Notice to Lessees (NTL) for all seismic activities (30 CFR 250.103), MMS has implemented a horizontal 500–m (1640–ft) radius impact (seismic shut-down) zone to minimize possible effects to sperm whales. The NTL was updated in 2004 (NTL No. 2004–G01) to include all whales (but not dolphins) under this 500–m (1640–ft) impact (seismic shut-down) zone. This NTL can be viewed at the following location: *http://www.gomr.mms.gov/homepg/regulate/regs/ntls/ntl04–g01.html*

For larger 2–D and 3–D towed arrays with estimated source levels of 257 dB re 1 μPa rms, a 500–m (1640–ft) impact zone equates to an estimated received level of approximately 232 dB. According to NMFS (2002a), at source levels of 257 dB (rms), the 20 log(R) model and associated calculation above produce received levels of 203 dB re 1

μPa at 500 m (1640 ft) from the source in subsurface waters (a conservative estimate) and 183 dB in surface waters due to the array effect. Presently, the impact zone of 500 m (1640 ft) closely approximates the received dB levels in surface waters, but may not accurately reflect the 180–dB isopleth and associated impact zone beneath an array. Recently, Tolstoy *et al.* (2004) measured the propagation for a 3705 in3 airgun array (twelve 2000–psi Bolt airguns of 80–850 in^3 with 0–pk = 31 bar-m (250 dB re 1 μPa.m)). The 180 dB isopleth in shallow surface waters was at approximately 2000 m (6562 ft).

In the absence of scientific, species-specific information for marine mammals in the GOM, a received sound pressure level of 160 dB re 1 μPa (rms) has been used by NMFS as the threshold indicator of potential concern about disturbance of marine mammals in the wild through disruption of behavioral patterns, including but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B Harassment). Using spherical spreading (15 log(R)), subtracting 20 dB for the array effect, and 10 dB for zero-to-peak to RMS conversion, the 160 dB re 1 μPa (rms) isopleth in surface and near-surface waters occurs at about 6.3 km (3.4 nm) from the seismic airgun source. Similarly, the 160 dB re 1 μPa (rms) isopleth below the seismic source is calculated to extend to the sea floor. MMS (2004) calculates the 160–dB isopleth level at 3000 m (1.6 nm) based on the 20 log R model for a 4550 in^3 array (230 dB re 1 μPa (rms) source level) and Tolstoy *et al.* (2004) measured the propagation for a 3705 in^3 airgun array to the 160 dB rms isopleth in GOM surface waters at 9 km (4.8 nm) in shallow water and 2.5 km (1.3 nm) in deep water.

These discrepancies between dB calculations and measurements for deep and shallow water and for surface and sub-surface waters indicate a need for better data to effectively formulate models that can be used to calculate impact zones for marine mammals. Therefore, NMFS plans to include in its Draft EIS empirical information on airgun array sizes used in the GOM and actual propagation measurements made in the GOM. NMFS believes this information is vital in order to estimate impacts on marine mammals and sea turtles and for appropriate impact assessment modeling.

Scoping

The environmental review of the MMS MMPA application will be conducted in accordance with the requirements of NEPA, NEPA regulations (40 CFR 1500–1508) and other appropriate Federal laws and regulations, and the NMFS policies and procedures for compliance with those regulations (NOAA Administrative Order 216–6 -Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999).

A preliminary list of the primary issues that NMFS will discuss in the EIS is provided here. Additional issues may be identified at the public scoping meetings and in written comments.

- marine mammals-effects of seismic noise on all species;
- other biological resources- effects of seismic noise on sea turtles, fish, coastal and marine birds, benthic communities, plankton;
- commercial and recreational fisheries;
- cumulative effects on marine mammals from military activities and commercial shipping in the GOM.

EIS Alternatives

NMFS will explore and evaluate a full range of reasonable alternatives in the EIS, including the proposed action and the no-action alternative. The proposed action will be to authorize, through rulemaking and subsequent Letters of Authorization, the incidental taking of marine mammals by oil and gas seismic vessels conducting seismic surveys in state and Federal waters of the GOM. The proposed action will also include mitigation measures such as biological observers on all seismic vessels in all operating areas, gradual ramp-up of the airgun arrays, monitoring established safety zones, and power-down/shut-down procedures to protect marine mammals that are in or approaching the established safety zone.

Alternatives in the EIS will address a suite of other mitigation and monitoring measures, including: (1) requiring biological observers only on seismic vessels operating in waters deeper than 200 m (656 ft); (2) requiring a vessel-based passive acoustic monitoring (PAM) system with trained biological technicians or biologists; (3) use of PAM only in water depths greater than 200 m (656 ft), principally on the continental slope offshore of the Mississippi River mouth and extending east to the DeSoto Canyon area in the Eastern Planning Area; (4) use of vessel-based passive and active acoustic monitoring; (5) use of PAM and active acoustic monitoring only in water depths greater than 200 m (656 ft) principally in continental slope offshore of the Mississippi River mouth and extending east to the DeSoto Canyon area in the Eastern Planning Area; (6) time/area closures to protect marine mammals; and (7) use of aircraft or support vessels for marine mammal monitoring.

Identified EIS Mitigation Measures

In response to NMFS questions regarding the availability and feasibility (economic and technological) of equipment, methods and manner of conducting oil and gas seismic surveys to effect the least practicable adverse impact on potentially affected marine mammals, MMS responded that current mitigation measures for the oil and gas seismic industry in the GOM include: ramp-up, visual monitoring, establishment of an impact zone (currently 500 m (1,640–ft) around the sound source), and mandatory ''shut-down'' to avoid injury to marine mammals in or about to enter the impact zone. Ramp-up, or soft start, requires seismic operators to start firing the acoustic array with one gun and gradually over time add more guns until the array is fully operational. Theoretically, this allows whales in the area that can hear the low-frequency sounds from the array to move away from the sound source before discomfort or injury might result. Visual observers monitor the area around the sound source for 30 minutes prior to ramp-up and throughout seismic operations. Any time a marine mammal enters or surfaces within 500 m (1,640 ft) of the sound source, seismic operations immediately cease in order to minimize the exposure of the whales or dolphins to potentially damaging sound levels. In addition to these mitigation measures, the Draft EIS will discuss the use of PAM and active acoustic monitoring, certain time/area closures to protect marine mammals, and the use of aircraft or support vessels for marine mammal monitoring.

Identified EIS Monitoring Measures

Currently, monitoring and reporting requirements for the offshore seismic industry are set forth by MMS in MMS NTL No. 2004–G01. This will be one of the alternatives in the Draft EIS. MMS intends to continue this monitoring program until a revised monitoring program is developed during the NEPA, MMPA and Endangered Species Act reviews.

Visual observers must monitor waters (with the assistance of binoculars) for marine mammals within and adjacent to the exclusion zone for 30 minutes prior to initiating the airgun ramp-up procedures. Observers must monitor the exclusion zone and adjacent waters during seismic operations, unless atmospheric conditions reduce visibility to zero or during hours of darkness (i.e.,

night). When marine mammals are observed entering or within the exclusion zone, observers must call for the shut down of the airgun array; seismic operators must shut down the seismic array when instructed by an observer. Ramp-up and seismic activities may be reinitiated only when the observer has: (a) determined that the marine mammal(s) has departed the exclusion zone, and (b) visually monitored the exclusion zone for at least 20 minutes since the mammal sighting within the exclusion zone.

Comments

NMFS requests public comments on the range of alternatives and the scope of issues that should be considered in the EIS. NMFS recommends participants review the MMS PEA prior to submitting comments.

At the public scoping meeting a brief presentation may precede a request for public information and comments. Those who intend to submit verbal comments will be asked to submit a speaker card (available at the meeting). Depending on how many cards NMFS receives, speakers may be required to limit their verbal comments to a specified period of time so that all persons wishing to comment may have an equal opportunity to do so. NMFS encourages members of the public who provide verbal comments to also submit them in writing, along with any associated graphics, so as to ensure accuracy. All comments, written or verbal, will become part of the public record on this matter.

The public scoping meetings will be accessible to persons with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ken Hollingshead (see **FOR FURTHER INFORMATION CONTACT**). Photo identification will be required to attend these meetings.

Information and questions regarding the proposed action and/or scoping may be obtained by writing to the person listed herein (see **ADDRESSES**), or by telephoning the person listed (see **FOR FURTHER INFORMATION CONTACT**).

Additional opportunities for public review and comment will be provided when the draft EIS is completed. A notice of availability will be published in the **Federal Register**. After release of the draft EIS, NMFS intends to hold public meetings in various cities in Florida, Texas, and Louisiana.

Dated: November 12, 2004.

Laurie K. Allen,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–25643 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111204D]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat/Marine Protected Areas/ Ecosystem Oversight Committee in December, 2004. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Thursday, December 2, 2004 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Harborside Portsmouth Hotel, 250 Market Street, Portsmouth, NH 03801; telephone: (603) 431–2300.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will continue to work on elements of the Essential Fish Habitat (EFH) Omnibus Amendment 2 including, but not limited to; progress on dedicated habitat research areas, EFH species reports, EFH designation working group, strategy for prioritizing protection of EFH, and non-fishing impacts workshop. The Committee will discuss the ecosystems pilot project work plan and the potential application of the proposed habitat closed areas in Lydonia and Oceanographer canyons to other fisheries. They will also develop comments contributing to a Council response to the Cape Wind Draft Environmental Impact Statement. Other topics may be discussed at the Committee's discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: November 15, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E4–3245 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111204B]

North Pacific Fishery Management Council; Notice of Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meetings of the North Pacific Fishery Management Council Gulf Rationalization Community Committee.

SUMMARY: The North Pacific Fishery Management Council (Council) Gulf Rationalization Community Committee will meet at the Captain Cook Hotel.

DATES: The Gulf Rationalization Community Committee will be held December 3, 2004, 8 a.m. – 5 p.m.

ADDRESSES: Captain Cook Hotel, Voyager Room, 4 and K Street, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Nicole Kimball, Council staff, Phone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Council tasked the committee with considering several specific design and implementation issues related to each program, including: the community eligibility criteria, determining who represents the community, determining

how the quota may be used, criteria by which the entity decides which individuals fish the shares, restrictions on sale of quota share under purchase program, use caps and harvest share designations, determining the distribution method among eligible communities, how the Community Fisheries Quota (CFQ) Program and Community Purchase Program (CPP) would work in combination, and how the CFQ program and CPP program would work under Alternative 3.

Although non-emergency issues not contained in this notice may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: November 12, 2004.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–25644 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110904A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notification of a proposal for permits to conduct experimental fishing; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator) has made a preliminary determination that the subject Exempted Fishing Permit (EFP) application contains all the required information and warrants further consideration. The Assistant 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 Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow one commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for exemptions from the FMP as follows: The Gulf of Maine (GOM) Rolling Closure Areas, the minimum mesh size for trawl gear, the Days-at-Sea (DAS) notification requirements, and the effort-control program (DAS). 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 must be received on or before December 3, 2004.

ADDRESSES: 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 the GOM Rope Separator Trawl Study.'' Comments may also be sent via fax to (978) 281–9135, or submitted via e-mail to the following address: *da689@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Karen Tasker, Fishery Management Specialist, phone 978–281–9273.

SUPPLEMENTARY INFORMATION: An application for an EFP was submitted on September 22, 2004, by Dr. Pingguo He of the University of New Hampshire (UNH) for a Cooperative Research Partnership Initiative contract project. The primary goal of the research is to design and test a rope separator trawl that targets haddock and pollock while releasing cod and flounder in inshore western GOM waters. The intent of the researchers is that the experimental net, if successful, could be suitable for fishing using B DAS in the future.

The project, which is anticipated to be 18 months in duration, would include flume tank trials and 12 days of at-sea trials during the first year of the project. At-sea trials would consist of three to four 1-hour tows per sea day. Additionally, researchers would use remote underwater video observation and acoustic gear geometry monitoring to assess the success of the net during at-sea trials. The design of the net would consist of a rope separator in place of the more common netting separator in order to simplify design and rigging; a large bottom escape area for cod, flatfishes, and benthos; and a raised fishing line running through long drop chains to further allow benthic species to escape. Researchers have requested a small mesh exemption to allow for the use of a second codend or a small-mesh cover to collect fish released from the trawl to assess the effectiveness of the separator trawl.

All specimens caught would be sampled and measured. All undersized fish would be returned to the sea as quickly as practical after measurement and examination. The overall fishing mortality is estimated to be 30 percent of the average commercial fishing mortality that would result from the proposed number of DAS. The researcher anticipates that a total of 6,249 lb (2,834.5 kg) of fish, including 1,550 lb (703.1 kg) of cod, will be harvested throughout the course of the study. Other species that are anticipated to be caught are haddock, dab, yellowtail flounder, winter flounder, grey sole, white hake, and pollock. All legal-sized fish, within the possession limit, will be sold, with the proceeds returned to the project for the purposes of future enhancing research.

The first year of the study would take place from May 1, 2005, to April 30, 2006. All at-sea research will be conducted from one fishing vessel. The trials would occur between 43°20′ and 42°30′ N. lat. and west of 70°15′ W. long., excluding the Western GOM Closure Area. Researchers have asked for an exemption to the regulations establishing the Western GOM Rolling Closure Areas because they believe that an optimum mixture of haddock and cod for testing the experimental gear will be present in the waters of the Western GOM during May and June. Because the aim of the project is to separate haddock and cod before the fish are brought onboard, an exemption from the Western GOM Rolling Closures is important to the success of the study. An exemption from DAS is requested since a commercial DAS level of effort will not likely be realized due to the additional time necessary to weigh, measure, and sort the catch, and to adjust underwater video and acoustic monitoring systems.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 12, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E4–3204 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110904G]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Application for scientific research permit 1511.

SUMMARY: Notice is hereby given that NMFS has received a scientific research permit application relating to Pacific salmon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts.

DATES: Comments or requests for a public hearing on the application must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight-saving time on December 20, 2004.

ADDRESSES: Written comments on the application should be sent to Protected Resources Division, NMFS, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737. Comments may also be sent via fax to 503–230–5435 or by e-mail to *resapps.nwr@NOAA.gov*.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR (ph.: 503–231–2005, Fax: 503–230–5435, e-mail: *Garth.Griffin@noaa.gov*). Permit application instructions are available at *http://www.nwr.noaa.gov*.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species (evolutionarily significant unit) is covered in this notice:

Coho salmon (*Oncorhynchus kisutch*): threatened Southern Oregon/Northern California Coast (SONCC).

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA.

Application Received

Permit 1511

The Oregon Department of Fish and Wildlife (ODFW) is requesting a 5–year research permit to annually take adult and juvenile SONCC coho salmon in various streams in Southwest Oregon. The purposes of the project are to conduct fish presence and absence surveys and to rescue or salvage fish stranded during instream work projects. The work would benefit listed fish in two ways. Presence and absence surveys conducted before beginning instream work projects provide baseline information useful for determining project effects. Rescue and salvage operations increase fish survival in project areas. The ODFW intends to use electrofishing equipment to capture the fish. Most of the fish would be immediately released, but some may be transported short distances away from instream work areas. The ODFW does not intend to kill any of the fish being captured, but a small percentage may die as an unintended result of the research.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments submitted to determine whether the application meets the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30–day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: November 15, 2004.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–25641 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092104B]

Notice of Availability of Draft Stock Assessment Reports

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS reviewed the Alaska, Atlantic, and Pacific regional marine mammal stock assessment reports (SARs) in accordance with the Marine Mammal Protection Act (MMPA). After a review of SARs and new information on the status of marine mammals, NMFS determined that marine mammal stocks in the Alaska and Atlantic regions did not change status or the status could not be determined more accurately. SARs for marine mammals in these two regions were not revised. SARs for marine mammals in the Pacific region were revised according to new information. NMFS also proposes changes to the guidelines for preparing SARs. NMFS solicits public comments on draft 2004 Pacific reports and on proposed changes to the guidelines for preparing SARs.

DATES: Comments must be received by February 16, 2005.

ADDRESSES: Send comments or requests for copies of reports to: Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments. Comments may also be sent via facsimile (fax) to 301–427–2580 or via email to mmsar.2004@noaa.gov. Copies of the Pacific Regional SARs may be requested from Cathy Campbell, Southwest Regional Office, NMFS, 501 West Ocean Boulevard, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Tom Eagle, Office of Protected Resources, 301–713–2322, ext. 105, e-mail Tom.Eagle@noaa.gov or Cathy Campbell, 562–280–4060, e-mail Cathy.E.Campbell@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

All draft stock assessment reports and the proposed revisions to the guidelines for preparing them are available via the Internet at *http://www.nmfs.noaa.gov/prot_res/PR2/*

Stock__Assessment__Program/sars.html.

Background

Section 117 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every 3 years for non-strategic stocks. NMFS and the FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific Scientific Review Groups (SRGs), reviewed the status of marine mammal stocks as required and revised reports in the Pacific region. NMFS solicits public comments on the draft 2004 Pacific SARs.

The SARs in the Alaska and Atlantic regions were reviewed along with new information on these stocks of marine mammals. Although new abundance or mortality estimates were available for some stocks in these regions, the status of no stocks in these regions would be changed. Furthermore, NMFS could not determine the status of marine mammal stocks in the Alaska or Atlantic regions with substantially improved accuracy. Therefore, the reports in these two regions were not revised.

NMFS convened a workshop in June 1994, including representatives from NMFS, FWS, and the Marine Mammal Commission, to prepare draft guidelines for preparing SARs. The report of this workshop (Barlow et al., 1995) included the guidelines for preparing SARs and a summary of the discussions upon which the guidelines were based. The draft guidelines were made available, along with the initial draft SARs, for public review and comment (59 FR 40527, August 9, 1995).

In 1996, NMFS convened a second workshop to review the guidelines and to recommend changes, if appropriate, to them. Workshop participants included representatives from NMFS, FWS, MMC, and the three regional SRGs. The report of that workshop (Wade and Angliss, 1997) summarized the discussion at the workshop and contained revised guidelines. The revised guidelines represented minor changes from the initial version. The revised guidelines were made available for public review and comment along with revised stock assessment reports on January 21, 1997 (62 FR 3005).

In September 2003, NMFS again convened a workshop to review guidelines for SARs and again has proposed minor changes to the guidelines. Participants at the workshop included representatives of NMFS, FWS, MMC, and the regional SRGs. NMFS solicits public comments on the proposed changes to the guidelines for preparing SARs.

Revisions to Stock Assessment Reports

The Pacific SARs contain new or revised stock assessments for 30 Pacific marine mammal stocks under NMFS' jurisdiction. Reports on the remaining 30 Pacific region stocks were not revised.

NMFS conducted its first comprehensive survey to estimate the abundance of cetaceans in the U.S. Exclusive Economic Zone (EEZ) surrounding the Hawaiian Archipelago in fall 2002. Results of this survey were incorporated into the draft 2004 SARs for Hawaiian cetaceans, including abundance and Potential Biological Removal (PBR) estimates for all Hawaiian stocks except blue and minke whales. Three new reports were added to the Pacific SARs as a result of the 2002 survey, Hawaiian stocks of sei whales, minke whales, and Longman's beaked whales. SARs for Hawaiian stocks of marine mammals were also updated to revised mortality estimates to include results of an increased level of observer coverage in the Hawaiian longline fishery.

The report for the Hawaiian stock of false killer whales has been changed to reflect information indicating fine-scale stock structure of false killer whales. The draft report includes two prospective stocks of false killer whales because whales in the EEZ around Palmyra Island are likely a different stock than around the Hawaiian Islands. The ranges of these two prospective stocks include the EEZ surrounding Palmyra Island and the EEZ surrounding the Hawaiian Islands, respectively. False killer whales in international waters are not included in either of these prospective stocks; however, the Hawaii longline fishery causes serious injury and mortality of false killer whales on the high seas. MMPA section 117 requires SARs to be prepared for all stocks of marine mammals occurring in waters under US jurisdiction, but it has no provisions for assessing the status of marine mammal stocks found on the high seas. Therefore, it is unlikely that abundance and PBR estimates will be available for stocks of false killer whales and other cetaceans that do not occupy waters under US jurisdiction.

The SAR for Hawaiian monk seals was revised to indicate the PBR for this stock is undefined. The change is consistent with a recommended change to the guidelines for preparing SARs, discussed below.

Revisions to Guidelines

Revisions to guidelines for preparing SARs focus primarily on stock structure and estimating PBR. The current guidelines for identifying stocks of marine mammals state, ''For the purposes of management under the MMPA, a stock is recognized as being a management unit that identifies a demographically isolated biological population.'' Proposed revisions to the section of the guidelines entitled ''Definition of Stock'' generally clarify specific points related to demographic isolation as the basis for identifying stocks of marine mammals. Selected proposed changes to the guidelines are summarized below.

The definition of ''population stock'' or ''stock'' in the MMPA includes the phrase ''interbreed when mature''. The proposed changes to the guidelines recognize the phrase ''interbreed when mature'' includes cases in which a group of marine mammals migrates seasonally to a breeding ground where its members interbreed with members of the same group or with members of other demographically isolated groups that have migrated to the same breeding ground from other feeding areas. NMFS identified the Gulf of Maine feeding aggregation of humpback whales in the Western North Atlantic Ocean as a separate stock in 2000; thus, the proposed change emphasizes and clarifies practice NMFS has used in the past.

In the absence of data related to stock structure for a specific group of marine mammals, NMFS may use data on stock structure from other parts of a species' range to make inferences about the likely geographic sizes of stocks. The proposed guidelines clarify the use of indirect observation and information in such cases.

Another proposed change addresses ''prospective stocks'' when data suggest stock structure is more finely scaled than the current stock identity indicates, but the data are insufficient to fully

support a new stock. Under this change, abundance, PBR, and mortality estimates of the prospective stocks would be included in a SAR. The identification of management units of coastal bottlenose dolphins in the Western North Atlantic in the 2002 SARs is an example of a previous use of this concept although the terminology was different (management units versus prospective stocks). The 2004 draft SARs for the Hawaii stock of false killer whales identifies prospective stock structure in accordance with this proposed change.

In unusual situations, the formula Congress added to the MMPA to calculate PBR (Nmin*0.5Rmax*Fr) results in a number that is not consistent with the narrative definition of PBR (the maximum number of animals, not including natural mortality, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its OSP). Such a situation arises when a stock is below its OSP and is declining or stable, yet human-caused mortality is a not a major factor in the population's trend. For example, Hawaiian monk seals are endangered, declining, and below OSP (based upon the abundance prior to the 1970s), yet human-caused mortality is insufficient to account for the decline or a failure to increase. A limited removal would not reduce the population's ability not reach or maintain its OSP after the major factors affecting the stock have been identified and addressed.

One option for PBR in these situations is to estimate PBR as zero. However, a PBR of zero may not reflect the concept of PBR included in the narrative definition. Furthermore, a PBR of zero would be inconsistent with Congress' concerns about the need to establish a procedure that allows for occasional taking of threatened or endangered species incidental to commercial fishing (See House Report 103–439 (March 21, 1994) at 30.) Therefore, in these unusual situations, NMFS may report PBR as ''undefined''. The draft 2004 SAR for Hawaiian monk seals has been changed in accordance with this proposed change to the guidelines.

Dated: November 15, 2004.

P. Michael Payne

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–25645 Filed 11–17–04; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Fees for Reviews of the Rule Enforcement Programs of Contract Markets and Registered Futures Association

AGENCY: Commodity Futures Trading Commission.

ACTION: Establish the FY 2004 schedule of fees.

SUMMARY: The Commission charges fees to designated contract markets and the National Futures Association (NFA) to recover the costs incurred by the Commission in the operation of a program which provides a service to these entities. The fees are charged for the Commission's conduct of its program of oversight of self-regulatory rule enforcement programs (17 CFR part 1 Appendix B) (NFA and the contract markets are referred to as SROs).

The calculation of the fee amounts to be charged for FY 2004 is based on an average of actual program costs incurred in during FY 2001, 2002, and 2003, as explained below. The FY 2004 fee schedule is set forth in the **SUPPLEMENTARY INFORMATION**. Beginning with the FY 2004 fee, electronic payment of fees is required.

EFFECTIVE DATES: The FY 2004 fees for Commission oversight of each SRO rule enforcement program must be paid by each of the named SROs in the amount specified by no later than January 18, 2005.

FOR FURTHER INFORMATION CONTACT: Stacy Dean Yochum, Counsel to the Executive Director, Commodity Futures Trading Commission, (202) 418–5160, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. For information on electronic payment, contact Stella Lewis, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418–5186.

SUPPLEMENTARY INFORMATION:

I. General

This notice relates to fees for the Commission's review of the rule enforcement programs at the registered futures associations and contract markets regulated by the Commission.

II. Schedule of Fees

Fees for the Commission's review of the rule enforcement programs at the registered futures associations and contract markets regulated by the Commission:

Entity	Fee amount
Chicago Board of Trade	$81,264
Chicago Mercantile Exchange	318,729
Kansas City Board of Trade	11,866
New York Mercantile Exchange	136,622
Minneapolis Grain Exchange	6,605
National Futures Association	110,946
New York Board of Trade	51,075
BrokerTec Futures Exchange [1]	12,126
Total	$729,233

[1] BrokerTec Futures Exchange, now known as Exchange Place Futures Exchange, LLC, ceased operations in November 2003. As of January 30, 2004, Exchange Place Futures is wholly owned by U.S. Futures Exchange (USFE).

III. Background Information

A. General

The Commission recalculates the fees charged each year with the intention of recovering the costs of operating this Commission program.[2] All costs are accounted for by the Commission's Management Accounting Structure Codes (MASC) system, which records each employee's time for each pay period. The fees are set each year based on direct program costs, plus an overhead factor.

B. Overhead Rate

The fees charged by the Commission to the SROs are designed to recover program costs, including direct labor costs and overhead. The overhead rate is calculated by dividing total Commission-wide overhead direct program labor costs into the total amount of the Commission-wide overhead pool. For this purpose, direct program labor costs are the salary costs of personnel working in all Commission programs. Overhead costs consist generally of the following Commission-wide costs: Indirect personnel costs (leave and benefits), rent, communications, contract services, utilities, equipment, and supplies. This formula has resulted in the following overhead rates for the most recent three years (rounded to the nearest whole percent): 117 percent for fiscal year 2001, 129 percent for fiscal year 2002, and 113 percent for fiscal year 2003. These overhead rates are applied to the direct labor costs to calculate the costs of oversight of SRO rule enforcement programs.

C. Conduct of SRO Rule Enforcement Reviews

Under the formula adopted in 1993 (58 FR 42643, Aug. 11, 1993), which

[2] See Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701. For a broader discussion of the history of Commission Fees, see 52 FR 46070 (Dec. 4, 1987).

appears at 17 CFR Part 1 Appendix B, the Commission calculates the fee to recover the costs of its review of rule enforcement programs, based on the three-year average of the actual costs of performing reviews at each SRO. The cost of operation of the Commission's program of SRO oversight varies from SRO to SRO, according to the size and complexity of each SRO's program. The three-year averaging is intended to smooth out year-to-year variations in cost. Timing of reviews may affect costs—a review may span two fiscal years and reviews are not conducted at each SRO each year. Adjustments to actual costs may be made to relieve the burden on an SRO with a disproportionately large share of program costs.

The Commission's formula provides for a reduction in the assessed fee if an SRO has a smaller percentage of United States industry contract volume than its percentage of overall Commission oversight program costs. This adjustment reduces the costs so that as a percentage of total Commission SRO oversight program costs, they are in line with the pro rata percentage for that SRO of United States industry-wide contract volume.

The calculation made is as follows: The fee required to be paid to the Commission by each contract market is equal to the lesser of actual costs based on the three-year historical average of costs for that contract market or one-half of average costs incurred by the Commission for each contract market for the most recent three years, plus a pro rata share (based on average trading volume for the most recent three years) of the aggregate of average annual costs of all contract markets for the most recent three years. The formula for calculating the second factor is: 0.5a + 0.5 vt = current fee. In this formula, ''a'' equals the average annual costs, ''v'' equals the percentage of total volume across exchanges over the last three years, and ''t'' equals the average annual costs for all exchanges. NFA, the only registered futures association regulated by the Commission, has no contracts traded; hence its fee is based simply on costs for the most recent three fiscal years.

This table summarizes the data used in the calculations and the resulting fee for each entity:

	Three-year average actual costs	Three-year percentage of volume	Average year 2003 fee
Chicago Board of Trade	$81,264	34.0371	$81,264
Chicago Mercantile Exchange	318,729	50.8784	318,729
New York Mercantile Exchange	182,492	12.4781	136,622
New York Board of Trade	87,485	2.0163	51,075
Kansas City Board of Trade	21,534	0.3022	11,866
Minneapolis Grain Exchange	12,394	0.1121	6,605
BrokerTec Futures Exchange	23,387	0.1188	12,126
Subtotal	727,285	99.8429	618,287
National Futures Association	110,946	N/A	110,946
Total	838,231	99.8429	729,233

An example of how the fee is calculated for one exchange, the Minneapolis Grain Exchange, is set forth here:

a. Actual three-year average costs equal $12,394.

b. The alternative computation is:

(.5) ($12,394) + (.5) (.001121) ($727,285) = $6,605.

c. The fee is the lesser of a or b; in this case $6,605.

As noted above, the alternative calculation based on contracts traded is not applicable to the NFA because it is not a contract market and has no contracts traded. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 2001 through 2003 was $110,946 (one-third of $332,837). The fee to be paid by the NFA for the current fiscal year is $110,946.

Payment Method

The Debt Collection Improvement Act (DCIA) requires deposits of fees owed to the government by electronic transfer to funds (*See* 31 U.S.C. 3720). For information about electronic payments, please contact Stella Lewis at (202) 418–5186 or *slewis@cftc.gov,* or see the CFTC Web site at *http://www.cftc.gov,* specifically, *http://www.cftc.gov/cftc/cftcelectronicpayments.htm.*

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* requires agencies to consider the impact of rules on small business. The fees implemented in this release affect contract markets (also referred to as exchanges) and registered futures associations. The Commission has previously determined that contract markets and registered futures associations are not ''small entities'' for purposes of the Regulatory Flexibility Act. Accordingly, the Chairman, on behalf of the Commission, certifies pursuant to 5 U.S.C. 605(b) that the fees implemented here will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC, on November 12, 2004, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–25615 Filed 11–17–04; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, December 3, 2004.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Jean A. Webb, (202) 418–5100.

Catherine D. Daniels,

Assistant Secretary of the Commission.

[FR Doc. 04–25675 Filed 11–16–04; 10:29 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, December 10, 2004.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Jean A. Webb, (202) 418–5100.

Catherine D. Daniels,

Assistant Secretary of the Commission.

[FR Doc. 04–25676 Filed 11–16–04; 10:29 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, December 17, 2004.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Jean A. Webb, (202) 418–5100.

Catherine D. Daniels,

Assistant Secretary of the Commission.

[FR Doc. 04–25677 Filed 11–16–04; 10:29 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Tuesday, November 30, 2004, 2 p.m.

LOCATION: Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public—Pursuant to 5 U.S.C. 552b(f)(1) and 16 CFR 1013.4(b)(3)(7)(9) and (10) and submitted to the **Federal Register** pursuant to 5 U.S.C. 552b(e)(3).

MATTER TO BE CONSIDERED: *Compliance Status Report*—The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

FOR FURTHER INFORMATION CONTACT: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–7923.

Dated: November 15, 2004.

Todd A. Stevenson,

Secretary.

[FR Doc. 04–25692 Filed 11–16–04; 11:42 am]

BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning the proposed collection, *AmeriCorps Member Satisfaction Survey.* Copies of the form can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by January 18, 2005.

ADDRESSES: You may submit written input to the Corporation by any of the following methods:

(1) Electronically through the Corporation's e-mail address system to LaMonica Shelton at *lshelton@cns.gov.*

(2) By fax to 202–565–2785, Attention Ms. LaMonica Shelton.

(3) By mail sent to: Corporation for National and Community Service, Office of Research and Policy Development, 8th Floor, Attn: Ms. LaMonica Shelton, 1201 New York Avenue NW., Washington, DC 20525.

(4) By hand delivery or by courier to the Corporation's mailroom at Room 6010 at the mail address given in paragraph (3) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. LaMonica Shelton, (202) 606–5000, ext. 464.

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

I. Background

The Corporation for National and Community Service, through its national service programs and projects: (1) Provides opportunities for all Americans to serve; (2) affords members with meaningful, valuable, and enriching experiences (such as through leadership training, technical assistance, and citizenship training development); and (3) supports a continued ethic of volunteer service. The service opportunities available to members cover a wide range of activities over varying periods of time. The Corporation plans to administer a member satisfaction that will allow members to provide information about their satisfaction with their AmeriCorps program or project, and with their overall AmeriCorps service experience.

II. Current Action

Type of Review: New information collection.

Agency: Corporation for National and Community Service.

Title: AmeriCorps Member Satisfaction Survey.

OMB Number: None.

Agency Number: None.

Affected Public: Individuals who are serving in AmeriCorps sponsored programs and projects.

Total Respondents: 75,000 responses annually.

Frequency: Semi-annual.

Average Time Per Response: 10 minutes.

Estimated Total Burden Hours: 25,000 hours (75,000 members respond two times a year at 10 minutes per response).

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: November 11, 2004.

Robert Grimm,

Director, Office of Research and Policy Development.

[FR Doc. 04–25634 Filed 11–17–04; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary; Notice of Closed Meeting

AGENCY: Defense Intelligence Agency Joint Military Intelligence College.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of the DIA Joint Military Intelligence College Board of Visitors has been scheduled as follows:

DATES: Tuesday, 4 January 2005, 1100 to 1700; and Wednesday, 5 January 2005, 0800 to 1600.

ADDRESSES: Joint Military Intelligence College, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Mr. A. Denis Clift, President, DIA Joint Military Intelligence College, Washington, DC 20340–5100 (202/231–3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b (c) (1), Title 5 of the U.S. Code and therefore will be closed. The Board will discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the Joint Military Intelligence College.

Dated: November 12, 2004.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04–25552 Filed 11–17–04; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Announcement of Intent To Initiate the Process To Remove Aeronautical Information From Public Sale and Distribution

AGENCY: National Geospatial-Intelligence Agency (NGA), Department of Defense.

ACTION: Notice.

SUMMARY: The National Geospatial-Intelligence Agency (NGA) intends to remove its Flight Information Publications (FLIP), Digital Aeronautical Flight Information File (DAFIF), and related aeronautical safety of navigation digital and hardcopy publications from public sale and distribution.

This action is taken to accomplish the following objectives: safeguarding the integrity of Department of Defense (DoD) aeronautical navigation data currently available on the public Internet; preventing unfettered access to air facility data by those intending harm to the United States, its interests or allies; upholding terms of bi-lateral geospatial data-sharing agreements; avoiding competition with commercial interests; and avoiding intellectual property/copyright disputes with foreign agencies that provide host-nation aeronautical data.

The DAFIF and related digital aeronautical information files will be protected from general public access on the NGA home page (*http://www.nga.mil*). Aeronautical Flight Information Publications (FLIP), Navigation/Planning Charts (ONC, TPC, etc.), and the DAFIF CD will be available only through the Department of Defense (DoD) distribution system. U.S. Federal and State government agencies, authorized government contractors, and international agencies that currently receive those products under formal or informal geospatial data exchange arrangements will not be affected by this action.

DATES: NGA will implement this action on October 1, 2005 (FY06).

FOR FURTHER INFORMATION CONTACT: For further information about the substance of this notice, contact Joseph S. Jarvis, Aeronautical Division, MS L–27, National Geospatial-Intelligence Agency, 3838 Vogel Road, Arnold, Missouri, 63010–6238 (e-mail: *JarvisJ@nga.mil*).

SUPPLEMENTARY INFORMATION: NGA and its predecessor organizations (DMA and NIMA) have published DoD's flight information products since the late 1940s to support the worldwide missions of DoD aircraft. The publications are sold to the public through the auspices of the Federal Aviation Administration (FAA), and the digital data has been freely available on the Internet. Notwithstanding a prior practice of making some of DoD's flight information available to the public in the past, NGA does not have a statutory requirement to produce aeronautical products for general civil aviation.

With the proliferation of digital capabilities throughout the international aviation network, the preferred method of information exchange is shifting from paper-based to electronic dissemination. Numerous countries that heretofore relied on host-government agencies to compile and publish their aeronautical information have recently transferred that responsibility to commercial or quasi-governmental agencies. Some of these foreign agencies are beginning to assert intellectual property rights to the aeronautical data within their territorial limits and are refusing to provide such aeronautical data to DoD so long as NGA makes it available to outside interests, whom these agencies view as possible competitors in the international marketplace. NGA relies on foreign data obtained through bilateral geospatial information sharing agreements, and certain nations may impose restrictions on their data against release to third parties. Accordingly, there is a rational basis for limiting access to aeronautical products created for DoD use to DoD and governmental end users.

By removing national defense aeronautical data from open source access NGA seeks to accomplish two additional objectives. First, NGA will reduce the vulnerability of critical navigation data on the Internet. Second, it will limit/eliminate unfettered access to that data by organizations and individuals intent on causing harm.

In conclusion, with the accomplishment of this proposed action NGA aims to protect the sources and integrity of its data, honor its bilateral agreements restricting non-governmental use, avoid competition with commercial interests, and allow NGA to focus on its primary customers and mission, supporting the Department of Defense.

Dated: November 12, 2004.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04–25631 Filed 11–17–04; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on December 20, 2004 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Irvin at (703) 601–4722, extension 110.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on October 28, 2004, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 12, 2004.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

DHA 10

SYSTEM NAME:

DoD Women, Infants, and Children Overseas Participant Information Management System.

SYSTEM LOCATION:

Choctaw Management Services Enterprises, 2161 NW., Military Highway, Suite 308, San Antonio, TX 78213–1844, and at WIC Overseas sites in Europe, Latin America and Pacific. For a complete listing of all facility addresses maintaining these records, write to the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Armed Forces, civilian employees, and DoD contractors living overseas (or in a U.S. Territory or possession), and their family members who are eligible for the DoD Women, Infants, and Children Overseas Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of individual's or sponsor's name, Social Security Number, current address, income information, nutritional/medical history data, and whether the participants have received nutritional education and counseling.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1060a, Special Supplemental Food Program; 42 U.S.C. Chapter 13A, Child Nutrition; and E.O. 9397 (SSN).

PURPOSE(S):

DoD is responsible for providing Women, Infants, and Children (WIC) benefits to eligible members of the Armed Forces, civilian employees, and DoD contractors living overseas, and their family members. Records are being collected and maintained to determine eligibility for the DoD WIC Overseas Program. The program provides eligible participants with supplemental nutritious food, nutrition counseling and education, nutrition-health screening, and referrals to other health agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

Records are maintained on paper in file folders, on a microcomputer system, on diskette, on compact disk.

RETRIEVABILITY:

Records are retrieved by the sponsor's Social Security Number and/or name or the participant's name and/or Social Security Number.

SAFEGUARDS:

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, or administrative procedures. Access to records is limited to those officials who require the records to perform their official duties consistent with the purpose for which the information was collected. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information. Access to computerized data is restricted by passwords, which are changed periodically. Computer terminals are located in supervised areas with access control.

RETENTION AND DISPOSAL:

Paper files are retained in active file until participants relocate or become ineligible to receive WIC Overseas services. The files are held for one additional year, and then destroyed by shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, TRICARE Management Activity, Joint Health Plan Coordination, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041–3206.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: TMA Privacy Officer, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041–3206.

Request should contain participant's and/or sponsor's full name, their Social Security Number, and current address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: TMA Privacy Officer, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041–3206.

Request should contain participant's and/or sponsor's full name, their Social Security Number, and current address and telephone number.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals applying for WIC Overseas Program benefits.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 04–25547 Filed 11–17–04; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Finance and Accounting Service; Privacy Act of 1974; Systems of Records

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice to add a new system of records.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is proposing to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on December 20, 2004, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the FOIA/PA Program Manager, Office of Corporate Communications, Defense Finance and Accounting Service, 6760 E. Irvington Place, Denver, CO 80279–8000.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Krabbenhoft at (303) 676–7514.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 28, 2004, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 12, 2004.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

T5010

SYSTEM NAME:

DFAS Quarterly Pay Newsletter Email System.

SYSTEM LOCATION:

Exact Target, 47 South Meridian, Suite 300, Indianapolis, IN 46204–3558.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual that opts-in to receive the DFAS Quarterly Pay Newsletter via e-mail.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, military service, status, pay grade, and email address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and DoD FMR 7000.14-R, Vol. 7A, Military Pay Policy and Procedures—Active Duty and Reserve Pay.

PURPOSE(S):

To establish a database of customers who have subscribed to the DFAS Quarterly Pay Newsletter via email. The Newsletter informs the DFAS customer of current pay information and updates. The database will be used strictly to distribute this informative Newsletter via e-mail.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' published at the beginning of the DFAS compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media and hard copy documents.

RETRIEVABILITY:

Individual's name and e-mail address.

SAFEGUARDS:

Access to records is limited to individuals who are properly screened and cleared on a need-to-know basis in the performance of their official duties. Physical and electronic access is limited to persons responsible for creating and distributing the Newsletter via email. User ID's and passwords are used to control access to the systems data, and procedures are in place to deter and detect browsing and unauthorized access. The records will be stored on a secure server onsite at the contractors' location. The hosting facility security is fortified with fire suppression, security guard, personnel, camera monitoring, and servers held behind lock and key. Database security is ensured by secure user logins, state-of-the-art firewalls, and consistent database back-ups.

RETENTION AND DISPOSAL:

Records are deleted when the information is superseded or obsolete, or when the individual chooses to opt-out of receiving the Newsletter.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director for Military Pay Operations Product Line, Defense Finance and Accounting Service, Denver, 6760 E. Irvington Place, Denver, CO 80279–3000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Office of Corporate Communications, Freedom of Information Act/Privacy Act Program Manager, 6760 E. Irvington Place, Denver, CO 80279–8000.

Individual should provide their full name, email address, current address, and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Office of Corporate Communications, Freedom of Information Act/Privacy Act Program Manager, 6760 E. Irvington Place, Denver, CO 80279–8000.

Individual should provide their full name, email address, current address, and telephone number.

CONTESTING RECORD PROCEDURES:

The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11–R; 32 CFR part 324; or may be obtained

from the Defense Finance and Accounting Service, Office of Corporate Communications, Freedom of Information Act/Privacy Act Program Manager, 6760 E. Irvington Place, Denver, CO 80279–8000.

RECORD SOURCE CATEGORIES:

Information is obtained from any individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 04–25633 Filed 11–17–04; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to add a record system.

SUMMARY: The Department of the Air Force proposes to add a system of records notice to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The actions will be effective on December 20, 2004 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, Office of the Chief Information Officer, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 696–6280.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 522a(r) of the Privacy Act of 1974, as amended, was submitted on October 25, 2004, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 12, 2004.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

F036 SAFLL A

SYSTEM NAME:

Presidential Letter of Appreciation Request System (PLARS).

SYSTEM LOCATION:

Secretary of the Air Force, Legislative Liaison, Congressional Inquiries, 1160 Air Force Pentagon, Washington, DC 20330–1160.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Air Force military personnel, Air Force Reserve and Air National Guard personnel; and Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

First and last name and middle initial; title (Mr., Mrs., or Ms.); mailing address; service (Regular, Guard, Reserve, or civilian); rank; years of service; last four digits of the retiree's Social Security Number; name of requesting Military Personnel Flight (MPF) or Commander; point-of-contact name and mailing address; date of retirement; date of retirement ceremony.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; DoD Instruction 1348.34, Presidential Recognition on Retirement from Military Service; and Air Force Instruction 36–3203, Service Retirements.

PURPOSE(S):

To process requests for Presidential Letters of Appreciation for appropriate retirees and to submit retiree information in support of the requests, to generate White House memoranda, and to generate reports on the number of submitted, processed, on-hold, rejected, and archived requests during a given period.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the White House to obtain Presidential letters of appreciation for retirees.

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in computers, and on computer output and storage products.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Destroy after two years.

SYSTEM MANAGER(S) AND ADDRESS:

System administrator, Secretary of the Air Force, Legislative Liaison, Congressional Inquiries Office, 1160 Air Force Pentagon, Washington, DC 20330–1160.

NOTIFICATION PROCEDURE:

Individuals inquiring about information on themselves contained in the system should submit written inquiries to the Secretary of the Air Force, Legislative Liaison, Congressional Inquiries Office, 1160 Air Force Pentagon, Washington, DC 20330–1160.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information on themselves contained in the system should submit written inquiries to the Secretary of the Air Force, Legislative Liaison, Congressional Inquiries Office, 1160 Air Force Pentagon, Washington, DC 20330–1160.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332, 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from requesting office, reports and forms.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 04–25548 Filed 11–17–04; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Air Force is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The alteration adds a new category of records to the system, *i.e.*, limited medical/immunization information for personnel readiness.

DATES: This proposed action will be effective without further notice on December 20, 2004 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, Office of the Chief Information Officer, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 696–6280.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 522a(r) of the Privacy Act of 1974, as amended, was submitted on October 25, 2004, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 12, 2004.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

F036 AF A

SYSTEM NAME:

Biographical Data and Automated Personnel Management System (January 11, 2002, 67 FR 1445).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to the end of the first paragraph 'and limited medical/immunization information for personnel readiness.'

* * * * *

F036 AF A

SYSTEM NAME:

Biographical Data and Automated Personnel Management System.

SYSTEM LOCATION:

Headquarters United States Air Force; headquarters of major commands; field operating agencies; direct reporting units; headquarters of combatant commands for which Air Force is Executive Agent, and all Air Force installations and units. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Air Force military personnel, and Air Force Reserve and Air National Guard personnel. Air Force civilian employees and contractors may be included when records are created which are identical to those on military members. Army, Navy, and Marine Corps Active duty military and civilian personnel may be included when assigned to combatant commands for which Air Force is the Executive Agent. Records may be maintained in this system on personnel in a Temporary Duty (TDY) status for the duration of the TDY.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information which may include name, rank, Social Security Number, service dates, date of birth, civilian employment, military and civilian education, military and civilian experience, program specialties, hobbies, and names of family members, religion, professional expertise and appointments, membership in professional societies, civic activities, state of license, and limited medical/immunization information for personnel readiness.

Limited locator type information which may include home address, home phone, home of record and name and address of next of kin.

Records relating to assignment to include unit of assignment, authorized and assigned grade, duty title, duty Air Force Specialty Code and Military Occupation Code, position number, date assigned to organization, estimated date of departure, control tour code, assignment availability date, overseas tour start date, short tour return date, supervisor's name and date supervision began.

Performance data, *i.e.,* date of last report and date next report due.

May also contain limited routine administrative training information consisting of application for training, name and date of course completion, and educational level, when not filed in a separate system.

Limited routine correspondence on promotions, military honors and awards, security and letters of appreciation, when not filed in a separate system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force and E.O. 9397 (SSN).

PURPOSE(S):

This system is established as a management tool to provide commanders and supervisors with ready reference information file for managing their personnel, manpower and resources.

To assist in determining and scheduling workload requirements in support of their organization's assigned mission.

This system serves a ready reference locator and can be used to produce manpower reports.

Used to determine eligibility/suitability for assignment/reassignment; determine eligibility for retirement related action, to make determinations on discharges or mobilization, deferments, and fulfillment of local or statutory requirements.

Records maintained as a historical file while individual is assigned to the unit.

Used to answers correspondence/telephone inquiries; updating and/or changing information in computer and/or individual record.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

Maintained in file folders, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name and/or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Retain in office files until superseded, obsolete, no longer needed for reference, reassignment, separation or retirement of the individual or inactivation of the organization. Records on TDY personnel will be destroyed upon completion of the individual's TDY. Records are destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Commanders/supervisors at the installation, base, unit, organization, office or function to which the individual is assigned. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to or visit the respective unit commander or supervisor who maintains the records. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the respective unit commander or supervisor who maintains the records. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual, personnel or training records and records created by commander/supervisor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 04–25549 Filed 11–17–04; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is proposing to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on December 20, 2004 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, Attn: AHRC–PDD–FPZ, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 428–6504.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 21, 2004, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 10, 2004.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

A0600–8–1c AHRC

SYSTEM NAME:

Army Casualty Information Processing System (ACIPS) (January 6, 2004, 69 FR 790).

CHANGES:

* * * * *

SYSTEM IDENTIFIER:

Add ''DoD'' to the end of the entry.

SYSTEM NAME:

Delete entry and replace with ''Defense Casualty Information Processing System (DCIPS)''.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Department of Defense military personnel (active component and reserve component) and their family members; DoD civilian personnel, retired service members, non-DoD civilians, and other individuals that are reported as casualties.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Individuals name, Social Security Number, date of birth, branch of service, organization, duty, military occupational specialty (MOS), Air Force Specialty Code (AFSC), Navy rate, rank, sex, race, religion, home of record, and other pertinent information; personnel records, health/dental records, correspondence with primary next of kin/secondary next of kin, inquiries from other agencies and individuals, DD Form 1300 (Report of Casualty).''

* * * * *

PURPOSE(S):

To provide DoD with a single joint military casualty information processing system; to provide support for the management of casualty and mortuary affairs by the Services Casualty and Mortuary Affairs Offices; to respond to inquiries; to provide statistical data comprising type, number, place and cause of incident to DoD Services' members.

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''From casualty reports and investigations received from commander, medical personnel, medical examiners, and other related official sources.''

* * * * *

A0600–8–1c AHRC DoD

SYSTEM NAME:

Defense Casualty Information Processing System (DCIPS).

SYSTEM LOCATION:

U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0481.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense military personnel (active component and reserve component) and their family members; DoD civilian personnel, retired service members, non-DoD civilians, and other individuals that are reported as casualties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, date of birth, branch of service, organization, duty, military occupational specialty (MOS), Air Force Specialty Code (AFSC), Navy rate, rank, sex, race, religion, home of record, and other pertinent information; personnel records, health/dental records, correspondence with primary next of kin/secondary next of kin, inquiries from other agencies and individuals, DD Form 1300 (Report of Casualty).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; Army Regulation 600–8–1, Army Casualty Operations, Assistance, Insurance; Army Regulation 638–2, Care and Disposition of Remains and Disposition of Personal Effects; Army Regulation 600–8–4, Line of Duty Policy, Procedures, and Investigations; and E.O. 9397 (SSN).

PURPOSE(S):

To provide DoD with a single joint military casualty information processing system; to provide support for the management of casualty and mortuary affairs by the Services Casualty and Mortuary Affairs Offices; to respond to inquiries; to provide statistical data comprising type, number, place and cause of incident to DoD Services' members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on electronic storage media.

RETRIEVABILITY:

By individual's name and/or Social Security Number or any other data element.

SAFEGUARDS:

All information is restricted to a secure area in buildings that employ security guards. Computer printouts and magnetic tapes and files are protected by password known only to properly screened personnel possessing special authorization for access.

RETENTION AND DISPOSAL:

Records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0481.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, U.S. Army Human Resources Command, Attn: AHRC–PEC, 200 Stovall Street, Alexandria, VA 22332–0481.

Individual should provide full name, current address and telephone number, and should identify the person who is the subject of the inquiry by name, rank and Social Security Number or Service Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Commander, U.S. Army Human Resources Command, Attn: AHRC–PEC, 200 Stovall Street, Alexandria, VA 22332–0481.

Individual should provide full name, current address and telephone number, and should identify the person who is the subject of the inquiry by name, rank and Social Security Number or Service Number.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From casualty reports and investigations received from commander, medical personnel, medical examiners, and other related official sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 04–25551 Filed 11–17–04; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Logistics Agency proposes to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on December 20, 2004, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DES–B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 21, 2004, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 12, 2004.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

S322.70 DMDC

SYSTEM NAME:

Defense Biometric Identification Data System (DBIDS).

SYSTEM LOCATION:

Defense Manpower Data Center, 400 Gigling Road, Seaside, CA 93955–6771.

For a list of backup locations, contact the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, Reserve, and Guard personnel from the Armed Forces and their family members; retired Armed Forces personnel and their families; DoD and non-DoD employees and dependents, U.S. residents abroad, foreign nationals and corporate employees and dependents who have access to U.S. installations in the continental U.S. and overseas.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes personal data to include name, grade, Social Security Number, status, date and place of birth, weight, height, eye color, hair color, gender, passport number, country of citizenship, geographic and electronic home and work addresses and telephone numbers, marital status, index fingerprints and photographs, and identification card issue and expiration dates. The system also includes vehicle information such as manufacturer, model year, color and vehicle type, license plate type and number, decal number, current registration, automobile insurance data, and driver's license data. The system also contains data on government-issued and personal weapons such as type; serial number; manufacturer; caliber; firearm registration date; and storage location data to include unit, room, building, and phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 Departmental regulations; 10 U.S.C. 113, Secretary of Defense, Note at Pub. L. 106–65; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 18 U.S.C. 1029, Access device fraud; 18 U.S.C. 1030, Computer fraud; 23 U.S.C. 401 *et seq.* National Highway Safety Act of 1966; 40 U.S.C. Chapter 25, Information technology management; 50 U.S.C. Chapter 23, Internal Security; Pub. L. 106–398, Government Information Security Act; Pub. L. 100–235, Computer Security Act of 1987; Pub. L. 99–474, Computer Fraud and Abuse Act; E.O. 9397 (SSN); E.O. 12958, Classified National Security Information as amended by E.O., 13142 and 13292; and E.O. 10450, Security Requirements for Government Employees.

PURPOSE(S):

The records are maintained to support DoD physical security and information assurance programs and are used for identity verification purposes, to record personal property registered with the Department, and for producing facility management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of DLA's compilations of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and paper copy storage.

RETRIEVABILITY:

Retrieved primarily by name, Social Security Number, vehicle identifiers, or weapon identification data. However, data may also be retrieved by other data elements such as passport number, photograph, fingerprint data, and similar elements in the database.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry is restricted by the use of locks, guards, and administrative procedures. Access to personal information is limited to those who require the records in the performance of their official duties, and to the individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of unique logon and passwords, which are changed periodically.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Manpower Data Center, 1600 Wilson Boulevard, Suite 400, Arlington VA 22209–2593, or Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, DES–B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: DES–B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221.

CONTESTING RECORDS PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DES–B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Data is collected from existing DoD databases, the Military Services, DoD Components, and from the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 04–25550 Filed 11–17–04; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention; Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. Patent application 10/975,126: Backplane Tester and Method of Use. This is a low-cost robust backplane test system that is compact, easy-to-use, and simple to manufacture. It is not encumbered by other features and add-ons, which may act as constraints to the test system and be complex to use, larger and more expensive.

ADDRESSES: Requests for copies of the invention cited should be directed to the Naval Surface Warfare Center, Crane Div, Code 054, Bldg 1, 300 Highway 361, Crane, IN 47522–5001.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Bailey, Naval Surface Warfare Center, Crane Div, Code 054, Bldg 1, 300 Highway 361, Crane, IN 47522–5001, telephone (812) 854–2378. To download an application for license, see: *http://www.crane.navy.mil/newscommunity/techtrans_CranePatents.asp.*

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: November 8, 2004.

J. H. Wagshul,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 04–25546 Filed 11–17–04; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–121]

ANR Pipeline Company; Notice of Negotiated Rate Filing

November 5, 2004.

Take notice that on November 1, 2004, ANR Pipeline Company (ANR) tendered for filing and approval amendments to existing negotiated rate service agreements between ANR and Wisconsin Gas Company and ANR and Madison Gas and Electric Company.

ANR requests that the Commission accept and approve the subject negotiated rate agreement amendments to be effective November 1, 2004.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3207 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–120]

ANR Pipeline Company; Notice of Negotiated Rate Filing

November 5, 2004.

Take notice that on November 1, 2004, ANR Pipeline Company (ANR) tendered for filing amendments to existing negotiated rate service agreements between ANR and Wisconsin Electric Power Company, Wisconsin Gas LLC, and Wisconsin Public Service Corporation.

ANR requests that the Commission accept and approve the subject negotiated rate agreement amendments to be effective November 1, 2004.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3223 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP99–301–122 and GT01–25–008]

ANR Pipeline Company; Notice of Compliance Filing

November 9, 2004.

Take notice that, on November 2, 2004, ANR Pipeline Company (ANR) submitted a compliance filing pursuant to the Commission's Order on Rehearing and Clarification in Docket Nos. RP99–301–079 and GT01–25–005, ANR Pipeline Company, 105 FERC ¶ 61,112 (2003).

ANR states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an

original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3242 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Soliciting Comments, Motions To Intervene, and Protests

November 5, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands.

b. *Project No.:* 739–016.

c. *Date Filed:* October 4, 2004.

d. *Applicant:* Appalachian Power Company.

e. *Name of Project:* Claytor Hydroelectric Project.

f. *Location:* The project is located on the New River in Pulaski County, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Theresa P. Rogers, Hydro Generation Department, American Electric Power, P.O. Box 2021, Roanoke, Virginia 24022–2121, (540) 985–2441.

i. *FERC Contact:* Any questions on this notice should be addressed to Steve Naugle at (202) 502–6061, or by e-mail: *steven.naugle@ferc.gov.*

j. *Deadline for filing comments and/or motions:* December 6, 2004.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, DHAC, PJ–12.1, 888 First Street, NE., Washington, DC 20426. Please include the project number (739–016) on any comments or motions filed. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

k. *Description of Proposal:* Appalachian Power Company, licensee for the Claytor Project, proposes to grant permission to the Virginia Department of Conservation and Recreation, to install and operate seven boat docking structures within the Claytor Project boundary. These structures shall serve up to 24 boats at Claytor Lake State Park.

l. 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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free 1–866–208–3676, or for TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3215 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–305–019]

CenterPoint Energy—Mississippi River Transmission Corporation; Notice of Negotiated Rate

November 5, 2004.

Take notice that on November 1, 2004, CenterPoint Energy—Mississippi River Transmission Corporation (MRT) tendered for filing and approval certain negotiated rate agreements between MRT and Union Electric Company, d/b/a AmerenUE, to be effective December 1, 2004.

MRT states that it also has submitted those agreements as non-conforming agreements along with the following tariff sheets, listing such non-conforming agreements to be included as part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective December 1, 2004:

Tenth Revised Sheet No. 2
Sheet No. 10B
First Revised Sheet No. 256
Sheet No. 257

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3217 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–133]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rate

November 9, 2004.

Take notice that on November 5, 2004, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet No. 886 and Second Revised Sheet No. 887, to be effective November 1, 2004

CEGT states that the purpose of this filing is to reflect the termination of a negotiated rate transaction.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3241 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–19–000]

Columbia Gas Transmission Corporation; Notice Of Application

November 5, 2004.

Take notice that on November 2, 2004, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP05–19–000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for authorization to construct and operate replacement facilities in Orange and Rockland Counties, New York. Specifically, Columbia proposes to abandon and replace 8.8 miles of its existing 8-inch and 16-inch Line A–5 with 8.8 miles of 30-inch pipeline. Columbia states that the existing pipeline is being replaced due to its age and condition. The cost of the replacement project is estimated to be $35,924,810, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–3676, or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Fredric J. George, Senior Attorney, Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325–1273, phone: (304) 357–2359 or fax: (304) 357–3206.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons who wish to comment only on the environmental review of this project, or in support of or in opposition to this project, should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the applicant. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: 5 p.m. eastern time on November 26, 2004.

Magalie Salas,

Secretary.

[FR Doc. E4–3209 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–76–010, CP01–77–010]

Dominion Cove Point LNG, LP; Notice of Tariff Filing

November 9, 2004.

Take notice that on November 4, 2004, Dominion Cove Point LNG, LP (Cove Point) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute Fourth Revised Sheet No. 8. Cove Point requests an effective date for the tariff sheet of the later of December 1, 2004, or the in-service date of the fifth LNG storage tank (Fifth Tank).

Cove Point states that this sheet is being filed to correct the overrun rate for Rate Schedule LTD–1 and the commodity rate for Rate Schedule LTD2 that were inadvertently misstated in Cove Point's October 26, 2004 filing in the above captioned dockets.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3244 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–54–000]

Dominion Transmission, Inc.; Notice of Tariff Filing

November 4, 2004.

Take notice that on October 29, 2004, Dominion Transmission, Inc., (DTI) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1A, First Revised Sheet No. 86 and First Revised Sheet No. 87, to be effective December 1, 2004.

DTI states that the purpose of this filing is to add certain recently acquired gathering lines as part of DTI's FERC Gas Tariff, Second Revised Volume No. 1A.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3221 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–67–000

Eastern Shore Natural Gas Company; Notice Of Proposed Changes in FERC Gas Tariff

November 12, 2004.

Take notice that on November 9, 2004, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with a proposed effective date of November 1, 2004.

Fifty-Sixth Revised Sheet No. 7
Fifty-Sixth Revised Sheet No. 8

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage services purchased from Transcontinental Gas Pipe Line Corporation (Transco) under their Rate Schedules GSS and LSS. ESNG states that the costs of the above referenced storage services comprise the rates and charges payable under ESNG's Rate Schedules GSS and LSS. ESNG further states that this tracking filing is being made pursuant to section 3 of ESNG's Rate Schedules GSS and LSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3240 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–21–000]

El Paso Natural Gas Company; Notice of Application

November 9, 2004.

Take notice that El Paso Natural Gas Company (El Paso), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP05–21–000 on November 4, 2004, an application pursuant to section 7(b) of the Natural Gas Act (NGA), as amended, for authorization to abandon obsolete and unneeded compression facilities and appurtenances (the Schafer B compressor unit) at the Schafer Compressor Station in Carson County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to Robert T. Tomlinson, Director, Regulatory Affairs, at (719) 520–3788 (telephone) or (719) 520–4318 (fax).

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: November 30, 2004.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3228 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–60–000]

Gas Transmission Northwest Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 5, 2004.

Take notice that on November 1, 2004, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, the following tariff sheets, to become effective December 2, 2004:

First Revised Sheet No. 123
First Revised Sheet No. 252

GTN states that these tariff sheets are being submitted to add evergreen language to GTN's Transportation General Terms and Conditions and its FTS–1 Form of Service Agreement.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,
Secretary.

[FR Doc. E4–3222 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Soliciting Comments, Motions To Intervene, and Protests

November 5, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands.

b. *Project No:* 2413–065.

c. *Date Filed:* October 15, 2004.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Wallace Dam Hydroelectric Project.

f. *Location:* The project is located on the Oconee and Altahama Rivers in Putnam, Morgan, Oglethorpe, Greene, and Hancock Counties, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Lee B. Glenn, Lake Resources Manager, Georgia Power, 125 Wallace Dam Road NE., Eatonton, Georgia 31024, (706) 485–8704.

i. *FERC Contact:* Any questions on this notice should be addressed to Steve Naugle at (202) 502–6061, or by e-mail: *steven.naugle@ferc.gov.*

j. *Deadline for filing comments and/or motions:* December 6, 2004.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, DHAC, PJ–12.1, 888 First Street, NE., Washington DC 20426. Please include the project number (2413–065) on any comments or motions filed. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

k. *Description of Proposal:* Georgia Power Company, licensee for the Wallace Dam Project, requests authorization to allow Harmony Land Company, LLC, to use 8 acres of project land for the development of a private golf course. This land is located on the Oconee River section of the lake, and 1.55 of these acres will require clearing and subsurface grading where existing forest exists.

l. 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 *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 call toll-free 1–866–208–3676, or for TTY, call (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'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3214 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS04–150–001]

Granite State Gas Transmission, Inc.; Notice of Compliance Filing

November 9, 2004.

On October 20, 2004, Granite State Gas Transmission, Inc. (Granite State) submitted a compliance filing as directed by the Commission's order issued September 20, 2004. 108 FERC ¶ 61,243 (2004).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on November 15, 2004.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3243 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–64–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes In FERC Gas Tariff

November 12, 2004.

Take notice that on November 8, 2004, Gulf South Pipeline Company, LP tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, with an effective date of December 8, 2004:

Third Revised Sheet No. 1408
Original Sheet No. 1408A
Third Revised Sheet No. 1409
Third Revised Sheet No. 1410
Fourth Revised Sheet No. 1411

Gulf South states that it is proposing to modify its tariff to post maximum rate firm contracts for bid and allow interested parties to increase the contract term.

Gulf South states that copies of its filing have been served upon Gulf South's customers, state commissions and other interested parties.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3237 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–65–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes to Ferc Gas Tariff

November 12, 2004.

Take notice that on November 8, 2004, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its Sixth Revised Volume No. 1 FERC Gas Tariff, the following tariff sheets, to become effective December 8, 2004.

Sixth Revised Volume No. 1
Fourth Revised Sheet No. 102

Gulf South states that it is proposing certain changes to its firm transportation service (FTS) rate schedule.

Gulf South states that copies of this filing have been served upon Gulf South's customers, State commissions and other interested parties

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention

or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3238 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–360–001]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Compliance Filing

November 5, 2004.

Take notice that on November 1, 2004, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) submitted a report on technical conference and compliance filing pursuant to the Commission's July 29, 2004, order in Docket No. RP04–360–000. Maritimes states that following two technical conferences in this proceeding regarding Maritimes' non-rate tariff proposals and further discussions with the parties, Maritimes agreed to make certain revisions to the non-rate tariff proposals in its June 30, 2004, filing in this proceeding. Maritimes further states that the tariff sheets included with this filing reflect such revisions. Maritimes has proposed an effective date of December 1, 2004, for these revised tariff sheets.

Maritimes states that copies of the filing were served on parties on the official service list in the above-captioned proceeding, as well as all customers and interested state commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3219 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

November 5, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of recreation plan.

b. *Project No.:* 10482–065.

c. *Date Filed:* October 25, 2004.

d. *Applicant:* Mirant Bowline, LLC (Mirant).

e. *Name of Project:* Swinging Bridge Project.

f. *Location:* The project is located on the Mongaup River in Sullivan and Orange Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a) 825(r) and §§ 799 and 801.

h. *Applicant Contact:* Elliot Neri, Bowline Plant Manager, (845) 786–8000.

i. *FERC Contact:* Any questions on this notice should be addressed to Mrs. Heather Campbell at (202) 502–6182, or e-mail address: *heather.campbell@ferc.gov.*

j. *Deadline for Filing Comments and or Motions:* December 6, 2004.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–10482–065) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Request:* Mirant is requesting an amendment to its approved recreation plan to eliminate the boat launch at the southern end of Toronto Reservoir (Toronto Dam boat launch) and enhance the facilities at the northern end of the reservoir (Moscoe Road boat launch).

l. *Location of the Application:* This filing is available for review at the Commission in the Public Reference Room 888 First Street, NE., Room 2A, Washington, DC 20426 or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all

protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. 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 applications. Copies of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3210 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

November 5, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to decrease the authorized installed capacity.

b. *Project No.:* 2305–019.

c. *Date Filed:* August 22, 2003.

d. *Applicant:* Sabine River Authority of Texas and Sabine River Authority, State of Louisiana.

e. *Name of Project:* Toledo Bend Project.

f. *Location:* The project is located on the Sabine River in Newton County in Texas, and in Sabine Parish in Louisiana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Jim Washburn, Sabine River Authority of Texas and Sabine River Authority, State of Louisiana, Route 1, Box 270, Burkeville, Texas 75932, (409) 565–2273.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Jake Tung at (202) 502–8757, or e-mail address: *hong.tung@ferc.gov*.

j. *Deadline for Filing Comments and or Motions:* December 6, 2004.

k. *Description of Request:* Sabine River Authority of Texas and Sabine River Authority, State of Louisiana, licensee, filed an application to amend the license to decrease the authorized capacity of the project. The licensee is proposing to not install the authorized 750 kW mini-hydro power facility in the spillway. The original license was issued in October 1963 and amended in 1986 for the addition of a mini-hydro power facility in the spillway to utilize minimum flow releases. The licensee stated that it has made a good faith effort to initiate construction of the spillway mini-hydro power project, however, it has been unable to market the power at a profitable rate. The licensee will continue to comply with the project's continuous minimum flow requirement of 144 cfs.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3213 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS04–274–001]

Shell Gas Transmission, LLC; Notice of Compliance Filing

November 9, 2004.

On October 20, 2004, Shell Gas Transmission, LLC (Shell Gas) submitted a compliance on behalf of Garden Banks Gas Pipeline, LLC, Nautilus Pipeline Company, L.L.C., and Stingray Pipeline Company, L.L.C., as directed by the Commission's order

issued September 20, 2004. 108 FERC ¶ 61, 243 (2004).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on November 15, 2004.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3225 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–476–006]

Southern Natural Gas Company; Notice Of Compliance Filing

November 5, 2004.

Take notice that on November 1, 2004, Southern Natural Gas Company (SNG) tendered for filing its first-year report of segmentation activity in accordance with the Commission's July 30, 2003 order issued in this proceeding. SNG further states that it also tendered certain tariff sheets to its FERC Gas Tariff to allow shippers to segment supplies from production area pools and from CSS and ISS storage accounts through zone 1 north system or zone 1 south system pools. SNG states that the tariff sheets listed below, are proposed to become effective January 1, 2005.

Seventh Revised Volume No. 1
Twelfth Revised Sheet No. 126
Second Revised Sheet No. 126.02

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3218 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–523–002]

Southern Natural Gas Company; Notice of Compliance Filing

November 5, 2004.

Take notice that on November 1, 2004, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 the following tariff sheets, to become effective October 1, 2004:

Fourth Revised Sheet No. 161
Third Revised Sheet No. 212J
Original Sheet No. 212J.01

Southern states that these tariff sheets are filed in compliance with the Commission's September 30, 2004 Order in Docket No. RP04–523.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3220 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–63–000]

Trailblazer Pipeline Company; Notice of Refund Report

November 12, 2004.

Take notice that on November 8, 2004, Trailblazer Pipeline Company (Trailblazer) tendered for filing its Refund Report regarding the penalty revenues for the period July 1, 2004, through September 30, 2004, that it refunded to its customers pursuant to section 40.10 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1.

Trailblazer states that copies of the filing are being mailed to its customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3236 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–61–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 9, 2004.

Take notice that on November 4, 2004, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective November 1, 2004:

Thirty-Eighth Revised Sheet No. 27
Fifty-Second Revised Sheet No. 28A

Transco states that the proposed rate changes would decrease the annual revenues by approximately $120,000.

Transco states that copies of the filing are being mailed to each of its GSS and LSS customers and interested State commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3234 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–66–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 12, 2004.

Take notice that on November 8, 2004, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets enumerated on Appendix A to its filing, to become effective December 1, 2004.

Transco states that the purpose of the instant filing is to (1) modify certain provisions of its tariff to require that Transco post to its Internet Web site exercises of discretion under those particular tariff provisions, thereby eliminating the requirement to make a duplicate posting to its waiver log; (2) propose changes to the Maximum Daily Delivery Point Entitlement provisions of Section 19.1(d) and 19.2(d) of the General Terms and Conditions of its tariff; and (3) propose other changes to its tariff designed to provide greater service flexibility for Transco and its shippers.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of

intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda L. Mitry,

Acting Secretary.

[FR Doc. E4–3239 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–62–000]

Williston Basin Interstate Pipeline Company; Notice of Proposed Change in FERC Gas Tariff

November 12, 2004.

Take notice that on November 5, 2004, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, to become effective December 5, 2004:

Second Revised Volume No. 1
Third Revised Sheet No. 227B

Williston Basin states that it is proposing this tariff change in order to allow a shipper making a nomination request subject to subsection 9.10 of its FERC Gas Tariff to make only one nomination in order for gas to continue to flow after the effective time of the next standard nomination cycle. Williston Basin further states it is also revising this subsection to remove the discretionary language and the associated posting requirement.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3235 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Soliciting Comments, Motions To Intervene, and Protests

November 5, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Change in Land Rights.

b. *Project No:* 2113–165.

c. *Date Filed:* October 12, 2004.

d. *Applicant:* Wisconsin Valley Improvement Company (WVIC).

e. *Name of Project:* Wisconsin Valley (Reservoirs) Hydroelectric Project.

f. *Location:* The project is located on the Wisconsin River and Headwater Tributaries in Gogebic County, Michigan and Vilas, Forest, Oneida, Lincoln, and Marathon Counties, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert W. Gall, President, Wisconsin Valley Improvement Company, 2301 North Third Street, Wausau, Wisconsin 54403, (715) 848–2976, ext. 308.

i. *FERC Contact:* Any questions on this notice should be addressed to Steve Naugle at (202) 502–6061, or by e-mail: *steven.naugle@ferc.gov.*

j. *Deadline for filing comments and/or motions:* December 6, 2004.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, DHAC, PJ–12.1, 888 First Street, NE., Washington DC 20426. Please include the project number (2113–165) on any comments or motions filed. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

k. *Description of Proposal:* WVIC, licensee for the Wisconsin Valley (Reservoirs) Project proposes to transfer fee ownership of 6,114.6 acres of flooded Project land (reservoir bottom) to the Wisconsin Department of Natural Resources (WDNR) at the Willow Reservoir. The licensee shall retain: (1) Areas owned in fee that contain dikes and other operational structures; (2) flowage rights necessary for reservoir operation; and (3) responsibility for Cultural Resource management of

project lands. The FERC Project boundary will remain unchanged.

l. 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 *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 call toll-free 1–866–208–3676, or for TTY, call (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'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3212 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–21–000]

Tenaska Frontier Partners, Ltd., Complainant v. Entergy Gulf States, Inc. and Entergy Services, Inc., Respondents; Notice of Complaint

November 10, 2004.

Take notice that on November 8, 2004, Tenaska Frontier Partners, Ltd. (Frontier) filed a Complaint, pursuant to Section 206 of the Federal Power Act, against Entergy Gulf States, Inc. and Entergy Services, Inc. (collectively, Entergy). The Complaint asserts that Entergy is violating the Commission's Interconnection Policy, engaging in prohibited ''and'' pricing, and charging unjust and unreasonable rates because Entergy has misclassified certain interconnection-related facilities in the Frontier-Entergy Interconnection Agreement and is refusing to provide transmission credits for facilities that should properly be classified as Network Upgrades under the Commission's Interconnection Policy.

Frontier states that copies of the Complaint have been served on Entergy.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on November 26, 2004.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3229 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–719–003, et al.]

MidAmerican Energy Company, et al.; Electric Rate and Corporate Filings

November 9, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. MidAmerican Energy Company

[Docket No. ER96–719–003]

On October 29, 2004, MidAmerican Energy Company (MidAmerican) submitted a compliance filing pursuant to the Commission's Order issued July 12, 2005, in Docket Nos. ER96–719–000 and EL04–106–000, 108 FERC ¶ 61,043 (2004).

Comment Date: 5 p.m. eastern time on November 19, 2004.

2. Amerada Hess Corporation Hess Energy, Inc.

[Docket Nos. ER97–2153–014 and ER00–2181–002]

Take notice that on November 1, 2004, Amerada Hess Corporation and Hess Energy, Inc. submitted for filing a Joint Triennial Updated Market Analysis.

Comment Date: 5 p.m. eastern time on November 22, 2004.

3. NorthWestern Energy

[Docket No. ER04–1106–001]

Take notice that on November 3, 2004, NorthWestern Energy (NEW) submitted, in response to the Commission's October 4, 2004, deficiency letter, additional information regarding its August 9, 2004, filing in Docket No. ER04–1106–000 of proposed modifications to its Open Access Transmission Tariff which included changes to Schedule 4—Energy Imbalance Service; a new Schedule 9—Generator Imbalance Service; and a new Attachment J containing the *pro forma*

Large Generator Interconnection Procedures and Large Generator Interconnection Agreement.

Comment Date: 5 p.m. eastern time on November 24, 2004.

4. Pacific Gas and Electric Company

[Docket No. ER05–130–000]

Take notice that on November 1, 2004, Pacific Gas and Electric Company (PG&E) tendered for filing an unexecuted Interconnection Agreement between PG&E and Trinity Public Utilities District. PG&E requests an effective date of January 1, 2005.

Comment Date: 5 p.m. eastern time on November 22, 2004.

5. Pacific Gas and Electric Company

[Docket No. ER05–132–000]

Take notice that on November 1, 2004, Pacific Gas and Electric Company (PG&E) tendered for filing Generator Interconnection Agreements (GIA) between PG&E and each of the Western Area Power Administration's generating plants (New Melones Power Plant, O(Neill (San Luis Forebay) Pumping-Generating Plant, and Share of San Luis (William R. Gianelli) Pumping-Generating Plant).

PG&E states that copies of this filing have been served upon the Western Area Power Administration, the California Independent System Operator Corporation and the California Public Utilities Commission.

Comment Date: 5 p.m. eastern time on November 22, 2004.

6. Metcalf Energy Center, LLC

[Docket No. ES05–10–000]

Take notice that on October 26, 2004, Metcalf Energy Center, LLC (Metcalf) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue debt securities in an amount not to exceed $100 million.

Metcalf requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: 5 p.m. eastern time on November 30, 2004.

7. Trans-Elect NTD Path 15, LLC

[Docket No. ES05–11–000]

Take notice that on October 29, 2004, Trans-Elect NTD Path 15, LLC (NTD Path 15) requested authority to issue up to $40 million in additional equity to NTD Holdings Path 15.

NTD Path 15 also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: 5 p.m. eastern time on November 30, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3205 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC05–16–000, et al.]

National Energy & Gas Transmission, Inc., et al.; Electric Rate and Corporate Filings

November 10, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. National Energy & Gas Transmission, Inc.; The Goldman Sachs Group, Inc.

[Docket No. EC05–16–000]

Take notice that on November 4, 2004 National Energy & Gas Transmission, Inc. (NGET) and The Goldman Sachs Group, Inc. (GS Group), filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization for disposition of jurisdictional assets related to NEGT's transfer of more than 5 percent of new NEGT common stock to a subsidiary of GS Group in order to implement a proposed plan of reorganization filed with the United States Bankruptcy Court for the District of Maryland (Greenbelt Division) as more fully described in the Application.

Comment Date: 5 p.m. eastern time on November 26, 2004.

2. Logan Generating Company, L.P.; Madison Windpower, LLC; Plains End, LLC; National Energy & Gas Transmission, Inc.; GS Power Holdings II, LLC

[Docket No. EC05–17–000]

Take notice that on November 4, 2004, Logan Generating Company, L.P.; Madison Windpower, LLC; Plains End, LLC (together, the NEGT Project Companies); National Energy & Gas Transmission, Inc. (NEGT); and GS Power Holdings II, LLC (GS Power) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization to permit GS Power to acquire NEGT's indirect equity ownership interest in the NEGT Project Companies.

Comment Date: 5 p.m. eastern time on November 26, 2004.

3. Tenaska Frontier Partners, Ltd., Complainant v. Entergy Gulf States, Inc. and Entergy Services, Inc., Respondents

[Docket No. EL05–21–000]

Take notice that on November 8, 2004, Tenaska Frontier Partners, Ltd. (Frontier) filed a Complaint, pursuant to Section 206 of the Federal Power Act, against Entergy Gulf States, Inc. and Entergy Services, Inc. (collectively, Entergy). The Complaint asserts that Entergy is violating the Commission's Interconnection Policy, engaging in prohibited ''and'' pricing, and charging unjust and unreasonable rates because Entergy has misclassified certain interconnection-related facilities in the Frontier-Entergy Interconnection Agreement and is refusing to provide transmission credits for facilities that should properly be classified as

Network Upgrades under the Commission's Interconnection Policy.

Frontier states that copies of the Complaint have been served on Entergy.

Comment Date: 5 p.m. eastern time on November 26, 2004.

4. El Paso Electric Company

[Docket No. ER99–2416–003]

Take notice that, on November 2, 2004, El Paso Electric Company (EPE) submitted a compliance filing pursuant to the Commission's November 17, 2003 Order Amending Market-Based Rate Tariffs and Authorizations in Dockets No. EL01–118–000 *et al., Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations,* 105 FERC ¶ 61,218 (2003), *order on reh'g,* 107 FERC ¶ 61,175 (2004).

El Paso Electric Company states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Comment Date: 5 p.m. eastern time on November 23, 2004.

5. Midwest Independent Transmission System Operator, Inc.

[Docket Nos. ER03–86–007 and ER03–83–006]

Take notice that on November 2, 2004, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), filed a supplement to its compliance filing submitted on October 29, 2004 pursuant to the Commission's Letter Orders issued September 22, 2004 in Docket Nos. ER03–83–004 and ER03–86–003. Midwest ISO requests an effective date of October 30, 2004.

Midwest ISO states that it has electronically served a copy of this filing, 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 commissions within the region. In addition, Midwest ISO 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: 5 p.m. eastern time on November 23, 2004.

6. PJM Interconnection, L.L.C.

[Docket No. ER04–11–001]

Take notice that on November 4, 2004, PJM Interconnection, L.L.C. (PJM) submitted a compliance filing pursuant to the Commission's letter order issued December 1, 2003 in Docket No. ER04–11–000.

PJM states that copies of the filing were served on parties on the official service list in Docket No. ER04–11.

Comment Date: 5 p.m. eastern time on November 26, 2004.

7. PJM Interconnection, L.L.C.

[Docket No. ER04–12–001]

Take notice that on November 4, 2004, PJM Interconnection, L.L.C. (PJM) submitted a compliance filing pursuant to the Commission's letter order issued December 1, 2003 in Docket No. ER04–12–000.

PJM states that copies of the filing were served on parties on the official service list in Docket No. ER04–12.

Comment Date: 5 p.m. eastern time on November 26, 2004.

8. Southern Company Services, Inc.

[Docket No. ER04–459–004]

Take notice that on November 4, 2004, Southern Company Services, Inc. (SCS), acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company, submitted a compliance filing pursuant to the Commission's order issued 10/5/2004 in Docket Nos. ER04–459–002 and 003, 109 FERC ¶ 61,014.

SCS states that copies of the filing were served on parties on the official service list in the Docket No. ER04–459.

Comment Date: 5 p.m. eastern time on November 26, 2004.

9. PJM Interconnection, L.L.C. and Virginia Electric and Power Company

[Docket No. ER04–829–004]

Take notice that on November 4, 2004, PJM Interconnection, L.L.C. (PJM) and Virginia Electric and Power Company submitted a compliance filing pursuant to the Commission's order issued October 5, 2004 in Docket Nos. ER04–829–000 and 001, 109 FERC ¶ 61,012.

Comment Date: 5 p.m. eastern time on November 26, 2004.

10. MeadWestvaco Energy Services LLC

[Docket No. ER04–1137–002]

Take notice that on November 4, 2004, MeadWestvaco Energy Services LLC filed supplemental information to its petition for acceptance of initial rate schedule, waivers and blanket authority originally filed on August 18, 2004 in Docket No. ER04–1137–000 and supplemented on October 8, 2004 in Docket No. ER04–1137–001.

Comment Date: 5 p.m. eastern time on November 26, 2004.

11. Southwest Power Pool, Inc.

[Docket No. ER05–156–001]

Take notice that on November 3, 2004, Southwest Power Pool, Inc. (SPP) submitted a supplement to its November 1, 2004 filing in Docket No. ER05–156–000 of a new Attachment AD to its regional Open Access Transmission Tariff. SPP requests an effective date of November 1, 2004.

SPP states that it has served a copy of its transmittal letter on each of its Members and Customers. SPP states that a complete copy of this filing will be posted on the SPP Web site *http://www.spp.org,* and is also being served on all affected State commissions.

Comment Date: 5 p.m. eastern time on November 24, 2004.

12. Southwestern Public Service Company

[Docket No. ER05–168–000]

Take notice that on November 2, 2004, Southwestern Public Service Company (SPS) tendered for filing proposed (1) changes in the Fuel Cost Adjustment clause (FCA) applicable to the following wholesale full requirements customers: Cap Rock Energy, Central Valley Electric Cooperative, Inc., Farmers' Electric Cooperative, Inc. of New Mexico, Lea County Electric Cooperative, Inc., Lyntegar Electric Cooperative, Inc., and Roosevelt County Electric Cooperative, Inc.; (2) changes in the FCA applicable to SPS's wholesale partial requirements customer, Golden Spread Electric Cooperative, Inc.; (3) changes in the FCA applicable to SPS's interruptible contract customer, Public Service Company of New Mexico; and (4) corresponding revised pages from SPS's power supply contracts with each of such customers, in compliance with the requirements of Order No. 614, including rate schedule designations. SPS requests an effective date of January 1, 2005.

SPS states that it has served a copy of the complete filing on each of the affected customers, the Public Utility Commission of Texas, and the New Mexico Public Regulation Commission. SPS also states that copies of the filing are available for public inspection in the offices of SPS in Amarillo, Texas.

Comment Date: 5 p.m. eastern time on November 23, 2004.

13. PPL Electric Utilities Corporation

[Docket No. ER05–169–000]

Take notice that on November 2, 2004, PPL Electric Utilities Corporation (PPL Electric) submitted revisions to PPL Electric Rate Schedule FERC No. 180, a transmission agreement between

PPL Electric and Allegheny Electric Cooperative, Inc. (Allegheny). PPL Electric states that the revisions eliminate the reduction in the amount of power delivered to Allegheny under the agreement on account of transmission losses. PPL Electric requests an effective date of January 1, 2005.

PPL Electric states that the copies of the filing were served upon Allegheny.

Comment Date: 5 p.m. eastern time on November 23, 2004.

14. Southern California Edison Company

[Docket No. ER05–170–000]

Take notice that on November 2, 2004, Southern California Edison (SCE) submitted for filing the following agreements between SCE and State of California Department of Water Resources (CDWR) under FERC Electric Tariff, Second Revised Volume No. 6: Edmonston Pumping Plant Interconnection Facilities Agreement, Service Agreement No. 31; Pearblossom Pumping Plant Interconnection Facilities Agreement, Service Agreement No. 32; Oso Pumping Plant Interconnection Facilities Agreement, Service Agreement No. 33; William E. Warne Power Plant Interconnection Facilities Agreement, Service Agreement No. 34; and Alamo Power Plant Interconnection Facilities Agreement, Service Agreement No. 35. SCE also submitted the Devil Canyon Service Agreement for Wholesale Distribution Service, Service Agreement No. 126, under FERC Electric Tariff, First Revised Volume No. 5. SCE requests an effective date of January 1, 2005.

SCE states that copies of the filing were served upon the Public Utilities Commission of the State of California and CDWR.

Comment Date: 5 p.m. eastern time on November 23, 2004.

15. Bangor Hydro-Electric Co.

[Docket No. ER05–171–000]

Take notice that on November 2, 2004, Bangor Hydro-Electric Company (Bangor) filed proposed changes to its depreciation accrual rates under the Formula Rate provisions of Bangor's open access transmission tariff. Bangor requested an effective date of December 31, 2004.

Bangor states that copies of this filing were served on all interested parties.

Comment Date: 5 p.m. eastern time on November 23, 2004.

16. Tampa Electric Company

[Docket No. ER05–172–000]

Take notice that on November 2, 2004, Tampa Electric Company (Tampa Electric) tendered for filing a notice of cancellation of the service agreement with Koch Energy Trading, Inc., predecessor in interest to Entergy-Koch Trading, LP (Entergy-Koch) under Tampa Electric's Market-Based Sales Tariff. Tampa Electric proposes that the cancellation be made effective on November 2, 2004.

Tampa Electric states that copies of the filing have been served on Entergy-Koch and the Florida Public Service Commission.

Comment Date: 5 p.m. eastern time on November 23, 2004.

17. Illinois Power Company

[Docket No. ER05–173–000]

Take notice that on November 2, 2004, Illinois Power Company (Illinois Power) tendered for filing a Tariff for Limited Sales of Excess Energy at Market-Based Rates (Tariff). Illinois Power states that the Tariff would permit Illinois Power to sell to non-affiliates at certain times between January 1, 2005, and December 31, 2006, the limited amounts of energy that it purchases in excess of its real-time energy needs. Illinois Power requests an effective date of January 1, 2005.

Comment Date: 5 p.m. eastern time on November 23, 2004.

18. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER05–174–000]

Take notice that on November 3, 2004, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted an Interconnection and Operating Agreement among Rock County Transmission, LLC, Northern States Power Company d/b/a Xcel and the Midwest ISO.

Midwest ISO states that a copy of this filing was served on the parties to the Interconnection Agreement.

Comment Date: 5 p.m. eastern time on November 24, 2004.

19. Kansas City Power & Light Company

[Docket No. ER05–177–000]

Take notice that on November 3, 2004, Kansas City Power & Light Company (KCPL) submitted for filing the following revised service schedules for Load Regulation and Displacement Energy Service: City of Baldwin, Kansas—Rate Schedule FERC No. 85; City of Carrollton, Missouri—Rate Schedule FERC No. 86; Gardner, Kansas—Rate Schedule FERC No. 105; City of Garnett, Kansas—Rate Schedule FPC No. 78; City of Higginsville, Missouri—Rate Schedule FERC No. 108; City of Marshall, Missouri—Rate Schedule FPC No. 83; City of Osawatomie, Kansas—Rate Schedule FPC No. 77; City of Ottawa, Kansas—Rate Schedule FERC No. 90; and City of Salisbury, Missouri—Rate Schedule FERC No. 100.

KCPL states that copies of the filing were served upon KCPL's jurisdictional customers, as well as the Missouri Public Service Commission and the State Corporation Commission of Kansas.

Comment Date: 5 p.m. eastern time on November 24, 2004.

20. Westar Energy, Inc.

[Docket ER05–178–000]

Take notice that on November 3, 2004, Westar Energy, Inc. (Westar) submitted for filing a Notice of Cancellation for Rate Schedule FERC No. 222, an Electric Power Supply Agreement between Westar and the City of Muscotah, Kansas.

Westar states that copies of this filing were served on the City of Muscotah, Kansas and the Kansas Corporation Commission.

Comment Date: 5 p.m. eastern time on November 24, 2004.

21. AEP Texas North Company

[Docket No. ER05–179–000]

Take notice that on November 3, 2004, American Electric Power Service Corporation (AEPSC), as agent for AEP Texas North Company (AEPTNC) who was formerly called West Texas Utilities Company (WTU), submitted for filing an interconnection agreement between WTU and Brazos Electric Power Cooperative, Inc. (Brazos) that provides for an additional point of interconnection at AEPTNC's Spur Substation in Dickens County, Texas. AEPTNC requests an effective date of October 25, 2004.

AEPSC states that it has served copies of the filing on Brazos and the Public Utility Commission of Texas.

Comment Date: 5 p.m. eastern time on November 24, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the

comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3206 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–251–OK]

Grand River Dam Authority; Notice of Availability of Draft Environmental Assessment

November 9, 2004.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application for non-project use of project lands and waters at the Pensacola Project (FERC No. 1494) and has prepared a Draft Environmental Assessment (DEA) for the proposed non-project use. The project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

In the application, the Grand River Dam Authority (licensee) requests Commission authorization to permit John Mullen d/b/a Thunder Bay Marina Facility to reconfigure three previously-approved but not-constructed docks at Thunder Bay Marina. The marina is located on the Duck Creek arm of Grand Lake O' the Cherokees, the project reservoir. The DEA contains the Commission staff's analysis of the probable environmental impacts of the proposal and certain staff-identified alternatives.

The DEA is available for review and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426. The DEA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the dock number (prefaced by P-) and 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.

Comments on the DEA should be filed within 30 days of the date of this notice and should be addressed to Magalie Roman Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please reference ''Pensacola Project, FERC Project No. 1494–251'' on all comments. Comments 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.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3230 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP04–47–000, CP04–38–000, CP04–39–000, and CP04–40–000]

Sabine Pass LNG, L.P. and Cheniere Sabine Pass Pipeline Company; Notice of Availability of the Final Environmental Impact Statement for the Proposed Sabine Pass LNG and Pipeline Project

November 12, 2004.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final Environmental Impact Statement (EIS) on the liquefied natural gas (LNG) import terminal and natural gas pipeline facilities in Cameron Parish, Louisiana proposed by Sabine Pass LNG, L.P. and Cheniere Sabine Pass Pipeline Company (collectively referred to as Cheniere Sabine) in the above-referenced dockets.

The final EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The staff concludes that approval of the proposed project with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The final EIS also evaluates alternatives to the proposal, including system alternatives, alternative sites for the LNG import terminal, and pipeline alternatives.

The final EIS also addresses the potential environmental effects of the construction and operation of the following LNG terminal and natural gas pipeline facilities:

- A new marine terminal basin connected to the Sabine Pass Channel that would include a ship maneuvering area and two protected berths to unload up to 300 LNG ships per year with a ship capacity ranging up to 250,000 cubic meters (m^3) of LNG;
- Three all-metal, double-walled, single containment, top-entry LNG storage tanks, each with a nominal working volume of approximately 160,000 m^3 (1,006,400 barrels) and each with secondary containment dikes to contain 110 percent of the gross tank volume;
- Sixteen high-pressure submerged combustion vaporizers with a capacity of approximately 180 million cubic feet per day, as well as other associated vaporization equipment;
- Instrumentation and safety systems, including hazard detection and fire response systems, ancillary utilities, buildings, and service facilities, including a metering facility;
- Packaged natural gas turbine/generator sets to generate power for the LNG terminal; and
- Approximately 16 miles of 42-inch-diameter natural gas pipeline, two metering stations, and associated pipeline facilities including launcher and receiver facilities.

The purpose of the Sabine Pass LNG and Pipeline Project is to provide the facilities necessary to meet growing demand for natural gas in the United States by providing a reliable supply of natural gas and access to worldwide natural gas reserves.

The final EIS has been placed in the public files of the FERC and is available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the final EIS are available from the Public Reference Room identified above. In addition, copies of the final EIS have been mailed to Federal, State, and local

agencies; public interest groups; individuals and affected landowners who requested a copy of the final EIS; libraries; newspapers; and parties to this proceeding.

In accordance with the Council on Environmental Quality's (CEQ) regulations implementing the NEPA, no agency decision on a proposed action may be made until 30 days after the U.S. Environmental Protection Agency publishes a notice of availability of a final EIS. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal appeal process which allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time the notice of the final EIS is published, allowing both periods to run concurrently. The Commission's decision for this proposed action is subject to a 30-day rehearing period.

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 with any FERC Online service, please e-mail *FercOnlineSupport@ferc.gov* or call (866) 208–3676, for TTY (202) 502–8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3227 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment Application and Soliciting Comments, Motions To Intervene, and Protests

November 5, 2004.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Temporary license amendment to decrease the minimum flow requirement.

b. *FERC Project No.:* 10855–038.

c. *Date Filed:* October 27, 2004.

d. *Applicant:* Upper Peninsula Power Company.

e. *Name of Project:* Dead River.

f. *Location:* The Dead River Project is located on the Dead River in Marquette County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a), 825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Terry P. Jensky, Assistant Vice President Energy Supply-Operations, Wisconsin Public Service Corporation, 600 North Adams Street, P.O. Box 19002, Green Bay, Wisconsin 54307–9002.

i. *FERC Contact:* Any questions regarding this notice should be addressed to Mr. T.J. LoVullo at (202) 502–8900.

j. *Description of Request:* Due to the abnormally dry late summer and fall and the reduced inflow into the Hoist reservoir, Upper Peninsula Power Company (UPPCO) requests to temporarily reduce the minimum flow discharged downstream of the Hoist powerhouse from the required 100 cubic feet per second (cfs) to 60 cfs. Analysis indicates that at the current rate of discharge from the Hoist reservoir, it appears that the reservoir will be lowered to 1318 feet (mean sea level) by about mid-December. At a water elevation of 1318 feet, no additional water can be released from the Hoist reservoir and there is a danger of the penstocks freezing. There is also a danger of the minimum flows being completely shut down.

Therefore, in an effort to conserve water for the winter months and future minimum flows, UPPCO requests the following operation scenario: reduce the minimum flows at the Hoist powerhouses from 100 cfs to 60 cfs, or to the minimum flow rate required for safe operation of the turbine; if the reservoir level drops below 1325 feet, hold a meeting or teleconference with the resource agencies to discuss strategy; if the reservoir level drops below 1320 feet, shut down the turbine and release a minimum flow of approximately 6 cfs to keep the penstock from freezing; if the reservoir level begins to rise while maintaining the 60 cfs minimum flow, and rises to the elevation of 1330 feet, an additional 5 cfs will be released from the Hoist powerhouse via the bypass siphon at McClure; if the reservoir goes above 1332 feet the minimum discharge of 100 cfs will be maintained until the reservoir level goes below 1330 feet or spring runoff occurs.

k. *Deadline for Filing Comments or Motions:* December 6, 2004.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426 or 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, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item ''h'' above.

m. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the project number (P–10855) to which the filing refers. All documents (original and eight copies) should be filed with: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

Anyone may submit responses in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any responses must be received on or before the specified comment date for the particular application.

n. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, that agency will be presumed to have no comments. One copy of an agency's

comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3211 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

November 9, 2004.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license.

b. *Project No.:* 2088–060.

c. *Date Filed:* September 17, 2004, supplemented September 28, 2004.

d. *Applicant:* South Feather Water and Power Agency.

e. *Name and Location of Project:* The South Feather Power Project is located on the South Fork Feather River, Sly Creek, and Slate Creek in Butte, Plumas, Yuba, and Sierra Counties, California.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

g. *Applicant Contact:* Ms. Kathryn Petersen, South Feather Water and Power Agency, 2310 Oro-Quincy Highway, Oroville, CA 95965–0581, (530) 534–1221, ext. 202.

h. *FERC Contact:* Henry Woo at (202) 502–8872.

i. *Deadline for Filing Comments, Protests, or Motions to Intervene:* December 10, 2004.

j. *Description of Request:* South Feather Water and Power Agency, as licensee, has filed a license amendment application to delete the Slate Creek Reservoir Dam from the project license. The licensee states that the construction of the Slate Creek Reservoir Dam was previously deferred, and the dam was subsequently eliminated from the project design, although never removed from the project license. South Feather Water and Power Agency does not intend to build the Slate Creek Reservoir Dam, and therefore requests that the dam and reservoir be deleted from the license. The application includes revised exhibit G drawings indicating revised project boundaries and land ownership.

k. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–2088) in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (g) above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *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. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. *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.

p. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3231 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP04–386–000 and CP04–395–000]

Golden Pass LNG Terminal, L.P. and Vista del Sol LNG Terminal, L.P.; Clarification of Notice of Technical Conference

November 12, 2004.

On October 27, 2004, a Notice of Technical Conference was issued, stating that attendance at the conference would be limited to parties to the proceeding and to ''anyone who has specifically requested to intervene as a party.'' This is intended to include any person that has filed a motion to intervene out-of-time by close of business on Monday, November 15, 2004. As stated in the prior notice, any person planning to attend the November 17 conference *must register* by close of business on Monday, November 15, 2004. Registrations may be submitted either online at *http://www.ferc.gov/whats-new/registration/cryo-conf-form.asp* or by faxing a copy of the form (found at the referenced online link) to 202–208–0353. All attendees must sign a non-disclosure statement prior to entering the conference. Upon arrival at the hotel, check the reader board in the hotel lobby for venue. For additional information regarding the conference, please contact Kareem Monib at 202–502–6265.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3226 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM04–7–000]

Market-Based Rates for Public Utilities; Notice of Technical Conference

November 12, 2004.

Take notice that a technical conference will be held concerning issues associated with the rulemaking proceeding on market-based rates. The technical conference will take place on December 7, 2004, from 9:30 a.m. to 4:30 p.m. (EST), in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. Members of the Commission will attend the conference. An agenda providing more details of the conference will be issued at a later time.

The topic of the conference will be issues associated with transmission vertical market power and barriers to entry in electric markets, two of the four prongs the Commission currently uses to determine whether to grant market-based rate authority. The conference will address whether the Commission's *pro forma* open access transmission tariff adequately mitigates transmission market power, other proposals to identify and mitigate transmission market power, as well as whether and, if so, to what extent there are other barriers to entry that the Commission should consider.

The conference will be transcribed. Those interested in acquiring the transcript should contact Ace Reporters at 202–347–3700 or 800–336–6646. Transcripts will be placed in the public record ten days after the Commission receives the transcripts. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, by phone or via satellite. Persons interested in receiving the broadcast, or who need information on making arrangements, should contact David Reininger or Julia Morelli at Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.org* and click on ''FERC.''

A two-day technical conference will also be held in January 2005, dates to be announced, concerning additional issues associated with the rulemaking proceeding. The topic of this latter conference will be issues associated with affiliate abuse/reciprocal dealing and generation market power.

For more information about the conference, please contact Kelly Perl at 202–502–6421 or *kelly.perl@ferc.gov.*

A supplemental notice of this conference will be issued later that will provide details of the conference, including the panelists.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3232 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP04–565–000 and RP04–565–001]

Northwest Pipeline Corporation; Notice of Technical Conference

November 9, 2004.

In an order issued on September 30, 2004,[1] the Commission directed staff to convene a technical conference to discuss tariff filings associated with Northwest Pipeline Corporation's semi-annual recalculation of its fuel and gas loss factors.

The technical conference will afford parties an opportunity to consider the alternative proposal included in Northwest's September 15, 2004 filing, and provide Northwest an opportunity to provide further information to support its derivation of the fuel factors and respond to all issues raised in the protests.

Take notice that a technical conference will be held on Wednesday, December 1, 2004, beginning at 10 a.m. (EST), in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested parties and staff are permitted to attend. For further information please contact: Frank Karabetsos at (202) 502–8133 or e-mail *frank.karabetsos@ferc.gov.*

Linda Mitry,

Deputy Secretary.

[FR Doc. E4–3233 Filed 11–17–04; 8:45 am]

BILLING CODE 6717–01–P

[1] *Northwest Pipeline Corporation,* 108 FERC ¶ 61,325 (2004).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

November 5, 2004.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or prohibited off-the-record communication relevant to the merit's of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers. These filings are 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 (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.

Docket No.	Date filed	Presenter or requester
1. CP04–366–000	11–4–04	Kyle Stephens.
2. Project No. 12522–000	11–2–04	Hon. Harry Tutunjian.

Magalie R. Salas,
Secretary.
[FR Doc. E4–3216 Filed 11–17–04; 8:45 am]
BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2004–0086; FRL–7838–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Reporting and Recordkeeping Requirements for Importation of Nonroad Engines and Recreational Vehicles (Renewal), EPA ICR Number 1723.04, OMB Control Number 2060–0320

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection (EPA ICR Number 1723.03, OMB Control Number 2060–0320) and combine it with the burden of another ICR (EPA ICR Number 1673.04, OMB Control Number 2060–0294) which will no longer be needed. Also included in this request is a new collection burden for the importation of newly regulated engines. EPA ICR 1723.03 is scheduled to expire on November 30, 2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before January 18, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OAR–2004–0086, to (1) EPA online using EDOCKET (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Sohacki, Certification and Compliance Division, Vehicle Programs Group, Environmental Protection Agency, 2000 Traverwood Dr., Ann Arbor, MI, 48105; telephone number: (734) 214–4851; fax number: (734) 214–4869; email address: *sohacki.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION: In this action EPA is renewing ICR OMB Control Number 2060–0320 (EPA ICR Number 1723, originally ''Information Requirements for Importation of Nonconforming Marine Engines'') and is combining the burden of that ICR with ICR OMB Control Number 2060–0294 (EPA ICR Number 1673) ''Reporting and Recordkeeping Requirements for Importation of Nonconforming Compression Ignition (CI) and Small Spark Ignition (SI) Engines.'' The title of the new combined ICR will be Reporting and Recordkeeping Requirements for Importation of Nonroad Engines and Recreational Vehicles. It is appropriate at this time to combine the two ICRs because the line between marine and nonroad engines has become less distinct. Engines that were originally manufactured as nonroad engines may be converted to be used as marine engines and marine engines may be used as nonroad engines. EPA is also adding to this ICR the information collection burden for the importation of newly regulated vehicles and engines: locomotives, marine compression ignition vehicles and engines over 37 kW, recreational vehicles (such as off-highway motorcycles, all-terrain vehicles, and snowmobiles), and large non-road spark ignition engines (such as forklifts and compressors). In light of this, EPA Form 3520–21, which collects information for importation of nonroad engines, is being updated and now will apply to both nonroad and marine engines and recreational vehicles. Therefore, it is appropriate at this time to combine the ICRs under which this information is gathered and add the burden for the newly added engines and recreational vehicles.

EPA ICR Number 1673 was just renewed in February, 2004, but EPA ICR Number 1723 expires on November 30, 2004. In this action we include the burden that was just identified and approved in EPA ICR Number 1673 into the renewal of EPA ICR Number 1723. The new combined burden will be identified in EPA ICR Number 1723 and EPA ICR Number 1673 will no longer be needed.

EPA submitted EPA ICR Number 1723 to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 30, 2004 (69 FR 39463), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one comment. The commenter suggested that no imports of nonconforming marine engines should be allowed. However, the Clean Air Act sets forth specific allowances for importing noncomplying marine engines, provided they satisfy provisions that implement the goals of the Clean Air Act. One purpose of this ICR is to collect the information necessary to help EPA insure that such engines comply with those requirements.

EPA has established a public docket for this ICR under Docket ID No. OAR–2004–0086, which is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, 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 and Information Center 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 submit or view public comments, access the index listing of the contents of the public docket, and access those documents in the public docket that are available electronically.

Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (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.*

Title: Reporting and Recordkeeping Requirements for Importation of Nonroad Engines and Recreational Vehicles (Renewal)

Abstract: Individuals and businesses importing on and off-road motor vehicles, motor vehicle engines, or nonroad engines, including nonroad engines incorporated into nonroad equipment or nonroad vehicles, report and keep records of vehicle and engine importations, request prior approval for vehicle and engine importations, or request final admission for vehicles and engines conditionally imported into the U.S. The collection of this information is mandatory in order to ensure compliance of nonroad vehicles and engines with Federal emissions requirements. Joint EPA and Customs regulations at 40 CFR 89.601 *et seq.*, 90.601 *et seq.*, 91.703 *et seq.*, 92.803 *et seq.*, 94.803 *et seq.*, 1068.301 *et seq.*, and 19 CFR 12.73 and 12.74 promulgated under the authority of Clean Air Act sections 203 and 208 give authority for the collection of information. This authority was extended to nonroad engines and vehicles under section 213. The information is used by program personnel to ensure that all Federal emission requirements concerning imported motor vehicles and nonroad engines are met.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and are identified on the form, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.5 hours per response. 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.

Respondents/Affected Entities: Individuals and businesses importing nonroad engines, including those incorporated into nonroad equipment or vehicles, and recreational vehicles.

Estimated Number of Respondents: 3000.

Frequency of Response: Other—upon importation.

Estimated Total Annual Hour Burden: 86,136.

Estimated Total Annual Cost: $5,744,175, which includes $0 annualized capital/startup costs, $0 O&M costs, and $5,744,175 annual labor costs.

Changes in the Estimates: There is a net increase of 7,200 hours in the combined burden of EPA ICR Number 1723 and EPA ICR Number 1673 identified in the OMB Inventory of Approved ICR Burdens. This burden is due to the additional burden hours for importers of newly regulated engines and recreational vehicles.

Dated: November 8, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–25619 Filed 11–17–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2004–0081; FRL–7838–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; TSCA Section 402 and Section 404 Training and Certification, Accreditation and Standards for Lead-Based Paint Activities; EPA ICR No. 1715.06, OMB No. 2070–0155

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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: TSCA Section 402 and Section 404 Training and Certification, Accreditation and Standards for Lead-Based Paint Activities; EPA ICR# 1715.06; OMB# 2070–0155. This is a request to renew an existing approved collection. This ICR is scheduled to expire on August 31, 2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated cost.

DATES: Additional comments may be submitted on or before December 20, 2004.

ADDRESSES: Submit your comments, referencing docket ID Number OPPT–2004–0081, to (1) EPA online using EDOCKET (our preferred method), by email to *oppt.ncic@epa.gov* or by mail to: EPA Docket Center, Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mailcode: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 1, 2004, EPA sought comments on this renewal ICR (69 FR 30904). EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period.

EPA has established a public docket for this ICR under Docket ID No. OPPT–2004–0081, which is available for public viewing at the OPPT 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 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 Pollution Prevention and Toxics Docket is 202–566–0280. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to 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 docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 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.*

Title: TSCA Section 402 and Section 404 Training and Certification, Accreditation and Standards for Lead-Based Paint Activities.

Abstract: This information collection applies to reporting and recordkeeping requirements found in sections 402 and 404 of the Toxic Substances Control Act (TSCA) and applicable regulations at 40 CFR 745. The purposes of the requirements under TSCA section 402 are to ensure that individuals conducting activities that prevent, detect and eliminate hazards associated with lead-based paint in residential facilities, particularly those occupied or used by children, are properly trained and certified, that training programs providing instruction in such activities are accredited, and that these activities are conducted according to reliable, effective and safe work practice standards. The TSCA section 404 regulations include reporting and recordkeeping requirements that apply to states and Indian Tribes that seek Federal authorization to administer and enforce state and tribal programs that regulate lead-based paint activities based on the section 402 regulations. The overall goals of the section 402 and section 404 regulations and the reporting and recordkeeping requirements found therein are to ensure the availability of a trained and qualified workforce to identify and address lead-based paint hazards in residences, and to protect the general public from exposure to lead hazards.

Responses to the collection of information are mandatory (see 40 CFR part 745). Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

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 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 0.4 hours and 79.6 hours per response, depending on the type of respondent. 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.

Respondents/Affected Entities: Companies or firms that provide training in lead-based paint activities; companies or firms that are engaged in lead-based paint activities; state agencies that administer lead-based paint activities.

Frequency of Collection: Annually.

Estimated No. of Respondents: 23,433.

Estimated Total Annual Burden on Respondents: 440,813 hours.

Estimated Total Annual Burden Costs: $15,648,532.

Changes in Burden Estimates: There is an increase of 49,639 hours (from 391,174 hours to 440,813 hours) in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase results from revisions in the number of respondents and/or the number of activities or events for which respondents must provide information, based on EPA's experience since the approval of the most recent ICR. This increase represents an adjustment.

Dated: November 8, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–25620 Filed 11–17–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2004–0021; FRL–7838–6]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; NSPS for Asphalt Processing and Roofing Manufacture (Renewal), ICR Number 0661.08, OMB Number 2060–0002

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to

expire on November 30, 2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before December 20, 2004.

ADDRESSES: Submit your comments, referencing docket ID number OECA–2004–0013, to (1) EPA online using EDOCKET (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gregory Fried, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7016; fax number: (202) 564–0050; E-mail address: *fried.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 25, 2004, (69 *FR* 29718), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OECA–2004–0013, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, 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 Enforcement and Compliance Docket and Information Center Docket is: (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to 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. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 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, Confidential Business Information (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.*

Title: NSPS for Asphalt Processing and Roofing Manufacture (40 CFR Part 60, Subpart UU) (Renewal).

Abstract: Particulate matter emissions from asphalt processing and roofing manufacture cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards (NSPS) were promulgated for this source category.

The control of emissions of particulate matter from asphalt processing and roofing manufacture requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. Emissions of particulate matter from asphalt processing and roofing manufacture are the result of materials handling, fuel combustion, and storage. These standards rely on the capture of particulate matter emissions by pollution control devices such as electrostatic precipitators, high velocity air filters, or afterburners.

In order to ensure compliance with these standards, adequate reporting and recordkeeping is necessary. In the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard and note the operating conditions under which compliance was achieved.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 58.6 hours per response. 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.

Respondents/Affected Entities: Asphalt Processing and Roofing Manufacture.

Estimated Number of Respondents: 169.

Frequency of Response: Initially.

Estimated Total Annual Hour Burden: 30,419 hours.

Estimated Total Annual Costs: $7,985,874, which includes $200,000 annualized capital/startup costs, $5,845,000 annual O&M costs, and $1,940,874 annual labor costs.

Changes in the Estimates: There is an increase of 15,330 hours in the total estimated burden currently identified in

the OMB Inventory of Approved ICR Burdens. This increase is due to a correction in the estimated number of existing affected sources.

Dated: November 8, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–25621 Filed 11–17–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7837–8]

Announcement of the Delegation of the Title V Permitting Program, Consistent With Federal Operating Permit Programs to the Navajo Nation Environmental Protection Agency and the Suspension of Federal Operating Permit Program Fee Collection by EPA for Sources Covered by the Delegation of Authority Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Informational notice.

SUMMARY: The purpose of this notice is to announce that on October 15, 2004, EPA granted the Navajo Nation Environmental Protection Agency's (NNEPA) request for full delegation of authority to administer the Clean Air Act's (the Act) federal operating permits program. Under this delegation, NNEPA will issue and implement Title V operating permits for certain air pollution sources located within the formal boundaries of the Navajo Nation reservation and certain off-reservation Tribal Trust lands and will otherwise administer the program. The terms and conditions of the full delegation are specified in a Delegation of Authority Agreement (''Agreement'') between EPA Region IX and NNEPA, signed and dated on October 15, 2004. Region IX is also simultaneously suspending its collection of Part 71 fees, pursuant to 40 CFR 71.9(c)(2)(ii), for sources identified in this notice or otherwise covered by the Agreement.

EFFECTIVE DATES: The effective date for the Agreement between EPA and NNEPA, and EPA's suspension of its Part 71 fee collection for sources identified in this notice or otherwise covered by the Agreement, is October 15, 2004.

ADDRESSES: Copies of the letter requesting delegation of authority to administer the federal operating permits program and the Agreement between EPA and NNEPA are available for public inspection at EPA's Region IX Office, 75 Hawthorne Street, San Francisco, CA 94105 and at the Navajo Nation Environmental Protection Agency Air Quality Control Program Office, Rt. 12 North/Bldg #F004–051, Fort Defiance, AZ 86504. Effective October 15, 2004, all notifications, requests, applications, reports and other correspondence required under 40 CFR Part 71 for all Part 71 sources identified in this notice or otherwise covered by the Agreement shall be submitted to NNEPA's Air Quality Control Program Office at the following address: Navajo Nation Air Quality Control Program Office, P.O. BOX 529 Fort Defiance, AZ 86504 Attn: Chris Lee. Sources will also remain obligated to submit copies of such documents to EPA as set forth in the terms and conditions of their Part 71 permits and consistent with Section VII(2) of the Agreement.

FOR FURTHER INFORMATION CONTACT: Emmanuelle Rapicavoli, Permits Office (AIR–3), 75 Hawthorne Street, San Francisco, CA 94110, Telephone: 415–972–3969, e-mail: *rapicavoli.emmanuelle@epa.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that on October 15, 2004, EPA granted NNEPA's request for full delegation of authority to administer the Part 71 federal operating permits program for certain Part 71 sources. The Act and its implementing regulations under Part 71 authorize EPA to delegate authority to administer the Part 71 program to any eligible Tribe that submits a demonstration of adequate regulatory procedures and authority for administration of the Part 71 operating permits program.

In order to be considered an ''eligible tribe,'' the NNEPA submitted, on June 17, 2004, an application for a determination, under the provisions of the Tribal Authority Rule (TAR), 40 CFR Part 49, that it is eligible to be treated in the same manner as a state for the purpose of receiving delegation of authority to administer the federal Part 71 operating permit program. The application excluded the Four Corners Power Plant and the Navajo Generating Station. Region IX reviewed NNEPA's application and determined that it met the four criteria for eligibility, identified in 40 CFR 49.6, for the sources described, and was thus eligible for entering into a delegation agreement with Region IX to administer the Part 71 program. Region IX's eligibility determination was signed on October 13, 2004.

On July 16, 2004, NNEPA submitted a request to the Region to delegate the administration of the federal Part 71 program for certain Part 71 sources. The area included in the request, herein called the ''Delegated Program Area,'' includes all lands within the formal boundaries of the Navajo Nation Reservation and the satellite reservations of Alamo, Canoncito and Ramah and Tribal trust lands located outside of the formal reservations in the Eastern Agency, excluding the Bennet Freeze area.

As part of its request, NNEPA submitted a legal opinion from its attorney general stating that the Navajo Nation Air Pollution Prevention and Control Act and the Navajo Nation Air Quality Control Program Operating Permit Regulations provide it adequate authority to carry out all aspects of the delegated program. NNEPA provided all necessary documentation to demonstrate that it has adequate authority and adequate resources to administer the Part 71 federal permitting program.

Pursuant to 40 CFR 71.10(b), EPA hereby notifies the public that effective October 15, 2004, it has granted NNEPA's request and is fully delegating the authority to administer the federal operating permits program as set forth under 40 CFR Part 71 and in the Agreement. The terms and conditions for full delegation are specified in the Agreement between EPA Region IX and NNEPA signed and dated on October 15, 2004.

The Agreement applies to all new and existing sources within the Delegated Program Area except the Four Corners Power Plant and the Navajo Generating Station, for which Region IX retains sole authority to regulate under Title V. The existing Part 71 sources covered by the Agreement are the following: the El Paso Natural Gas Window Rock Compressor Station, the El Paso Natural Gas White Rock Compressor Station, the El Paso Natural Gas Navajo Compressor Station, the El Paso Natural Gas Leupp Compressor Station, the El Paso Natural Gas Dilkon Compressor Station, the Transwestern Pipeline Klagetoh Compressor Station, the Transwestern Pipeline Leupp Compressor Station, El Paso Natural Gas Gallup Compressor Station, the Conoco Phillips Wingate Fractionating Plant, Peabody Western Coal Company's Black Mesa Complex, the Chevron-Texaco Aneth Gas Plant, and the Exxon-Mobil McElmo Creek Unit. The Agreement also applies to all new Part 71 sources which will construct and operate within the Delegated Program Area as well as existing sources in the Delegated Program Area which later become subject to Part 71.

If, at any time, EPA determines that NNEPA is not or cannot adequately

administer the requirements of Part 71 or fulfill the terms of the Agreement, this delegation may be revoked, in whole or in part, pursuant to 40 CFR 71.10(c). Under this delegation, EPA retains its authority to (1) object to the issuance of any Part 71 permit, (2) act upon petitions submitted by the public, and (3) collect fees from all owners or operators of sources described in the Agreement and subject to 40 CFR Part 71 if it is demonstrated that NNEPA is not adequately administering the Part 71 program in accordance with the Agreement, 40 CFR Part 71, and/or the Act. Because EPA is retaining its authority to act upon petitions submitted pursuant to 40 CFR 71.10(h) and 71.11(n), any such petitions must be submitted to Region IX following the procedures set forth in those regulations.

EPA also notifies the public, pursuant to 40 CFR 71.9(c)(2)(ii), that effective October 15, 2004, it has suspended collection of its Part 71 permit fees for those Part 71 sources identified in this notice or otherwise covered by the Agreement. In delegating the administration of the Part 71 program, EPA has determined that NNEPA can collect fees under tribal law sufficient to fund the delegated Part 71 program and carry out the duties specified in the Agreement. EPA retains its authority to collect Part 71 fees if it is demonstrated that NNEPA is not adequately administering the Part 71 program in accordance with the Agreement, Part 71, and/or the Act.

Dated: October 26, 2004.

Jane Diamond,

Acting Regional Administrator, Region 9.

[FR Doc. 04–25624 Filed 11–17–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Petition IV–2003–7; FRL–7838–5]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Cargill, Inc.—Soybean Oil Mill; Gainesville (Hall County), GA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of amended final order on petition to object to a state operating permit.

SUMMARY: On October 19, 2004, EPA amended an order signed by the Administrator on July 16, 2004, partially granting and partially denying a petition to object to a state operating permit issued by the Georgia Environmental Protection Division (EPD) to Cargill, Inc.—Soybean Oil Mill (Cargill) located in Gainesville, Hall County, Georgia, pursuant to title V of the Clean Air Act, 42 U.S.C. 7661–7661f. The July 16, 2004 Order was amended to delete two references to a cement kiln in Section IV.A. The deletions were made because:

(1) The citation for the cement kiln reference on page 6 of the original Order was incorrect. The reference originally cited to Petitioners' Consultant's Report: the Letter from Bill Powers, P.E. of Powers Engineering to Curtis Cox of Georgia Center for Law in the Public Interest (GCLPI) (October 3, 2002). While the actual date for the Powers Report was October 3, *2003,* the correct citation to the cement kiln reference should have been to Cargill's Consultant's July 17, 2002 Report: Letter from Todd Cloud of Trinity Consultants to Mr. James Capp of EPD (July 17, 2002); and

(2) In re-reviewing the correct permit record document relating to the cement kiln reference on page 6 of the original Order, EPA has become concerned that the cement kiln information contained in the July 17, 2002 Letter from Todd Cloud of Trinity Consultants to Mr. James Capp of EPD may have been erroneously included in Trinity's Report and may not be accurate as applied to Cargill's Gainesville, Georgia facility.

The deletion of the two references to a cement kiln in Section IV.A does not impact or alter EPA's original finding that the permit narrative and permit record provided little explanation for the numerical reasonable available control technology (RACT) limit chosen for boiler B001, nor does it impact or alter EPA's original grant of the Petitioners' claim that the narrative and permit record are inadequate on the numerical RACT limit for boiler B001.

ADDRESSES: Copies of the amended final order, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The amended final order is also available electronically at the following address: *http://www.epa.gov/region7/programs/artd/air/title5/petitiondb/petitions/cargillamendment_decision2003(amended).pdf.*

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562–9115 or *hofmeister.art@epa.gov.*

SUPPLEMENTARY INFORMATION: GCLPI originally submitted a petition on behalf of the Sierra Club to the Administrator on October 7, 2003, requesting that EPA object to a state title V operating permit issued by EPD to Cargill. The Petitioner maintains that the Cargill permit is inconsistent with the Act due to: (1) The inadequacy of EPD's RACT determinations for various emission units; (2) the inadequacy of various monitoring and reporting requirements; (3) the inadequacy of the statement of basis; and (4) the permit's inability to assure compliance.

Dated: November 10, 2004.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 04–25623 Filed 11–17–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7839–1]

Science Advisory Board Staff Office; Notification of an Upcoming Teleconference of the Science Advisory Board Second Generation Model Advisory Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA, Science Advisory Board (SAB) Staff Office announces a teleconference of the Second Generation Model Advisory Panel to discuss its plan for providing advice to EPA on this model.

DATES: A public teleconference of the SAB Second Generation Model Advisory Panel will be held from 2 p.m. to 5 p.m. Eastern time on December 2, 2004.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number and access code to participate in the teleconference may contact Dr. Holly Stallworth, EPA Science Advisory Board Staff (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone/voice mail: (202) 343–9867 or via e-mail at *stallworth.holly@epa.gov.*

Technical Contact: The technical contact in EPA's Office of Atmospheric Programs for the Second Generation Model is Michael Leifman who can be reached at *leifman.michael@epa.gov* or 202–343–9380.

SUPPLEMENTARY INFORMATION:

Background: EPA's Office of Atmospheric Programs had requested the SAB to provide advice on the Second Generation Model. The SAB Staff Office has formed a SAB Panel to

respond to the Agency's request. Background on the Second Generation Model Advisory Panel was provided in a Notice published on July 9, 2004 (69 FR 41474–41475). A final roster of the Panel, a meeting agenda, and draft charge questions to the SAB will be posted on the SAB Web site (*http://www.epa.gov/sab/*) prior to the meeting. Additional background material on the Second Generation Model may be found at: *http://www.epa.gov/air/sgm—sab.html.* The purpose of this upcoming teleconference is to review available advisory and background materials, identify additional information needs, discuss the draft charge questions to the SAB and plan for face-to-face meetings of the Panel.

Procedures for Providing Public Comment. It is the policy of the EPA Science Advisory Board (SAB) Staff Office to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA SAB Staff Office expects that public statements presented at the Second Generation Model Advisory Panel's meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* Requests to provide oral comments must be in writing (e-mail, fax or mail) and received by Dr. Stallworth no later than five business days prior to the teleconference in order to reserve time on the meeting agenda. For teleconferences, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. *Written Comments:* Although written comments are accepted until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least five business days prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format).

Dated: November 8, 2004.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 04–25622 Filed 11–17–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Public Hearing and Issuance of Statement of Federal Financial Accounting Standards (SFFAS) No. 26

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in April 2004, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) will hold a public hearing in conjunction with its December 16, 2004, Board Meeting from 9 a.m. to noon. The public hearing will address the exposure draft (ED) Inter-Entity Cost Implementation—Amending SFFAS 4, Managerial Cost Accounting Standards and Concepts. Those interested in testifying should contact Melissa Loughan, Assistant Director, no later than one week prior to the hearing. Ms. Loughan can be reached at 202–512–5976 or via e-mail at *loughanm@fasab.gov.* Also, they should at the same time provide a short biography and written copies of their testimony. The ED is available on the FASAB Web site *http://www.fasab.gov* under Exposure Drafts.

FASAB also announces the publication of Statement of Federal Financial Accounting Standard 26, entitled Presentation of Significant Assumptions for the Statement of Social Insurance: Amending SFFAS 25. An electronic version of the statement is available on the World Wide Web at *http://www.fasab.gov/standards.html.*

For Further Information Contact: Wendy M. Comes, Executive Director, 441 G St., NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. 92–463.

Dated: November 10, 2004.

Charles Jackson,

Federal Register Liaison Officer.

[FR Doc. 04–25586 Filed 11–17–04; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

November 12, 2004.

TIME AND DATE: 10 a.m., Thursday, November 18, 2004.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Eastern Associated Coal Corporation,* Docket No. WEVA 2002–46. (Issues include whether the judge properly concluded that Eastern Associated Coal Corp. violated 30 CFR 48.11(a)(3) when it did not train two independent contractor employees on the provisions of its roof control plan addressing roof grouting.)

The Commission heard oral arguments in this matter on November 9, 2004.

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs, subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 434–9950 / (202) 708–9300 for TDD Relay / 1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 04–25712 Filed 11–16–04; 12:51 pm]

BILLING CODE 6735–01–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 December 13, 2004.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Porter Bancorp, Inc., Shepherdsville, Kentucky; to acquire 100 percent of the voting shares of Citizens Financial Bank, Inc., Glasgow, Kentucky.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. Nicholas, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Dolphin Family Limited Partnership, and Dolphin Family Management Co., both of Blaine, Minnesota; to become bank holding companies by acquiring 13.55 percent of the voting shares of Crosstown Holding Company, Blaine, Minnesota, and thereby indirectly acquire shares of 21st Century Bank, Loretto, Minnesota.

C. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Community Capital Bancorp, Cairo, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Cairo, Cairo, Nebraska.

Board of Governors of the Federal Reserve System, November 12, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–25532 Filed 11–17–04; 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

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 2, 2004.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Bancshares of Camden, Inc., Camden, Tennessee; to engage *de novo* through its subsidiary, BOC Reinsurance Company, Ltd., Crossville, Tennessee, in reinsuring credit life, accident and health insurance, pursuant to section 225.28(b)(11)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, November 12, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–25531 Filed 11–17–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Public Workshop: Peer-to-Peer File-Sharing Technology: Consumer Protection and Competition Issues

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice of Extension of Public Comment Period.

SUMMARY: The FTC issues an amendment to its Notice Announcing Public Workshop and Requesting Public Comment, extending the time period during which persons may submit written comments on the issues to be addressed by the public workshop until January 18, 2005.

DATES: Comments must be received by January 18, 2005.

ADDRESSES: Comments should refer to ''P2P File-Sharing Workshop—Comment, P034517'' 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 159–H (Annex B), 600 Pennsylvania Avenue, NW., Washington, DC 20580. 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.

Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2004).[1]

Comments filed in electronic form should be submitted by clicking on the following weblink: *https://secure.commentworks.com/ftc-p2pfilesharing/* and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the *https://secure.commentworks.com/ftc-p2pfilesharing/* weblink.

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 received by the Commission, whether filed in paper or in 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 *http://www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from 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/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Elizabeth Delaney, (202) 326–2903, Bureau of Consumer Protection; Theodore Gebhard, (202) 326–3699, Bureau of Competition; or Hajime Hadeishi, (202) 326–2320, Bureau of Economics. The above staff can be

[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).

reached by mail at: Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Additional information about the workshop is posted on the FTC's Web site at *http://www.ftc.gov/bcp/workshops/filesharing/index.htm*.

SUPPLEMENTARY INFORMATION:

Background and Workshop Goals

On December 15 and 16, 2004, the FTC is planning to host a public workshop, ''Peer-to-Peer File-Sharing Technology: Consumer Protection and Competition Issues.'' The FTC's workshop is intended to provide an opportunity to learn how P2P file-sharing works and to discuss current and future applications of the technology. It will discuss the risks to consumers related to file-sharing activities. The workshop also will address self-regulatory initiatives, technological efforts, and legislative proposals. It will discuss competition issues such as the models for distributing music and the impact of file-sharing on copyright holders. Questions to be addressed at the workshop are set forth in the Commission's Notice Announcing Public Workshop and Requesting Public Comment, published in the **Federal Register** on October 21, 2004.

Extension of Time for Filing Comments

The FTC is extending the time period during which public comments may be submitted. Interested parties may submit written comments on the published questions and other issues addressed by the workshop until January 18, 2005. Especially useful are any studies, surveys, research, and empirical data. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received by January 18, 2005.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 04–25555 Filed 11–17–04; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry—Scientific Counselors Board; Correction

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting: Correction.

ACTION: Notice; Correction.

SUMMARY: The Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry published a document in the **Federal Register** on November 2, 2004, concerning advice and guidance to the Secretary, HHS; the Director, CDC and Administrator, ATSDR; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agencies' mission to protect and promote people's health.

Correction: In the **Federal Register** of November 2, 2004, (Volume 69, Number 211) [Notices] Page 63547—''PLACE: CDC Headquarter facility, 1600 Clifton Road, Atlanta, Georgia 30033'' Should Read: Emory Conference Center, Silver Bell Pavillion, 1615 Clifton Road, Atlanta, Georgia 30333.

FOR FURTHER INFORMATION CONTACT: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, 1600 Clifton Road, Mail Stop E–28, Atlanta, GA 30303; telephone (404) 498–0003, fax (404) 498–0059; e-mail: *smalcom@cdc.gov.* The deadline for notification of attendance is November 12, 2004.

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 National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

Dated: November 12, 2004.

B. Kathy Skipper,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–25593 Filed 11–17–04; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Personal Protective Technology Labs (NPPTL), National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Meeting

Name: Continued Discussions for Concepts of Powered Air-Purifying Respirator (PAPR) Standards and Introduction of Concepts for Closed Circuit, Self-Contained Breathing Apparatus Standards Development Efforts Used for Respiratory Protection Against Chemical, Biological, Radiological, and Nuclear (CBRN) Agents.

Date and Time: 8:30 a.m.–5 p.m., December 15, 2004.

Place: Sheraton Station Square, 7 Station Square Drive, Pittsburgh, Pennsylvania.

Purpose: NIOSH will continue discussions of conceptual standards and testing processes for PAPR standards suitable for respiratory protection against CBRN agents. NIOSH also wishes to introduce conceptual requirements for Closed Circuit, Self-Contained Breathing Apparatus suitable for respiratory protection against CBRN agents.

NIOSH, along with the U.S. Army Research, Development and Engineering Command (RDECOM, formerly SBCCOM) and the National Institute for Standards and Technology (NIST), will present information to attendees concerning the concept development for the PAPR CBRN standard and the Closed Circuit, Self-Contained Breathing Apparatus CBRN standard. Participants will be given an opportunity to ask questions on these topics and to present individual comments for consideration. Interested participants may obtain a copy of the PAPR CBRN concept paper and the Closed Circuit, Self-Contained Breathing Apparatus concept paper, as well as earlier versions of other concept papers used during the standard development effort, from the NIOSH NPPTL Web site at *http://www.cdc.gov/niosh/npptl.* The October 30, 2004, concept papers will be used as the basis for discussion at the public meeting.

Municipal, state, and federal responder groups, particularly in locations considered potential terrorism targets, have been developing and modifying response and consequence management plans for domestic security and preparedness issues. Since the World Trade Center and anthrax incidents, most emergency response agencies have operated with a heightened appreciation of the potential scope and sustained resource requirements for coping with such events. The federal Interagency Board for Equipment Standardization and Interoperability (IAB) has worked to identify personal protective equipment that is already available on the market for responders' use. The IAB has identified the development of standards or guidelines for respiratory protection equipment as a top priority. NIOSH,

NIST, the National Fire Protection Association (NFPA), and the Occupational Safety and Health Administration have entered into a Memorandum of Understanding defining each agency or organization's role in developing, establishing, and enforcing standards or guidelines for responders' respiratory protective devices. NIST has initiated Interagency Agreements with NIOSH and RDECOM to aid in the development of appropriate protection standards or guidelines. NIOSH has the lead in developing standards or guidelines to test, evaluate, and approve respirators.

NIOSH, RDECOM, and NIST have hosted public meetings on April 17 and 18, 2001; June 18 and 19, 2002; October 16 and 17, 2002; April 29, 2003; June 25, 2003; October 16, 2003; and May 4, 2004, presenting their progress in assessing respiratory protection needs of responders to CBRN incidents. The methods or models for developing hazard and exposure estimates and the status in evaluating test methods and performance standards that may be applicable as future CBRN respirator standards or guidelines were discussed at these meetings.

Three NIOSH CBRN respirator standards and several NFPA standards for ensembles, SCBA, and protective clothing were the first adopted by the U.S. Department of Homeland Security (DHS). On February 26, 2004, DHS adopted, as DHS standards, three NIOSH criteria for testing and certifying respirators for protection against CBRN exposures. NIOSH uses the criteria to test (1) SCBA for use by emergency responders against CBRN, (2) APR for use by emergency responders against CBRN exposures, and (3) escape respirators for protection against CBRN.

Status: This meeting is hosted by NIOSH and will be open to the public, limited only by the space available. The meeting room will accommodate approximately 150 people.

Interested parties should make hotel reservations directly with the Sheraton Station Square (412) 261–2000 / 1–888–325-3535) before the cut-off date of November 30, 2004. A special group rate of $85 per night for meeting guests has been negotiated for this meeting. The NIOSH/NPPTL Public Meeting must be referenced to receive this special rate. Interested parties should confirm their attendance at this meeting by completing a registration form and forwarding it by e-mail (*npptlevents@cdc.gov*) or fax (304–225–2003) to the NPPTL Event Management Office. A registration form may be obtained from the NIOSH Homepage (*http://www.cdc.gov/niosh*) by selecting conferences and then the event.

An opportunity to make presentations regarding the discussions of concepts for standards and testing processes for PAPR standards and for Closed Circuit, Self-Contained, Breathing Apparatus standards suitable for respiratory protection against CBRN agents will be given. Requests to make such presentations at the public meeting should be made by e-mail to the NPPTL Event Management Office (*npptlevents@cdc.gov*). All requests to present should include the name, address, telephone number, relevant business affiliations of the presenter, a brief summary of the presentation, and the approximate time requested for the presentation. Oral presentations should be limited to 15 minutes.

After reviewing the requests for presentations, NPPTL Event Management will notify each presenter of the approximate time that their presentation is scheduled to begin. If a participant is not present when their presentation is scheduled to begin, the remaining participants will be heard in order. At the conclusion of the meeting, an attempt will be made to allow presentations by any scheduled participants who missed their assigned times. Attendees who wish to speak but did not submit a request for the opportunity to make a presentation may be given this opportunity at the conclusion of the meeting, at the discretion of the presiding officer.

Comments on the topics presented in this notice and at the meeting should be mailed to the NIOSH Docket Office, Robert Taft Laboratories, M/S C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone 513–533–8303, Fax 513–533–8285. Comments may also be submitted by e-mail to *niocindocket@cdc.gov.* E-mail attachments should be formatted in Microsoft Word. Comments should be submitted to NIOSH no later than January 31, 2005. Comments regarding CBRN PAPR should reference Docket Number NIOSH–010 in the subject heading; and comments regarding the CBRN Closed Circuit, Self-Contained Breathing Apparatus should reference Docket Number NIOSH–039.

Contact for Additional Information: NPPTL Event Management, 3604 Collins Ferry Road, Suite 100, Morgantown, West Virginia 26505–2353, Telephone 304–599–5941 x138, Fax 304–225–2003, E-mail *npptlevents@cdc.gov.*

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: November 12, 2004.

B. Kathy Skipper,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–25594 Filed 11–17–04; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Agency for Toxic Substances and Disease Registry

Public Meeting of the Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy Sites: Oak Ridge Reservation Health Effects Subcommittee

Name: Public meeting of the Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Oak Ridge Reservation Health Effects Subcommittee (ORRHES).

Time and Date: 6 p.m.–8 p.m., November 30, 2004.

Place: Oak Ridge Mall, Alpine Meeting Room, 333 East Main Street, Oak Ridge, TN Telephone: (865) 482–2008.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in October 1990 and renewed in September 2000 between ATSDR and DOE, the MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles. In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in

2000, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC. Community involvement is a critical part of ATSDR's and CDC's energy-related research and activities and input from members of the ORRHES is part of these efforts.

Purpose: The purpose of this meeting is to address issues that are unique to community involvement with the ORRHES, and agency updates.

Matters to be Discussed: Agenda items will include a brief discussion on the ATSDR project management plan and the schedule of Public Health Assessments to be released in FY2005–2006, and updates and recommendations from the Exposure Evaluation, Community Concerns and Communications, and the Health Outcome Data Workgroups, and agency updates.

Agenda items are subject to change as priorities dictate.

Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

Contact Persons for More Information: Marilyn Horton, Designated Federal Official and Committee Management Specialist, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE., M/S E–32 Atlanta, Georgia 30333, telephone 1–888–42–ATSDR (28737), fax (404) 498–1744.

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 ATDSR.

Dated: November 10, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–25536 Filed 11–17–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Procedures and Costs for Use of the Research Data Center

AGENCY: National Center for Health Statistics, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and request for comments.

SUMMARY: This notice provides information about the Research Data Center (RDC) operated by the National Center for Health Statistics (NCHS) within the Centers for Disease Control and Prevention (CDC). The Research Data Center was established in 1998 to provide a mechanism whereby researchers can access detailed data files in a secure environment, without jeopardizing the confidentiality of respondents. Historically, the data files accessed in the RDC have consisted of NCHS survey data. RDC has recently begun accepting data files that were not produced from NCHS survey data. In order to assure that all data files are processed in a consistent manner, the original guidelines for accessing files in the RDC are being reviewed and revised as necessary. As part of the revision process, potential users are being given the opportunity to provide input on how the procedures of the RDC can best serve their research needs. This notice describes how to submit proposals requesting use of the data, mechanisms to access the RDC, requirements, use of outside data sets, costs for using the RDC, and other pertinent topics. We are seeking comments on these procedures and will post the final procedures on the NCHS Web site.

DATES: Submit comments on or before December 9, 2004.

ADDRESSES: Send comments concerning this notice to Ken Harris, National Center for Health Statistics, 3311 Toledo Road, Room 3210, Hyattsville, MD 20782, or e-mail to *kwharris@cdc.gov*.

FOR FURTHER INFORMATION CONTACT: Ken Harris at (301) 458–4262.

SUPPLEMENTARY INFORMATION:

Operational Procedures for Use of the Research Data Center; National Center for Health Statistics; Centers for Disease Control and Prevention

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Operational Procedures for the Use of the Research Data Center, National Center for Health Statistics (NCHS); Centers for Disease Control and Prevention (CDC)

Purpose

This document provides information about the National Center for Health Statistics' (NCHS) Research Data Center (RDC), including how to submit proposals requesting use of data, mechanisms to access the RDC, requirements, use of outside data sets, costs for using the RDC, and other pertinent topics. The Guidelines pertain to use of data produced by NCHS and non-NCHS entities. If, after reading these guidelines, you have further questions, you may seek clarification through e-mail *(RDCA@cdc.gov)* or by contacting Ken Harris at (301) 458–4262 or by e-mail at *kwharris@cdc.gov.* The procedures described for use of the RDC are under constant review to improve RDC operations and to be responsive to changes in the environment that affect confidentiality protections. Please check the NCHS Web site or contact the RDC to determine if modifications have been made.

Background

In order to advance knowledge on the health and well-being of the nation and its health care system, NCHS and other organizational entities in the Department of Health and Human Services release statistical micro data containing health and related variables. These files allow outside researchers and analysts to develop statistics and conduct independent research. However, any release of data, whether micro data files or the results of statistical analyses, must be consistent with the confidentiality provisions under which the data were collected. For the case of data collected or

obtained by NCHS, Section 308(d) of the Public Health Service Act (42 U.S.C. 242m(d)) and the NCHS Staff Manual on Confidentiality do not permit the release of data that are either identified or identifiable to persons outside of NCHS. In order to preserve privacy and confidentiality, details that might identify or facilitate the identification of persons and organizations participating in surveys and data systems are suppressed in published data products. Examples of data elements that might be abridged are geographic identifiers, details of sample design, and variables such as age or income that might exist in other databases.

Despite the wide dissemination of data through publications, CD–ROMs, etc., the inability to release files with, for instance, lower levels of geography, severely limits the utility of some data for research, policy, and programmatic purposes and sets a boundary on one of the goals of the U.S. Department of Health and Human Services, *i.e.*, to increase our capacity to provide state and local area estimates. In pursuit of this goal and in response to the research community's interest in restricted data, NCHS established the Research Data Center (RDC), a mechanism whereby researchers can access detailed data files in a secure environment, without jeopardizing the confidentiality of respondents. The RDC provides restricted access to NCHS data. The RDC also accepts outside data sets. Appendix I contains information about some of the data sets currently available in the RDC.

Special requirements for use of non-NCHS data can be found in Appendix IV, Project-Specific Requirements.

Authority: Sections 306 and 308 of the Public Health Service Act (42 U.S.C. 242k and 242m).

Research Data Center (RDC)—Operations

The NCHS RDC is a research facility located at the NCHS headquarters in Hyattsville, MD, where researchers meeting certain qualifications are allowed access, under strict supervision, to restricted statistical micro data files. To gain access to the RDC researchers must submit a proposal for review and approval. Researchers can use one of three access methods (see below): (1) Direct access through local computing resources in the RDC that accommodate visiting researchers; (2) a remote program submission system through which researchers can submit work to be done in the RDC with the output returned to them by e-mail; or (3) programming services for outside researchers provided by RDC staff (see below). In all three methods, confidential data files remain in the RDC where access to unit records is restricted, and output is inspected before it leaves the RDC.

As currently designed, the NCHS RDC facility in Hyattsville has four user workstations and a secure room for the RDC printer. In addition, there is office space for the RDC staff and long-term outside researchers.

The RDC computers have no electronic link either to the NCHS network, the CDC–NCHS mainframe, or the Internet. The RDC workstations consist of Pentium III 933 MHz computers running Windows 2000. There is sufficient storage on the workstations and the server for any confidential data. PC–SAS®, SUDAAN®, Watcom Fortran 77®, and Stata® are installed on the workstations, and additional programming/analytic languages can be added as needed.

The computers have been configured so that removable media such as floppy disks are inaccessible to users. All print output is routed to a central printer which is monitored by RDC staff while the RDC is open to external researchers. Further, the system's workstations are configured such that researchers are given read-only access to requested data files and can write only onto the local workstation's hard disk. These restrictions ensure that users cannot remove information that has not been subjected to a review for confidentiality.

The three methods of access to restricted data through the Data Center include:

(1) Guest Researcher (on site)—The researcher submits a research proposal to the RDC and, upon approval, conducts his/her research on site at NCHS in the RDC. RDC staff constructs the necessary data files before the guest researcher arrives and ensure that no restricted data leave the facility. Data from virtually all of the NCHS data collection systems may be made available through the RDC. Also available are data from other data collection systems.

PC–SAS®, SUDAAN®, Watcom Fortran 77®, and Stata® are installed on the RDC workstations. Other programming languages or data analysis packages can be made available with sufficient lead time.

Researchers may take the results of their analyses off-site only after disclosure review by NCHS RDC staff. Disclosure review consists of looking for tabular cells less than 5, tables with geographic variables in any dimension, models with geographic variables (or variables tantamount to geographic variables) as outcome variables, or case listings. In general, disclosure review is consistent with the guidelines published in the NCHS Staff Manual on Confidentiality (see Appendix II, Requirements for the Release of NCHS Micro Data Files).

(2) *Remote Access*—Users are able to electronically submit analytical computer programs using SAS as the programming language. After their proposals are approved, researchers are registered with the RDC remote access system and introduced to the procedures and programming limitations to be followed in accessing data. Researchers send programs to the RDC and receive output by e-mail. RDC staff prepares the requested data files which may consist of confidential data merged with user data. Both submitted programs and output undergo a programmed disclosure limitation review and are also subject to a manual review. Certain procedures and SAS® functions are not allowed (see Appendix II, Disallowed SAS® Functions, Statements, and Procedures for a complete list). For example, users cannot use PROC TABULATE or PROC IML, nor are functions allowed that are capable of producing listings of individual cases such as LIST and PRINT. Additionally, functions that may select individual cases are not allowed (R_, FIRST., LAST., and others). The output is scanned for cells containing less than five observations. If any are found, not only is that cell suppressed, but several additional cells will also be suppressed (complementary suppression). Alternatively, the researcher may be asked to revise and resubmit his/her analyses. The job log is also scanned with particular attention to certain types of error conditions that may spawn case listings. Some projects are not suitable for the remote access method. Stewards of the file/s in consultation with RDC staff make this determination.

(3) *RDC Staff-Assisted Research:* This is mainly useful for those planning to use statistical software programming languages other than SAS® or who are not able to travel to the RDC facility. Under this method, an approved researcher e-mails a statistical software program to the assigned RDC staff person who runs the program and, after disclosure review, provides the output to the researcher by e-mail. More extensive programming services are also available.

Each of the access methods outlined above has an associated cost which includes equipment and space rental, staff overhead, and setup. The staff overhead and setup include the time and resources necessary for monitoring progress, setting up equipment and data

files, disclosure limitation review, and file management. Since these reflect varying demands on resources, accurate cost estimates cannot be given without complete knowledge of the proposed research. In general, though, the setup fee is $500 per day of effort (see Costs of Using the RDC, below).

Submission of Research Proposals Using NCHS Data

Researchers must submit proposals that are detailed enough in their data specifications to permit RDC staff to easily determine what data elements are required. Prospective researchers are encouraged to check with RDC staff prior to writing their proposals to ensure that the data of interest can be made available to them. Researchers should develop their proposals in a way that facilitates the ability of the RDC staff to create the analytic files required by the project. Proposals should be explicit regarding the variables needed as well as any case selection required. Only those data items required to conduct the proposed analyses will be included in the analytic data file and the proposals should address why the requested data are needed for the proposed study. Overly large and complex projects or poorly defined projects will require extensive communication between RDC staff and the researchers proposing the project, and this can cause the process to move slowly. Work to prepare data files can be accomplished most expeditiously if large, complex projects are subdivided into manageable parts and requested data are clearly defined.

Researchers wishing to link data in the RDC with external data should provide the external data to RDC staff in advance of their entry to and use of the RDC (a minimum of 7 days prior to the approved date for access to the RDC).

The RDC expects that all researchers will adhere to established standards and principles for carrying out statistical research and analyses. Researchers must conduct only those analyses which received approval. Failure to comply will result in cancellation of the research activity and potential disbarment from future research activities in the RDC. In the case where Institutional Review Board (IRB) approval is required to conduct research, RDC staff will notify relevant IRBs of infringements of protocol approvals.

Appendix IV (Project-Specific Requirements) contains information on submitting a research proposal requesting use of data other than those produced by NCHS. The format detailed below pertains specifically to use of NCHS data. If no project specific requirements are provided for non-NCHS data, the format below is to be used.

(1) The research proposal must contain the following information:

A. Cover letter.

B. Project Title.

C. Abstract: approximately 100–300 words summarizing the project.

D. Full personal identification, institutional affiliation, mailing addresses (including overnight express mail address), phone, and e-mail address. Applicants who are students must append a letter from the department chair or advisor stating that the applicant is a student working under the direction of the department.

E. Dates of proposed tenure at the RDC (or use of the remote access system). Proposals requesting remote access should include an appendix describing the computer and e-mail account that will receive output as well as the security provisions established for them.

F. Source of funding for the proposed project.

G. Background of study:

1. Key study questions or hypotheses.

2. Public health benefits.

H. A summary of the data requirements for the proposed research along with an explanation of why the data are needed for the proposed study.

1. Identification of cases to be included in the analytic file.

2. Identification of variables to be included in the analytic file.

3. Data to be supplied by the researcher and merged with NCHS or other data.

4. A description of why publicly available data are insufficient.

I. Methods for the study:

1. Analytic strategy and statistical methods to be used.

2. Software requirements (currently, PC–SAS® for Windows®, Stata®, SUDAAN®, LIMDEP®, HLM®, SPSS®, and Watcom Fortran 77® are available in the RDC; other languages can be made available with sufficient lead time).

J. A description of the output that the researcher intends to have reviewed for non-disclosure. This should include table shells, model equations, or test statistics of any output that the researcher plans to remove from the RDC. This will help the reviewers to determine the risk of disclosure.

K. Appendices.

1. A current resume or Curriculum Vitae for each person who will participate in the research activity. Resumes or CVs must specify nationality.

2. A letter from student applicant's department chair or academic advisor stating that student is working under the direction of the department.

3. A data dictionary: a complete listing of the specific data requested—data system, files, years, cases, variables, matching or linking variables, etc.

4. A data dictionary for researcher-supplied data, if any, to be merged with the confidential data. This includes identifying the source of the data, variable names, variable codes or ranges, file layout, number of records, and restrictions on NCHS use of the data (currently the RDC policy prohibits release of merged data to anyone other than the prospective researcher).

5. A description of the computer and e-mail system to be used to receive output from the remote access system as well as the security provisions established for them.

Portions of doctoral proposals or grant applications with appropriate modifications may suffice for the research proposal.

Proposals to use the Research Data Center should be sent to:

Research Data Center, National Center for Health Statistics, 3311 Toledo Road, Suite 4113, Hyattsville, MD 20782, *RDCA@cdc.gov*.

Upon receipt, the Research Proposal will be evaluated by a review committee convened for that purpose. The Proposal Review Committee consists of (at minimum) the director of the NCHS RDC, the RDC staff liaison, the NCHS Confidentiality Officer, and the director (or designee) of the NCHS data division whose data are requested in the proposal. Proposals for use of non-NCHS data undergo review as determined by the steward/s of those data.

(2) The following criteria apply to proposal review for projects requesting use of NCHS data:

A. Scientific and technical feasibility of the project;

B. Availability of resources at the RDC;

C. Risk of disclosure of restricted information; and

D. For projects using NCHS data, whether the proposed project is in accordance with the mission of the NCHS to provide statistical information that will guide actions and policies to improve the health of the American people.

Researchers should note that approval of their application does not constitute endorsement by NCHS of the substantive, methodological, theoretical, or policy relevance or merit of the proposed research. NCHS approval only

constitutes a judgment that this research, as described in the application, is not an illegal use of the requested data file and that there is high probability that the project can be successfully done in the RDC.

Researcher-Supplied Data

The RDC allows researchers to supply their own data to be linked with RDC data sets to create merged data sets that will be stored in the RDC. The researcher-supplied data may consist of proprietary data collected and ''owned'' by the researcher or other publicly available data obtained by the researcher such as census data. Researchers MUST provide RDC staff with complete documentation of any data proposed to be merged with RDC data. Researchers expecting to use merged files are responsible for interacting with RDC staff to ensure that their data can be merged with the data resident at the RDC and the format of the data is consistent with the RDC data. The RDC will accept user data files in SAS®, Stata®, or ASCII® format (flat files) with variables either column-delimited or column-specific. Other formats may also be proposed. RDC staff prior to the arrival of the researcher will do the merging of researcher-supplied data with RDC data sets. Identifying information in linking fields will be removed after the merge and will not be made available to the researchers.

Owners or stewards of RDC data sets make the determination of whether and how the resultant merged files would be made available to other researchers. For RDC files that are owned by NCHS, this determination is made by the owners of the researcher-supplied data that will be merged with the NCHS owned RDC files. For files that are NOT owned by NCHS, the determination is made by the stewards or owners of the RDC files. The owners of these files can require that any merged files be made available to all interested researchers or allow this determination to be made by the owners of the researcher supplied data.

The RDC periodically creates and maintains backup copies of all computer files. Backup files are stored in a secure storage area accessible by RDC staff only, although they may be made available to researchers who need to return for additional analyses. These backup files will contain user-supplied data as well as the merged files. These backup files will be destroyed only upon the written request of the user.

General Requirements for Guest Researchers

1. Researchers must work under the supervision of RDC staff and only during normal working hours (Monday-Friday, 8:30 a.m.–5 p.m.). Admittance to the RDC will be limited to the researchers whose names are included in the Research Proposal (Section D). Researchers will be required to show photo identification before admittance. A maximum of 3 collaborating researchers can sit at a computer station in the RDC.

2. Computers will be pre-loaded with the approved datasets by NCHS staff approximately one day prior to the external researcher's use of the RDC. Once the analysis is completed, NCHS staff will remove the datasets from the RDC computer.

3. Guest researchers must be able to conduct their analyses with the software specified in their research proposal.

4. External researchers are not allowed to bring documents, manuals, books, etc., that may enable them to identify and disclose confidential information they access in the RDC. Neither are they allowed to bring into the RDC cell phones, pagers, or other devices which would enable them to communicate with persons outside of the RDC.

5. All logs will be printed or electronically archived and will be kept by NCHS. NCHS will retain only the programs and procedures run by external researchers. The logs will not include results from their research.

6. All computer output generated by statistical programs and all hand-written notes based on such computer output are subject to disclosure review by NCHS staff before removal from the RDC. Output is restricted to summary tables of geographic or patient-level data (*e.g.*, line listings of diagnoses by study identifier will be prohibited).

7. Guest researchers may not save output, files, or programs to transportable electronic media. RDC staff can copy output or programs to transportable media, if requested.

8. Researchers proposing multiple analyses that employ multiple data sets will have access to only one dataset at a time. Under no circumstances will researchers be permitted any opportunity to merge datasets on their own.

General Requirements for Remote Access

1. Researchers must register an e-mail address that is credibly secure. Although programs can be sent to the RDC from any address, results will always be returned to the registered e-mail address.

2. Data requests must be in the form of SAS® programs (Version 8.2). However, certain SAS® commands/statements are not allowed through remote access. A list of such commands/statements is included in Appendix III. This list is periodically reviewed and may be modified as necessary. The SAS® program must be in plain ASCII® format.

3. During the first week of registration, researchers' data requests are executed in a manual mode, requiring RDC staff to review the program and resulting output before its release. During this period, remote access is available only during normal working hours. After the first week, researchers may submit data requests any time (day or night) and receive prompt response, except when the CDC e-mail system is down or when the remote access system is taken off-line for maintenance.

4. The remote access system does not allow users to write permanent datasets in its disk space. Jobs that attempt to create permanent datasets or files are flagged, terminated, and an error message is sent to the researcher.

5. The remote access system limits researchers' time and storage. No single program is allowed more than one hour to complete execution or to generate output in access of 1.5 MB.

6. With one exception, macros are not allowed through the remote access system. The exception, GLIMIX®, requires special permission.

Use of the RDC

In order to get access to restricted data files in the RDC, researchers must include in their proposals a signed ''Agreement Regarding Conditions of Access to Confidential Data in the Research Data Center for the National Center for Health Statistics.'' (Appendix V) All researchers participating on an approved project must sign the agreement—which clearly states the penalties for violating the conditions of agreement. In addition, each researcher must sign an ''Affidavit of Confidentiality.'' (Appendix VI) The RDC reserves the right to terminate any project at any time that it deems that an investigator's actions will compromise confidentiality or ethical standards of behavior in a research environment.

Statistical micro data files are collections of data from individual units such as persons or providers. Statistical agencies world wide are bound by ethical and legal requirements to preserve the privacy of individual respondents and the confidentiality of data provided to the agency by them or otherwise pertaining to them. As mentioned earlier, confidentiality protection at NCHS is governed by Section 308(d) of the Public Health

Service Act (42 U.S.C. 242m). This section states that:

No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under section 304, 306, or 307 may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose and in the case of information obtained in the course of health statistical or epidemiological activities under section 304 or 306, such information may not be published or released in other form if the particular establishment or person supplying the information or described in it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication or release in other form.

Having read and familiarized themselves with the Researcher Affidavit of Confidentiality, including Section 308(d) of the Public Health Service Act (42 U.S.C. 242m) (see below), researchers agree:

1. To make no copies of any files or portions of files to which they are granted access except those authorized by NCHS Research Data Center staff.

2. To return to RDC staff all NCHS restricted materials with which they may be provided during the conduct of their research at NCHS and other materials as requested.

3. Not to use ANY technique in an attempt to learn the identity of any person, establishment, or sampling unit not identified on public use data files.

4. To hold in strictest confidence the identification of any establishment or individual that may be inadvertently revealed in any documents or discussion, or analysis. Such inadvertent identification revealed in their analyses will be immediately brought to the attention of RDC staff.

5. Not to remove any printouts, electronic files, documents, or media until they have been scanned for disclosure risk by RDC staff.

6. Not to remove from NCHS any written notes pertaining to the identification of any establishment, individual, or geographic area that may be revealed in the conduct of their research at NCHS.

7. To the inspection of any material they may bring to or remove from the NCHS Research Data Center.

8. To comport themselves in a manner consistent with principles and standards appropriate to a scientific research establishment.

Appendix V Agreement Regarding Conditions of Access to Confidential Data in the Research Data Center of the National Center for Health Statistics, signed by all investigators on the project, must be submitted with the initial proposal.

Deliberate violation of any of these conditions may result in cancellation of the data access, and the researcher may be escorted from the premises by the duly authorized Federal protection service on duty at NCHS. The researcher may also be barred from any future use of the RDC upon review and determination by the Director of NCHS that this is necessary to protect the integrity and confidentiality of the RDC.

The RDC technical monitor will perform a disclosure review and must provide approval to the researcher before removal of any data from the RDC, whether it is in electronic or paper form. Any violation by the researcher may be punishable by fine or imprisonment for up to 5 years or both under Title 18 U.S.C. 1001.

As noted above, the RDC contains work stations with computers pre-loaded by NCHS staff with the requested dataset(s) to be analyzed with statistical software. External researchers must schedule time for use of the RDC, pay the appropriate user fees, and abide by the standard practices of the RDC. Among the requirements is a restriction on equipment that can be brought into the RDC, signing agreements to maintain confidentiality, and submitting to review of all results for any potential breaches in confidentiality.

Costs for Using the RDC

Time in the RDC can be scheduled in increments ranging from a consecutive 2-day minimum to a consecutive 10-day maximum. Extensions can be negotiated with RDC staff subject to scheduling requirements. Scheduling time at the RDC is on a first-come, first-served basis.

Researchers using the NCHS RDC will be charged for space and equipment rental and staff time necessary for supervision, disclosure limitation review, maintenance of computer facilities (including both hardware and software), and the creation and maintenance of data files required by the researcher. The cost per project (or creation of an analytic file) is given in the table below:

Guest Researcher (on site)	$200 per day (2-day minimum).
Remote Access	$500 per month for files with less than 130,000 records. $1,000 per month for files with 130,000 records or more. $500 per year for selected standard files.*

* There are selected files that have been developed for repeat and multiple users which require minimal set up procedures and involve minimal content changes to the file when preparing for different users. For that reason, charges for accessing these files are considerably less expensive than the regular fees. Two files fall under this category: the contextual data file for the National Survey of Family Growth (NSFG–CDF) and the Polio file for the National Health Interview Survey (NHIS–Polio). The cost for accessing standard files of this type will be published as the files are developed.

There is a minimum setup charge of $500 per day for new file creation. An additional $500 per day is charged as needed for file creations and for special handling, such as the merging of additional data or creating custom file formats.

More complex projects may require discussion between the researcher and RDC staff to determine the cost of file creation. Researchers are encouraged to develop their proposals in a way that facilitates the ability of the RDC staff to create the analytic files required by the project. Proposals should be explicit regarding the variables needed as well as any case selection required. Overly large and complex projects will require extensive communication between RDC staff and the researchers proposing the project, and this can cause the process to move slowly. Work to prepare data files can be accomplished most expeditiously if large, complex projects are subdivided into manageable parts.

Payment is expected in advance of the use of the RDC. A cashier's check or money order made payable to NCHS RDC must be received seven business days prior to the start date scheduled for use of the RDC. Payments should be mailed to: NCHS RDC, Attn: RDC Director, 3311 Toledo Road, Suite 4113, Hyattsville, MD 20782.

Disclosure Review Process

The disclosure review process in the RDC is centered on a rigorously

conducted research base. Briefly, RDC staff, either independently or in collaboration with staff from other areas of the NCHS, other government agencies, and non-governmental researchers, conduct research into the use of technological and statistical advances to develop and refine additional methods to access restricted data such as the use of the internet or encrypted data, assessment of disclosure risk through statistical and automated procedures, and the use of disclosure limitation methodologies (*e.g.*, statistical noise) to enable the release of otherwise restricted data files. The results of these research activities are applied to disclosure review activities in the RDC.

Researchers may take the results of their analyses off-site after disclosure review by RDC staff. Disclosure review consists of looking for tabular cells less than 5, tables with geographic variables in any dimension, models with geographic variables (or variables tantamount to geographic variables) as outcome variables, or line listings. In general, disclosure review is consistent with the guidelines published in the NCHS Staff Manual on Confidentiality (see Appendix II, Requirements for the Release of Micro Data).

RDC staff review data summaries to assure maintenance of respondent confidentiality. In no case may any table contain cells with fewer than 5 observations. If found, these small cells are suppressed, generally by obliterating the cell. To assure that small cells cannot be calculated from the other cells in the same row or column, staff makes illegible the totals for the rows and columns corresponding to the small cell. Once disclosure review is completed, researchers receive a photocopy of the final tabulations.

RDC staff when reviewing cross-tabulations for small cell use the following procedures:

1. Shred all tables having fewer than five total observations (table total);
2. Shred all tables having fewer than five observations in each cell ;
3.If the table passes the first two criteria, RDC staff will review the table one row at a time;
4. Make illegible all counts and percents for cells with four or fewer observations;
5. If one row cell is <5, that cell and at least one other row cell will be suppressed; if two or more row cells are each <5, each will be suppressed, but the row total need not be suppressed because the suppressed row cells cannot be determined;
6. If one column cell is <5, that cell and at least one other column cell will be suppressed; if two or more column cells are each <5, each will be suppressed, but the column total need not be suppressed because the suppressed column cells cannot be determined;
7. Row (or column) total is suppressed ONLY if it (*i.e.*, total) is <5; since the cells that are <5 (row or column as appropriate) are suppressed, user cannot determine their values by knowing the row (or column) total.

RDC staff will use best practices in determining whether data are identifiable and will be conservative in their decisions. RDC decisions are final and not subject to negotiation by researchers.

Publication

For NCHS files, any published material derived from the data should acknowledge NCHS as the source and should include a disclaimer that credits any analyses, interpretations, or conclusions reached by the author (recipient of the file) to that author and not to NCHS, which is responsible only for the initial data. Researchers who want to publish a technical description of the data should make a reasonable effort to ensure that the description is consistent with that published by NCHS.

Appendix I—Examples of NCHS Data Available Through the NCHS RDC

National Health Interview Survey—Data from the core and supplements for survey years 1987–2002 are available for merging user-supplied data at the state and county levels (note that RDC users do not have access to county FIPS codes; these are replaced with randomly assigned dummy codes). Additionally, state data files may be made available for analysis and reporting.

National Survey of Family Growth—Contextual Data File—The 1995 NSFG has available sets of contextual variables at the state, county, census tract, and block-group levels for the residence of the respondents in 1990, 1993, and 1995.

Third National Health and Nutrition Examination Survey (1988–1994)—Data from NHANES III are available with state and county identifiers (there are restrictions on the use and reporting of geographic units).

NCHS survey data, including vital statistics, Longitudinal Study on Aging, and other data files with restricted information (sample design information, lower levels of geography, etc.) can be made available as requested and needed.

Appendix II—Requirements for the Release of NCHS Micro Data Files

The following rules apply to all files released by NCHS which contain any information about individual persons or establishments, except where the supplier of information was told, prior to his giving the information, that the information would be made public:

A. Before any new or revised micro data files are published, they, together with their full documentation, must be approved for publication by the Confidentiality Officer who will rely upon assistance from the NCHS Disclosure Review Board in reaching decisions.

B. The file must not contain any detailed information about the subject that could facilitate identification and that is not essential for research purposes (*e.g.*, exact date of the subject's birth, excessive detail for occupation, extreme values of income and age, detailed race or ethnicity for small and highly visible groups—and other characteristics that would make an individual or establishment easier to identify). It is recommended that the following be consulted concerning possible techniques that would permit the maximum amount of information to be released consistent with sound principles of statistical disclosure limitation: The Confidentiality and Data Access Committee's Checklist on Disclosure Potential of Data *(http://www.fcsm.gov/committees/cdac/checklist_799.doc)* and Statistical Policy Working Paper 22, Report on Statistical Disclosure Limitation Methodology. Office of Information and Regulatory Affairs, Office of Management and Budget *(http://www.fcsm.gov/working-papers/wp22.html).*

C. Geographic places that have fewer than 100,000 people are not to be identified on the file. Depending upon the statistical structure of a file and other circumstances, a higher figure may be employed. It is the responsibility of the program proposing the data release to determine the disclosure risk associated with the proposed minimum size of geographic areas to be identified.

D. Characteristics of an area are not to appear on the file if they would uniquely identify an area of fewer than 100,000 people (*e.g.*, a variable describing the size of a Metropolitan Area in which a respondent was interviewed providing for a category of fewer than 100,000 in a file where Region is also provided).

E. Information on the drawing of the sample which might assist in identifying a respondent must not be released outside the Center. Thus, the identities of primary sampling units are not to be made available outside the Research Data Center except in limited circumstances and as approved by the Confidentiality Officer. When such circumstances require the disclosure of the identity of areas in which data collection activities take place, the survey manager must insure that all information for this survey proposed for release takes into account the greater risk of identification because of this exception. The decision as to whether PSU identities are to be made public should be made before data are collected and plans for data release finalized.

Appendix III—Disallowed SAS® Functions, Statements, and Procedures

The list below is used by the RDC remote access system to scan user-submitted programs for functions, statements, and procedures that may result in an unauthorized disclosure. Any user-submitted program that contains one or more of these

keywords is automatically rejected, and the user is asked to correct the problem and resubmit the program. Because the remote access system is an automated system, the RDC does not and cannot make any exceptions. This list may change pending development of additional methodologies.

r_word
add
print
obs
firstobs
first.
last.
&
%
nocol
report
pctn
pctsum
tabulate
iml
nofreq
nocum
browse
editor
summary
list
put
file
r_
plot
PROC DATASET:
-Copy
-Delete
-Rename
-Repair
-Append
-List
Compress
Pointobs
multi part data set names

In addition to the above disallowed statements and functions, users of the remote access system cannot use any statements or functions that write permanent data files to the hard disk.

Appendix IV—Project-Specific Requirements

Vaccine Safety Datalink (VSD) Project

The VSD was established to allow the Centers for Disease Control and Prevention (CDC) to carefully monitor vaccine safety in the United States. The VSD, a large-linked database, contains medical and immunization information on more than six million people annually. Information available in the database includes basic demographic information, managed care organization (MCO) enrollment, dates of vaccination, and medical visits. The VSD is a collaborative project involving CDC and several large MCOs. Information from the VSD is used by CDC to conduct vaccine safety studies.

Recognition of the need for improved monitoring of vaccine safety prompted the CDC to initiate the VSD project in 1990. This project currently involves partnerships with MCOs to continually monitor vaccine safety. All vaccines administered within a MCO are recorded and include vaccine type, date of vaccination, concurrent vaccinations (those given during the same visit), the manufacturer, lot number and injection site. Medical visits are also recorded which can be used to monitor for potential adverse events resulting from immunization. The VSD project allows for planned vaccine safety studies as well as timely investigations of emerging hypotheses. At present, the VSD project is examining potential associations between vaccines and a number of serious conditions. Data from the VSD also are used to test new vaccine safety hypotheses that result from the medical literature, signals from the Vaccine Adverse Events Reporting System (VAERS), changes in the immunization schedule, the introduction of new vaccines, or recommendations from the Institute of Medicine (IOM) and Advisory Committee on Immunization Practices (ACIP) recommendations. This project is a powerful and cost-effective tool for the on-going evaluation of vaccine safety. It should be noted that the MCOs, as owners of the data, have broad decision-making authority over data release, as specified in CDC's contract with America's Health Insurance Plans (AHIP). In addition, MCOs have a recognized need and right to protect proprietary data.

In August 2002, CDC's National Immunization Program (NIP) and its managed care partners created a data sharing program to allow limited access to VSD data through the NCHS RDC with confidentiality protection under Sec. 308(d) of the Public Health Service Act (42 U.S.C. 242m). Proposals requesting use of VSD data undergo a review by the MCOs' Institutional Review Board(s) (MCO IRB) in addition to a review by RDC staff. After approval of their research proposal and payment of fees for the associated costs, researchers are able to independently analyze data from the VSD.

Two types of VSD data may be accessed at the RDC by an external researcher:

1. Analytic datasets created from the VSD data files that reside at CDC to conduct new vaccine safety studies:

The VSD data files are comprised of several separate data sets derived from computerized data sources from seven participating VSD MCOs. The VSD data files contain data through December 31, 2000 and include information such as vaccinations, hospital discharge and other diagnoses, and demographic characteristics. With these data, an external researcher may conduct a new vaccine safety study in order to test his/her vaccine safety hypothesis. The external researcher may request only the variables that are found in the VSD data Files (as listed in the data dictionary).

To assist researchers, CDC makes available at its Web site: (1) A list of recommended scientific references relevant to conducting research using large linked databases such as the VSD data files and (2) a data dictionary that lists all the variables contained in the VSD data files available for new vaccine safety research (*http://www.cdc.gov/nip/vacsafe/vsd/default.htm#data*).

Proposals for analyses of new vaccine safety studies using data from the VSD data files should include only those specific variables that are needed to conduct the proposed analyses, including a brief explanation with justification for use of these variables.

Data contained in the VSD data files have been created from MCO administrative data which are not solely collected for the purpose of scientific research. It should be noted then that potential data discrepancies and varying degrees of data quality that are specific to such types of data do exist and typically are not resolvable with data that are available in the RDC.

2. Final datasets from published VSD studies:

External researchers who would like to perform a reanalysis of a published VSD study performed by VSD investigators may request the final dataset for the specific study they wish to re-analyze. Data collected for the final datasets of the published studies may include additional variables not listed in the data dictionary that is referenced above; therefore, the RDC will provide the external researcher with the necessary data dictionary for the requested dataset(s). No additional source or ''raw'' data are available for reanalysis of published VSD studies.

In general, VSD studies published after August 2002 are available for reanalysis. However, since many studies were published prior to the establishment of the CDC data sharing policy, some of the earlier published VSD study datasets may not be available for re-analysis for the following reasons:

- Some IRBs mandate that datasets be destroyed after research is completed.
- Principal investigator may no longer be affiliated with VSD or the collaborating MCOs; therefore, the location of the dataset is unknown.
- Rapidly changing technology can mean that data are on obsolete media.

Following receipt of a proposal for a reanalysis, the RDC will verify that the data variables requested from the published study are available. If these data are not available (for one or more of the reasons stated above), the RDC will notify the external researcher. Documentation for variables and datasets used in VSD studies completed after August 2002 are maintained according to the CDC data sharing policy regarding archival of data that are available on the Web at *http://www.cdc.gov/od/ads/pol-385.htm*.

All proposals requesting use of VSD data should contain the following information:

A. Project Title.

B. Name of proposed investigator and collaborators (RDC rules limit number of persons at a work station to 3 at a time).

C. Name of point of contact, address, telephone number, and e-mail address.

D. Summary of proposed study (*i.e.*, background, reasons for conducting the study, public health benefits).

E. Specific hypothesis for new vaccine safety studies to be investigated or title of published VSD study to be reanalyzed.

F. Proposed methodology for new vaccine safety studies or the specification of the methods used in published VSD studies:

1. Definition of the study population of interest and type of study to be conducted:

a. Descriptive studies: specify the variables and values for those variables to be used to select the study population.

b. Case-control studies: specify criteria for cases and controls.

c. Cohort studies: specify criteria for the exposed and unexposed population.

d. For all new vaccine safety studies, please include the following information as

part of the definition of the study population of interest:

i. Adult or Pediatric data (0–17 or 18+).

ii. Study years of interest (*i.e.* 199X–2000). Please note the study years available vary by HMO site.

iii. How the study population will be selected from the VSD data files based on available fields in the VSD data dictionary.

2. Specification of the variables that will be required including:

a. Exposures: Specific criteria defining exposures based on the VSD data dictionary should be included. For instance, specific vaccines given within 14 days of the outcome of interest.

b. Outcomes: Specific criteria defining those outcomes based on the VSD data dictionary should be included. For instance, specific ICD–9 codes for outcomes of interest and type of health care encounter (hospitalization, outpatient encounter, emergency room visit).

c. Person Time or Enrollment: Specify criteria to determine calculation of person time, follow-up time, or MCO enrollment restrictions.

d. Confounding or control variables, including:

1. Demographic information.
2. Pre-existing or co-morbid conditions.
3. Concurrent vaccinations.
4. MCO Site.

e. Other required variables to perform the proposed analysis.

G.Proposed analytic strategies.

The RDC staff will notify the external researcher whether his/her proposal is complete and whether the requested variables are available. If all the requested data variables can be located for the proposed new vaccine safety studies or proposed reanalysis, review of the proposal by the appropriate MCO IRBs takes place. In compliance with federal law and regulations, access by external researchers to a portion of the VSD data files or to datasets from VSD published studies requires review and approval by the appropriate IRBs of the relevant MCOs. The MCO IRBs have the responsibility to protect the confidentiality and privacy of their members' medical records and to adhere to the rules and regulations applicable to their respective institution(s). Consequently, each of the MCO IRBs must review any request for access to the VSD data files that contain information on its MCO members. Any appeal by the requestor of an IRB decision must follow the national, federal procedures for IRBs. CDC is not involved in the MCO IRB process at any time. General information pertaining to the rules and regulations of IRB submission can be found at *http://www.cdc.gov/od/ads/hsr2.htm/.*

Submission of Proposals to MCO IRBs

Review of a proposal submitted by an external researcher by a MCO IRB does not imply that CDC approves or endorses the external researcher's proposed research. IRB applications may require a more detailed description of the proposed vaccine safety study and may vary according to individual IRB requirements. Furthermore, various IRBs may have different time lines for submission of proposals for review. Each IRB may have specific policies or requirements for data sharing that have not been adopted by the other MCO IRBs. These policies may include required collaboration with an MCO investigator, fees associated with the IRB review process, or differing criteria for the IRB review process.

MCO IRBs will use their established procedures and time lines to review the proposed research and to consider any appeals. As a rule, IRBs attempt to inform researchers as to the status of their proposals. Approval for access to MCO data contained within the VSD data files does not indicate approval for obtaining additional data contained within the MCO's member medical records or elsewhere, if such data are not contained within the VSD data files that reside in the RDC.

For new vaccine safety studies, it is possible that an external researcher will receive approval for access to VSD data from some, but not all, relevant IRBs. If this occurs, then the dataset(s) needed to conduct the new vaccine safety study will still be created, but only with data from the MCOs whose IRBs approved access. VSD data sets for new vaccine safety studies must contain data from two or more MCOs' data. Access will not be provided to data from only one MCO. For reanalysis of a published VSD study, all relevant IRBs from the MCOs that participated in the published study must approve the proposal for reanalysis; therefore if one or more IRBs do not approve access to VSD data used in the published study, the final dataset cannot be provided.

Once the external researcher has received a response from all of the appropriate IRBs, the RDC will begin the process of creating or formatting the approved dataset(s). The RDC will not create or prepare the dataset(s) until it receives copies of all final IRB dispositions.

Publication of Research Using VSD Data

When an external researcher has completed his/her work at the RDC and wishes to publish research results and findings using VSD data, there are specific requirements that must be followed:

- External researchers are required to submit a copy of these data sharing guidelines with any manuscript submitted to a journal.
- External researchers are required to submit (to the journal) a copy of the Confidentiality Agreement he/she signed prior to conducting research at the RDC.
- Disclaimers must be included in the manuscript which state:

The research was conducted using data from the Vaccine Safety Datalink Project, through the data sharing program at the Centers for Disease Control and Prevention.

- Any published material using VSD data must acknowledge CDC as the original data source.
- Additionally, disclaimers must be included that state:

The analysis, interpretations, and conclusions are the responsibility of the authors and do not represent the views and opinions of the CDC, the Federal Government, or the managed care organization providing the data.

Appendix V—Agreement Regarding Conditions of Access to Confidential Data in the Research Data Center of the National Center for Health Statistics

I _____ (please print name) am aware that the information contained in the (name of data file) has been provided to NCHS in accordance with the provisions of Section 308(d) of the Public Health Service Act (42 U.S.C. 242m), with the assurance that it will be used only for health statistical reporting and analysis and will not be published or released in identifiable form. I am also aware that I can be held legally liable for any harm incurred by individuals or establishments who have provided or are described in the information contained in the above work files to which I will have access.

Having read and familiarized myself with the Researcher Affidavit of Confidentiality, including Section 308(d) of the Public Health Service Act (42 U.S.C. 242m) (attached), I agree:

1. To make no copies of any files or portions of files to which I am granted access except those authorized by NCHS Research Data Center staff.
2. To return to RDC staff all NCHS restricted materials with which I may be provided during the conduct of my research at NCHS and other materials as requested.
3. Not to use ANY technique in an attempt to learn the identity of any person, establishment, or sampling unit not identified on public use data files.
4. To hold in strictest confidence the identification of any establishment or individual that may be inadvertently revealed in any documents or discussion, or analysis. Such inadvertent identification revealed in my analysis will be immediately brought to the attention of RDC staff.
5. Not to remove any printouts, electronic files, documents, or media until they have been scanned for disclosure risk by RDC staff.
6. Not to remove from NCHS any written notes pertaining to the identification of any establishment, individual, or geographic area that may be revealed in the conduct of my research at NCHS.
7. To the inspection of any material I may bring to or remove from the NCHS Research Data Center.
8. To comport myself in a manner consistent with the principles and standards appropriate to a scientific research establishment.

Deliberate violation of any of these conditions may result in cancellation of the data access agreement, and the researcher may be escorted from the premises by the duly authorized Federal protection service on duty at NCHS. The researcher may also be barred from any future use of the RDC upon review and determination by the Director of NCHS that this is necessary to protect the integrity and confidentiality of the RDC.

_____
Researcher's Signature

_____
Date

_____
NCHS Witness

_____
Date

Appendix VI—Researcher Affidavit of Confidentiality

I certify that no confidential data or information viewed or otherwise obtained while I am a researcher in the National Center for Health Statistics (NCHS) Research Data Center (RDC) will be removed from NCHS. Further, I understand that NCHS will perform a disclosure review and must provide approval to me before I remove any data from the RDC, whether they are in electronic or paper form. I acknowledge NCHS Confidentiality Statute, Sec. 308(d) of the Public Health Service Act (42 U.S.C. 242m) stated below and fully understand my legal obligations to NCHS to protect all confidential data. Further, I understand that any violation may be punishable by fine or imprisonment for up to 5 years or both under Title 18 U.S.C. 1001.

NCHS Confidentiality Statute—No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under section 304, 306, or 307 may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose and in the case of information obtained in the course of health statistical or epidemiological activities under section 304 or 306, such information may not be published or released in other form if the particular establishment or person supplying the information or described in it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication or release in other form.

Title 18 U.S.C. 1001—Deliberately making a false statement in any matter within the jurisdiction of any Department or Agency of the Federal Government violates Title 18 U.S.C. 1001 and is punishable by a fine or up to 5 years in prison or both.

Researcher's Signature

Date

NCHS Witness

Date

Dated: November 9, 2004.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention.

[FR Doc. 04–25537 Filed 11–17–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 1, 2004, from 8 a.m. to 5 p.m.

Location: Holiday Inn, Kennedy/Adams Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Contact Person: Johanna M. Clifford, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, (for express delivery, 5630 Fishers Lane, rm. 1093) Rockville, MD 20857, 301–827–7001, Fax: 301–827–6776, e-mail: *cliffordj@cder.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss these items: (1) New drug application (NDA) 21–673, proposed trade name CLOLAR (clofarabine) Ilex Products, Inc., proposed indication for the treatment of pediatric patients 1 to 21 years old with refractory or relapsed acute leukemias, and (2) NDA 21–600, proposed trade name MARQIBO (vincristine sulfate liposome injection) Inex Pharmaceuticals Corp., proposed indication for the treatment of patients with aggressive non-Hodgkin's lymphoma previously treated with at least two combination chemotherapy regimens.

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 November 23, 2004. Oral presentations from the public will be scheduled between approximately 10:30 a.m. and 11 a.m., and between approximately 2:30 p.m. and 3 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 23, 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 Trevelin Prysock at 301–827–7001 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: November 9, 2004.

Sheila Dearybury Walcoff,

Associate Commissioner for External Relations.

[FR Doc. 04–25530 Filed 11–17–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Advisory Committee to the Director, National Institutes of Health (NIH).

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

A portion of the meeting will be closed to the public in accordance with the provisions set forth in the Government in the Sunshine Act, sections 552b(c)(6) and 552b(c)(9)(B), Title 5 U.S.C., as amended, because the disclosure of which would constitute a clearly unwarranted invasion of personal property and the premature disclosure of information and the discussions are likely to significantly

frustrate the implementation of the program.

Name of Committee: Advisory Committee to the Director, NIH.

Date: December 2–3, 2004.

Closed: December 2, 2004, 8:30 a.m. to 9:30 a.m.

Agenda: Confidential evaluation of program implementation.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Open: December 2, 2004, 9:30 a.m. to December 3, 2004, adjournment.

Agenda: Topics proposed for discussion include NIH Director's Report, Office of the Director updates, and workgroup updates.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Contact Person: Shelly Pollard, ACD Coordinator, National Institutes of Health, 9000 Rockville Pike, Building 31, Room 5B64, Bethesda, MD 20892, Phone: (301) 496–0959.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The comments should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by nongovernment employees. Persons without a government I.D. will need to show a photo I.D. and sign in at the security desk upon entering the building.

Information is also available on: *http://www.nih..gov/about/director/acd.htm,* where an agenda and any additioanl information for the meeting will be posted when available.

Dated: November 10, 2004.

LaVerny Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25576 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Review of Research Project (RO1s) Applications.

Date: December 2, 2004.

Time: 10:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., 7192, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Judy S. Hannah, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892, 301–435–0287.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25581 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Review of Research and Dissemination Projects (R18s).

Date: December 6, 2004.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Inner Harbor Hotel Baltimore, 300 South Charles Street, Baltimore, MD 21201.

Contact Person: Patricia A. Haggerty, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892, 301/435–0280.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25582 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Review of NIH Clinical Trial Planning Grant Program (R34).

Date: December 8, 2004.

Time: 10:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy

Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Guo HE Zhang, PHD, MD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20817, 301–451–6524, *zhanggu@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25568 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Microbial Immunity in IBD.

Date: December 8, 2004.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dan E. Matsumoto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 749, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–5452, (301) 594–8894. *matsumotod@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25569 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, AD Pathobiology.

Date: December 1, 2004.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814. (Telephone Conference Call).

Contact Person: Jon Rolf, PhD, Health Scientist Administrator, Scientific Review Office, National Institutes of Health, National Institute on Aging, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20814, (301) 402–7703, *rolfj@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel Pathogenesis and CNS Degeneration.

Date: December 9, 2004.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building, 7201 Wisconsin Ave, Bethesda, MD 20814. (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 402–7700, *rv23r@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25570 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: November 15, 2004.

Time: 10:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6001 Executive Blvd Suite 3208, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: W. Ernest Lyons, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd. Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–4056.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: December 15, 2004.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Andrea Sawczuk, DDS, PhD, Scientific Review Administrator, Scientific Review Branch, Division of

Extramural Research, NINDS/NIH/DHHS, 6001 Executive Boulevard, Room #3208, Bethesda, MD 20892, (301) 496–0660, *sawczuka@ninds.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: January 13, 2005.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Andrea Sawczuk, DDS, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, 6001 Executive Boulevard, Room #3208, Bethesda, MD 20892, (301) 496–0660, *sawczuka@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25573 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Mental Health Special Emphasis Panel, October 8, 2004, 9 a.m. to October 8, 2004, 4 p.m., Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on September 20, 2004, 69 FR 56234.

The meeting will be held on December 2–3, 2004 at the same location (Holiday Inn Select Bethesda) and the same times (9 a.m. to 4 p.m.). The meeting is closed to the public.

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25574 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel Training III.

Date: December 3, 2004.

Time: 10:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Benjamin Xu, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6143, MSC 9608, Bethesda, MD 20892–9608, 301–443–1178, *benxu1@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25577 Filed 11–17–04; 8:45 am]

BILLING CODE 4104–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal property.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Social Implications of Embryo Cryopreservation.

Date: December 7, 2004.

Time: 12:30 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Carla T. Walls, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25578 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of persona privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Program Project & Small Research Grant; Mitochondria Disorders.

Date: December 10, 2004.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25579 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NICHD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects on conducted by the National Institute of Child Health and Human Development, including consideration of personnel qualifications and performance, and as the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NICHD.

Date: December 3, 2004.

Time: 8 a.m. to 11 a.m.

Agenda: To review and discuss current NICHD intramural research activities.

Place: National Institutes of Health, Building 31, 9000 Rockville Pike, Conference Room 2A48, Bethesda, MD 20892.

Closed: 11 a.m. to Adjournment.

Agenda: To review and evaluate personal qualifications and performance and competence of individual investigators.

Place: National Institutes of Health, Building 31, 9000 Rockville Pike, Conference Room 2A48, Bethesda, MD 20892.

Contact Person: Owen M. Rennert, MD, Scientific Director, National Institute of Child Health and Human Development, 9000 Rockville Pike, Building 31, Room 2A50, Bethesda, MD 20892, (301) 496–2133, *rennerto@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http:www.nichd.nih.gov/about/bsd/htm*, where an agenda and any additional information for the meeting will be posed when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93,209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25580 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel, Intraneural Auditory Prosthesis Stimulating Electrode Array.

Date: December 15, 2004.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Da-yu Wu, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Suite 400C, Bethesda, MD 20892, 301–496–8683, *wudy@nidcd.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25583 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Special Emphasis Panel; U01.

Date: December 16, 2004.

Time: 9:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research & Training, Nat. Institute of

Environmental Hlth., Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–1307

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25584 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Membrane Trafficking in Epithelial Cell Function.

Date: December 9, 2004.

Time: 8:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal City Courtyard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 777, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *Is38oz@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25585 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: December 16–17, 2004.

Time: 8:30 a.m. to 6 p.m.

Agenda: Review of human gene transfer protocols for Development of effective immunotherapy for prostate cancer patients and a Phase I clinical trial of rAAV2.5-CMV-mini-dystrophin gene vector in Duchenne Muscular Dystrophy. The meeting includes the Data Management report and discussion of the draft Points to Consider from the September Safety Symposium. Please refer to the OBA–RAC web site for updates.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Stephen M. Rose, PhD, Executive Secretary, Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Room 750, Bethesda, MD 20892, 301–496–9838, 301–496–9838, *sr8j@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www4.od.nih.gov/oba/*, where an agenda and any additional information for the meeting will be posted when available.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25575 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 EMNR Metabolism.

Date: November 15, 2004.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dennis Leszczynski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, (301) 435–1044, *leszczyd@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel RPHB–B (04): Factors in Pulmonary Health.

Date: November 18, 2004.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Karen Lechter, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3128, MSC 7759, Bethesda, MD 20892, (301) 496–0726, *lechterk@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel Bacterial Transport.

Date: November 19, 2004.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Diane L. Stassi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, (301) 435–2514, *stassid@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflicts in Affect and Cognition.

Date: November 22, 2004.

Time: 4 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, *roberlu@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Human Circadian Rhythms and Sleep.

Date: November 30, 2004.

Time: 11:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, (301) 435–1245, *marcusr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS U 03:Member Conflict BDPE.

Date: December 2, 2004.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marcia Steinberg, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5130, MSC 7840, Bethesda, MD 20892, (301) 435–1023, *steinbem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Host Immunity in Candida Pathogenesis.

Date: December 3, 2004.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Melody Mills, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3204, MSC 7808, Bethesda, MD 20892, (301) 435–0903, *millsm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pathophysiological Role of Adenylyl Cyclas Isoforms.

Date: December 3, 2004.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Craniofacial Development.

Date: December 8, 2004.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787, *chenp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Etiology and Burkitt's Lymphoma.

Date: December 21, 2004.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John C. Pugh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25571 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel TCR Gene Rearrangement.

Date: November 15, 2004.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Betty Hayden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel Anaplasma Regulation of Granulocytes.

Date: November 29, 2004.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard G. Kostriken, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7808, Bethesda, MD 20892, 301–402–4454, *kostrikr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel Protein Structure and Function.

Date: December 1, 2004.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard Panniers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Immunobiology of Human Basophils.

Date: December 8, 2004.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892, 301–435–1152, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Inactivation of Prions.

Date: December 8, 2004.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard G. Kostriken, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7808, Bethesda, MD 20892, 301–402–4454, *kostrikr@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 10, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–25572 Filed 11–17–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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.

Proposed Project: Access to Recovery (ATR) Program—New

In preparation for implementing Performance Partnership Grants, SAMHSA has developed a set of performance outcome measures for substance abuse treatment that cover seven domains. The domains are: Abstinence from drug use and alcohol abuse, or decreased mental illness symptomatology; increased or retained employment and school enrollment; decreased involvement with the criminal justice system; increased stability in family and living conditions; increased access to services; increased retention in services for substance abuse treatment or decreased utilization of psychiatric inpatient beds for mental health treatment; and increased social connectedness to family, friends, co-workers and classmates.

SAMHSA's Center for Substance Abuse Treatment (CSAT), is responsible for implementing the new Access to Recovery (ATR) grant program. States funded in the ATR program will use these outcome measures to meet the reporting requirements of the Government Performance and Results Act (GPRA) by quantifying the effects and accomplishments of the funded programs. The ATR Program is part of a Presidential initiative to: (1) Provide client choice among substance abuse clinical treatment and recovery support service providers, (2) expand access to a comprehensive array of clinical treatment and recovery support options (including faith-based programmatic options), and (3) increase substance abuse treatment capacity. Monitoring outcomes, tracking costs, and preventing waste, fraud and abuse to ensure accountability and effectiveness in the use of Federal funds are also important elements of the ATR program. Grantees, as a contingency of their award, are responsible for collecting data from their clients at intake, discharge, at 30 days after intake, and every two months during an episode of care. An episode of care is defined as a client's entry to and exit from the ATR.

The following tables summarize the annual response burden for the ATR activities using the performance outcome measures.

ATR PROGRAM

Data collection point	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
Client Interviews:				
ATR Intake	42,095	1	0.33	13,891
Those still in treatment at:				
Discharge/30 day interview*	42,095	1	0.33	13,891
3 months	28,625	1	0.33	9,446
5 months	22,732	1	0.33	7,502
7 months	18,101	1	0.33	5,973
9 months	15,155	1	0.33	5,001
11 months	11,787	1	0.33	3,890
12+ months	7,999	1	0.33	2,640
Client Total	42,095			62,234
Record Management by Provider Staff:				
Sections A & G at 30 days, 3, 5, 7, 9, 11 and 12+ months	† 146,494	1	.1	14,649
Voucher Information	42,095	1.5	.03	1,894
States—15:				
State extract & upload	15	4	.03	2
Total	42,095			78,779

* The ATR interview will be administered every 2 months beginning at 30 days. It is assumed that those who are discharged at 30 days or less will receive an intake and discharge interview only and are included in the number in the first two rows. The number of respondents who are still in treatment by month is based on experience with CSAT's GPRA services data.

† Clients.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1045, 1 Choke Cherry Road, Rockville, MD 20850. Written comments should be received by January 18, 2005.

Patricia S. Bransford,

Acting Executive Officer, SAMHSA.

[FR Doc. 04–25539 Filed 11–17–04; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Statement of Organization, Functions, and Delegations of Authority

Part M of the Substance Abuse and Mental Health Services Administration (SAMHSA) Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services at 69 FR 60891, is amended to reflect the new functional statement for the Office of Program Services (OPS) and the Division of Operational Support (DOS). This amendment reflects the decision that the Most Efficient Organization (MEO) that is being established as a result of SAMHSA's FY 2004 competitive sourcing study will be located within DOS/OPS. In addition, this amendment reflects the Office of the Secretary's decision to consolidate responsibility for administration of the Small and Disadvantaged Business Utilization (SADBU) program within a single office at the Department level. Hence, reference to the SADBU function has been deleted from the DOS functional statement. The changes are as follows:

Section M.20, Functions is amended as follows:

(A) The functional statements for the Office of Program Services (OPS) and the Division of Operational Support (DOS) within OPS is replaced with the following:

Office of Program Services (MB)

(1) Works in partnership with other SAMHSA and HHS components in managing, providing leadership, and ensuring SAMHSA's needs are met in the following service areas: Grant and contract application review, grants and contracts management, administrative services, human resources management, equal employment opportunity, organizational development and analysis, and information technology; (2) provides leadership in the development of policies for and the analysis, performance measurement, and improvement of SAMHSA administrative and management systems; (3) provides leadership, guidance, and technical expertise for the Agency's information technology program; (4) provides centralized administrative services for the Agency; (5) provides centralized staff assistance and office automation services for designated components of the Agency, and (6) conducts all aspects of the SAMHSA grants and contracts management process.

Division of Operational Support (MBH)

(1) Provides centralized administrative services for the Agency, including processing and coordinating requests for and providing advice on procurement actions, travel, property, facilities, and other activities; (2) coordinates actions as necessary with other HHS components such as the Program Support Center (PSC) procurement staff and the contract travel agency; (3) processes and coordinates requests for SAMHSA administrative actions; (4) provides advice and guidance to staff on administrative procedures for processing actions such as travel orders, acquisition requests, and training documents; (5) ensures administrative actions are consistent with regulations and other requirements, and implements general management policies as prescribed by SAMHSA and higher authorities; (6) coordinates the provision of support in the areas of real and personal property, building management, facility management, health and safety, security, transportation, parking, and telecommunications; (7) in collaboration with the Division of Financial Management in the Office of Policy, Planning, and Budget, performs budget execution tasks such as certifying funds, maintaining the commitment database, and reconciling accounts for program management for SAMHSA; (8) coordinates and complies with policies and procedures set forth by the Division of Financial Management for budget execution, and (9) provides centralized

staff assistance and office automation services for designated components of the agency.

Section M.40, Delegations of Authority. All delegations and redelegations of authority to officers and employees of SAMHSA which were in effect immediately prior to the effective date of this reorganization shall continue in effect pending further redelegations, providing they are consistent with the reorganization.

These organizational changes are effective November 3, 2004.

Charles G. Curie,

Administrator.

[FR Doc. 04–25538 Filed 11–17–04; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: The U.S. Fish and Wildlife Service (we) announces the availability of the Draft Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon for public review and comment. This draft recovery plan covers 33 species, of which 20 are federally listed as threatened or endangered. These species inhabit vernal pool ecosystems in California and southern Oregon. This draft recovery plan includes recovery criteria and measures for 20 federally listed species. Federally endangered plants include *Eryngium constancei* (Loch Lomond button-celery), *Lasthenia conjugens* (Contra Costa goldfields), *Limnanthes floccosa* ssp. *californica* (Butte County meadowfoam), *Navarretia leucocephala* ssp. *pauciflora* (few-flowered navarretia), *Navarretia leucocephala* ssp. plieantha (many-flowered navarretia), *Orcuttia pilosa* (hairy Orcutt grass), *Orcuttia viscida* (Sacramento Orcutt grass), *Parvisedum leiocarpum* (Lake County stonecrop), *Tuctoria greenei* (Greene's tuctoria), and *Tuctoria mucronata* (Solano grass). Federally threatened plants include *Castilleja campestris* ssp. *succulenta* (fleshy owl's clover), *Chamaesyce hooveri* (Hoover's spurge), *Neostapfia colusana* (Colusa grass), *Orcuttia inaequalis* (San Joaquin Valley Orcutt grass), and *Orcuttia tenuis* (slender Orcutt grass). Federally endangered animals include the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), and vernal pool tadpole shrimp (*Lepidurus packardi*). Federally threatened animals include the vernal pool fairy shrimp (*Branchinecta lynchi*) and delta green ground beetle (*Elaphrus viridis*). The portions of the plan dealing with the delta green ground beetle and Solano grass are a revision of the 1985 Delta Green Ground Beetle and Solano Grass Recovery Plan.

The draft recovery plan addresses conservation of 10 plant species of concern, including *Astragalus tener* var. *ferrisiae* (Ferris' milk vetch), *Astragalus tener* var. *tener* (alkali milk vetch), *Atriplex persistens* (persistent-fruited saltscale), *Eryngium spinosepalum* (spiny-sepaled button-celery), *Gratiola heterosepala* (Boggs Lake hedge-hyssop), *Juncus leiospermus* var. *ahartii* (Ahart's dwarf rush), *Legenere limosa* (legenere), *Myosurus minimus* var. *apus* (little mouse tail), *Navarretia myersii* ssp. *deminuta* (pincushion navarretia), and *Plagiobothrys hystriculus* (bearded popcorn flower). The three animal species of concern addressed in the draft recovery plan include the mid-valley fairy shrimp (*Branchinecta mesovallensis*), California fairy shrimp (*Linderiella occidentalis*), and western spadefoot toad (*Spea hammondii*).

DATES: Comments on the draft recovery plan must be received on or before March 18, 2005.

ADDRESSES: A copy of the draft recovery plan is available for review, by appointment, during normal business hours at the following U.S. Fish and Wildlife Service locations: Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, California (telephone (916) 414–6600); Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California (telephone (760) 431–9440); Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California (telephone (805) 644–1766); Southwest Oregon Field Office, 2900 NW., Stewart Parkway, Roseburg, Oregon (telephone (541) 957–3473); and Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, California (telephone (707) 822–7201. An electronic copy of this draft recovery plan is also available on the World Wide Web at *http://pacific.fws.gov/ecoservices/endangered/recovery/plans.html* and *http://endangered.fws.gov/recovery/index.html#plans.* Printed copies of the draft recovery plan will be available for distribution in 4 to 6 weeks.

FOR FURTHER INFORMATION CONTACT: Harry McQuillen or Betty Warne, Fish and Wildlife Biologists, at the above Sacramento address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program. To help guide the recovery effort, we are working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation 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. We will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plan as appropriate. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individual responses to comments will not be provided.

The 33 species covered in this draft recovery plan occur primarily in vernal pool, swale, or ephemeral freshwater habitats within California and southern Oregon and are largely confined to a limited area by topographic constraints, soil types, and climatic conditions. Surrounding (or associated) upland habitat is critical to the proper ecological function of these vernal pool habitats. Most of the vernal pool plants and animals addressed in the draft recovery plan have life histories adapted to the short period for growth and reproduction within inundated or drying pools interspersed with long dormant periods when pools are dry, and extreme year-to-year variation in rainfall. Threats to the species include habitat loss, fragmentation, and

degradation due to urban development, recreation, agricultural conversion and practices, and altered hydrology; non-native invasive species; inadequate regulatory mechanisms; incompatible grazing regimes; and stochastic events. All species covered in the draft recovery plan primarily are threatened by the loss, fragmentation, or degradation of vernal pool habitat throughout the following areas: the Central Valley of California, the southern Sierra foothills, the Carrizo Plain, portions of the Coast Ranges, the Modoc Plateau, the Transverse Ranges, Los Angeles, and San Diego areas of California, and the Klamath Mountains region in Oregon. Therefore, areas currently, historically, or potentially occupied by the species are recommended for habitat protection and/or special management considerations.

The objectives of this draft recovery plan are to: (1) Ameliorate the threats that caused the species to be listed, and ameliorate any other newly identified threats in order to be able to delist these species; and (2) ensure the long-term conservation of the species of concern. These objectives will be accomplished through implementation of a variety of recovery measures including habitat protection, management and restoration; monitoring; reintroduction, introduction, and enhancement; research and status surveys; and public participation, outreach, and education.

Public Comments Solicited

We solicit written comments on the draft recovery plan described. All comments received by the date specified above will be considered in developing a final recovery plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 21, 2004.

Paul Henson,

Manager, California/Nevada Operations Office, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 04–25540 Filed 11–17–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Recovery Plan for the Tidewater Goby (*Eucyclogobius newberryi*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: The U.S. Fish and Wildlife Service (we) announces the availability of the Draft Recovery Plan for the Tidewater Goby (*Eucyclogobius newberryi*) for public review and comment. The tidewater goby is a small fish that inhabits coastal brackish water habitats entirely within California, ranging from Tillas Slough (mouth of the Smith River, Del Norte County) near the Oregon border south to Agua Hedionda Lagoon (northern San Diego County). This draft recovery plan describes the status, current management, recovery objectives and criteria, and specific actions needed to reclassify the tidewater goby from endangered to threatened, and to ultimately delist it. We solicit review and comment from local, State, and Federal agencies, and the public on this draft recovery plan.

DATES: Comments on the draft recovery plan must be received on or before January 18, 2005 to receive our consideration.

ADDRESSES: A copy of the draft recovery plan is available for review, by appointment, during normal business hours at the following location: U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003 (telephone 805–644–1766). An electronic copy of the draft recovery plan is also available on the World Wide Web at *http://pacific.fws.gov/ecoservices/endangered/recovery/plans.html* and *http://endangered.fws.gov/recovery/index.html#plans.* Printed copies of the draft recovery plan will be available for distribution in 4 to 6 weeks.

FOR FURTHER INFORMATION CONTACT: Chris Dellith, Fish and Wildlife Biologist, at the above Sacramento address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program. To help guide the recovery effort, we are working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species; establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

Section 4(f) of the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*) requires that public notice and an opportunity for public review and comment be provided during recovery plan development. We will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plan as appropriate. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individual responses to comments will not be provided.

This draft recovery plan was developed by the Tidewater Goby Recovery Team. We coordinated with the California Department of Fish and Game and a team of stakeholders, which included landowners and managers, agency representatives, and non-government organizations.

The tidewater goby was listed as an endangered species on March 7, 1994 (59 FR 5494). The tidewater goby is threatened primarily by modification and loss of habitat as a result of coastal development, channelization of habitat, diversions of water flows, groundwater overdrafting, and alteration of water flows. Actions needed to recover the tidewater goby include: (1) Monitor, protect, and enhance currently occupied tidewater goby habitat; (2) conduct biological research to enhance the ability to integrate land use practices with tidewater goby recovery and revise recovery tasks as pertinent new information becomes available; (3) evaluate and implement translocation where appropriate; and (4) increase public awareness about tidewater gobies.

Public Comments Solicited

We solicit written comments on the draft recovery plan described. All comments received by the date specified above will be considered in developing a final recovery plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 20, 2004.

Vicki L. Campbell,

Manager, California/Nevada Operations Office, U.S. Fish and Wildlife Service.

[FR Doc. 04–25541 Filed 11–17–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1770–MA]

Notice of Closure of Public Lands to Motorized Vehicle Travel on Public Lands

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of closure.

SUMMARY: Notice is hereby given that effective immediately certain public lands in southwestern Huerfano County, Colorado are closed to all types of motorized travel. The purpose of this closure is to prevent the development of unauthorized user-created trails, damage to soils and vegetation, adverse impacts to water quality, and wildlife harassment. Approximately 4,600 acres of public lands are affected by this closure. It should be noted that there is no existing legal motorized public access to these public lands. These lands will remain closed until travel management planning is completed. This closure is made under the authority of 43 CFR 8364.1.

DATES: Effective immediately and remaining in effect unless revised, revoked or amended.

ADDRESSES: Bureau of Land Management, Royal Gorge Field Office, 3170 East Main Street, Cañon City, Colorado 81212; telephone 719–269–8500.

FOR FURTHER INFORMATION CONTACT: For further information contact, Roy L. Masinton, Field Manager, or Leah Quesenberry, Outdoor Recreation Planner, at the above address and phone number.

SUPPLEMENTARY INFORMATION: The public lands affected by this closure are identified as follows:

Huerfano County, Colorado, Sixth Principal Meridian

Southern portion of the Wet Mountain Valley, located approximately 12 miles southwest of Gardner, Colorado, east of County Road 580.

T. 27 S., R. 71 W.
- Section 18: Lots 3 and 4, SE¼NW¼, E½SW¼, W½SE¼, SE¼SE¼
- Section 19: All
- Section 20: SW¼NE¼, W½NW¼, SE¼NW¼, S½
- Section 21: S½SW¼
- Section 27: W½SW¼
- Section 28: N½NE¼, SW¼NE¼, NW¼, S½
- Section 29: All
- Section 30: All
- Section 32: NE¼
- Section 33: N½NW¼, S½N½, S½
- Section 34: SW¼

T. 27 S., R. 72 W.
- Section 13: SE¼SE¼
- Section 23: E½SE¼ except those lands lying west of Huerfano County Road 580
- Section 24: E½NE¼, SW¼NE¼, SE¼NW¼, S½
- Section 25: N½NE¼, SE¼NE¼, NW¼NW¼, S½
- Section 26: NE¼NE¼, SE¼

This closure order does not apply to emergency, law enforcement, and Federal or other government vehicles while being used for official or other emergency purposes, or to any other vehicle use that is expressly authorized or otherwise officially approved by BLM. BLM will coordinate with the Colorado Division of Wildlife, United States Forest Service, and Huerfano County to implement this closure. Violation of this order is punishable by imprisonment for up to 12 months and/or a fine as defined in 18 U.S.C. 3571. Notice of this closure order and a detailed map will be posted at the Royal Gorge Field Office.

Roy L. Masinton,

Field Manager.

[FR Doc. 04–25616 Filed 11–17–04; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–060–1610–DO]

Notice of Intent To Prepare a Resource Management Plan Amendment (RMPA) and Associated Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to prepare a Special Status Species RMPA and EIS for the Carlsbad and Roswell Field Offices, New Mexico.

SUMMARY: This document provides notice that the BLM intends to prepare a RMPA with an associated EIS for the Carlsbad and Roswell Field Offices. This RMPA will amend two RMPs: Carlsbad 1988 (as amended) and Roswell 1997. The purpose of the amendment is to respond to changing resource conditions and respond to new issues in the context of habitat management for special status species on public lands in the planning area administered by the Field Offices.

DATES: This Notice initiates the public-scoping process. Comments on the scope of the plan, including issues or concerns that should be submitted in writing to the address listed below within 45 days after the publication of this Notice. However, collaboration with the public will continue throughout the planning process. Dates and locations for public meetings will be announced through local news media, newsletters, and the BLM Web site (*http://www.nm.blm.gov*), at least 15 days prior to the event.

ADDRESSES: Please mail written comments to the BLM, Roswell Field Office, Attention: RMPA, 2909 West Second Street, Roswell, New Mexico 88201, or fax to (505) 627–0276. All public comments, including names and mailing addresses of respondents, will be available for public review at the Roswell Field Office during regular business hours (7:45 a.m. to 4:30 p.m.) Monday through Friday, except holidays, and may be published as part of the EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, please state this prominently at the beginning of your written correspondence. The BLM will honor such requests to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety. The current RMPs and all other documents relevant to this planning process are available for public review at the Roswell Field Office (see address above).

FOR FURTHER INFORMATION CONTACT: For further information or to have your name added to the Special Status Species RMPA Mailing List, contact Howard Parman, Planning Team Leader, at the Roswell Field Office (see address above), telephone number (505) 627–0272.

SUPPLEMENTARY INFORMATION: The planning area for the RMPA, which includes 847,491 acres of BLM-administered public lands, is located entirely in southeast New Mexico in Chaves, Eddy, Lea, and Roosevelt Counties. A map of the planning area is available on the web site (see address above). The planning area includes all surface and subsurface (mineral estate) lands managed by BLM within the planning area.

The BLM-administered public lands within the planning area are currently managed under interim management guidelines issued on August 5, 2004. Interim management is in accordance with the decisions in the 1988 Carlsbad RMP, as amended, and the 1997 Roswell RMP. BLM will continue to manage these lands in accordance with the

interim management guidelines until the RMPA is completed and a Record of Decision is signed.

Preparation of a RMPA for the Carlsbad and Roswell Field Offices is necessary to respond to changing resource conditions and respond to new issues in the context of habitat management for special status species on public lands in the planning area administered by the Field Offices. The RMPA will establish new land-use planning decisions to address issues identified through public scoping and, where appropriate, will incorporate decisions from the existing RMPs.

The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and National interests. The public scoping process will help identify planning issues and provide for public comment on the proposed planning criteria. BLM has identified the following preliminary issues:

- Integrating wildlife habitat management with livestock grazing management.
- Minimizing surface disturbance associated with energy development.
- Utilizing existing rights-of-way corridors for energy distribution;
- Developing route designations to manage access, travel, and off-highway vehicles to protect wildlife habitat.
- Proposing land tenure and ownership adjustments for greater management efficiency;
- Regional coordination with state and local agencies for more effective management in the planning area.
- These preliminary issues are not final and may be refined or additional issues may be added through public participation.

BLM has also identified some preliminary planning criteria to guide development of the plan, to avoid unnecessary data collection and analysis, and to ensure the plan is tailored to the issues. These criteria may be modified or other criteria identified during the public-scoping process. The public is invited to comment on the following preliminary planning criteria:

- Actions must comply with laws, regulations, executive orders, and BLM Manuals (*i.e.*, supplemental program guidance).
- Actions must be reasonable and achievable and allow for flexibility where appropriate (*i.e.*, adaptive management will be incorporated into the RMPA).
- The Economic Profile System (EPS) developed by the Sonoran Institute will be used as a community involvement strategy and a source of demographic and economic data for the planning process. EPS will provide a foundation of current social and economic conditions in the Planning Area. Following this, as planning alternatives are developed, a social and economic analysis and environmental justice assessment will be conducted to determine the effect that each alternative will have on users and the diverse population in the Planning Area. The analysis will consider the short- and long-term social and economic benefits associated with possible alternatives. The lifestyles, issues, and needs of area residents will be taken into consideration. Other important factors to be considered will be the needs and long-term plans of local city, county, and Tribal governments. Short-term consequences will be weighed against long-term benefits as necessary. The impacts on both the general population and affected subgroups within the planning area will be determined.
- Actions will be considered using an interdisciplinary approach.
- The Roswell/Carlsbad RMPA planning team will work cooperatively with county and municipal governments, other Federal, State and local agencies, and interested groups and individuals. A process of collaborative public involvement and participation will be carried out throughout this process.
- The RMPA will change or modify the guidance upon which the Field Offices will manage public lands within the planning area.
- The planning process will include an EIS that complies with National Environmental Policy Act standards.
- The RMPA will protect and enhance the biodiversity of the planning area, while allowing the public the opportunity for access to public lands in a productive and meaningful way.
- The RMPA will recognize valid existing rights related to the use of public lands. The RMPA will define the process that BLM will use to address applications or notices filed after the completion of the RMPA on existing land-use authorizations.
- The RMPA process will involve Native American Tribal governments and will provide strategies for protection of cultural resources and traditional cultural properties on public lands.
- Decisions in the RMPA will strive to be compatible with existing plans and policies of adjacent local, State, and Federal Governments and agencies, as long as the decisions are in conformance with BLM-management policies.
- The RMPA will comply with all legal mandates of the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, the Federal Advisory Committee Act, the Administrative Procedures Act, and the BLM planning regulations in 43 CFR part 1600.

The collaborative process will allow the public, Tribes, State and Federal agencies, local elected officials, and BLM specialists to participate in identifying issues and developing and analyzing alternatives. BLM has asked the New Mexico State Land Office; the New Mexico Department of Game and Fish; and Chaves, Eddy, Lea, and Roosevelt Counties to serve as cooperating agencies during the planning process.

Dated: September 28, 2004.

Jesse J. Juen,

Acting New Mexico State Director.

[FR Doc. 04–25617 Filed 11–17–04; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–100–1610–DO]

Notice of Intent To Prepare a Resource Management Plan and Associated Environmental Impact Statement for the Little Snake Field Office

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of intent.

SUMMARY: This document provides notice that the Bureau of Land Management (BLM) intends to prepare an Resource Management Plan (RMP) and associated Environmental Impact Statement (EIS) for the Little Snake Field Office. The planning area is located in Northwest Colorado in Moffat, Routt, and Rio Blanco Counties. The plan will provide a framework to guide subsequent management decisions on approximately 1.3 million acres of BLM-administered public lands and 1.1 million acres of subsurface mineral estate administered by the BLM. Preparation of this RMP and EIS will conform with the Federal Land Policy and Management Act (FLPMA), the National Environmental Policy Act (NEPA), Federal Regulations, and BLM management policies. The BLM will work collaboratively with a broad range of interested parties to identify management decisions that are best suited to local, regional, and national needs and concerns.

DATES: This notice initiates the public scoping process. Comments on the scope of the plan, including issues or concerns that should be considered, should be submitted in writing to the address listed below and will be accepted throughout the creation of the Draft RMP/Draft EIS. All public meetings will be announced through the local news media, newsletters, and the BLM Web site at *http://www.co.blm.gov/lsra/rmp.*

ADDRESSES: Please mail written comments to the BLM, Little Snake Field Office, 455 Emerson St., Craig, Colorado, 81625 or fax to (970) 826–5002. Comments should be sent to the above address or may be sent by electronic mail (e-mail) to *colsrmp@blm.gov.* Comments submitted during this planning process, including names and street addresses of respondents will be available for public review at the Little Snake Field Office during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name and address from public review or disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. 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 inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: For further information or to have your name added to the Little Snake RMP Mailing List, contact Jeremy Casterson at the Little Snake Field Office (see address above), telephone (970) 826–5071.

SUPPLEMENTARY INFORMATION: This document provides notice that the Little Snake Field Office will revise its current RMP. The RMP to be prepared for the public lands administered by the Little Snake Field Office will identify goals, objectives, standards and guidelines for management of a variety of resources and values. The RMP will demonstrate active engagement of the community in a collaborative planning effort. The plan will specify actions, constraints, and general management practices necessary to achieve desired conditions. The scope of the RMP will be comprehensive. Certain existing standards and guidelines and other BLM plans will be incorporated into the RMP, such as the Colorado Rangeland Health Standards and Guidelines, and the Uniform Format for Oil and Gas Lease Stipulations. This notice provides the public an opportunity to suggest issues, concerns, needs, and resource use, development and protection opportunities for consideration in preparation of the plan. A number of decisions related to various resource values and programs will be made as a result of this planning effort. The major issues identified to date include (1) Management of upland vegetation; (2) management of riparian areas and water quality concerns; (3) energy and mineral development; (4) special management areas; (5) recreation management; (6) travel management; (7) cultural resources and paleontology and Native American concerns; (8) management of wildlife, including conservation and recovery of special status species; (9) socio-economic values; and (10) land and realty issues.

In addition to the major issues, a number of management questions and concerns will be addressed in the plan. Issues and management concerns may be identified by interested parties during the scoping phase. After gathering public comments on what issues the plan should address, the suggested issues will be placed in one of three categories:

(1) Issues to be resolved in the plan;

(2) Issues resolved through policy or administrative action; or

(3) Issues beyond the scope of the plan.

BLM will provide feedback to the public on the final issues to be addressed in the plan. An interdisciplinary approach will be used to develop the plan in order to consider the variety of resource issues and concerns identified. Disciplines involved in the planning process will include specialists with expertise in rangeland management, minerals and geology, outdoor recreation, archaeology, wildlife, lands and realty, hydrology, soils, sociology and economics.

The following planning criteria have been proposed to guide the development of the plan, to avoid unnecessary data collection and analyses, and to ensure the plan is tailored to the issues. Other criteria may be identified during the public scoping process. After gathering comments on planning criteria, BLM will finalize the criteria and provide feedback to the public on the criteria to be used throughout the planning process.

- The plans will be completed in compliance with the Federal Land Policy and Management Act (43 U.S.C. 1701 *et seg.*) and the National Environmental Policy Act (NEPA). Decisions in the plan will strive to be compatible with the existing plans and policies of adjacent local, State and Federal agencies as long as the decisions are in conformance with Federal laws and regulations. The plan will recognize valid existing rights.
- Complete the planning work on time and on budget. Focus the collaborative effort so that the collaborators can see that they make a difference, within a timeframe that is reasonable and achievable.
- Recognize the specific niche that federal lands provide both to the nation and to the surrounding community. A successful plan will be one that is responsive to both national needs and community needs.
- Public participation will be encouraged throughout the process as per the attached Public Participation Plan. Collaborate and build relationships with tribes, state and local governments, federal agencies, local stakeholders and others in the community of interest of the plan as normal business. Collaborators are regularly informed and offered timely and meaningful opportunities to participate in the planning process.
- Road and trail access (and OHV management) guidance will be incorporated into the plan to ensure public and resource needs are met.
- The Energy Policy and Conservation Act (EPCA) inventory results will be integrated into land use planning and energy use authorizations. Environmental protection and energy production are both desirable and necessary objectives of sound land management practices and are not to be considered mutually exclusive priorities;
- For all stipulations developed in new land use plans and to further improve consistency and understanding of lease stipulations, State and Field offices will use the Uniform Format for Oil and Gas Lease Stipulations prepared by the Rocky Mountain Regional Coordinating Committee in March 1989. Lease stipulations will be reviewed for consistency with neighboring field offices and States, and where there are discrepancies, efforts will be undertaken to try and get consistency.
- The lifestyles and concerns of area residents will be recognized in the plan. A socio-economic assessment of the planning area will be prepared to identify, analyze and review the social and economic considerations of the plans.
- The plan will incorporate the Colorado Rangeland Health Standards and Guidelines. It will lay out a strategy for ensuring that proper grazing

practices are followed. Grazing will be managed to maintain or improve the health of the public lands by incorporating conditions to enhance resource conditions into permitted operations.

• Contain an adaptive framework that incorporates regular monitoring and evaluation to adjust management within the direction of the existing plan. Included in the range of potential actions for each adaptive management decision, a ''fallback'' decision will be prepared, which would be expected to achieve the outcome. The plan will have realistic desired conditions and achievable objectives consistent with likely budgets and the design criteria.

• Lands with wilderness characteristics may be managed to protect and/or preserve some or all of those characteristics. This may include protecting certain lands in their natural condition and/or providing opportunities for solitude, or primitive and unconfined types of recreation.

• Identify existing and potential corridors (potential corridors include existing ROW routes that can be considered for additional facilities and thus be considered a corridor if not already so designated); Identify existing and potential ROW development sites such as energy development areas (*e.g.*, wind energy sites) and communication sites; Describe likely development of potential corridors and other ROW sites as a basis for impact assessment.

• The BLM will work cooperatively with interested parties to identify the management decisions that are best suited to local, regional, and national interests. A local citizen-based stewardship group, the Northwest Colorado Stewardship (NWCOS), will engage with the BLM in the RMP revision. NWCOS is an independent community-centered stewardship group that will focus its efforts on a community assessment, developing a community vision for the landscape, and a community alternative.

Dated: September 24, 2004.

John E. Husband,

Field Manager.

[FR Doc. 04–25618 Filed 11–17–04; 8:45 am]

BILLING CODE 4310–GG–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 jointly with the California Bay-Delta Authority on December 8 and 9, 2004. The agenda for the joint meeting will include reports from the Lead Scientist and the Independent Science Board; a presentation on climate change by Dr. Dettinger and Francis Chung; an update on the California Water Plan, the Delta Improvements Package, and the Operations Criteria and Plan for the Central Valley Project and the State Water Project; and discussion and a possible recommendation on the 10-Year Finance Plan and the Annual Statement of Progress and Future Priorities for the CALFED Bay-Delta Program with State and Federal agency representatives.

DATES: The meeting will be held on Wednesday, December 8, 2004, from 9 a.m. to 4 p.m., and on Thursday, December 9, 2004, from 9 a.m. to 4 p.m. If reasonable accommodation is needed due to a disability, please contact Pauline Nevins at (916) 455–5511 or TDD (800) 735–2929 at least 1 week prior to the meeting.

ADDRESSES: The meeting will be held at the Sheraton Hotel in the Grand Ballroom, 1230 J Street, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Heidi Rooks, California Bay-Delta Authority, at (916) 445–5511, or Diane Buzzard, Bureau of Reclamation, at (916) 798–5022.

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. This 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: November 3, 2004.

Allan Oto,

Special Projects Officer, Mid-Pacific Region.

[FR Doc. 04–25666 Filed 11–17–04; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that on November 5, 2004 a proposed Consent Decree in *United States* v. *the Atlantic Richfield Company*, an action under Sections 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'') as amended, 42 U.S.C. 9607 and 9613, was lodged with the United States District Court for the District of Utah, Case No. 2:04CV01028 BSJ.

In this action, the United States sought the recovery of costs incurred and to be incurred by the United States in response to releases or threatened releases of hazardous substances at and from the Eureka Mills NPL Site located in Eureka, Utah (the ''Site''). The United States alleged that the Atlantic Richfield Company was liable under CERCLA Section 107(a)(1) and (2), 42 U.S.C. 9607(a)(1) and (2), as a past owner and operator of a portion of the Site at the time of disposal and as a present owner of a portion of the Site upon which hazardous substances have been released, for those response costs set forth in CERCLA Section 107(a)(4)(A)–(D), 42 U.S.C. 96707(a)(4)(A)–(D).

The settlement between the United States and the Atlantic Richfield Company provides that the Atlantic Richfield Company will implement the remedy for the Site selected by the Environmental Protection Agency (''EPA'') on those portions of the Site on which the United States has alleged that

the Atlantic Richfield Company was responsible for under CERCLA. EPA estimates that the value of the work to be done by the Atlantic Richfield Company is in excess of $6.1 million.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *the Atlantic Richfield Company, et. al.*, DJ#90–11–3–07993/3.

The Consent Decree may be examined at U.S. EPA Region 8, 999 18th Street, Suite 500, Denver, Colorado, 80202. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html*. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $20.00 for the Decree (excluding appendices), $51 for the Decree with attachments payable to the United States Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 04–25533 Filed 11–17–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

Under the policy set out at 28 CFR 50.7, notice is hereby given that on November 4, 2004, the United States lodged with the United States District Court for the District of Montana a proposed consent decree (''Consent Decree'') in the case of *United States* v. *Atlantic Richfield Company,* et al., Civil Action No. CV–89–39–SEH. The Consent Decree pertains to certain Superfund sites within the Clark Fork River Basin in southwestern Montana that have not been the subject of prior settlements with the United States—the Anaconda Smelter Superfund Site, the Clark Fork River Superfund Site, the Warm Springs Ponds Superfund Site, and the Butte Superfund Site, (collectively, the ''Remaining Clark Fork Site'').

The proposed settlement would resolve the claims brought by the United States against ARCO under section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9607, for the recovery of response costs previously paid by EPA, through July 31, 2002, with accrued interest, in responding to releases and threatened releases of hazardous substances at the Remaining Clark Fork Sites. The Consent Decree would simultaneously resolve, subject to certain reservations, most of the defenses and all of the counterclaims asserted by ARCO against the United States for the past cost claims at the Remaining Clark Fork Sites, as well as the future response costs and future response actions at these sites.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *ARCO*, DOJ Case Number 90–11–2–430.

The proposed Consent Decree may be examined at the office of the United States Attorney for the District of Montana, 2929 Third Avenue North, Suite 400, Billings, Montana 59101, and at U.S. EPA Region VIII Montana Office, Federal Building, 10 West 15th Street, Suite 3200, Helena, Montana 59624. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html*. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the Consent Decree, please reference *United States* v. *ARCO*, DOJ Case Number 90–11–2–430, and enclose a check in the amount of $10.00 (25 cents per page reproduction costs) payable to the U.S. Treasury.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–25535 Filed 11–17–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under Comprehensive Environmental Response, Compensation and Liability Act

Under 28 CFR 50.7, notice is hereby given that on October 25, 2004, a proposed Consent Decree in *United States* v. *Esso Standard Oil Co. S.A. Ltd.*, Civil Action No. 2004/0139, was lodged with the United States District Court for the District of Virgin Islands.

In this action, the United States asserted claims against Esso Standard Oil Co. S.A. Ltd. (Esso) under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9607(a), for recovery of response costs incurred regarding the Tutu Wellfield Superfund Site, in St. Thomas, USVI (Site). The proposed consent decree embodies an agreement with Esso to pay $3 million of response costs. The decree provides Esso with a covenant not to sue under Section 107(a) of CERCLA.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Esso Standard Oil Co. S.A. Ltd.*, D.J. 90–11–3–1510/1.

The Consent Decree may be examined at the Office of the United States Attorney, 1108 King Street, Suite 201, Christensted, St. Croix, VI 00820, and at the Region II Office of the U.S. Environmental Protection Agency, Region II Records Center, 290 Broadway, 17th Floor, New York, NY 10007–1866. During the public comment period, the Consent Decree also may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html*. A copy of the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 2004–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone

confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–25534 Filed 11–17–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Nonproduction Questionnaire

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before January 18, 2005.

ADDRESSES: Send comments to Justin Heung, 200 Constitution Avenue, C–5311, 202–693–3560, *heung.justin@dol.gov,* Fax: 202.693.3584.

FOR FURTHER INFORMATION CONTACT: Justin Heung, 200 Constitution Avenue, C–5311, 202–693–3560, *heung.justin@dol.gov,* Fax: 202.693.3584.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 222, 223 and 249 of the Trade Act of 1974, as amended, require the Secretary of Labor to issue a determination for groups of workers as to their eligibility to apply for Trade Adjustment Assistance (TAA). After reviewing all of the information obtained for each petition for trade adjustment assistance filed with the Department, a determination is issued as to whether the statutory criteria for certification are met.

The information collected in ETA Form 9118 is used by the Secretary to specifically determine whether petitioning worker groups that perform a service are related to production of articles. If worker groups are related to production of articles, the form will request contact information so that sufficient article production and sales data may be collected from the appropriate contact to assess whether the production that service workers support is adversely affected by trade, and to adequately assess whether the group eligibility requirements detailed in section 223 of the Trade Act of 1974, as amended, have been met.

II. Desired Focus of Comments

Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the Non-Production Questionnaire.

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above in the **ADDRESSES** section of this notice.

III. Current Actions

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Non-production questionnaire.

OMB Number: 1205–0447.

Affected Public: Individuals or households/business or other for-profit/not-for-profit institutions/farms/Federal Government/State, local or tribal government.

Burden: 810 Responses x 3.5 hours = 2,835 hours.

Total Respondents: 810.

Frequency: On occasion.

Total Responses: 810.

Average Time per Response: 3.5 hours.

Estimated Total Burden Hours: 2,835.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: November 12, 2004.

Shirley Smith,

Administrator, Office of National Response.

[FR Doc. E4–3246 Filed 11–17–04; 8:45 am]

BILLING CODE 4310–30–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Federal Economic Statistics Advisory Committee; Notice of Open Meeting and Agenda

The seventh meeting of the Federal Economic Statistics Advisory Committee will be held on December 14, 2004 in the Postal Square Building, 2 Massachusetts Avenue NE., Washington, DC. A meeting that had been scheduled for June 11, 2004, which would have been the Committee's seventh meeting, was canceled because that date was declared a national day of mourning for former President Ronald Reagan and Federal offices were closed.

The Federal Economic Statistics Advisory Committee is a technical committee composed of economists, statisticians, and behavioral scientists who are recognized for their attainments and objectivity in their respective fields. Committee members are called upon to analyze issues involved in producing Federal economic statistics and recommend practices that will lead to optimum efficiency, effectiveness, and cooperation among the Department of Labor, Bureau of Labor Statistics and the Department of Commerce, Bureau of Economic Analysis and Bureau of the Census.

The meeting will be held in Meeting Rooms 1 and 2 of the Postal Square Building Conference Center. The schedule and agenda for the meeting are as follows:

9 a.m. Opening session

9:45 a.m. Alternative measures of household income

1 p.m. Priorities for future meetings

1:30 p.m. Response rates and nonresponse in establishment surveys
3:45 p.m. Development of an Employment Cost Index (ECI) excluding workers earning incentive pay
4:45 p.m. Conclude (approximate time)

The meeting is open to the public. Any questions concerning the meeting should be directed to Margaret Johnson, Federal Economic Statistics Advisory Committee, on Area Code (202) 691–5600. Individuals with disabilities, who need special accommodations, should contact Ms. Johnson at least two days prior to the meeting date.

Signed at Washington, DC the 3rd day of November 2004.

Kathleen P. Utgoff,

Commissioner of Labor Statistics.

[FR Doc. 04–25597 Filed 11–17–04; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on December 8, at the Holiday Inn, located at 550 C Street, SW., Washington, DC. The Meeting is open to the public and will begin at 9 a.m. and end at approximately 4 p.m.

Agenda items will include updates on activities of both the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH), OSHA Health Targeting, and NIOSH Nanotechnology, as well as workgroup meetings and reports addressing Hispanic Outreach, Motor Vehicle Safety, and Emergency Response.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Wilfred Epps at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is usually insufficient time on the agenda for members of the public to address the committee orally. However, any such requests will be considered by the Chair who will determine whether or not time permits. Any request to make an oral presentation should state the amount of time desired, the capacity in which the person would apear, and a brief outline of the content of the presentation. Individuals with disabilities who need special accommodations should contact Veneta Chatmon (phone: 202–693–1912; fax; 202–693–1634) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 at the Department of Labor Building (202–693–2350). For additional information contact: Wilfred Epps, Occupational Safety and Health Administration (OSHA); Room N3641, 200 Constitution Avenue NW., Washington, DC 20210 (phone: 202–693–1857; fax: 202–693–1641; e-mail: *Epps.Wil@dol.gov*); or check the National Advisory Committee on Occupational Safety and Health information pages located at *http://www.osha.gov/dop/nacosh/nacosh.html.*

Signed at Washington, DC this 10th day of November 2004.

John L. Henshaw,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 04–25598 Filed 11–17–04; 8:45 am]

BILLING CODE 4510–26–M

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 04–13]

Report on the Selection of Eligible Countries for FY 2005

AGENCY: Millennium Challenge Corporation.

SUMMARY: Section 608(d) of the Millennium Challenge Act of 2003, Pub. L. 108–199 (Division D) requires the Millennium Challenge Corporation to publish a report that lists the countries determined by the Board of Directors of the Corporation to be eligible for assistance for Fiscal Year 2005. The Report is set forth below.

Report: Report on the Selection of Eligible Countries for FY 2005.

Summary

This report is provided in accordance with Section 608(d) of the Millennium Challenge Act of 2003, 22 U.S.C.A. 7707(d) (the ''Act'').

The Act authorizes the provision of Millennium Challenge Account (''MCA'') assistance under section 605 of the Act to countries that enter into compacts with the United States to support policies and programs that advance the prospects of such countries to achieve lasting poverty reduction and economic growth. The Act requires the Millennium Challenge Corporation (''MCC'') to take a number of steps to determine the countries that, based on their demonstrated commitment to just and democratic governance, economic freedom and investing in their people, will be eligible to receive MCA assistance during a fiscal year. These steps include the submission of reports to appropriate congressional committees and the publication of notices in the **Federal Register** that identify:

1. The ''candidate countries'' for MCA assistance in a fiscal year (Section 608(a) of the Act);
2. The eligibility criteria and methodology that the MCC Board of Directors (the ''Board'') will use to select ''eligible countries'' from among the ''candidate countries'' (Section 608(b) of the Act); and
3. The countries determined by the Board to be ''eligible countries'' for a fiscal year, the countries on the list of eligible countries with which the Board will seek to enter into MCA ''Compacts'' and a justification for such decisions (Section 608(d) of the Act).

This is the third of the above-described reports for FY 2005. It identifies countries determined by the Board to be eligible for MCA assistance in FY 2005 under section 605 of the Act and those that the Board will seek to enter into MCA Compacts under section 609 of the Act, and the justification for such decisions.

Eligible Countries

The MCC Board of Directors met on November 8, 2004, to select countries that will be eligible for FY 2005 MCA assistance under section 605 of the Act and will be invited to submit proposals for such assistance. The Board determined the following countries eligible for FY 2005 assistance: Armenia, Benin, Bolivia, Georgia, Ghana, Honduras, Lesotho, Madagascar, Mali, Mongolia, Morocco, Mozambique, Nicaragua, Senegal, Sri Lanka, and Vanuatu.

In accordance with the Act and with MCC's ''Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in FY 2005,'' submitted to the Congress on August 31,

2004, selection was based on a country's overall performance in relation to three broad policy categories: Ruling Justly, Encouraging Economic Freedom, and Investing in People. The Board relied on sixteen publicly available indicators to assess policy performance as the predominant basis for determining which countries would be eligible for assistance. Where appropriate, the Board took into account other data, such as trends and recent events since the indicators were published, and quantitative information as well as qualitative information to determine whether a country performed satisfactorily in relation to its peers in a given category, and other factors, including, inter alia, a country's commitment to economic policies that promote private sector growth and the sustainable management of natural resources, and the rights of people with disabilities. The Board considered whether any adjustments should be made for data gaps, lags, trends, or strengths or weaknesses in particular indicators.

Only one new country was selected for FY05: Morocco. Morocco performed above the median in relation to its peers on at least half of the indicators in each of the three policy categories and above the median on the corruption indicator specifically. Although Morocco was substantially below average on one economic indicator—Trade Policy—the Board decided that a positive eligibility determination was nonetheless justified based on positive trends and concrete actions taken by the Government of Morocco that were not fully reflected in the ''point in time'' indicator data. Since 2000, Morocco has made significant efforts to liberalize its trade policy. Furthermore, in addition to the EU Agreement, which calls for the removal of all non-agricultural tariffs on trade between the two areas by 2012, Morocco recently concluded free trade agreements with Turkey, Jordan, Egypt, Tunisia and the United States. These agreements put Morocco in a select group of countries that have negotiated among the most liberal market access for goods and services and the highest standards of trade and investment rules.

With the exception of Morocco, all of the countries selected were previously selected by the Board as eligible for FY04 MCA assistance: Armenia, Benin, Bolivia, Ghana, Georgia, Honduras, Lesotho, Madagascar, Mali, Mongolia, Mozambique, Nicaragua, Senegal, Sri Lanka, and Vanuatu. These countries were re-endorsed by the Board on November 8, 2004, based on their continued performance since the May selection, most notably in the areas outlined in MCC's Report on the Selection of MCA Eligible Countries for FY 2004, submitted to Congress on May 7, 2004. The Board also determined that no material change has occurred in the performance of these countries on the selection criteria since the FY04 selection that would justify removing them from the eligible country list.

Selection for Compact Negotiation

The Board also authorized the MCC to seek to negotiate an MCA Compact, as described in section 609 of the Act, with each of the eligible countries identified above that develops a proposal that justifies beginning such negotiations. MCC will initiate the process by inviting eligible countries to submit program proposals to MCC. MCC has posted guidance on the MCC Web site (*http://www.mcc.gov*) regarding the development and submission of MCA program proposals.

Submission of a proposal is not a guarantee that MCC will finalize a Compact with an eligible country. MCC will evaluate proposals and make funding decisions based on the potential for impacting poverty reduction through economic growth and other considerations. The quality of the initial proposal—including how well the country has demonstrated the relationship between the proposed priority areas and poverty reduction through economic growth—will be a determining factor, in addition to, the breadth of public support within the country for the proposal and the government's commitment to continued policy improvement. An eligible country's commitment and capacity to oversee effective implementation of the program will also be a factor in determining how quickly MCC can begin substantive discussions with a country on a Compact and will likely influence the speed with which a Compact can be negotiated as well as the amount and timing of any MCA assistance approved by the Board.

Any MCA assistance provided under section 605 of the Act will be contingent on the successful negotiation of a mutually agreeable Compact between the eligible country and MCC and approval of the Compact by the Board.

Dated: November 12, 2004.

Paul V. Applegarth,

Chief Executive Officer, Millennium Challenge Corporation.

[FR Doc. 04–25554 Filed 11–17–04; 8:45 am]

BILLING CODE 9210–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04–127]

NASA Advisory Council; Notice of Establishment Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. §§ 1 *et seq.*

AGENCY: National Aeronautics and Space Administration (NASA).

Explanation of Need: The Administrator of the National Aeronautics and Space Administration has determined that the establishment of a NASA Robotic and Human Exploration of Mars Strategic Roadmapping Committee is necessary and in the public interest in connection with the performance of duties imposed upon NASA by law. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: NASA Robotic and Human Exploration of Mars Strategic Roadmapping Committee.

Purpose and Objective: The Committee will advise NASA Administrator on Mars exploration, including robotic exploration of Mars to search for evidence of life, to understand the history of the solar system, and to prepare for future human exploration. The Committee will draw on the expertise of its members and other sources to provide its advice and recommendations to the Agency. The Committee will hold meetings and make site visits as necessary to accomplish their responsibilities. The Committee will function solely as an advisory board and will comply fully with the provisions of the Federal Advisory Committee Act.

Lack of Duplication of Resources: The Committee's functions cannot be performed by the agency, another existing committee, or other means such as a public meeting.

Fairly Balanced Membership: The Committee will consist of a balance of experts from within the government, private industry, and academia. In addition, there may be additional experts selected for Subcommittees or Task Forces. Members of the Committee, Subcommittee or Task Forces will be chosen from among industry, academia, and government with recognized knowledge and expertise in specific areas across the NASA's portfolio. Total membership will reflect a fairly balanced view.

Duration: Ad hoc.

Responsible NASA Official: Dr. Marc Allen, Advanced Planning and Integration Office, National Aeronautics and Space Administration, 300 E Street,

SW., Washington, DC 20546, telephone (202) 358–0733.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 04–25553 Filed 11–17–04; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before December 20, 2004 to be assured of consideration.

ADDRESSES: Comments should be electronically mailed to: *Daniel_J._Costello@omb.eop.gov;* or faxed to 202–395–5806, Attn: Mr. Daniel Costello, Desk Officer for NARA.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on September 1, 2004 (69 FR 53470 and 53471). No comments were received. NARA has submitted the described information collection to OMB for approval. In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (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 the use of information technology. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Request to use personal paper-to-paper copiers at the National Archives at the College Park facility.

OMB number: 3095–0035.

Agency form number: None.

Type of review: Regular.

Affected public: Business or other for-profit, not-for-profit institutions, Federal government.

Estimated number of respondents: 5.

Estimated time per response: 3 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 15 hours.

Abstract: The information collection is prescribed by 36 CFR 1254.86. Respondents are organizations that want to make paper-to-paper copies of archival holdings with their personal copiers. NARA uses the information to determine whether the request meets the criteria in 36 CFR 1254.86 and to schedule the limited space available.

Dated: November 10, 2004.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 04–25605 Filed 11–17–04; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325 AND 50–324]

Carolina Power & Light Company; Notice of Receipt of Application for Renewal of Brunswick Steam Electric Plant, Units 1 and 2 Facility Operating License Nos. DPR–71 and DPR–62 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC or Commission) has received an application, dated October 18, 2004, from the Carolina Power & Light Company, now doing business as Progress Energy Carolinas, Inc., filed pursuant to Section 104b of the Atomic Energy Act of 1954, as amended, and 10 CFR part 54, to renew Operating License Nos. DPR–71 and DPR–62 for the Brunswick Steam Electric Plant, Units 1 and 2. Renewal of the licenses would authorize the applicant to operate the facility for an additional 20-year period beyond the period specified in the respective current operating licenses. The current operating licenses for the Brunswick Steam Electric Plant, Units 1 and 2, expire on September 8, 2016, and December 27, 2014, respectively. The Brunswick Steam Electric Plant, Units 1 and 2, are boiling water reactors designed by General Electric Corporation, and are located in Brunswick County, North Carolina. The acceptability of the tendered application for docketing, and other matters including an opportunity to request for a hearing, will be addressed in a subsequent **Federal Register** notice.

Copies of the application are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically from the Publicly Available Records (PARS) component of the NRC's Agencywide Documents Access and Management System (ADAMS) under accession number ML043060391. The ADAMS Public Electronic Reading Room is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html.* (**Note:** Public access to ADAMS has been temporarily suspended so that security reviews of publicly available documents may be performed and potentially sensitive information removed. Please check the NRC's Web site for updates on the resumption of ADAMS access.) In addition, the application is available on the NRC's Web site at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html* while the application is under review. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

The staff has also verified that a copy of the license renewal application for the Brunswick Steam Electric Plant, Units 1 and 2, has been provided to the North Carolina University at Wilmington, William Randall Library, 601 South College Road, Wilmington, North Carolina.

Dated at Rockville, Maryland, this 10th day of November 2004.

For the Nuclear Regulatory Commission.

P.T. Kuo,

Program Director, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 04–25587 Filed 11–17–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.; Vermont Yankee Nuclear Power Station Environmental Assessment and Finding of No Significant Impact

Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from 10 CFR Part 50.54(o) and 10 CFR Part 50, Appendix J, for Facility Operating License No. DPR–28, issued to Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (Entergy or the licensee) for operation of the Vermont Yankee Nuclear Power Station (VYNPS), located in Vernon, Vermont. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt Entergy from requirements to include main steam isolation valve (MSIV) leakage in (a) the overall integrated leakage rate test measurement required by Section III.A of Appendix J, Option B, and (b) the sum of local leak rate test measurements required by Section III.B of Appendix J, Option B.

The proposed action is in accordance with the licensee's application dated July 31, 2003, as supplemented by letters dated October 10, November 7 (2 letters), November 20, December 11 (2 letters), and December 30, 2003, and February 10, February 18, February 25, March 17, May 12, and July 20, 2004, for exemption from certain requirements of 10 CFR 50.54(o) and 10 CFR Part 50, Appendix J.

The Need for the Proposed Action

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J specifies the leakage test requirements, schedules, and acceptance criteria for tests of the leak tight integrity of the primary reactor containment and systems and components which penetrate the containment. Option B, Section III.A requires that the overall integrated leak rate must not exceed the allowable leakage (La) with margin, as specified in the Technical Specifications (TSs). The overall integrated leak rate, as specified in the 10 CFR Part 50, Appendix J definitions, includes the contribution from MSIV leakage. By letter dated July 31, 2003, the licensee has requested an exemption from Option B, Section III.A, requirements to permit exclusion of MSIV leakage from the overall integrated leak rate test measurement. Option B, Section III.B of 10 CFR Part 50, Appendix J requires that the sum of the leakage rates of Type B and Type C local leak rate tests be less than the performance criterion (La) with margin, as specified in the TSs. The licensee's July 31, 2003, letter also requests an exemption from this requirement, to permit exclusion of the MSIV contribution to the sum of the Type B and Type C tests.

The above-cited requirements of Appendix J require that MSIV leakage measurements be grouped with the leakage measurements of other containment penetrations when containment leakage tests are performed. These requirements are inconsistent with the design of the VYNPS and the analytical models used to calculate the radiological consequences of design basis accidents. At VYNPS, and similar facilities, the leakage from primary containment penetrations, under accident conditions, is collected and treated by the secondary containment system, or would bypass the secondary containment. However, the leakage from MSIVs is collected and treated via an Alternative Leakage Treatment (ALT) path having different mitigation characteristics. In performing accident analyses, it is appropriate to group various leakage effluents according to the treatment they receive before being released to the environment, *i.e.*, bypass leakage is grouped, leakage into secondary containment is grouped, and ALT leakage is grouped, with specific limits for each group defined in the TSs. The proposed exemption would permit ALT path leakage to be independently grouped with its unique leakage limits.

Environmental Impacts of the Proposed Action

The NRC has completed its safety evaluation of the proposed action and concludes that the calculated radiological consequences remain within the criteria of 10 CFR 50.67. The details of the staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historical sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources than those previously considered in the Final Environmental Statement dated July 1972 for VYNPS.

Agencies and Persons Consulted

On May 13, 2004, the NRC staff consulted with the Vermont State official, Mr. William K. Sherman of the Vermont Department of Public Service, regarding the environmental impact of the proposed action. The State official had no comments on the environmental impact of the proposed exemption, but provided comments on the associated Technical Specification changes discussed in the July 31, 2003, application. These comments will be addressed in the Safety Evaluation documenting the staff's review of that proposed change.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the licensee's letter dated July 31, 2003, as supplemented by letters dated October 10, November 7 (2 letters), November 20, December 11 (2

letters), and December 30, 2003, and February 10, February 18, February 25, March 17, May 12, and July 20, 2004. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publically available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.* (**Note:** Public access to ADAMS has been temporarily suspended so that security reviews of publicly available documents may be performed and potentially sensitive information removed. Please check the NRC Web site for updates on the resumption of ADAMS access.)

Dated at Rockville, Maryland, this 12th day of November, 2004.

For the Nuclear Regulatory Commission.

Richard B. Ennis,

Senior Project Manager, VY Section, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 04–25588 Filed 11–17–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–17845]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Ponce School of Medicine's Facility in Ponce, PR

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Orysia Masnyk Bailey, Materials Security & Industrial Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406, telephone (404) 562–4739, fax (404) 562–4955; or by e-mail: *omm@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is issuing a license amendment to the Ponce School of Medicine for Materials License No. 52–19547–01, to authorize release of its facility in Ponce, Puerto Rico for unrestricted use. NRC has prepared an Environmental Assessment (EA) in support of this action in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

II. EA Summary

The purpose of the action is to authorize the release of the licensee's Ponce, Puerto Rico facility for unrestricted use. The Ponce School of Medicine was authorized by the NRC from October 15, 1981 to use radioactive materials for research and development purposes at the site. On February 4, 2003, the Ponce School of Medicine requested that the NRC release the facility for unrestricted use. The Ponce School of Medicine has conducted surveys of the facility and provided information to the NRC to demonstrate that the site meets the license termination criteria in subpart E of 10 CFR part 20 for unrestricted release.

The NRC staff has prepared an EA in support of the license amendment. The facility was remediated and surveyed prior to the licensee requesting the license amendment. The NRC staff has reviewed the information and final status survey submitted by the Ponce School of Medicine. Based on its reviews, the staff has determined that there are no additional remediation activities necessary to complete the proposed action. Therefore, the staff considered the impact of the residual radioactivity at the facility and concluded that since the residual radioactivity meets the requirements in subpart E of 10 CFR part 20, a Finding of No Significant Impact is appropriate.

III. Finding of No Significant Impact

The staff has prepared the EA (summarized above) in support of the license amendment to release the facility for unrestricted use. The NRC staff has evaluated the Ponce School of Medicine's request and the results of the survey and has concluded that the completed action complies with the criteria in subpart E of 10 CFR part 20. The staff has found that the environmental impacts from the action are bounded by the impacts evaluated by NUREG–1496, Volumes 1–3, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Facilities'' (ML042310492, ML042320379, and ML042330385). On the basis of the EA, the NRC has concluded that the environmental impacts from the action are expected to be insignificant and has determined not to prepare an environmental impact statement for the action.

IV. Further Information

Documents related to this action, including the application for the license amendment and supporting documentation, are available electronically in the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's documents. The ADAMS accession numbers for the documents related to this Notice are: The Environmental Assessment (ML042720062), and Letter dated February 4, 2003 transmitting the Final Status Survey Report (ML030430358). On October 25, 2004, the NRC terminated public access to ADAMS and initiated an additional security review of publicly available documents to ensure that potentially sensitive information is removed from the ADAMS database accessible through the NRC's web site. Interested members of the public may obtain copies of the referenced documents for review and/or copying by contacting the Public Document Room pending resumption of public access to ADAMS. The NRC Public Documents Room is located at NRC Headquarters in Rockville, MD, and can be contacted at (800) 397–4209, (301) 415–4737 or by e-mail at *pdr@nrc.gov.*

These documents may be viewed electronically at the NRC Public Document Room (PDR), O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD, 20852. The PDR reproduction contractor will copy documents for a fee. The PDR is open from 7:45 a.m. to 4:15 p.m., Monday through Friday, except on Federal holidays.

Dated at King of Prussia, Pennsylvania this 10th day of November, 2004.

For the Nuclear Regulatory Commission.

John D. Kinneman,

Chief, Materials Security & Industrial Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. 04–25589 Filed 11–17–04; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50655; File No. SR–CBOE–2004–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. To Amend its Guaranteed Participation Rule Relating to Facilitation and Crossing Transactions

November 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 January 16, 2004, the Chicago Board Options Exchange, Inc. (''CBOE'' 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. On November 3, 2004, CBOE submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend its guaranteed participation rule relating to facilitation and crossing transactions. The text of the proposed rule change is set forth below. Additions are *italicized*. Deletions are bracketed.

* * * * *

Rule 6.74. ''Crossing'' Orders

(a)–(c) No change.

(d) * * *

(i) No change.

(ii) [The percentage of the order which a Floor Broker is entitled to cross, a]*A*fter all public customer orders that were (1) on the limit order book and then (2) represented in the trading crowd at the time the market was established have been satisfied, [is determined as follows:] *the Floor Broker will be entitled to cross 40% of the remaining contracts, provided the order trades at or between the best bid or offer given by the crowd in response to the broker's initial request for a market.*

[(A) 20% of the remaining contracts in the order if the order is traded at the best bid or offer given by the crowd in response to the broker's initial request for a market; or

(B) 40% of the remaining contracts in the order if the order is traded between the best bid or offer given by the crowd in response to the broker's initial request for a market.]

(iii)–(iv) No change.

(v) If a trade pursuant to this paragraph (d) occurs at the DPM's principal bid or offer in its appointed class, then the DPM's guaranteed participation level which is established pursuant to Exchange Rule 8.87 [(or Exchange circulars issued pursuant to Exchange Rule 8.87)] shall apply only to the number of contracts remaining after the following orders have been satisfied: those public customer orders which trade ahead of the cross transaction as indicated in sub-paragraph (d)(ii) above, and any portion of a customer order being crossed against the original order or the firm facilitation order as described in sub-paragraph (d)(ii) being represented by the Floor Broker. [The DPM's guaranteed participation may only be 25% for orders crossed pursuant to this paragraph unless the Floor Broker has chosen to cross less than its 20% entitlement, in which case the DPM's guaranteed entitlement] *DPMs are not entitled to any guaranteed participation for trades occurring pursuant to this paragraph (d) unless the Floor Broker crosses less than its guaranteed 40%, in which case the DPM's guarantee* will be a percentage that *when* combined with the percentage the firm crossed, [is no more than] *does not exceed* 40% of the order. If the trade occurs at a price other than the DPM's principal bid or offer, the DPM is entitled to no guaranteed participation.

(vi)–(vii) No change.

(e) No change.

Interpretations and Policies * * *

.01–.08 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE Rule 6.74, Crossing Orders, provides the procedures for crossing and facilitation orders. Paragraph (d) of that rule details the procedures for the Exchange's ''guaranteed'' crossing rule. In short, paragraph (d) enables a floor broker to cross 20% of an order if it matches the crowd's price or 40% of an order if it improves upon the crowd's price (''20/40% rule''). Recently, the Exchange has begun to lose orders to another Exchange that is more crossing and facilitation friendly to order flow providers. To remain competitive, CBOE proposes to amend its 20/40% rule to make it a straight 40% rule, as described below.

Under the proposal, floor brokers would be entitled to cross 40% of an order, provided it trades at a price that matches or improves upon the price given by the trading crowd in response to the broker's initial request for a market. All other requirements would remain the same (*e.g.,* customer priority, minimum order size, etc.). To effect this change, CBOE proposes to amend CBOE Rule 6.74(d)(ii) by removing subparagraphs (A) and (B) and replacing them with a new paragraph (D)(ii) that states: ''After all public customer orders that were (1) on the limit order book and then (2) represented in the trading crowd at the time the market was established have been satisfied, the floor broker will be entitled to cross 40% of the remaining contracts, provided the order trades at or between the best bid or offer given by the crowd in response to the broker's initial request for a market.'' The procedure for facilitating orders would remain the same. The only change would be to the size of the firm's guaranteed entitlement, which would go from 20% to 40%.

Changing to a straight 40% rule would require corresponding changes to the DPM participation entitlement as it pertains to facilitation and crossing orders. Currently, CBOE Rule 6.74(d)(v) entitles the DPM to a participation entitlement of 20% of the original order size when the floor broker crosses its 20% at the crowd's price. If the floor broker improves upon the crowd's price and takes its 40%, the DPM is not entitled to any participation guarantee. The Exchange proposes to retain this limitation (*i.e.,* that the percentage of the entitlement when combined with the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Stephen Youhn, Legal Division, CBOE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated November 2, 2004 (''Amendment No. 1''). Amendment No. 1 replaced and superseded the original filing in its entirety.

amount of the order the floor broker crosses may not exceed 40%), recognizing that in most instances the effect of this rule change would be that DPMs would not be entitled to participation guarantees (because the facilitating firm typically would take its 40% guaranteed amount). Necessary changes have been made to the proposed rule language to reflect this important limitation.

Competitive pressures mandate the change from a 20/40% rule to a straight 40% rule. International Securities Exchange (''ISE'') Rule 716(d)(ii) provides Electronic Access Members with at least forty percent (40%) of the original size of the order for orders they submit through ISE's facilitation mechanism, whether executed at the current ISE displayed price or a better price. Accordingly, member firms have a strong inducement to send to the ISE orders they would like to facilitate. Recently, the Pacific Exchange received approval of rule filing SR–PCX–2003–64 in which it too adopted a straight 40% rule.[4] Accordingly, CBOE represents that this proposal is necessary to remain competitive in the facilitation arena.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[6] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose a 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

No written comments were solicited or received with respect to the proposed rule change.

[4] *See* Securities Exchange Act Release No. 50473 (September 29, 2004), 69 FR 60206 (October 7, 2004).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2004–04 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–CBOE–2004–04. 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 CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2004–04 and should be submitted on or before December 9, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–3247 Filed 11–17–04; 8:45 am]

BILLING CODE 8010–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50657; File No. SR–CHX–2004–34]

Self-Regulatory Organizations; Chicago Stock Exchange Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Membership Dues and Fees

November 12, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on September 28, 2004, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I and II below, which items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] as establishing or changing a due, fee, or other charge, 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 CHX proposes to amend its membership dues and fees schedule (''Fee Schedule'') to eliminate the specialist application fee and suspend through December 31, 2004, specialist

[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] 17 CFR 240.19b–4(f)(2).

assignment fees when dual trading system securities are assigned to specialist firms without competition. Proposed new language is *italicized*; deletions are [bracketed].

Membership Dues and Fees

A.–C. No change to text.

D. Specialist Assignment Fees

Specialist Application Fee: $150 per application, provided, however, that there will be no application fee for [NASDAQ/NM Securities] *securities* that are assigned without competition.

Assignment of Dual Trading: Once the Committee on Specialist System Securities Assignment and Evaluation approves a member organization to act as specialist in a security, that member organization must pay the following fee:

No charge through December 31, 2004. $350 *effective January 1, 2005.* If the security was assigned without competition.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received regarding the 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

In August 2004, the Exchange's Board of Governors decided to eliminate the application and assignment fees charged to specialist firms that seek to trade a Nasdaq/NM security when that security is assigned without competition.[5] The Exchange now proposes to similarly eliminate the application fee charged to specialist firms that seek to trade a dual trading system security, when the security is assigned without competition. The Exchange also proposes to suspend, through December 31, 2004, the assignment fees charged to those firms when dual trading system securities are assigned without competition.[6]

The CHX represents that these proposed changes, like the similar proposal to modify these fees for specialists that trade Nasdaq/NM securities,[7] are designed to encourage specialist firms to trade additional securities by allowing them to do so without absorbing additional costs. The Exchange believes that these changes to the Fee Schedule provide specialists with an appropriate incentive to increase the number of issues they trade (consistent with their duties as specialists), which could allow the Exchange's members to offer their customers access to a wider array of specialist-traded securities. The Exchange has proposed to suspend the assignment fee for issues assigned without competition only through the end of the year to determine, among other things, whether the fee suspension has the intended effect. These fee changes became effective on October 1, 2004.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of section 6(b)(4) of the Act,[9] 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 of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[10] and Rule 19b–4(f)(2) thereunder,[11] 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 the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CHX–2004–34 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–CHX–2004–34. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal offices of the CHX. All comments received will be posted without change; the Commission does not edit personal identifying

[5] The Exchange decided to continue to charge specialist assignment fees with respect to securities that are assigned to a specialist firm in competition with other firms, reflecting the increased administrative costs associated with allocating stocks in competition. *See* Securities Exchange Act Release No. 50616 (November 1, 2004).

[6] Under the Exchange's rules, dual trading system securities are securities listed on the New York Stock Exchange, the American Stock Exchange or on markets other than the Nasdaq Stock Market, Inc.

[7] *See supra,* note 5.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78(f)(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] *Id.*

information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2004–34 and should be submitted on or before December 9, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–3248 Filed 11–17–04; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 4872]

Notice of Meeting; United States International Telecommunication Advisory Committee Information Meeting on the World Summit on the Information Society

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee (ITAC). The purpose of the Committee is to advise the Department on matters related to telecommunication and information policy matters in preparation for international meetings pertaining to telecommunication and information issues.

The ITAC will meet to discuss the matters related to the second phase of the World Summit on the Information Society (WSIS). The meeting will take place on Wednesday, December 8, 2004 from 10:30 a.m. to 12 p.m. in the lecture room of the Historic National Academy of Science Building. The National Academy of Sciences is located at 2100 C St. NW., Washington, DC.

Members of the public are welcome to participate and may join in the discussions, subject to the discretion of the Chair. Persons planning to attend this meeting should send the following data by fax to (202) 647–5957 or e-mail to *jillsonad@state.gov* not later than 24 hours before the meeting: (1) Name of the meeting, (2) your name, and (3) organizational affiliation. A valid photo ID must be presented to gain entrance to the National Academy of Sciences Building. Directions to the meeting location may be obtained by calling the ITAC Secretariat at 202 647–5205 or e-mail to *jillsonad@state.gov.*

Dated: November 4, 2004.

Anne Jillson,

Foreign Affairs Officer, Department of State.

[FR Doc. 04–25635 Filed 11–17–04; 8:45 am]

BILLING CODE 4710–07–P

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

Bureau of Nonproliferation; Termination of Missile Proliferation Sanctions Against a Russian Entity

[Public Notice 4902]

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: A determination has been made that sanctions imposed on a Russian entity, effective July 22, 2004 (69 FR 43875), pursuant to the Arms Export Control Act, as amended, and the Export Administration Act of 1979 as amended (as carried out under Executive Order 13222 of August 17, 2001) no longer apply.

EFFECTIVE DATE: November 18, 2004.

FOR FURTHER INFORMATION CONTACT: Vann H. Van Diepen, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Nonproliferation, Department of State (202–647–1142).

SUPPLEMENTARY INFORMATION: A determination was made on November 1, 2004, pursuant to Section 73(b)(1)(A) of the Arms Export Control Act (22 U.S.C. 2797b(b)(1)(A)) and Section 11B(b)(2)(A) of the Export Administration Act of 1979 (50 U.S.C. app. 2410b(b)(2)(A)), as carried out under Executive Order 13222 of August 17, 2001, that the sanctions imposed effective July 22, 2004 (69 FR 43875), on the Russian entity Federal Research and Production Complex Altay (and its subunits and successors) do not apply. A determination was also made to impose sanctions against this entity under separate authority, as announced in a separate Notice in the **Federal Register**.

Dated: November 12, 2004.

Susan F. Burk,

Acting Assistant Secretary of State for Nonproliferation, Department of State.

[FR Doc. 04–25637 Filed 11–17–04; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF STATE

[Public Notice 4901]

Bureau of Nonproliferation; Imposition of Nonproliferation Measures on an Entity in Russia, Including a Ban on U.S. Government Procurement

AGENCY: Bureau of Nonproliferation, Department of State.

ACTION: Notice.

SUMMARY: The U.S. Government has determined that a foreign entity has engaged in missile technology proliferation activities that require the imposition of measures pursuant to Executive Order 12938 of November 14, 1994, as amended by Executive Order 13094 of July 28, 1998.

EFFECTIVE DATE: November 18, 2004.

FOR FURTHER INFORMATION CONTACT: On general issues: Vann H. Van Diepen, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Nonproliferation, Department of State (202–647–1142). On U.S. Government procurement ban issues: Gladys Gines, Office of the Procurement Executive, Department of State (703–516–1691).

SUPPLEMENTARY INFORMATION: Pursuant to the authorities vested in the President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), and Section 301 of title 3, United States Code, and Executive Order 12938 of November 14, 1994, as amended, the U.S. Government determined that the following Russian entity has engaged in proliferation activities that require the imposition of measures pursuant to sections 4(b), 4(c), and 4(d) of Executive Order 12938: Federal Research and Production Complex Altay (Russia).

Accordingly, pursuant to the provisions of Executive Order 12938, the following measures are imposed on this entity, its subunits, and successors for two years:

1. All departments and agencies of the United States Government shall not procure or enter into any contract for the procurement of any goods, technology, or services from these entities including the termination of existing contracts;

2. All departments and agencies of the United States government shall not provide any assistance to these entities, and shall not obligate further funds for such purposes;

3. The Secretary of the Treasury shall prohibit the importation into the United States of any goods, technology, or services produced or provided by these entities, other than information or informational materials within the meaning of section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

These measures shall be implemented by the responsible departments and agencies as provided in Executive Order 12938.

In addition, pursuant to section 126.7(a)(1) of the International Traffic in Arms Regulations, it is deemed that suspending the above-named entity

from participating in any activities subject to Section 38 of the Arms Export Control Act would be in furtherance of the national security and foreign policy of the United States. Therefore, for two years, the Department of State is hereby suspending all licenses and other approvals for: (a) Exports and other transfers of defense articles and defense services from the United States; (b) transfers of U.S.-origin defense articles and defense services from foreign destinations; and (c) temporary import of defense articles to or from the above-named entity.

Moreover, it is the policy of the United States to deny licenses and other approvals for exports and temporary imports of defense articles and defense services destined for this entity.

Dated: November 12, 2004.

Susan F. Burk,

Acting Assistant Secretary of State for Nonproliferation, Department of State.

[FR Doc. 04–25636 Filed 11–17–04; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation Advisory Committee; Renewal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of renewal.

SUMMARY: Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (Public Law 92–463, 5 U.S.C. App. 2), and 5 U.S.C. 552b(c), and in accordance with section 102–3.65, title 41 of the Code of Federal Regulations, notice is hereby given that the Commercial Space Transportation Advisory Committee (COMSTAC) has been renewed for a 2-year period beginning October 28, 2004. The primary purpose of the Committee is to provide information, advice, and recommendations to the U.S. Department of Transportation (DOT) on matters relating to all aspects of the U.S. commercial space transportation industry. The primary goals of the Committee are to evaluate economic, technological, and institutional developments relating to the industry; to provide a forum for the discussion of problems involving the relationship between industry activities and government requirements; and to make recommendations to DOT on issues and approaches for Federal policies and programs regarding the industry. The Committee will operate in accordance with the rules of the Federal Advisory Committee Act and the Department of Transportation, FAA Committee Management Order (1110.30C).

FOR FURTHER INFORMATION CONTACT: Brenda Parker (AST–100), Office of the Associate Administrator for Commercial Space Transportation (AST), 800 Independence Avenue, SW., Room 331, Washington, DC 20591, telephone: (202) 267–3674; e-mail: *brenda.parker@faa.dot.gov.*

Issued in Washington, DC, November 8, 2004.

Patricia G. Smith,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 04–25559 Filed 11–17–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Woodbury County, IA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public of its intent to prepare an Environmental Impact Statement (EIS) for a proposed Interstate 29 corridor study in Sioux City, Iowa from the Sioux Gateway Airport/Sergeant Bluff Interchange to the South Dakota State border.

FOR FURTHER INFORMATION CONTACT: Lisa Rold, Transportation Engineer, FHWA Iowa Division Office, 105 Sixth Street, Ames, IA, Ph. (515) 233–7307; or James P. Rost, Director, Office of Location and Environment, Iowa Department of Transportation, 800 Lincoln Way, Ames, IA 50010, Ph. (515) 239–1225.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document is available for free download from the Federal Bulletin Board (FBB). The FBB is a free electronic bulletin board service of the Superintendent of Documents, U.S. Government Printing Office (GPO).

The FBB may be accessed in four ways: (1) Via telephone in dial-up mode or via the Internet through (2) telnet, (3) FTP, and (4) the World Wide Web.

For dial-in mode a user needs a personal computer, modem, telecommunications software package and telephone line. A hard disk is recommended for file transfers.

For Internet access a user needs Internet connectivity. Users can telnet or FTP to: fedbbs.access.gpo.gov. Users can access the FBB via the World Wide Web at *http://fedbbs.access.gpo.gov.*

User assistance for the FBB is available from 7 a.m. until 5 p.m., Eastern Time, Monday through Friday (except Federal holidays) by calling the GPO Office of Electronic Information Dissemination Services as (202) 512–1262, toll free at (888) 293–6498; sending an e-mail to *gpoaccess@gpo.gov;* or sending a fax to (202) 512–1262.

Access to this notice is also available to Internet users through the Federal Register's home page at *http://www.nara.gov/fedreg.*

Background

The FHWA, in cooperation with the Iowa Department of Transportation (Iowa DOT), will prepare an Environmental Impact Statement (EIS) for improvements proposed to Interstate 29 (I–29) from Sioux Gateway Airport/Sergeant Bluff Interchange to the South Dakota State border.

As part of the National Environmental Policy Act (NEPA) process, FHWA will be preparing an EIS to assess the social, economic, and environmental impacts of the proposed project. The EIS will include a reasonable range of alternatives that will address the purpose and need of the project as well as a no-build alternative.

A Public Involvement Plan will be established and will facilitate public involvement through the project development process. The resource agencies will be solicited for their input throughout the life of this project. Throughout the development process, advance notice of the time and place of public meetings and/or hearings will be given in order to provide an opportunity for citizen attendance and comments.

The Siouxland Interstate Metropolitan Planning Council (SIMPCO), along with Iowa Department of Transportation (DOT), and the City of Sioux City conducted a multiphase study to determine the existing conditions and to develop improvement alternatives. The reports that were generated as a result of this study include Evaluation of Existing Conditions, I–29 Corridor Study, Sioux Gateway Interchange to South Dakota Border, February 1993, Development of Alternative Improvement Schemes, I–29 Corridor Study, Sioux Gateway Airport to South Dakota Border, June 1996, Refinement of Selected Improvement Concepts, I–29 Corridor Study, Sioux Gateway Interchange to South Dakota Border, January 1997, and Refinement of Selected Improvement Concepts, I–29 Corridor Study, Sioux Gateway

Interchange to South Dakota Border, July 1997.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held throughout the study process. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. A formal scoping meeting with resource agencies will be scheduled. Resource agencies will be notified 30 days prior to the meeting date.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed project and EIS should be directed to the FHWA or Iowa Department of Transportation at the address provided in the caption **FOR FURTHER INFORMATION CONTACT**.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

(Authority: 23 U.S.C. 315; 49 CFR 1.48)

Dated: November 10, 2004.

Phil Barnes,

Division Administrator, FHWA Iowa Division.

[FR Doc. 04–25544 Filed 11–17–04; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

The Valley Railroad Company

[Waiver Petition Docket Number FRA–2004–19259]

The Valley Railroad Company (VALE) of Essex, Connecticut, operator of a scenic railroad on leased track, seeks waivers from certain provisions of 49 CFR part 231, 49 CFR part 223, and 49 CFR part 229 for an 80-ton diesel-electric locomotive built by General Electric in 1937 and currently numbered VALE 0901.

The specific sections from which relief is requested and the justifications for such relief are as follows: (1) Switching steps of the type required by 49 CFR part 231.30(a)–(f) are not permitted by the frame construction of the locomotive. Instead, it is equipped with four side ladders which give access to the walkways near each corner of the locomotive. (2) Glazing in the locomotive is not compliant with 49 CFR part 223.11; however, the current glazing is automotive style safety glass, and VALE reports they operate in a rural area and have had few incidents of rocks being thrown at their trains, and no incidents of rocks being thrown at a locomotive. (3) The locomotive has never been equipped with a ''slip/slide alarm'' as required by 49 CFR part 229.115; however, VALE reports that it will be operating at speeds less than 20 mph and with trains weighing less than 500 tons. (4) This locomotive is equipped with a single headlamp on each end which does not meet the requirements of 49 CFR part 229.125(a) for road locomotives, but which does meet the requirements for locomotives used in switching service given in 49 CFR part 229.125(b). Again, VALE states that this is sufficient due to the speed limit of 20 miles per hour.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2004–19259) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

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

Issued in Washington, DC on November 5, 2004.

Grady C. Cothen, Jr.,

Acting Associate Administrator for Safety.

[FR Doc. 04–25561 Filed 11–17–04; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No. FRA–2004–19466

Applicant: Canadian National Railroad, Wisconsin Central Division, Mr. John P. Rath, Manager of Signal Installations, Signal and Communications, 1625 Depot Street, Stevens Point, Wisconsin, 54481.

The Canadian National Railroad seeks approval of the proposed discontinuance and removal of the power-operated derails at CP North Pokegema, milepost 14.7, and CP South Pokegema, milepost 16.9, on the Duluth, Missabe, Iron Range Railroad, Interstate Branch Subdivision, and on the former Duluth, Winnipeg and Pacific Railway,

at Pokegema Yard, near Superior, Wisconsin.

The reason given for the proposed changes is to simplify operations and the physical plant.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

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

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on November 5, 2004.

Grady C. Cothen, Jr.,

Acting Associate Administrator for Safety Standards.

[FR Doc. 04–25560 Filed 11–17–04; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No. FRA–2004–19467

Applicant: Canadian National Railroad, Wisconsin Central Division, Mr. John P. Rath, Manager of Signal Installations, Signal and Communications, 1625 Depot Street, Stevens Point, Wisconsin, 54481.

The Canadian National Railroad (CN) seeks approval for the proposed temporary discontinuance of the interlocked signal system, on the single main track movable bridge, at milepost 182.3 on the Wisconsin Central Division, Manistique Subdivision, at Sault Ste. Marie, Michigan, during the winter for approximately three months. The proposal is to lock down the bridge for rail traffic, and take the signal system out of service on or about February 1 of each year, for approximately three months once the canal is closed to marine traffic. In the spring, prior to restoring the signal system to service, the signal system will be completely tested in accordance with Federal Regulations.

The reason given for the proposed changes is that CN currently does not have approval to temporarily take the signal system out of service during the winter months, when the canal is closed to marine traffic. Historically, it has been the practice to suspend the signal system on this bridge during the winter, ever since the installation of the bridge signal system in 1962. FRA took exception to this practice in 2004, and this request is being made to attain compliance.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

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

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on November 5, 2004.

Grady C. Cothen, Jr.,

Acting Associate Administrator for Safety Standards.

[FR Doc. 04–25564 Filed 11–17–04; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2004–19465

Applicant: Central Oregon and Pacific Railroad, Mr. Dan Lovelady, General Manager, 333 S. E. Mosher, Roseburg, Oregon 97470.

The Central Oregon and Pacific Railroad seeks approval of the proposed discontinuance and removal of the automatic block signal system, on the main track between Roseburg, Oregon, milepost, 575.2 and Springfield, Oregon, milepost 644.0, on the System Division, Roseburg Subdivision, a distance of approximately 69 miles, and govern train movements by Track Warrant Control.

The reasons given for the proposed changes are the maximum authorized speed is 25 mph, only five trains daily operate over the trackage, the required capital expense for maintenance of the signal system, and the semaphore signals used on a portion of the line are obsolete and replacement parts are no longer available.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

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

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on November 5, 2004.

Grady C. Cothen, Jr.,

Acting Associate Administrator for Safety.

[FR Doc. 04–25563 Filed 11–17–04; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2004–19393

Applicant: CSX Transportation, Incorporated, Mr. N. M. Choat, Chief Engineer, Communications and Signal, 4901 Belfort Road, Suite 130, Jacksonville, Florida 32256.

CSX Transportation, Incorporated seeks approval of the proposed modification of the traffic control system, on the single main track, siding, and auxiliary track, on the LH & STL Subdivision, Louisville Service Lane, in Kentucky, consisting as follows:

1. At W.E. Maceo, milepost HR–104.5, convert the power-operated switch to electrically locked hand operation, remove the three associated controlled signals, and remove the signal system from the siding;

2. At E.E. Maceo, milepost HR–103.8, convert the power-operated switch to electrically locked hand operation, and remove the three associated controlled signals;

3. At Stephensport, milepost HR–65.2, convert the power-operated switch to hand operation, and remove the three associated controlled signals; and

4. Near milepost HR–63.2, remove back-to-back automatic intermediate signals No. 631 and No. 632.

The reason given for the proposed change is to eliminate facilities no longer needed in present day operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

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

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on November 5, 2004.

Grady C. Cothen, Jr.,

Acting Associate Administrator for Safety.

[FR Doc. 04–25562 Filed 11–17–04; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of Environmental Impact Statement for the Lahaina Small Boat Harbor Ferry Pier in Maui County, HI

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration and the State of Hawaii, Department of Land and Natural Resources (DLNR) intend to jointly prepare an Environmental Impact Statement on a proposal by DLNR to build an additional ferry pier next to the existing pier in the Lahaina Small Boat Harbor, within the boundaries of the Lahaina National Historic Landmark District on the west coast of the island of Maui, Hawaii. The proposed project would include construction of an additional pier and to dredge the harbor. The existing ferry facility at times is unable to load or unload inter-island ferry passengers in a timely manner due to ship traffic and related onshore activities. The proposed project is intended to improve existing operating conditions at the harbor by alleviating ship traffic and harbor congestion.

The EIS will be prepared to satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA). FTA and DLNR seek public and interagency input on the scope of the NEPA EIS for the project, including the alternatives to be considered and the environmental impacts to be evaluated.

DATES: *Scoping Comments Due Date:* Written comments on the scope of the NEPA review, including the alternatives to be considered and the related impacts to be assessed, should be received no later than January 7, 2005. Written comments should be sent to the DLNR Project Manager at the address given below in **ADDRESSES.**

Scoping Meeting Date: A public scoping meeting and open house will be held at 6 p.m. on December 8, 2004 at the Lahaina Intermediate School, cafeteria, located at 871 Lahainaluna Road, in the Town of Lahaina. Oral and written comments may be given at the scoping meeting, and a stenographer will record oral comments. The formal scoping meeting will be preceded by an open house from 4 p.m. to 6 p.m. allowing the public to discuss the EIS scope and proposed project informally with DLNR staff and project consultant team. The meeting location is accessible to people with disabilities. Persons with special needs should call DLNR at (808) 587–0230 at least 72 hours prior to the scoping meeting.

ADDRESSES: Written comments should be sent to State of Hawaii, Department of Land and Natural Resources, Attention: Eric Hirano, Chief Engineer, Engineering Division, P.O. Box 373, Honolulu, Hawaii, 96809. Phone: (808) 587–0230. Fax: (808) 587–0283. E-mail: *eric.t.hirano@hawaii.gov.* If you wish to be placed on the mailing list to receive further information as the EIS study develops, contact Eric Hirano at the address listed above. Please specify the mailing list for the Lahaina Small Boat Harbor Ferry Pier Environmental Impact Statement. Copies of the scoping information packet which includes rough sketches of the various alternatives under consideration can also be obtained by contacting Eric Hirano as indicated above.

FOR FURTHER INFORMATION CONTACT: Donna Turchie, Federal Transit Administration, 201 Mission Street, Suite 2210, San Francisco, CA 94105. Phone: (415) 744–2737. Fax: (415) 794–2726.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and DLNR invite all interested individuals and organizations, and federal, state, and local agencies to comment on the scope of the EIS. During the scoping process, comments should focus on proposing alternatives that may be less costly or have less environmental impacts while achieving similar transportation objectives, and on identifying specific social, economic, or environmental issues to be evaluated. At this time, comments should not focus on a preference for a particular alternative. Additional opportunities for public participation will be announced through mailings, notices, advertisements, and press releases.

FTA must also comply with other environmental requirements, such as Section 4(f) of the Department of Transportation Act (49 U.S.C. 303) and Section 106 of the National Historic Preservation Act and Title VI of the Civil Rights Act of 1964, that apply to Federal actions.

II. Description of Study Area

The proposed ferry pier improvements are located in the Lahaina Small Boat Harbor, within the boundaries of the Lahaina National Historic Landmark District, an area listed on the National Register of Historic Places, on the west coast of the island of Maui, Hawaii.

The project area is located within the limits of the Special Management Area for the island of Maui and is also situated within the boundaries of Historic District No. 1, one of two County Historic districts in the town of Lahaina.

Coastal waters to the south of the proposed ferry pier are occupied by the existing pier and the Lahaina Small Boat Harbor, while waters to the north are undeveloped. Approximately 100 feet to the west of the existing pier lies the seaward end of the harbor's breakwater. Paralleling the shoreline, the breakwater is located about 200 feet from shore and is nearly 1,000 feet in length.

The project area is situated along the western extent of Lahaina's business district. Numerous retail stores and services are located along Front Street, the major venue for commercial activity in Lahaina Town. The Lahaina Public Library, and the historic Pioneer Inn, as well as other historic sites such as the Hauola Stone, the Brick Palace, the Old Fort, the Lahaina Courthouse, and the Banyan Tree are located in the vicinity of the proposed project.

III. Purpose and Need

The existing pier at Lahaina Small Boat Harbor is about 66 feet in width and 120 feet in length. The approximately 8,000 square foot pier contains a harbor master's office, a ferry kiosk, and diesel fuel dispensing and sewage pumping facilities. The existing pier is used for loading and unloading passengers onto recreational and commercial vessels, including cruise ship tenders (*i.e.,* shuttle craft) and inter-island ferry vessels. The pier provides berthing for the Carthaginian II, a replica of a whaling ship which serves as a floating museum. The pier is also used by surfers to gain access to nearby surf spots.

Since the late 1980s, inter-island ferry service between Lanai and Maui, as well as Molokai and Maui, has been provided by private operators. Presently, the Lahaina/Lanai ferry schedules five daily round trips between the Lahaina and Manele Small Boat Harbors. The Molokai/Maui ferry schedules two round trips a day between the Lahaina Small Boat Harbor and the Kaunakakai Harbor on Mondays through Saturdays. On Sundays, the Molokai/Maui ferry makes a one way trip from Molokai to Maui. At times, the inter-island ferry vessels are unable to load or unload their passengers in a timely manner due to ship traffic and related onshore activities.

The Lahaina Small Boat Harbor contains 100 berths for recreational and commercial craft. Presently, there are 59

individuals on the waiting list for berths at the harbor. On ''Boat Days'', when cruise ships are in port, the harbor is one of the busiest in the State. On these days, the activity level at the existing pier is heightened by the additional traffic generated by cruise ship tenders. ''Boat Day'' conditions are further constrained when there are military vessels or two or more cruise ships in port. During normal conditions, routine refueling and sewage pump-out activities at the pier add to vessel traffic congestion. The proposed project is intended to improve existing operating conditions at the Lahaina Small Boat Harbor by alleviating ship traffic and harbor congestion.

IV. Alternatives

During the project's preliminary conceptual development process, use and operational factors were examined with regard to the proposed ferry pier and comfort station improvements. This evaluation included an examination of existing harbor facilities and activities with regard to current ferry and cruise ship operations and comfort station use, as well as the provision of a new berthing area for the replacement vessel for the Carthaginian II and for surfer access to the nearby ''Harbor'' and ''Breakwall'' surf spots. Preliminary conceptual plans for the proposed project were presented at a stakeholders' meeting on April 8, 2004.

In light of the foregoing conceptual plan development by DLNR, FTA proposes to evaluate the following alternatives in the EIS:

1. Future No Build Alternative—This alternative would maintain present physical conditions and existing operating policies as ship traffic at the Lahaina Small Boat Harbor grows.

2. Initial Ferry Pier Alternative—This alternative sited the new pier about 60 feet to the north of the existing pier. The proposed pier would consist of a concrete and sheet pile system structure that would be 48 feet in width and nearly 146 feet in length. A ramp (25 ft. width x 53 ft. length) would provide pedestrian access between the shoreline and the new ferry pier. New dredging will be required to widen existing entrance channel and create additional berthing areas.

3. Initial Ferry Pier with Multi-Purpose Pier Alternative—The multi-purpose pier (15 ft. width x 90 ft. length) presented at the stakeholders' meeting would provide a berthing area for the Carthaginian II or its replacement vessel and provide surfer access to nearby surf breaks. The multi-purpose pier would be secured by concrete pilings and contain a floating, molded composite deck. A concrete walkway and gangway ramp (8 ft. width x 60 ft. length) would link the multi-purpose pier with the initial ferry pier as presented in alternative 2, at a point about 24 to 30 feet from the shoreline. At its nearest point, the multi-purpose pier would lie approximately 60 feet from the Hauola Stone (a historic site). New dredging will be required to widen existing entrance channel and create berthing areas.

4. Initial Ferry Pier with Building Alternative—A two-story building (32 feet in height) was proposed as a possible addition to the new ferry pier. The ground level of the building would include about 4,500 square feet of open area for passenger arrivals and departures, while the second level would contain a total floor area of approximately 2,970 square feet which would include public restrooms, a janitor's closet, a wrap-around deck and 1,175 square feet of area for office and concession space. Stairs and an elevator would provide pedestrian access between levels. New dredging will be required to widen existing entrance channel and create additional berthing areas.

5. Modified Ferry Pier Alternative—Based upon comments received during the stakeholders' meeting, DLNR re-evaluated and modified their conceptual plans for the ferry pier. The DLNR's modified plan proposes a new ferry pier 35 feet wide and 116 feet long, a concrete walkway 16 feet wide and 60 feet long with safety railings that will connect to the existing pier, a shade structure on the new ferry pier, a small floating platform with a moveable gangway, and dredging to widen the entrance channel and berthing area to accommodate docking of two vessels (one on each side of the new pier) up to 101 feet in length with a beam of 24 feet. A low-rise, open-sided roofed structure, which would cover a portion of the existing pier is currently being evaluated by the DLNR for inclusion as a project component.

Any additional reasonable alternatives that emerge from the scoping process will also be considered. The formulation of preferred and alternative design schemes is an iterative process and will need to consider various factors including, but not limited to the following:

- The location of historic sites in the area and potential proximity impacts to those sites.
- The location of existing facilities in the area, such as the Pioneer Inn, the Lahaina Public Library, and King Kamehameha III Elementary School, and potential use impacts to these facilities.
- Existing baseline conditions and potential impacts to marine life, water quality, and littoral processes.
- Surrounding structures and uses in the area and potential impacts to vehicle and pedestrian traffic, open space areas, ocean and mountain views, and lateral views along the shoreline.

V. Probable Effects

The EIS will evaluate and fully disclose the environmental consequences of building Lahaina Small Boat Harbor Ferry Pier Improvements in advance of any decision by FTA to commit financial or other resources toward the implementation of a particular alternative. The EIS will examine the socio-economic and environmental impacts of the alternatives. In addition, it will discuss actions to reduce or eliminate any adverse impacts.

Environmental issues to be analyzed in the EIS include: near-shore marine environmental impacts, flora and fauna impacts, air quality impacts, noise impacts, scenic and open space impacts, as well as impacts to the socio-economic environment and public services. Impacts to infrastructure will also be assessed including changes to roadway levels of service; impacts on surrounding land use, including consistency of proposed improvements with local plans and policies; and potential impacts to historic and cultural resources. Cumulative and growth-inducing impacts will be examined. Impacts will be evaluated for both the temporary construction period and for the long-term operation of the alternatives. Measures to mitigate any adverse impacts will be identified.

To ensure that all significant issues related to this proposed action are identified and addressed, scoping comments and suggestions are invited from all interested parties. Comments should be directed to the DLNR as noted in the **ADDRESSES** section above.

VI. FTA Procedures

The EIS is being prepared in accordance with the National Environmental Policy Act of 1969 (NEPA), its implementing regulations by the Council on Environmental Quality (40 CFR parts 1500–1508), and with the FTA/Federal Highway Administration's ''Environmental Impact and Related Procedures'' (23 CFR part 771). In accordance with FTA policy, the NEPA process will also address the requirements of other applicable environmental laws, regulations and executive orders, such as the National

Historic Preservation Act of 1966, Section 4(f) of the U.S. Department of Transportation Act, and Executive Orders on Environmental Stewardship and Transportation Infrastructure Project Reviews, Environmental Justice, Floodplain Management, and Protection of Wetlands.

Upon completion, the Draft EIS will be distributed for public and agency review and comment. A public hearing on the Draft EIS will be held within the study area. Based on the Draft EIS and the public and agency comments received, FTA and DLNR may further refine and analyze the alternatives in the Final EIS.

Issued on: November 10, 2004.

Leslie T. Rogers,

Regional Administrator.

[FR Doc. 04–25591 Filed 11–17–04; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–21011]

CUSA FL, LLC d/b/a Franciscan Lines—Acquisition of Assets and Business Operations—Pacific Coast Bus Service, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: CUSA FL, LLC d/b/a Franciscan Lines (CUSA FL or applicant), a motor passenger carrier controlled by CUSA, LLC (CUSA), has filed an application under 49 U.S.C. 14303 to acquire control and operate certain assets of Pacific Coast Bus Service, Inc. (Pacific Coast or seller), a motor passenger carrier. The transaction was approved on an interim basis under 49 U.S.C. 14303(i), and the Board is now tentatively granting permanent approval. Persons wishing to oppose this application must follow the rules at 49 CFR 1182.5 and 1182.8. If no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by January 3, 2005. Applicant may file a reply by January 18, 2005. If no comments are filed by January 3, 2005, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–21011 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of any comments to applicant's representative: Stephen Flott, Flott & Co. PC, PO Box 17655, Arlington, VA 22216–7655.

FOR FURTHER INFORMATION CONTACT: Eric S. Davis, (202) 565–1608. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: CUSA, CUSA FL's parent company, controls over 20 Federal Motor Carrier Safety Administration (FMCSA) registered motor passenger carriers, and, in turn, is wholly owned by KBUS Holdings, LLC (KBUS), a noncarrier. KBUS acquired control of over 30 motor passenger carriers formerly owned by Coach USA, Inc., and then consolidated those entities into the motor passenger carriers now controlled by CUSA.[1] These carriers operate more than 1,000 coaches and 600 other revenue vehicles in 35 states. Annual revenues for the companies controlled by CUSA for 2004 are forecast to be $220 million.

Applicant has entered into an agreement with Pacific Coast to buy Pacific Coast's assets, including vehicles, and its business operations. CUSA FL holds motor common carrier passenger authority for charter and special operations and for regular route operations and contract carrier authority under MC–463273. Once this transaction is consummated, the Federal operating authority currently held by seller will be surrendered.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction found to be consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicant has submitted information, as required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Specifically, applicant states that service to the public will be enhanced in that applicant will employ the acquired assets and personnel of seller to expand its service, and that the proposed transaction will ensure that there is no cessation in seller's operations. Also, CUSA FL states that the proposed transaction will have no effect on fixed charges or employees. Applicant states that all qualified Pacific Coast employees who desire employment will be offered employment with CUSA FL. CUSA FL asserts that the proposed transaction will allow CUSA to extend its advantages of volume purchasing power in areas such as equipment and fuel to this new acquisition. Additional information, including a copy of the application, may be obtained from applicant's representative.

On the basis of the application, the Board finds that the proposed transaction is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

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

It is ordered:

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed vacated.

3. This decision will be effective on January 3, 2005, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 7th Street, SW., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

Decided: November 12, 2004.

By the Board, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

Vernon A. Williams,

Secretary.

[FR Doc. 04–25611 Filed 11–17–04; 8:45 am]

BILLING CODE 4915–01–P

[1] *See KBUS Holdings, LLC—Acquisition of Assets and Business Operations—All West Coachlines, Inc., et al.,* STB Docket No. MC–F–21000 (STB served July 23, 2003).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Mayer, Brown, Rowe & Maw on behalf of The Burlington Northern and Santa Fe Railway Company (BNSF) (WB461–11—10/20/2004) for permission to use certain data from the Board's Carload Waybill Samples. A copy of this request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Mac Frampton, (202) 565–1541.

Vernon A. Williams,

Secretary.

[FR Doc. 04–25610 Filed 11–17–04; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 256X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Chester County, PA

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a 0.8-mile line of railroad between milepost 18.92 and milepost 19.72 at Downingtown, in Chester County, PA.[1] The line traverses United States Postal Service Zip Codes 19335 and 19372.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies)[2] have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 18, 2004, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 26, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 8, 2004, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NSR has filed environmental and historic reports which address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 23, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by November 18, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 12, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–25612 Filed 11–17–04; 8:45 am]

BILLING CODE 4915–01–P

[1] NSR states that the subject line overlaps 0.28 miles of a line that was authorized for abandonment in *Consolidated Rail Corporation—Abandonment Exemption—Chester County, PA,* Docket No. AB–167 (Sub-No. 1136X) (ICC served Sept. 19, 1994), because NSR has not been able to verify that Consolidated Rail Corporation exercised the abandonment authority with respect to that segment.

[2] Pursuant to 49 CFR 1152.50(d)(1), at least 10 days prior to filing a notice of exemption with the Board, the railroad seeking the exemption must notify in writing certain governmental agencies. The notice of exemption in this proceeding was filed on October 28, 2004. In its verified notice, applicant attached, as Exhibit 4, a copy of its transmittal letter dated October 19, 2004, indicating notice of filing a notice of exemption on or about October 29, 2004 with the Board and its compliance with the service and notice requirements of 49 CFR 1152.50(d)(1). According to applicant's representative, when applicant sent its transmittal letter, it had anticipated that the Board would receive the filing on October 29, 2004, rather than October 28, 2004. Upon consultation with applicant, October 29, 2004 is used for the computation of due dates in this proceeding.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Effective October 31, 2004, the filing fee for an OFA increased to $1,200. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2004 Update,* STB Ex Parte No. 542 (Sub-No. 11) (STB served Oct. 1, 2004).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 9, 2004.

The Department of the 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 December 20, 2004 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1639.

Regulation Project Number: REG–106012–98 Final.

Type of Review: Extension.

Title: Definition of Contribution in Aid of Construction under section 118(c).

Description: The regulations provide guidance with respect to section 118(c), which provides that a contribution in aid of construction received by a regulated public water or sewage utility is treated as a contribution to the capital of the utility and excluded from gross income.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 300.

Estimated Burden Hours Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 300 hours.

Clearance Officer: R. Joseph Durbala (202) 622–3634, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 04–25596 Filed 11–17–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0153]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine the insured's continuous entitlement to disability insurance benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 18, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0153'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Disability Benefits Questionnaire, VA Forms 29–8313 and 29–8313–1.

OMB Control Number: 2900–0153.

Type of Review: Extension of a currently approved collection.

Abstract: When an insured has been granted waiver of premium or income benefits based on total disability, he/she must report conditions needed to continue disability insurance benefits. VA uses the data collected on VA Forms 29–8313 and 29–8313–1 to determine the insured's continuous entitlement to disability insurance benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 15,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 60,000.

Dated: November 5, 2004.

By direction of the Secretary.

Cindy Stewart,

Program Analyst, Records Management Service.

[FR Doc. 04–25565 Filed 11–17–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0394]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to verify beneficiaries receiving Restored Entitlement Program for Survivors (REPS) benefits based on a schoolchild enrollment in an approved school.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 18, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of

Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0394'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Certification of School Attendance—REPS, VA Form 21–8926.

OMB Control Number: 2900–0394.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8926 is used to verify beneficiaries who are receiving REPS benefits based on schoolchild status are in fact enrolled full-time in an approved school and is otherwise eligible for continued benefits. The program pays benefits to certain surviving spouses and children of veterans who died in service prior to August 13, 1981 or who died as a result of a service-connected disability incurred or aggravated prior to August 13, 1981. Child beneficiaries over age 18 and under age 23 must be enrolled full-time in an approved post-secondary school.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Dated: November 5, 2004.

By direction of the Secretary.

Cindy Stewart,

Program Analyst, Records Management Service.

[FR Doc. 04–25566 Filed 11–17–04; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
November 18, 2004

Part II

The President

Proclamation 7846—America Recycles Day, 2004

Federal Register
Vol. 69, No. 222
Thursday, November 18, 2004

Presidential Documents

Title 3—

The President

Proclamation 7846 of November 15, 2004

America Recycles Day, 2004

By the President of the United States of America

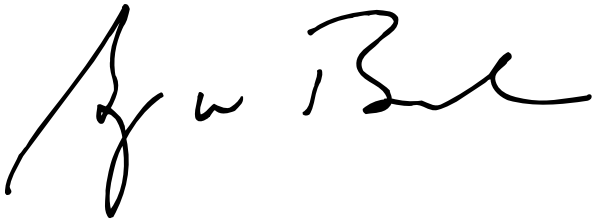
A Proclamation

Our Nation is dedicated to good stewardship of our natural resources. On America Recycles Day, we reaffirm our commitment to preserving our resources and recycling.

Our country produces more than 200 million tons of municipal solid waste—approximately 4 pounds of waste per person per day. As more garbage is generated, the demands on our landfills, natural resources, and environment continue to grow. Recycling helps conserve energy and natural resources, provides raw materials for key domestic industries, reduces air and water pollution, cuts greenhouse gas emissions, and promotes the development of cleaner technologies. Recycling and composting diverts millions of tons of material away from landfills and incinerators. Through curbside collection and recyclable drop-off centers, communities across our Nation are demonstrating their commitment to protecting our environment and to building a better future for our next generation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 15, 2004, as America Recycles Day. I call upon the people of the United States to observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of November, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-ninth.



[FR Doc. 04–25776
Filed 11–17–04; 9:09 am]
Billing code 3195–01–P

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Thursday, November 18, 2004

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

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H.R. 4381/P.L. 108–392

To designate the facility of the United States Postal Service located at 2811 Springdale Avenue in Springdale, Arkansas, as the "Harvey and Bernice Jones Post Office Building". (Oct. 30, 2004; 118 Stat. 2245)

H.R. 4471/P.L. 108–393

Homeownership Opportunities for Native Americans Act of 2004 (Oct. 30, 2004; 118 Stat. 2246)

H.R. 4481/P.L. 108–394

Wilson's Creek National Battlefield Boundary Adjustment Act of 2004 (Oct. 30, 2004; 118 Stat. 2247)

H.R. 4556/P.L. 108–395

To designate the facility of the United States Postal Service

located at 1115 South Clinton Avenue in Dunn, North Carolina, as the ''General William Carey Lee Post Office Building''. (Oct. 30, 2004; 118 Stat. 2249)

H.R. 4579/P.L. 108–396

Truman Farm Home Expansion Act (Oct. 30, 2004; 118 Stat. 2250)

H.R. 4618/P.L. 108–397

To designate the facility of the United States Postal Service located at 10 West Prospect Street in Nanuet, New York, as the ''Anthony I. Lombardi Memorial Post Office Building''. (Oct. 30, 2004; 118 Stat. 2251)

H.R. 4632/P.L. 108–398

To designate the facility of the United States Postal Service located at 19504 Linden Boulevard in St. Albans, New York, as the ''Archie Spigner Post Office Building''. (Oct. 30, 2004; 118 Stat. 2252)

H.R. 4731/P.L. 108–399

To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program. (Oct. 30, 2004; 118 Stat. 2253)

H.R. 4827/P.L. 108–400

To amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area. (Oct. 30, 2004; 118 Stat. 2254)

H.R. 4917/P.L. 108–401

Federal Regulatory Improvement Act of 2004 (Oct. 30, 2004; 118 Stat. 2255)

H.R. 5027/P.L. 108–402

To designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the ''Specialist Eric Ramirez Post Office''. (Oct. 30, 2004; 118 Stat. 2257)

H.R. 5039/P.L. 108–403

To designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the ''Eva Holtzman Post Office''. (Oct. 30, 2004; 118 Stat. 2258)

H.R. 5051/P.L. 108–404

To designate the facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, as the ''Leonard C. Burch Post Office Building''. (Oct. 30, 2004; 118 Stat. 2259)

H.R. 5107/P.L. 108–405

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H.R. 5131/P.L. 108–406

Special Olympics Sport and Empowerment Act of 2004 (Oct. 30, 2004; 118 Stat. 2294)

H.R. 5133/P.L. 108–407

To designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the ''Martha Pennino Post Office Building''. (Oct. 30, 2004; 118 Stat. 2297)

H.R. 5147/P.L. 108–408

To designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the ''Evan Asa Ashcraft Post Office Building''. (Oct. 30, 2004; 118 Stat. 2298)

H.R. 5186/P.L. 108–409

Taxpayer-Teacher Protection Act of 2004 (Oct. 30, 2004; 118 Stat. 2299)

H.R. 5294/P.L. 108–410

John F. Kennedy Center Reauthorization Act of 2004 (Oct. 30, 2004; 118 Stat. 2303)

S. 129/P.L. 108–411

Federal Workforce Flexibility Act of 2004 (Oct. 30, 2004; 118 Stat. 2305)

S. 144/P.L. 108–412

To require the Secretary of Agriculture to establish a program to provide assistance to eligible weed management entities to control or eradicate noxious weeds on public and private land. (Oct. 30, 2004; 118 Stat. 2320)

S. 643/P.L. 108–413

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