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WHEN: Tuesday, May 17, 2005
9:00 a.m.–Noon

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Conference Room, Suite 700
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Rules and Regulations

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

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

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1207

Interim Regulatory Changes Regarding Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities

AGENCY: Merit Systems Protection Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Merit Systems Protection Board (MSPB or ''the Board'') is revising its regulations which were promulgated to implement Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794. These revisions are necessary to reconcile the Board's regulations with the current statute and to clarify the procedures for processing those complaints filed against the Board which allege discrimination on the basis of disability during the Board's adjudication of a related employee appeal.

DATES: This rule is effective May 9, 2005. Written comments should be submitted on or before July 8, 2005.

ADDRESSES: Send or deliver comments to the Office of Clerk of the Board, U.S. Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; fax: (202) 653–7130; or e-mail: *mspb@mspb.gov.*

FOR FURTHER INFORMATION CONTACT: Bentley Roberts, Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; (202) 653–7200; fax: (202) 653–7130; or e-mail: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION: The Board's regulations to implement Section 504 of the Rehabilitation Act were initially promulgated in 1988 and amended in 2000. These revisions are necessary to reconcile the Board's regulations with the amendments that have been made to the statute including substitution of the term ''disability'' for the term ''handicap'' used in the existing regulations.

Additional changes include the addition of a definition for the term ''days,'' in connection with determining the deadline for filing a complaint, the deletion of outdated provisions (such as references to the regulations issued by the Equal Employment Opportunity Commission found at 29 CFR part 1613 and the requirement to conduct a self evaluation), and revision of the compliance procedures.

The latter revision modifies the procedures for processing those complaints filed against the Board which allege discrimination on the basis of disability during the Board's adjudication of a related employee appeal. The current regulations create a tension between the Board's obligations to adjudicate employee appeals in an effective manner under the Civil Service Reform Act and its duty under Section 504 of the Rehabilitation Act of 1973, as amended, to ensure that its programs and activities are operated in a manner that does not result in discrimination against persons with disabilities. For example, 5 U.S.C. 7701(b)(1) and (e)(1) require that a decision on a petition for review be rendered by a majority of the Board members. However, under the Board's current Section 504 regulations, the Chairman is given the sole authority to issue a decision in disability discrimination complaints filed under that statute. As a result, when a complaint alleging disability discrimination is filed during or regarding the adjudication of a related employee appeal, it is possible that the Board's decision in the appeal could be overruled by a subsequent decision of the Chairman in the discrimination matter. Such a result could constitute an improper collateral attack on the Board's adjudicatory authority.

The revised regulations seek to ameliorate this potential conflict by requiring appellants and other parties to adjudication before the Board to file claims of alleged disability discrimination within 10 days of the alleged act of discrimination or within 10 days from the date that the person knew or reasonably should have known of the alleged discrimination. The complaint is to be filed with the administrative judge responsible for adjudicating the initial appeal.

The revised regulations further provide that the discrimination complaint will be consolidated with the employee's initial appeal and the administrative judge will be responsible for rendering a decision on the discrimination complaint either as an interim order or as part of the initial decision. A party may seek reconsideration of the administrative judge's ruling on the discrimination matter.

If an initial decision, recommended decision or recommendation has been issued by the time the party learns of the alleged discrimination, the party may raise the allegation in a petition for review, cross petition for review, or response to a petition or cross petition, as appropriate. The Board will decide the merits of any discrimination claim raised at this stage of the adjudicatory process.

While the Board is mindful of its obligations under Section 504 of the Rehabilitation Act of 1973, the Board is also concerned with the efficacy of its adjudicatory process. The Board believes that the procedures herein further the goal of ensuring finality in its decisions while providing a fair avenue of redress for allegations of disability discrimination.

List of Subjects

5 CFR Part 1207

Administrative personnel, Enforcement of nondiscrimination on the basis of disability in programs or activities conducted by the Merit Systems Protection Board.

■ Accordingly, the Board amends 5 CFR part 1207 as follows:

PART 1207—[REVISED]

■ 1. Revise 5 CFR part 1207 as follows:

PART 1207—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE MERIT SYSTEMS PROTECTION BOARD

Sec.

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1207.171–1207.199 [Reserved]

Authority: 29 U.S.C. 794.

Source: 53 FR 25881 and 25885, July 8, 1988, unless otherwise noted.

§ 1207.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of disability in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 1207.102 Application.

This part applies to all programs or activities conducted by the agency, except for programs or activities conducted outside the United States that do not involve individuals with disabilities in the United States.

§ 1207.103 Definitions.

(a) *Assistant Attorney General* means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

(b) *Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDDs), interpreters, notetakers, written materials, and other similar services and devices.

(c) *Complete complaint* means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

(d) *Days* means calendar days, unless otherwise stated.

(e) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

(f) *Historic preservation programs* means programs conducted by the agency that have preservation of historic properties as a primary purpose.

(g) *Historic properties* means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State or local government body.

(h) *Individual with a disability* means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. The following phrases used in this definition are further defined as follows:

(1) *Physical or mental impairment includes*—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(iii) Also, physical and mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) *Major life activities* include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment means*—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (i) of this definition but is treated by the agency as having such an impairment.

(i) *Qualified individual with a disability means*—

(1) With respect to any agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with a disability who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature;

(2) With respect to any other program or activity, an individual with a disability who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; and

(3) Qualified disabled person as that term is defined for purposes of employment in 29 CFR 1614.203, which is made applicable to this part by § 1207.130.

(j) *Section 504* means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617); the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602, 92 Stat. 2955); and the Rehabilitation Act Amendments of 1986 (Pub. L. 99–506, 100 Stat. 1810). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

§§ 1207.104–1207.109 [Reserved]

§ 1207.110 Notice.

The agency shall make available to employees, applicants, participants, and

other interested parties such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this part.

§§ 1207.111–1207.119 [Reserved]

§ 1207.120 General prohibitions against discrimination.

(a) No qualified individual with a disability shall, on the basis of such disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b) (1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;

(vi) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) A qualified individual with a disability may not be excluded from participation in any of the agency's programs or activities, even though permissibly separate or different programs or activities exist.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified individuals with disabilities to discrimination on the basis of disability; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with disabilities.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency, or;

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with disabilities.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(6) The agency may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may the agency establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves, covered by this part.

(c) The exclusion of nondisabled persons from the benefits of a program limited by Federal statute or Executive order to individuals with disabilities or the exclusion of a specific class of individuals with disabilities from a program limited by Federal statute or Executive order to a different class of individuals with disabilities is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

§§ 1207.121–1207.129 [Reserved]

§ 1207.130 Employment.

No qualified individual with a disability shall, on the basis of such disability, be subject to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1614, shall apply to employment in federally conducted programs or activities.

§§ 1207.131–1207.139 [Reserved]

§ 1207.140 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § 1207.150, no qualified individual with disabilities shall, because the agency's facilities are inaccessible to or unusable by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§§ 1207.141–1207.149 [Reserved]

§ 1207.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2) In the case of historic preservation programs, require the agency to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 1207.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the

benefits and services of the program or activity.

(b) *Methods*—(1) *General*. The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with disabilities. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate.

(2) *Historic preservation programs*. In meeting the requirements of § 1207.150(a) in historic preservation programs, the agency shall give priority to methods that provide physical access to individuals with disabilities. In cases where a physical alteration to an historic property is not required because of § 1207.150(a)(2) or (3), alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide individuals with disabilities into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

§ 1207.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with disabilities. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ 1207.152–1207.159 [Reserved]

§ 1207.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the individual with a disability.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with parties by telephone, telecommunication devices for deaf persons or equally effective telecommunication systems shall be used to communicate with persons with impaired hearing.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 1207.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits and services of the program or activity.

§§ 1207.161–1207.169 [Reserved]

§ 1207.170 Compliance procedures.

(a) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(b) *Allegations of discrimination in the adjudication of a Board case*.

(1) When a party to a case pending before any of the Board's judges believes he or she has been subjected to discrimination on the basis of disability in the adjudication of the case, the party may raise the allegation in a pleading filed with the judge and served on all other parties in accordance with 5 CFR 1201.26(b)(2).

(2) An allegation of discrimination in the adjudication of a Board case must be raised within 10 days of the alleged act of discrimination or within 10 days from the date the complainant should reasonably have known of the alleged discrimination. If the complainant does not submit a complaint within that time period, it will be dismissed as untimely filed unless a good reason for the delay is shown.

(3) The judge to whom the case is assigned shall decide the merits of any timely allegation that is raised at this stage of adjudication, and shall make findings and conclusions regarding the allegation either in an interim order or in the initial decision, recommended decision, or recommendation. Any request for reconsideration of the administrative judge's decision on the disability discrimination claim must be filed in accordance with the requirements of 5 CFR 1201.114 and 1201.115.

(4) If the judge to whom the case was assigned has issued the initial decision, recommended decision, or recommendation by the time the party learns of the alleged discrimination, the party may raise the allegation in a petition for review, cross petition for

review, or response to the petition or cross petition.

(5) The Board shall decide the merits of any timely allegation that is raised at this stage of adjudication in a final decision.

(c) All complaints of discrimination on the basis of disability in programs and activities conducted by the agency, except for those described in paragraphs (a) and (b) of this section, shall be filed under the procedures described in this paragraph.

(1) *Who may file.* Any person who believes that he or she has been subjected to discrimination prohibited by this part, or authorized representative of such person, may file a complaint. Any person who believes that any specific class of persons has been subjected to discrimination prohibited by this part and who is a member of that class or the authorized representative of a member of that class may file a complaint. A charge on behalf of a person or member of a class of persons claiming to be aggrieved may be made by any person, agency or organization.

(2) *Where and when to file.* Complaints shall be filed with the Director, Office of Equal Employment Opportunity (EEO Director), Merit Systems Protection Board, 1615 M Street, NW., Washington DC 20419, or e-mailed to *equalopportunity@mspb.gov*, within thirty-five (35) calendar days of the alleged act of discrimination. A complaint filed by personal delivery is considered filed on the date it is received by the EEO Director. The date of filing by facsimile or e-mail is the date the facsimile or e-mail is sent. The date of filing by mail is determined by the postmark date; if no legible postmark date appears on the mailing, the submission is presumed to have been mailed five days (excluding days on which the Board is closed for business) before its receipt. The date of filing by commercial overnight delivery is the date the document was delivered to the commercial overnight delivery service. The agency shall extend the time period for filing a complaint upon a showing of good cause. For example, the agency shall extend this time limit if a complainant shows that he or she was prevented by circumstances beyond his or her control from submitting the matter within the time limits.

(3) *Acceptance of complaint.* (i) The agency shall accept a complete complaint that is filed in accordance with paragraph (c) of this section and over which it has jurisdiction. The EEO Director shall notify the complainant of receipt and acceptance of the complaint.

(ii) If the EEO Director receives a complaint that is not complete, he or she shall notify the complainant that additional information is needed. If the complainant fails to complete the complaint and return it to the EEO Director within 15 days of his or her receipt of the request for additional information, the EEO Director shall dismiss the complaint with prejudice and shall so inform the complainant.

(4) Within 60 days of the receipt of a complete complaint for which it has jurisdiction, the EEO Director shall notify the complainant of the results of the investigation in an initial decision containing—

(i) Findings of fact and conclusions of law;

(ii) When applicable, a description of a remedy for each violation found; and

(iii) A notice of the right to appeal.

(5) Any appeal of the EEO Director's initial decision must be filed with the Chairman of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419 by the complainant within 35 days of the date the EEO Director issues the decision required by § 1207.170(c)(4). The agency may extend this time for good cause when a complainant shows that circumstances beyond his or her control prevented the filing of an appeal within the prescribed time limit. An appeal filed by personal delivery is considered filed on the date it is received by the Chairman. The date of filing by facsimile is the date of the facsimile. The date of filing by mail is determined by the postmark date; if no legible postmark date appears on the mailing, the submission is presumed to have been mailed five days (excluding days on which the Board is closed for business) before its receipt. The date of filing by commercial overnight delivery is the date the document was delivered to the commercial overnight delivery service. The appeal should be clearly marked ''Appeal of Section 504 Decision'' and must contain specific objections explaining why the person believes the initial decision was factually or legally wrong. A copy of the initial decision being appealed should be attached to the appeal letter.

(6) A timely appeal shall be decided by the Chairman unless the Chairman determines, in his or her discretion, that the appeal raises policy issues and that the nature of those policy issues warrants a decision by the full Board. The full Board shall then decide such appeals.

(7) The Chairman shall notify the complainant of the results of the appeal within sixty (60) days of the receipt of the request. If the Chairman determines that he or she needs additional information from the complainant, he or she shall have sixty (60) days from the date he or she receives the additional information to make his or her determination on the appeal.

(8) The time limit stated in paragraph (c)(2) may be extended by the EEO Director to a period of up to 180 days, and may be extended further with the permission of the Assistant Attorney General. The time limit stated in paragraph (c)(5) may be extended by the Chairman to a period of up to 180 days, and may be extended further with the permission of the Assistant Attorney General.

(9) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

(d) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), is not readily accessible to and usable by individuals with disabilities.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate entity.

§§ 1207.171–1207.999 [Reserved]

Bentley M. Roberts, Jr.,

Clerk of the Board.

[FR Doc. 05–9209 Filed 5–6–05; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 03–052–3]

Karnal Bunt; Compensation for Custom Harvesters in Northern Texas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with changes, an interim rule that amended the Karnal bunt regulations to provide for the payment of compensation to custom harvesters for losses they incurred due to the requirement that their equipment be

cleaned and disinfected after four counties in northern Texas were declared regulated areas for Karnal bunt during the 2000–2001 crop season. The interim rule also amended the regulations to provide for the payment of compensation to owners or lessees of other equipment that came into contact with Karnal bunt-positive host crops in those counties and was required to be cleaned and disinfected during the 2000–2001 crop season. This final rule amends the interim rule to indicate that affected parties may apply for compensation whenever disinfection was required by an inspector and to extend the deadline by which claims for compensation must have been submitted. The payment of compensation is necessary to reduce the economic burden imposed by the regulations and to encourage the participation of, and obtain cooperation from, affected individuals in our efforts to contain and reduce the presence of Karnal bunt in the United States.

DATES: *Effective Date:* May 9, 2005.

FOR FURTHER INFORMATION CONTACT: Dr. Matthew H. Royer, Senior Program Advisor, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 26, Riverdale, MD 20737–1234; (301) 734–3769.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread primarily through the movement of infected seed. In the absence of measures taken by the U.S. Department of Agriculture (USDA) to prevent its spread, the establishment of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets.

The regulations regarding Karnal bunt are set forth in 7 CFR 301.89–1 through 301.89–16 (referred to below as the regulations). Among other things, the regulations define areas regulated for Karnal bunt and restrict the movement of certain regulated articles, including wheat seed and grain, from the regulated areas. The regulations have also provided for the payment of compensation for certain growers, handlers, seed companies, owners of grain storage facilities, flour millers, and participants in the National Karnal Bunt Survey who incurred losses and expenses because of Karnal bunt during certain years.

In an interim rule effective and published in the **Federal Register** on May 5, 2004 (69 FR 24909–24016, Docket No. 03–052–1), we amended the regulations in § 301.89–16 to provide for the payment of compensation to custom harvesters whose mechanized harvesting equipment was used to harvest Karnal bunt-positive host crops in Archer, Baylor, Throckmorton, and Young Counties, TX, during the 2000–2001 crop season and was required to be cleaned and disinfected prior to movement from those counties. This compensation was intended to reimburse custom harvesters for the cost of that cleaning and disinfection. The interim rule also provided for the payment of compensation equivalent to the value of one contract that an eligible custom harvester lost due to the downtime necessitated by cleaning and disinfection. If an eligible custom harvester did not lose a contract due to this downtime, the interim rule provided compensation for the fixed costs he or she incurred during the time the machine was being cleaned and disinfected. The interim rule also provided for the payment of compensation for the expenses associated with the cleaning and disinfection of other types of equipment used in the four affected counties. The specific amounts of compensation provided were discussed in detail in the interim rule.

In a subsequent technical amendment effective and published in the **Federal Register** on July 8, 2004 (69 FR 41181, Docket No. 03–052–2), we extended the deadline for submitting claims for compensation under the regulations established by the interim rule from September 2, 2004, to December 31, 2004.

Comments on the interim rule were required to be received on or before July 6, 2004. We received 334 comments by that date. They were from custom harvesters, a representative of custom harvesters, and a State plant protection organization. We carefully considered all the comments we received. They are discussed below by topic.

Eligibility for Compensation

The interim rule provided for the payment of compensation for costs related to the cleaning and disinfection of mechanized harvesting equipment that had been used to harvest host crops that had tested positive for Karnal bunt and for costs related to the cleaning and disinfection of other equipment that had come into contact with host crops that had tested positive for Karnal bunt. Several commenters stated that all mechanized harvesting equipment leaving Archer, Baylor, Throckmorton, and Young Counties during the 2000–2001 crop season was required by Animal and Plant Health Inspection Service (APHIS) inspectors to be cleaned and disinfected, regardless of whether the host crops the mechanized harvesting equipment had been used to harvest had been tested and found to be positive for Karnal bunt. The commenters asked that we amend the rule to provide for the payment of compensation to custom harvesters whose mechanized harvesting equipment was used to harvest host crops that had not been tested for Karnal bunt but was nevertheless required by an inspector to be cleaned and disinfected prior to movement from the regulated counties.

In an emergency situation, it is important to act quickly to prevent the spread of Karnal bunt. The inspectors who required cleaning and disinfection for mechanized harvesting equipment that had been used to harvest crops that had not been tested for Karnal bunt had determined that the host crops were infected according to the definition of *infestation (infected)* in § 301.89–1 of the regulations, which specifies that crops may be considered infected if, among other things, there exist ''circumstances that make it reasonable to believe that Karnal bunt is present.''

As we discussed in the preamble of the interim rule, any delays associated with cleaning and disinfection cause custom harvesters to incur losses. If inspectors had halted the movement of mechanized harvesting equipment from the regulated counties pending the receipt of Karnal bunt test results for the host crops the mechanized harvesting equipment was used to harvest, the delays suffered by the custom harvesters could have been longer, which could have resulted in additional costs associated with complying with the regulations. By requiring that any mechanized harvesting equipment used to harvest host crops in the four regulated counties be cleaned and disinfected prior to moving from the regulated area, even if the host crops that the mechanized harvesting equipment had been used to harvest had not yet been tested, inspectors were acting to minimize these costs. However, some costs were still incurred due to cleaning and disinfection, and it was our intent to provide for the payment of compensation to all custom harvesters whose equipment was required by an inspector to be cleaned and disinfected prior to movement from the regulated counties.

Similar considerations apply to owners or lessees of other equipment in Archer, Baylor, Throckmorton, or Young Counties during the 2000–2001 crop season who were eligible for compensation under the interim rule. The owners or lessees of these pieces of equipment had scheduled the movement of the equipment from the affected area prior to the designation of these counties as regulated areas and needed to move the equipment out of the regulated areas to continue their harvesting. Any delays associated with testing the host crops with which this other equipment came into contact for Karnal bunt would have further hampered the harvesting efforts for which the other equipment needed to move from the regulated counties.

However, the commenters are correct that the compensation provisions established by the interim rule technically excluded from applying for compensation those custom harvesters whose equipment had been used to harvest host crops that had not been tested for Karnal bunt but was nevertheless required by an inspector to be cleaned and disinfected. The compensation provisions also excluded owners or lessees of other equipment that came into contact with host crops that had not been tested for Karnal bunt but was nevertheless required by an inspector to be cleaned and disinfected from applying for compensation. Therefore, in this final rule, we have amended the phrases that begin each subparagraph of the specific compensation provisions established by the interim rule in paragraph (d) of § 301.89–16 that describe who is eligible to apply for compensation. As the interim rule established it in the paragraphs describing compensation provided to custom harvesters, this phrase read:

''Custom harvesters who harvested host crops that tested positive for Karnal bunt and that were grown in Archer, Baylor, Throckmorton, or Young Counties, TX, during the 2000–2001 crop season * * *''

We are amending it to read:

''Custom harvesters who harvested host crops that an inspector determined to be infected with Karnal bunt and that were grown in Archer, Baylor, Throckmorton, or Young Counties, TX, during the 2000–2001 crop season * * *''

Similarly, the phrase that begins the paragraph providing compensation to owners or lessees of other equipment read:

''Owners or lessees of equipment other than mechanized harvesting equipment and seed conditioning equipment that came into contact with host crops that tested positive for Karnal bunt in Archer, Baylor, Throckmorton, or Young Counties, TX, during the 2000–2001 crop season * * *''

We are amending it to read:

''Owners or lessees of equipment other than mechanized harvesting equipment and seed conditioning equipment that came into contact with host crops that an inspector determined to be infected with Karnal bunt in Archer, Baylor, Throckmorton, or Young Counties, TX, during the 2000–2001 crop season * * *''

In addition, the regulations established by the interim rule described the PPQ–540 certificate issued according to § 301.89–6 to allow the movement of equipment from a regulated area as follows:

''* * * the PPQ–540 certificate issued to allow the movement of mechanized harvesting equipment from a regulated area after it has been used to harvest Karnal bunt-positive host crops and has been subsequently cleaned and disinfected.''

We are amending this description to read as follows:

''* * * the PPQ–540 certificate issued to allow the movement of mechanized harvesting equipment from a regulated area after it has been used to harvest host crops that an inspector determined to be infected with Karnal bunt and has been subsequently cleaned and disinfected.''

We have also changed other references to ''Karnal bunt-positive host crops'' in these paragraphs to refer to ''Karnal bunt-infected host crops.'' We believe these amendments address the commenters' concerns.

Several commenters stated that compensation should only be offered to members of U.S. Custom Harvesters, an industry trade group, to ensure that any compensation paid under the provisions established by the interim rule would be paid to a verifiable U.S. custom harvester.

We believe that any custom harvester who was required to clean and disinfect his or her mechanized harvesting equipment prior to movement from the four regulated counties in the 2000–2001 crop season and who submits a claim in accordance with the requirements of the interim rule should be eligible for compensation, regardless of his or her membership status in an industry trade group. We are making no changes to the interim rule in response to this comment.

Documentation of Claims

Several commenters stated that, during the outbreak of Karnal bunt in the four Texas counties, APHIS inspectors told some harvesters who had harvested wheat in the regulated area but who had already moved their equipment from the regulated area that cleaning and disinfection of their mechanized harvesting equipment was necessary to prevent the spread of Karnal bunt. According to these commenters, the inspectors stated that a verbal attestation of having cleaned and disinfected their mechanized harvesting equipment according to the requirements of § 301.89–13(a) was sufficient to allow further movement and did not issue a PPQ–540 certificate to allow the movement of the mechanized harvesting equipment. The commenters specifically cited one custom harvester who had cleaned and disinfected his equipment in another county, and another who cleaned and disinfected his equipment in another State. Since the compensation provisions established by the interim rule required that the claimant present a copy of the PPQ–540 certificate, these harvesters would not be able to apply for compensation. The commenters suggested that claimants be allowed to present a ''Certificate of Claim in Good Faith'' in lieu of a PPQ–540 certificate.

Another commenter stated that it was likely that some custom harvesters had misplaced their PPQ–540 certificates in the time since the 2000–2001 crop season and asked that APHIS waive the requirement for the PPQ–540 provided that APHIS has a copy of the PPQ–540 issued to the affected custom harvester.

We are aware of claims that certain custom harvesters cleaned and disinfected their mechanized harvesting equipment at the suggestion of APHIS inspectors after they had moved their mechanized harvesting equipment from the regulated counties. However, a relatively small number of custom harvesters may have been affected by this situation, and those custom harvesters do not all have the same evidence in support of their claims that APHIS suggested that they clean and disinfect their mechanized harvesting equipment; therefore, we prefer to evaluate claims for compensation resulting from this situation on a case-by-case basis rather than providing for the payment of such compensation in the regulations. We invite custom harvesters who cleaned and disinfected their equipment at the suggestion of an APHIS inspector to contact the person listed under **FOR FURTHER INFORMATION CONTACT** or write to Plant Protection and Quarantine, APHIS, USDA, 304 West Main Street, Olney, TX 76374, in order to present their evidence. We are making no changes to the regulations

established in the interim rule in response to these comments.

In response to the second commenter's concern, if any custom harvesters have misplaced their PPQ–540 certificates, we will provide a copy of their PPQ–540 certificate upon request. Custom harvesters needing a copy of the PPQ–540 certificate should address their requests to Plant Protection and Quarantine, APHIS, USDA, 304 West Main Street, Olney, TX 76374.

Several commenters stated that almost all contracts between growers and custom harvesters are verbal contracts. These commenters requested that we accept a notarized statement asserting that a custom harvester harvested wheat in one of the four counties during the 2000–2001 crop season, along with the name and address of the producer for whom he or she harvested, in lieu of a contract or other signed agreement for harvesting.

We recognize that almost all contracts between growers and custom harvesters are verbal contracts. This is why the interim rule provided that an affidavit stating that the custom harvester entered into an agreement to harvest in Archer, Baylor, Throckmorton, or Young County during the 2000–2001 crop season prior to the designation of the relevant county as a regulated area for Karnal bunt could be submitted in lieu of a contract or other signed agreement as proof that the custom harvester harvested in the regulated area. However, due to an oversight, we did not provide that an affidavit stating that the custom harvester entered into an agreement to harvest could be submitted in lieu of the contract for harvesting in an area not regulated for Karnal bunt that had been lost due to cleaning and disinfecting harvesting equipment and for which the custom harvester wished to receive compensation. This final rule corrects this oversight. Just as the contract for which the custom harvester will receive compensation is required to have been signed on a date prior to the designation of the relevant county as a regulated area for Karnal bunt, the affidavit will be required to state that the custom harvester entered into an agreement to harvest on a date prior to the designation of the relevant county as a regulated area for Karnal bunt.

Relating to the submission of affidavits, we are making one additional change in this final rule. The regulations established by the interim rule did not specify who had to sign the affidavit to attest that the custom harvester had entered into an agreement to harvest. In this final rule, we are amending the regulations to specify in each case in which an affidavit may be submitted that the affidavit must be signed by the customer of the custom harvester with whom the custom harvester entered into an agreement to harvest.

Other Compensation

Several commenters stated that the compensation provided by the interim rule does not cover the actual loss of revenue or the devaluation of equipment associated with cleaning and disinfection after exposure to Karnal bunt-infected crops. According to these commenters, in some cases, custom harvesters who harvested wheat that tested positive for Karnal bunt have not been able to trade or sell their mechanized harvesting equipment due to unwarranted fear of contamination. The commenters stated that custom harvesters in that situation should receive compensation similar to that received by grain handlers in Arizona who handled Karnal bunt-positive host crops after the 1996 outbreak of Karnal bunt in that State; these commenters stated that the grain handlers received compensation for 3 years of lost revenue and contracts.

It is USDA policy to pay compensation only for documented costs of complying with the regulations. The interim rule provided compensation for the cost of cleaning and disinfection of mechanized harvesting equipment and for either a contract lost due to the downtime associated with cleaning and disinfection or for fixed costs incurred during the downtime associated with cleaning and disinfection. We determined the amount of compensation provided for these items based on data provided by U.S. Custom Harvesters.

The grain handlers in Arizona were compensated in accordance with paragraph (b)(2) of § 301.89–14, which provided for the payment of compensation for loss in value of wheat. The determination of how much value the wheat had lost was based in part on any contracts the grain handlers might have signed; however, compensation for the wheat did not exceed $2.50 per bushel under any circumstances. Contrary to the commenters' assertion, compensation was not provided to the grain handlers for lost revenue or contracts; contracts were used, when available, to help determine the loss in value of the affected wheat.

With regard to the concerns about devaluation of equipment, it is APHIS's priority to ensure that the movement of mechanized harvesting equipment from a regulated area does not pose a risk of spreading Karnal bunt into a nonregulated area, and the cleaning and disinfection process described in § 301.89–13 mitigates that risk. We do not believe it is appropriate for APHIS to provide compensation for a possible loss of equipment value that is undocumented and that, if it exists, is due to reluctance on the part of private buyers rather than to a demonstrable risk that the equipment might spread Karnal bunt. We are making no changes to the interim rule in response to this comment.

Compensation for Other Custom Harvesters

Although they did not take issue with any of the provisions of the interim rule, several other commenters urged us to expand its scope to provide compensation to custom harvesters who participated in the initial Karnal bunt survey in Arizona in 1996. These commenters pointed to the interim rule as setting a precedent for providing compensation to custom harvesters that should be followed in the case of these Arizona harvesters.

Many of these commenters cited growers, handlers, seed companies, and wheat straw producers as other entities in the wheat marketing chain to whom APHIS had provided compensation for lost contract value. Some of these commenters suggested that APHIS should provide for the payment of compensation to the custom harvesters similar to that provided to seed companies that lost revenue from wheat seed they had obtained from a regulated area because buyers would not accept APHIS's certification that the seed was free of Karnal bunt.

One of these commenters stated that custom harvesters who had participated in the initial Karnal bunt survey had suffered damage to their harvesting equipment and lost existing contracts as well as long-standing business relationships over the 1996–1997, 1997–1998, and 1998–1999 crop seasons. After cleaning and disinfection according to a protocol required by APHIS, their equipment had suffered damage that made it unusable. (This cleaning and disinfection protocol for mechanized harvesting equipment was required administratively and was never added to the regulations; different, and potentially less damaging, cleaning and disinfection protocols were added to the regulations in a final rule published in the **Federal Register** on October 4, 1996 [61 FR 52189–52213, Docket No. 96–016–14].) The harvesters were not compensated for this damage until after the 1998–1999 crop season. In addition, there were reports that growers would not hire these custom harvesters because they did not want equipment

associated with the pre-harvest sampling program to harvest in their fields due to fears that the equipment would spread Karnal bunt.

This commenter requested that APHIS provide for the payment of compensation for the revenue that would have been realized from contractual relationships that were lost due to the growers' reluctance to allow these custom harvesters' equipment to harvest in their fields; the commenter also suggested appropriate supporting documentation for such claims. The commenter suggested the example of grain handlers in Arizona as a case where income tax statements had been used to provide proof of loss as a basis for compensation.

With regard to the compensation paid to other entities in the wheat production and marketing chain, we would like to clarify that, as described above, APHIS has only paid compensation to those entities for loss in value of wheat due to the presence of Karnal bunt. Compensation was not provided to any of these entities, including grain handlers, for lost revenue or contracts. It is USDA policy not to provide compensation for lost income, which is what the commenters requested.

The commenters do not dispute that the custom harvesters who participated in the initial Karnal bunt survey were compensated for the damage to their equipment caused by cleaning and disinfection. In addition, the custom harvesters participating in this survey were working under a contract with the USDA to undertake the survey; they lost no contracts due to the downtime necessitated by cleaning and disinfection when they moved between fields. Therefore, we believe that we have provided compensation to the custom harvesters who participated in the initial Karnal bunt survey that is equivalent to the compensation provided to the custom harvesters who harvested in Archer, Baylor, Throckmorton, and Young Counties and were required to clean and disinfect their equipment prior to movement from a regulated area. We are making no changes to the interim rule in response to these comments.

Some commenters further requested that compensation be paid to custom harvesters in California and Arizona who must clean their mechanized harvesting equipment due to Karnal bunt quarantines in those States.

The commenters did not specify whether the custom harvesters to whom they were referring were harvesting host crops in previously regulated areas or in previously nonregulated areas. With regard to previously regulated areas, on August 6, 2001, we published in the **Federal Register** a final rule (66 FR 40839–40843, Docket No. 96–016–37) that established the compensation levels for the 1999–2000 crop season and subsequent years and made several other changes to the compensation regulations. One of these changes was that, after the 2000–2001 crop season, compensation would no longer be made available to persons growing or handling host crops that were knowingly planted in previously regulated areas. This change applies to custom harvesters as well as other parties.

With regard to previously nonregulated areas, we plan to initiate rulemaking to amend the regulations to extend the compensation provisions established in the May 2004 interim rule to custom harvesters who harvest host crops that test positive for Karnal bunt and owners or lessees of other equipment that is exposed to host crops that test positive for Karnal bunt in any areas not previously regulated for Karnal bunt. That proposed rule would apply to the 2002–2003 through 2005–2006 crop seasons.

Change of Deadline for Compensation Claims

Claims for the compensation provided by the interim rule were originally required to be submitted by September 2, 2004. As noted previously, a subsequent technical amendment extended the deadline for submitting claims for compensation to December 31, 2004. However, in the Supplementary Information section of the interim rule, we stated that if a comment we received in response to the interim rule caused us to change the compensation provisions, we would provide an additional 120-day period after the effective date of the final rule during which affected persons could submit claims for compensation. Therefore, in addition to the changes discussed above, we are extending the deadline for compensation claims in this final rule from December 31, 2004, to September 6, 2005.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule, with the changes discussed in this document.

This action affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act. The potential increase in compensation under this final rule is no more than $9,000, which does not significantly change the conclusions of the interim rule's executive order and regulatory flexibility analyses. This action also affirms the information contained in the interim rule concerning Executive Orders 12372 and 12988.

Further, this action has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Effective Date

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. The interim rule adopted as final by this rule was effective on May 5, 2004. This rule indicates that affected parties may apply for compensation whenever disinfection was required by an inspector and extends the deadline by which claims for compensation must be submitted to September 6, 2005. Immediate action is necessary to indicate that affected parties may apply for compensation whenever disinfection was required by an inspector and to extend the deadline by which claims for compensation must be submitted in order to relieve the economic burden placed on small entities by the domestic quarantine regulations for Karnal bunt. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements in the interim rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0248.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to the interim rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine,

Reporting and recordkeeping requirements, Transportation.

■ Accordingly, the interim rule amending 7 CFR part 301 that was published at 69 FR 24909–24016 on May 5, 2004, is adopted as a final rule with the following changes:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.89–16, paragraph (d) is amended as follows:

■ a. In the introductory text of the paragraph, by removing the date ''December 31, 2004'' and adding the date ''September 6, 2005'' in its place.

■ b. In paragraph (d)(1)(i), in the first sentence after the paragraph heading, by removing the words ''tested positive for'' and adding the words ''an inspector determined to be infected with'' in their place; in the second sentence, by removing the words ''Karnal bunt-positive'' and adding the words ''Karnal bunt-infected'' in their place; and in the last sentence, by adding the words '', signed by the customer with whom the custom harvester entered into the agreement'' before the words ''; a copy of'' and by removing the words ''Karnal bunt-positive host crops'' and adding the words ''host crops that an inspector determined to be infected with Karnal bunt'' in their place.

■ c. By revising paragraph (d)(1)(ii) to read as set forth below.

■ d. In paragraph (d)(1)(iii), in the first sentence after the paragraph heading, by removing the words ''tested positive for'' and adding the words ''an inspector determined to be infected with'' in their place; and in the last sentence, by adding the words '', signed by the customer with whom the custom harvester entered into the agreement'' before the words ''; and a copy of'' and by removing the words ''Karnal bunt-positive host crops'' and adding the words ''host crops that an inspector determined to be infected with Karnal bunt'' in their place.

■ e. In paragraph (d)(2), in the first sentence after the paragraph heading, by removing the words ''tested positive for'' and adding the words ''an inspector determined to be infected with'' in their place; and in the last sentence, by removing the words ''Karnal bunt-positive host crops'' and adding the words ''host crops that an inspector determined to be infected with Karnal bunt'' in their place.

§ 301.89–16 Compensation for grain storage facilities, flour millers, National Survey participants, and certain custom harvesters and equipment owners for the 1999–2000 and subsequent crop seasons.

* * * * *

(d) * * *

(1) * * *

(ii) *Contracts lost due to cleaning and disinfection.* Custom harvesters who harvested host crops that an inspector determined to be infected with Karnal bunt and that were grown in Archer, Baylor, Throckmorton, or Young Counties, TX, during the 2000–2001 crop season are also eligible to be compensated for the revenue lost if they lost one contract due to downtime necessitated by cleaning and disinfection, if the contract to harvest Karnal bunt-infected host crops in a previously nonregulated area was signed before the area was declared a regulated area for Karnal bunt. Compensation will only be provided for one contract lost due to cleaning and disinfection. Compensation for any contract that was lost due to cleaning and disinfection will be either the full value of the contract or $23.48 for each acre that was to have been harvested under the contract, whichever is less. To claim compensation, a custom harvester must provide copies of a contract or other signed agreement for harvesting in Archer, Baylor, Throckmorton, or Young County during the 2000–2001 crop season, signed on a date prior to the designation of the county as a regulated area for Karnal bunt, or an affidavit stating that the custom harvester entered into an agreement to harvest in Archer, Baylor, Throckmorton, or Young County during the 2000–2001 crop season prior to the designation of the county as a regulated area for Karnal bunt, signed by the customer with whom the custom harvester entered into the agreement; a copy of the PPQ–540 certificate issued to allow the movement of mechanized harvesting equipment from a regulated area after it has been used to harvest host crops that an inspector determined to be infected with Karnal bunt and had been subsequently cleaned and disinfected; and the contract for harvesting in an area not regulated for Karnal bunt that had been lost due to time lost to cleaning and disinfecting harvesting equipment, signed on a date prior to the designation of the relevant county as a regulated area for Karnal bunt, for which the custom harvester will receive compensation, or an affidavit stating that the custom harvester entered into an agreement to harvest in an area not regulated for Karnal bunt prior to the designation of the county as a regulated area for Karnal bunt and stating the number of acres that were to have been harvested and the amount the custom harvester was to have been paid under the agreement, signed by the customer with whom the custom harvester entered into the agreement.

* * * * *

Done in Washington, DC, this 3rd day of May 2005.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–9194 Filed 5–6–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

10 CFR Part 300

RIN 1901–AB11

Guidelines for Voluntary Greenhouse Gas Reporting

AGENCY: Office of Policy and International Affairs, U.S. Department of Energy.

ACTION: Interim final rule and draft technical guidelines; extension of comment period.

SUMMARY: On March 24, 2005, the Department of Energy published Interim Final General Guidelines (70 FR 15169) governing the Voluntary Reporting of Greenhouse Gases Program established by section 1605(b) of the Energy Policy Act of 1992 and a notice of availability and opportunity to comment on draft technical guidelines (70 FR 15164) referenced by the general guidelines. These notices announced that the closing date for receiving public comments on both documents would be May 23, 2005. Several organizations requested that the comment period be extended to allow additional time for understanding and preparing written comments on the Interim Final General Guidelines and draft Technical Guidelines. The Department has agreed to extend the comment period to June 22, 2005.

DATES: Comments must be received on or before June 22, 2005.

ADDRESSES: Please submit written comments to: *1605bguidelines.comments@hq.doe.gov*. Alternatively, written comments may be sent to: Mark Friedrichs, PI–40; Office of Policy and International Affairs, U.S. Department of Energy, 1000 Independence Ave., SW., Washington,

DC 20585. You may review comments received by DOE, the record of the public workshop held on April 26 and 27, 2005, and other related material at the following Web site: *http://www.pi.energy.gov/enhancingGHGregistry*. If you lack access to the Internet, you may access this Web site by visiting the DOE Freedom of Information Reading Room, 1000 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark Friedrichs, PI–40, Office of Policy and International Affairs, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, or e-mail: *1605bguidelines.comments@hq.doe.gov*. (Please indicate if your e-mail is a request for information, rather than a public comment.)

Issued in Washington, DC, on May 3, 2005.

David W. Conover,

Principal Deputy Assistant Secretary, Policy and International Affairs.

[FR Doc. 05–9192 Filed 5–6–05; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) has adopted final amendments to its Regulation A to reflect the Board's approval of an increase in the primary credit rate at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of the Board's primary credit rate action.

DATES: The amendments to part 201 (Regulation A) are effective May 9, 2005. The rate changes for primary and secondary credit were effective on the dates specified in 12 CFR 201.51, as amended.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board (202/452–3259); for users of Telecommunication Devices for the Deaf (TDD) only, contact 202/263–4869.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to the review and determination of the Board.

The Board approved requests by the Reserve Banks to increase by 25 basis points the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby increasing from 3.75 percent to 4.00 percent the rate that each Reserve Bank charges for extensions of primary credit. As a result of the Board's action on the primary credit rate, the rate that each Reserve Bank charges for extensions of secondary credit automatically increased from 4.25 percent to 4.50 percent under the secondary credit rate formula. The final amendments to Regulation A reflect these rate changes.

The 25-basis-point increase in the primary credit rate was associated with a similar increase in the target for the federal funds rate (from 2.75 percent to 3.00 percent) approved by the Federal Open Market Committee (Committee) and announced at the same time. A press release announcing these actions indicated that:

> The Committee believes that, even after this action, the stance of monetary policy remains accommodative and, coupled with robust underlying growth in productivity, is providing ongoing support to economic activity. Recent data suggest that the solid pace of spending growth has slowed somewhat, partly in response to the earlier increases in energy prices. Labor market conditions, however, apparently continue to improve gradually. Pressures on inflation have picked up in recent months and pricing power is more evident. Longer-term inflation expectations remain well contained.
>
> The Committee perceives that, with appropriate monetary policy action, the upside and downside risks to the attainment of both sustainable growth and price stability should be kept roughly equal. With underlying inflation expected to be contained, the Committee believes that policy accommodation can be removed at a pace that is likely to be measured. Nonetheless, the Committee will respond to changes in economic prospects as needed to fulfill its obligation to maintain price stability.

Regulatory Flexibility Act Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the new primary and secondary credit rates will not have a significantly adverse economic impact on a substantial number of small entities because the final rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The Board did not follow the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of these amendments because the Board for good cause determined that delaying implementation of the new primary and secondary credit rates in order to allow notice and public comment would be unnecessary and contrary to the public interest in fostering price stability and sustainable economic growth. For these same reasons, the Board also has not provided 30 days prior notice of the effective date of the rule under section 553(d).

12 CFR Chapter II

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

■ For the reasons set forth in the preamble, the Board is amending 12 CFR Chapter II to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 248(i)-(j), 343 *et seq.*, 347a, 347b, 347c, 348 *et seq.*, 357, 374, 374a, and 461.

■ 2. In § 201.51, paragraphs (a) and (b) are revised to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.[1]

(a) *Primary credit.* The interest rates for primary credit provided to depository institutions under § 201.4(a) are:

[1] The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

Federal Reserve Bank	Rate	Effective
Boston	4.00	May 3, 2005.
New York	4.00	May 3, 2005.
Philadelphia	4.00	May 3, 2005.
Cleveland	4.00	May 3, 2005.
Richmond	4.00	May 3, 2005.
Atlanta	4.00	May 3, 2005.
Chicago	4.00	May 3, 2005.
St. Louis	4.00	May 4, 2005.
Minneapolis	4.00	May 3, 2005.
Kansas City	4.00	May 3, 2005.
Dallas	4.00	May 3, 2005.
San Francisco	4.00	May 3, 2005.

(b) *Secondary credit.* The interest rates for secondary credit provided to depository institutions under 201.4(b) are:

Federal Reserve Bank	Rate	Effective
Boston	4.50	May 3, 2005.
New York	4.50	May 3, 2005.
Philadelphia	4.50	May 3, 2005.
Cleveland	4.50	May 3, 2005.
Richmond	4.50	May 3, 2005.
Atlanta	4.50	May 3, 2005.
Chicago	4.50	May 3, 2005.
St. Louis	4.50	May 4, 2005.
Minneapolis	4.50	May 3, 2005.
Kansas City	4.50	May 3, 2005.
Dallas	4.50	May 3, 2005.
San Francisco	4.50	May 3, 2005.

* * * * *

By order of the Board of Governors of the Federal Reserve System, May 4, 2005.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 05–9231 Filed 5–6–05; 8:45 am]

BILLING CODE 6210–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20289; Directorate Identifier 2003–SW–55–AD; Amendment 39–14073; AD 2005–09–05]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC120 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC120 helicopters that requires inspecting the tail rotor drive shaft (drive shaft) damper half-clamps (half-clamps) to determine if they are centered on the friction ring, and if not correctly positioned, centering the half-clamps on the friction ring. This amendment is prompted by the discovery of half-clamps that were incorrectly positioned. The actions specified by this AD are intended to detect incorrect positioning of the drive shaft half-clamps, and to prevent interference of the half-clamps with the drive shaft, which could result in scoring on the drive shaft, failure of the drive shaft, and subsequent loss of control of the helicopter.

DATES: Effective June 13, 2005.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 2005.

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

Examining the Docket

You may examine the docket that contains this AD, any comments, and other information on the Internet at *http://dms.dot.gov*, or at the Docket Management System (DMS), U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eric Haight, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5204, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the specified model helicopters was published in the **Federal Register** on February 10, 2005 (70 FR 7056). For helicopters with a serial number of 1362 or below, that action proposed to require, within 50 hours time-in-service (TIS) for helicopters with 500 or more hours TIS; or no later than 550 hours TIS for helicopters with less than 500 hours TIS, a one-time inspection of the drive shaft half-clamps to determine if they are centered on the friction ring, and if they are not, centering the half-clamps on the friction ring.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model EC120B helicopters. The DGAC advises of the discovery of a case of incorrect drive shaft damper positioning, which led to interference of the two half-clamps with the drive shaft tube and caused a score on the drive shaft.

Eurocopter has issued Alert Telex No. 65A004 R1, dated January 27, 2004, which specifies re-positioning of the drive shaft damper, if necessary. The DGAC classified this alert telex as mandatory and issued AD No. UF–2003–465, dated December 22, 2003, and AD No. F–2003–465(A), dated January 21, 2004, to ensure the continued airworthiness of these helicopters in France.

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

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

We estimate that this AD will affect 78 helicopters of U.S. registry. The one-time inspection will take approximately 2 work hours to accomplish, and the modification will take 6 work hours, at an average labor rate of $65 per work hour. Required modification parts will cost approximately $180 per helicopter. Based on these figures, we estimate the total cost impact of the proposed AD on U.S. operators to be $14,700, assuming 8 helicopters need modification.

Regulatory Findings

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

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

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

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

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

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

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–09–05 Eurocopter France: Amendment 39–14073. Docket No. FAA–2005–20289; Directorate Identifier 2003–SW–55–AD.

Applicability: Model EC120B helicopters, serial number 1362 and below, certificated in any category.

Compliance: Required within 50 hours time-in-service (TIS) for helicopters with 500 or more hours TIS; or no later than 550 hours TIS for helicopters with less than 500 hours TIS, unless accomplished previously.

To detect incorrect positioning of the tail rotor drive shaft (drive shaft) damper half-clamps (half-clamps), and to prevent interference of the half-clamps with the drive shaft, which could result in scoring on the drive shaft, failure of the drive shaft, and subsequent loss of control of the helicopter, accomplish the following:

(a) Inspect the half-clamps, part number C651A4103201 or C651A4103202, to determine if they are centered on the friction ring, using the Operational Procedure, paragraph 2.B., of Eurocopter Alert Telex No. 65A004 R1, dated January 27, 2004 (Alert Telex). If the half-clamps are not centered on the friction ring, center the half-clamps on the friction ring in accordance with the Operational Procedure, paragraph 2.B, and Rework Sheet No. EC 120–53–02–04 in Appendix 1 of the Alert Telex.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

(c) Special flight permits will not be issued.

(d) The inspection and modification shall be done in accordance with Eurocopter Alert Telex No. 65A004 R1, dated January 27, 2004. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(e) This amendment becomes effective on June 13, 2005.

Note: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. UF–2003–465, dated December 22, 2003, and AD No. F–2003–465, Revision A, dated January 21, 2004.

Issued in Fort Worth, Texas, on April 27, 2005.

Carl F. Mittag,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 05–8951 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20292; Directorate Identifier 2004–SW–26–AD; Amendment 39–14075; AD 2005–09–07]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Agusta S.p.A. (Agusta) Model A109E helicopters that requires visually inspecting each main transmission support fitting (fitting) attachment bolt (bolt) for a fracture, a crack, or looseness, and verifying the torque on each fitting bolt. This amendment is prompted by two incidents of fatigue failure of the bolts that secure the transmission rear support fittings to the helicopter. The actions specified by this AD are intended to detect a fracture, a crack, or looseness of a fitting bolt, and prevent fatigue failure of a fitting bolt and subsequent loss of control of the helicopter.

DATES: Effective June 13, 2005.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 2005.

ADDRESSES: You may get the service information identified in this AD from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595.

Examining the Docket

You may examine the docket that contains this AD, any comments, and other information on the Internet at *http://dms.dot.gov,* or at the Docket Management System (DMS), U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for Agusta Model A109E helicopters was published in the **Federal Register** on February 10, 2005 (70 FR 7061). That action proposed to require inspecting the fitting bolts, part number (P/N) NAS625–14, for a fracture, a crack, or looseness within 5 hours time-in-service (TIS), and then at intervals not to exceed 10 hours TIS until performing a torque inspection of each fitting bolt. The torque inspection would have to be accomplished before further flight if looseness is found, or within 25 hours TIS if looseness is not found. If a fracture or a crack is found on any bolt in any fitting, replacing all 4 of the bolts in a fitting with airworthy fitting bolts would be required before further flight. If any torque inspection reveals that the torque of any bolt in a fitting is not between 11.3–15.8 Nm (100–140 inch-pounds), all 4 of the bolts in the fitting would have to be replaced with airworthy fitting bolts before further flight.

The Ente Nazionale per l'Aviazione Civile (ENAC), the airworthiness authority for Italy, notified the FAA that an unsafe condition may exist on Agusta Model A109E helicopters. ENAC advises of the need to check the bolts that secure the fittings to the structure by following the manufacturer's Bollettino Tecnico No. 109EP–43, dated March 25, 2004.

Agusta has issued Bollettino Tecnico No. 109EP–43, dated March 25, 2004, which specifies a periodic visual inspection to verify the integrity of the slippage marks, and successively checking the torque of the bolts to exclude the possible presence of looseness and/or a fracture or a crack. ENAC classified this bollettino tecnico as mandatory and issued AD No. 2004–099, dated March 29, 2004, to ensure the continued airworthiness of these helicopters in Italy.

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

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed. However, we have made a correction in the service information date that was incorrectly referenced in the preamble of the proposal; the date was incorrectly listed as March 3, 2004 but is correctly referenced as March 25, 2004 in this AD. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

We estimate that this AD will affect 58 helicopters of U.S. registry. Three inspections (one initial, one repetitive, and the torque inspection) will take approximately 4 work hours to accomplish at an average labor rate of $65 per work hour. (The manufacturer states that it shall recognize a warranty credit of up to $200 per helicopter for the labor). Required parts will cost approximately $1,600 per helicopter ($100 per fitting bolt for 16 fitting bolts). Based on these figures, the total estimated cost impact of the AD on U.S. operators is $115,420, assuming that no warranty credit is available and that all affected fitting bolts are replaced.

Regulatory Findings

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

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

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

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

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–09–07 Agusta S.p.A.: Amendment 39–14075. Docket No. FAA–2005–20292; Directorate Identifier 2004–SW–26–AD.

Applicability: Model A109E helicopters, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect a fracture, a crack, or looseness of a main transmission support fitting (fitting) attachment bolt (bolt), and prevent fatigue failure of a fitting bolt and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 5 hours time-in-service (TIS), and then at intervals not to exceed 10 hours TIS until a torque inspection of each fitting bolt is accomplished in accordance with paragraph (b) of this AD, inspect each fitting bolt, part number NAS625–14, for a fracture, a crack, or looseness using a light and a mirror in accordance with Part I, steps 1. through 4., of Agusta Bollettino Tecnico No. 109EP–43, dated March 25, 2004 (BT).

(1) On each of the 4 fittings, if a fracture or a crack is found in any bolt, replace all 4 bolts in the fitting with airworthy fitting bolts before further flight.

(2) If looseness is found in any bolt in any fitting, inspect each of the 4 bolts on each of the 4 fittings (16 bolts total) to determine if the torque is between 11.3–15.8 Nm (100–140 inch-pounds). If the indicated torque is not within the acceptable range on any bolt in a fitting, before further flight, remove all 4 bolts in the fitting and replace them with airworthy fitting bolts in accordance with Part II, steps 5.1 through 9. of the BT.

(b) Within 25 hours TIS, inspect each bolt in each fitting to determine if the torque is between 11.3–15.8 Nm (100–140 inch-pounds). If the indicated torque is not within the acceptable range on any bolt, before further flight, remove all 4 bolts in the fitting and replace them with airworthy fitting bolts in accordance with Part II, steps 5.1 through 9., of the BT.

(c) Accomplishing the inspections specified in paragraphs (a) and (b) constitute terminating actions for the requirements of this AD.

(d) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

(e) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished, provided that no fracture or crack or looseness was found during the inspections required by this AD.

(f) The inspections and replacements shall be done in accordance with Agusta Bollettino Tecnico No. 109EP–43, dated March 25, 2004. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(g) This amendment becomes effective on June 13, 2005.

Note: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) AD No. 2004–099, dated March 29, 2004.

Issued in Fort Worth, Texas, on April 27, 2005.

Carl F. Mittag,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 05–8952 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20291; Directorate Identifier 2004–SW–25–AD; Amendment 39–14074; AD 2005–09–06]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A119 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Agusta S.p.A. (Agusta) Model A119 helicopters that requires visually inspecting each main transmission support fitting (fitting) attachment bolt (bolt) for a fracture, a crack, or looseness, and verifying the torque on each fitting bolt. This amendment is prompted by two incidents of fatigue failure of the bolts that secure the transmission rear support fittings to the helicopter. The actions specified by this AD are intended to detect a fracture, a crack, or looseness of a fitting bolt, and prevent fatigue failure of a fitting bolt and subsequent loss of control of the helicopter.

DATES: Effective June 13, 2005.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 2005.

ADDRESSES: You may get the service information identified in this AD from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595.

Examining the Docket: You may examine the docket that contains this AD, any comments, and other information on the Internet at *http://dms.dot.gov*, or at the Docket Management System (DMS), U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for Agusta Model A119 helicopters was published in the **Federal Register** on February 10, 2005 (70 FR 7057). That action proposed to require inspecting each fitting bolt, part number (P/N) NAS625–14 and P/N NAS625–18, for a fracture, a crack, or looseness, within 5 hours time-in-service (TIS) and then at intervals not to exceed 10 hours TIS until accomplishing a torque inspection of each fitting bolt. The torque inspection would have to be accomplished before further flight if looseness is found, or within 25 hours TIS if looseness is not found. If a fracture or a crack is found on any bolt in a fitting, replacing all 4 of the bolts in the fitting would be required. If looseness is detected on any fitting bolt, a torque inspection would be required. If any torque inspection reveals that the torque of any bolt in a fitting is not between 11.3–15.8 Nm (100–140 inch-pounds), all 4 of the bolts in the fitting would have to be replaced with airworthy fitting bolts before further flight.

The Ente Nazionale per l'Aviazione Civile (ENAC), the airworthiness authority for Italy, notified the FAA that an unsafe condition may exist on Agusta Model A119 helicopters. ENAC advises

of the need to check the bolts that secure the transmission support fittings to the structure by following the manufacturer's Bollettino Tecnico 119–8, dated April 7, 2004.

Agusta has issued Bollettino Tecnico No. 119–8, dated April 7, 2004, which specifies a periodic visual inspection to verify the condition (visible damage) of the airframe mounted main transmission fittings attaching hardware, and successively checking the torque of the bolts to exclude the possible presence of looseness and/or a fracture or a crack. ENAC classified this bollettino tecnico as mandatory and issued AD No. 2004–108, dated April 8, 2004, to ensure the continued airworthiness of these helicopters in Italy.

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

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

We estimate that this AD will affect 21 helicopters of U.S. registry. The three inspections (one initial, one repetitive, and the torque inspection) will take approximately 4 work hours to accomplish at an average labor rate of $65 per work hour. (The manufacturer states that it shall recognize a reimbursement of $120 per helicopter for the labor.) Required parts will cost approximately $1,600 per helicopter ($100 per fitting bolt for 16 fitting bolts). Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $39,060, assuming that no warranty credit is available and that all affected fitting bolts are replaced.

Regulatory Findings

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

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

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

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

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

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

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–09–06 Agusta S.p.A.: Amendment 39–14074. Docket No. FAA–2005–20291; Directorate Identifier 2004–SW–25–AD.

Applicability: Model A119 helicopters, serial numbers 14001 through 14037, except serial number 14036, certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To detect a fracture, a crack, or looseness of a main transmission support fitting (fitting) attachment bolt (bolt) and prevent fatigue failure of a fitting bolt and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 5 hours time-in-service (TIS), and then at intervals not to exceed 10 hours TIS until a torque inspection of each fitting bolt is accomplished in accordance with paragraph (b) of this AD, inspect each fitting bolt, part number NAS625–14 and NAS625–18, for a fracture, a crack, or looseness, using a light and a mirror.

(1) On each of the 4 fittings, if a fracture or a crack is found in any bolt, replace all 4 bolts in the fitting with airworthy fitting bolts before further flight.

(2) If looseness is found in any bolt in any fitting, inspect each of the 4 bolts on each of the 4 fittings (16 bolts total) to determine if the torque is between 11.3–15.8 Nm (100–140 inch-pounds). If the indicated torque is not within the acceptable range on any bolt in a fitting, before further flight, remove all 4 bolts in the fitting and replace them with airworthy fitting bolts in accordance with Part II, steps 4.1 through 5., of Agusta Bollettino Tecnico No. 119–8, dated April 7, 2004 (BT).

(b) Within 25 hours TIS, inspect each bolt in each fitting to determine if the torque is between 11.3–15.8 Nm (100–140 inch-pounds). If the indicated torque is not within the acceptable range on any bolt, before further flight, remove all 4 bolts in the fitting and replace them with airworthy fitting bolts in accordance with Part II, steps 4.1 through 5., of the BT.

(c) Accomplishing the inspections specified in paragraphs (a) and (b) constitute terminating actions for the requirements of this AD.

(d) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

(e) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished, provided that no fracture, crack, or looseness was found during the inspections required by this AD.

(f) The inspections and replacements shall be done in accordance with Agusta Bollettino Tecnico No. 119–8, dated April 7, 2004. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this

material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(g) This amendment becomes effective on June 13, 2005.

Note: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) AD No. 2004–108, dated April 8, 2004.

Issued in Fort Worth, Texas, on April 27, 2005.

Carl Mittag,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 05–8953 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13–05–013]

RIN 1625–AA87

Security Zone; Protection of Military Cargo, Captain of the Port Zone Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement.

SUMMARY: The Captain of the Port Puget Sound will begin enforcing the Budd Inlet security zone in West Bay, Olympia, WA on Monday, May 9, 2005, at 8 a.m. Pacific daylight time. The security zone provides for the security of Department of Defense assets and military cargo in the navigable waters of Puget Sound and adjacent waters. The security zone will be enforced until Friday, May 13, 2005, at 11:59 p.m. Pacific daylight time.

DATES: The Budd Inlet security zone set forth in 33 CFR 165.1321 will be enforced from Monday, May 9, 2005, at 8 a.m. to Friday, May 13, 2005, at 11:59 p.m. Pacific daylight time, at which time enforcement will be suspended.

FOR FURTHER INFORMATION CONTACT: Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, WA 98134 at (206) 217–6200 or (800) 688–6664 to obtain information concerning enforcement of 33 CFR 165.1321.

SUPPLEMENTARY INFORMATION: On August 27, 2004, the Coast Guard published a final rule (69 FR 52603) establishing regulations, in 33 CFR 165.1321, for the security of Department of Defense assets and military cargo in the navigable waters of Puget Sound and adjacent waters. On December 10, 2004, the Coast Guard published a final rule (69 FR 71709), which amended 33 CFR 165.1321 by adding Budd Inlet, Olympia, WA as a permanent security zone. These security zones provide for the regulation of vessel traffic in the vicinity of military cargo loading facilities in the navigable waters of the United States. These security zones also exclude persons and vessels from the immediate vicinity of these facilities during military cargo loading and unloading operations. In addition, the regulation establishes requirements for all vessels to obtain permission of the COTP or the COTP's designated representative, including the Vessel Traffic Service Puget Sound (VTS) to enter, move within, or exit these security zones when they are enforced. Entry into these zones is prohibited unless otherwise exempted or excluded under 33 CFR 165.1321 or unless authorized by the Captain of the Port or his designee.

The Captain of the Port Puget Sound will begin enforcing the Budd Inlet security zone established by 33 CFR 165.1321 on Monday, May 9, 2005, at 8 a.m. Pacific daylight time. The security zone will be enforced until Friday, May 13, 2005, at 11:59 p.m. Pacific daylight time. All persons and vessels are authorized to enter, move within, and exit the security zone on or after Friday, May 13, 2005, at 11:59 p.m. Pacific daylight time unless a new notice of enforcement is issued before then.

Dated: May 3, 2005.

Danny Ellis,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 05–9208 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–15–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 270

[Docket No. RM 2005–2A]

Reports of Use of Sound Recordings Under Statutory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office of the Library of Congress is adopting amendments to the rules governing reports of use of sound recordings under the statutory license for preexisting subscription services.

DATES: June 8, 2005.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or William J. Roberts, Jr. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: Digital audio services provide copyrighted sound recordings of music for the listening enjoyment of the users of those services. In order to provide these sound recordings, however, a digital audio service must license the copyrights to each musical work, as well as the sound recording of the musical work. There are two statutory licenses in the Copyright Act that enable a digital audio service to transmit performances of copyrighted sound recordings: section 112 and section 114. 17 U.S.C. 112 & 114. Congress initially established these licenses in the Digital Performance Right in Sound Recordings Act of 1995, Pub. L. No. 104–39, for subscription digital audio services then in existence, and later amended sections 112 and 114 in the Digital Millennium Copyright Act of 1998, Pub. L. No. 105–304, to include other types of digital audio services. It is the former category of services (hereinafter referred to as ''preexisting subscription services'') to which this final rule applies.

On June 24, 1998, the Copyright Office published interim regulations establishing the requirements by which copyright owners receive reasonable notice of the use of their works from preexisting subscription services, and how reports of use shall be kept and made available to copyright owners. Originally codified at § § 201.35 through 201.37 of title 37 of the Code of Federal Regulations, these regulations have recently been moved to part 270 of the CFR, but have remained unchanged. On March 18, 2003, the preexisting subscription services–Music Choice, DMX Music Inc., and Muzak LLC–and representative organizations of copyright owners of sound recordings–SoundExchange, Inc., the American Federation of Television and Radio Artists, and the American Federation of Musicians–filed a petition with the Copyright Office seeking to amend the regulations regarding reports of use (formerly § 201.36, now § 270.2) for preexisting subscription services. At that time, the Office was conducting a rulemaking proceeding to establish notice and recordkeeping requirements for digital audio services other than preexisting subscription services and declined to include the petition in that proceeding. See 69 FR 11515, 11517 n.9 (March 11, 2004). Instead, the Office determined to address the petition ''in a separate **Federal Register** document.'' *Id.* A Notice of Proposed Rulemaking (''NPRM'') was published on March 15, 2005. 70 FR 12631 (March 15, 2005).

The Office did not receive any public comments and, consequently, is adopting the rule changes as proposed in the NPRM.

List of Subjects in Part 270

Copyright, Sound Recordings.

Final Regulations

■ In consideration of the foregoing, the Copyright Office is amending part 270 of 37 CFR to read as follows:

PART 270—NOTICE AND RECORDKEEPING REQUIREMENTS FOR STATUTORY LICENSES

■ 1. The authority citation for part 270 continues to read as follows:

Authority: 17 U.S.C. 702

■ 2. Section 270.2 is amended as follows:

a. By revising paragraph (b)(2);

b. By revising paragraph (b)(3);

c. In paragraph (c), by adding ''or pursuant to a settlement agreement reached or statutory license adopted pursuant to section 112(e)'' after ''17 U.S.C. 802(f)'' and by removing ''twentieth'' and adding ''forty–fifth'' in its place;

d. In paragraph (d) introductory text, by removing ''20th'' and adding ''forty–fifth'' in its place; and

e. By revising paragraph (e).

The additions and revisions to § 270.2 read as follows:

§ 270.2 Reports of use of sound recordings under statutory license for preexisting subscription services.

* * * * *

(b) * * *

(2) A *Report of Use of Sound Recordings Under Statutory License* is the report of use required under this section to be provided by a Service transmitting sound recordings and making ephemeral phonorecords therewith under statutory licenses.

(3) A *Service* is a preexisting subscription service, as defined in 17 U.S.C. 114(j)(11).

* * * * *

(e) *Content.* A ''Report of Use of Sound Recordings under Statutory License'' shall be identified as such by prominent caption or heading, and shall include a preexisting subscription service's ''Intended Playlists'' for each channel and each day of the reported month. The ''Intended Playlists'' shall include a consecutive listing of every recording scheduled to be transmitted, and shall contain the following information in the following order:

(1) The name of the preexisting subscription service or entity;

(2) The channel;

(3) The sound recording title;

(4) The featured recording artist, group, or orchestra;

(5) The retail album title (or, in the case of compilation albums created for commercial purposes, the name of the retail album identified by the preexisting subscription service for purchase of the sound recording);

(6) The marketing label of the commercially available album or other product on which the sound recording is found;

(7) The catalog number;

(8) The International Standard Recording Code (ISRC) embedded in the sound recording, where available and feasible;

(9) Where available, the copyright owner information provided in the copyright notice on the retail album or other product (*e.g.,* following the symbol (P), that is the letter P in a circle) or, in the case of compilation albums created for commercial purposes, in the copyright notice for the individual sound recording;

(10) The date of transmission; and

(11) The time of transmission.

* * * * *

Dated: April 20, 2005.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 05–9221 Filed 5–6–05; 8:45 am]

BILLING CODE 1410–33–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R04–OAR–2005–GA–0004–200504(a); FRL–7909–3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the State Implementation Plan (SIP) revisions submitted by the State of Georgia, through the Georgia Environmental Protection Division (GAEPD), on March 15, 2005. These revisions pertain to Georgia's rules for Air Quality Control. These revisions were the subject of a public hearing held on March 18, 2004, adopted by the Board of Natural Resources on April 28, 2004, and became effective on July 8, 2004. On September 26, 2003, EPA published a final rule in the **Federal Register** (see 68 FR 55469) reclassifying the Atlanta 1-hour ozone nonattainment area from serious to severe. These revisions satisfy the additional requirements for severe 1-hour ozone nonattainment areas.

DATES: This direct final rule is effective July 8, 2005 without further notice, unless EPA receives adverse comment by June 8, 2005. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID No. R04–OAR–2005–GA–0004, by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. Agency Web site: *http://docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: *martin.scott@epa.gov.*

4. Fax: (404) 562–9019.

5. Mail: ''R04–OAR–2005–GA–0004'', Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

6. Hand Delivery or Courier. Deliver your comments to: Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to RME ID No. R04–OAR–2005–GA–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9036. Mr. Martin can also be reached via electronic mail at *martin.scott@epa.gov*.

SUPPLEMENTARY INFORMATION: The use of ''we,'' ''us,'' or ''our'' in this document refers to EPA.

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I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

In addition to the publicly available docket materials available for inspection electronically in Regional Material in EDocket, and the hard copy available at the Regional Office, which are identified in the **ADDRESSES** section above, copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency. Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

II. Background

The EPA is approving the SIP revisions submitted by the State of Georgia, through the GAEPD, on March 15, 2005. These revisions pertain to Georgia's rules for Air Quality Control. These revisions were the subject of a public hearing held on March 18, 2004, adopted by the Board of Natural Resources on April 28, 2004, and became State effective on July 8, 2004. These revisions satisfy the additional requirements for severe 1-hour ozone nonattainment areas required as a result of the final rule published by EPA on September 26, 2003, in the **Federal Register** (*see* 68 FR 55469) reclassifying the Atlanta 1-hour ozone nonattainment area from serious to severe.

As a result of the Atlanta 1-hour ozone nonattainment area being reclassified to severe, GAEPD was required to submit a SIP revision addressing the additional requirements for severe areas pursuant to section 182(d) of the CAA. Those requirements are addressed below. The Atlanta 1-hour severe ozone nonattainment area (Atlanta area) includes the following counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding and Rockdale.

III. Analysis of State's Submittal

Under section 182(d) of the CAA, states with severe ozone nonattainment areas are required to revise their rules to include (1) a reduction in the major stationary source threshold for volatile organic compounds (VOC) and nitrogen oxides (NO_X) to 25 tons per year from 50 tons per year; (2) additional reasonably available control technology (RACT) rules for sources subject to the new lower major source applicability threshold; and (3) an increase in the New Source Review (NSR) offset requirement to at least 1.3 to 1 from the serious area requirement of 1.2 to 1. EPA has reviewed the State's revised rules and have found them to be consistent with the requirements of CAA section 182(d), thus the Agency is approving these revised rules into the Georgia SIP. A summary of the revised rules follows:

Rule 391–3–1–.02, subparagraph (2)(yy): ''Emissions of Nitrogen Oxides from Major Sources,'' is being amended to lower the applicability threshold from 50 to 25 tons per year for sources located in the Atlanta area. Existing sources with NO_X emissions between 25 and 50 tons per year must adopt RACT to reduce those emissions over 25 tons per year according to a schedule set forth in the amended rule.

Rule 391–3–1–.03, subparagraph (6)(g): ''Permit Exemptions—Pollution Control Facilities—Municipal Solid Waste Landfills,'' is being amended to reduce the permit exemption threshold for municipal solid waste landfills from 50 to 25 tons of NO_X per year.

Rule 391–3–1–.03, subparagraph (8)(c)13: ''Permit Requirements—Additional Provisions for Ozone Nonattainment Areas,'' is being amended to require newly constructed major sources, as well as modifications to existing major sources that result in emissions increases of VOC or NO_X exceeding 25 tons per year, to offset those new emissions by obtaining enforceable emission reductions from other sources located within the nonattainment area at a ratio of 1.3 to 1 consistent with the NSR requirements for severe ozone nonattainment areas.

Rule 391–3–1–.03, subparagraph (11)(b)1: ''Permit by Rule Standards—Fuel-Burning Equipment Burning Natural Gas/LPG and/or Distillate Oil,'' is being amended. This rule currently allows certain fuel-burning facilities to avoid Title V permitting requirements provided they meet annual fuel usage limits and maintain records as specified in the rule. As a result of the Atlanta 1-hour ozone nonattainment area's reclassification, the proposed annual fuel usage limits are being lowered to allow fuel-burning equipment to utilize a mixture of distillate fuel oil and natural gas or Liquid Petroleum Gas

(LPG) while keeping NO_X emissions at approximately 80% of the new major source threshold. The amended rule limits those affected sources located in the Atlanta area to usage of 300 (from 450) million cubic feet of natural gas or 1.5 (from 3.5) million gallons of LPG and 500,000 (from 800,000) gallons of distillate oil during any twelve consecutive months. The revised rule also requires affected sources in those counties to submit a new written certification of compliance with the revised rule by no later than October 31, 2004.

Rule 391–3–1–.03, subparagraph (11)(b)2: ''Permit by Rule Standards—Fuel-Burning Equipment Burning Natural Gas/LPG and/or Residual Oil,'' is being amended to reduce the annual fuel usage limits to correspond to the reduction in major source threshold from 50 to 25 tons per year. The proposed annual fuel usage limits are designed to allow fuel-burning equipment to utilize a mixture of residual fuel oil and natural gas or LPG while keeping NO_X emissions at approximately 80% of the new major source threshold. The amended rule limits those affected sources located in the Atlanta area to usage of 300 (from 400) million cubic feet of natural gas or 1.5 (from 3.2) million gallons of LPG) and 200,000 (from 400,000) gallons of residual oil during any twelve consecutive months, and requires affected sources in those counties to submit a new written certification of compliance with the revised rule by no later than October 31, 2004.

Rule 391–3–1–.03, subparagraph (11)(b)3: ''Permit by Rule Standards—On-Site Power Generation,'' is being amended to reduce annual fuel usage limits to correspond to the reduction in major source threshold from 50 to 25 tons per year. The amended rule limits those affected sources located in the Atlanta area to production of 1.675 (from 3.35) million horsepower-hours during any twelve consecutive months, and requires affected sources in those counties to submit a new written certification of compliance with the revised rule by no later than October 31, 2004.

Rule 391–3–1–.03, subparagraph (11)(b)5: ''Permit by Rule Standards—Hot Mix Asphalt Plants,'' is being amended to reduce the annual fuel usage limits to correspond to the reduction in major source threshold from 50 to 25 tons per year. The current statewide Permit by Rule limits are intended to keep SO2 emissions below the 100 ton per year major source threshold. This rule amendment adds new provisions for asphalt plants located within the 13-county Atlanta 1-hour Ozone Nonattainment Area so that their NO_X emissions will not exceed 80% of the new major source threshold. The amended rule limits those affected sources located in the Atlanta area to production of 300,000 (from 400,000) tons of asphalt per 12 consecutive months at ''new'' (*i.e.*, constructed or modified after June 11, 1973) plants that are permitted to burn natural gas/LPG and/or distillate oil only. The amended rule limits new and existing asphalt plants in the 13-county Atlanta 1-hour ozone nonattainment area that are permitted to burn natural gas/LPG, distillate oil, and residual oil in any combination, to production of 125,000 (from 200,000) tons of asphalt per 12 consecutive months. Those facilities permitted to burn oil in any combination will be limited to usage of 250,000 (from 678,000) gallons of oil per 12 consecutive months. The current limit on fuel oil sulfur content of 1.5 percent remains unchanged. Affected sources in the 13-county Atlanta 1-hour ozone nonattainment area will be required to submit a new written certification of compliance with the revised rule by no later than October 31, 2004.

Rule 391–3–1–.03, subparagraph (13)(d)1: ''Emission Reduction Credits—Discounting and Revocation of Emission Reduction Credits,'' is being amended. Under the previous rule, sources subject to this rule were allowed to bank emission credits that had been created by actual, enforceable reductions in emissions at a facility. Subparagraph (d)(1)(i)(II) of the previous rule provided for discounting (by 20%) emission reduction credits created at facilities located in the Atlanta area that have potential emissions of VOC and/or NO_X that are above the rule applicability threshold of 25 tons per year, but less than the serious area major source threshold of 50 tons per year. As a result of the Atlanta 1-hour ozone nonattainment area's reclassification from serious to severe, all sources in the area of VOC and NO_X that emit at least 25 tons per year will no longer be able to bank credits for any emissions of VOC and/or NO_X exceeding the severe area threshold.

IV. Final Action

EPA is approving the aforementioned changes to the Georgia SIP because they are consistent with the Clean Air Act and Agency requirements. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective July 8, 2005 without further notice unless the Agency receives adverse comments by June 8, 2005.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 8, 2005 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 8, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: April 29, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart L—Georgia

■ 2. Section 52.570(c), is amended by revising entries for: ''391–3–1–.02(2)(yy) Emissions of Nitrogen Oxides from Major Sources'' and ''391–3–1-.03 Permits'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
391–3–1–.02(2)(yy) ...	Emissions of Nitrogen Oxides from Major Sources.	7/8/2004	5/9/2005 [Insert first page number of publication].	
*	*	*	*	*
391–3–1–.03	Permits	7/8/2004	5/9/2005 [Insert first page number of publication].	
*	*	*	*	*

* * * * *

[FR Doc. 05–9215 Filed 5–6–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7908–5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Final Notice of Partial Deletion at the Peterson/Puritan, Inc. Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 1 announces the partial deletion of a portion of the Peterson/Puritan, Inc. Superfund Site (the Site), owned by Macklands Realty, Inc. and Berkeley Realty, Co. (herein Macklands and Berkeley properties), from the National Priorities List (NPL). The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA, with concurrence from the State of Rhode Island, has determined that the release impacting the Site poses no significant threat to human health or the environment at the Macklands and Berkeley properties and therefore warrants no current response action at the properties. Further, this action does not preclude the State of Rhode Island from taking any response actions under State authority, should future conditions warrant such actions. This notice of partial deletion does not alter the status of the remainder of the Peterson/Puritan, Inc. Superfund Site, which has not been proposed for deletion and thus remains on the NPL.

DATES: *Effective Date:* May 9, 2005.

FOR FURTHER INFORMATION CONTACT: David J. Newton, Remedial Project Manager, U.S. EPA Region I, 1 Congress St., Suite 1100 (HBO), Boston, MA 02114–2023, (617) 918–1243.

SUPPLEMENTARY INFORMATION: The site to be partially deleted from the NPL is: A portion of two properties designated on the town of Cumberland Tax Assessor's Map Plat 14, Lot 2 and Plat 15, Lot 1, known locally as the proposed Berkeley Commons and River Run developments, and owned by Macklands Realty, Inc. and Berkeley Realty, Co. respectively. This partial deletion involves 19.8 acres designated within the OU 2 boundary of the Peterson/Puritan, Inc. Superfund site.

A Notice of Intent to Delete for these parcels at this site was published on February 24, 2005 (70 FR 9023–9028). The closing date for comments on the Notice of Intent to Delete was March 28, 2005. EPA received no comments.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site (or portion thereof) deleted from the NPL are eligible for further remedial actions should future conditions warrant such action.

List of Subjects in 40 CFR Part 300

Environmental protection, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: April 28, 2005.

Robert W. Varney,

Regional Administrator, U.S. Environmental Protection Agency, Region 1.

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B to Part 300—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by adding ''P'' in the Notes column in the entry for Peterson/Puritan, Inc., Lincoln/Cumberland, RI.

[FR Doc. 05–9084 Filed 5–6–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 80, 84, 86, 90, and 91

RIN 0991–AB10

Office for Civil Rights; Amending the Regulations Governing Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, Sex, and Age To Conform to the Civil Rights Restoration Act of 1987

ACTION: Final rule.

SUMMARY: The Secretary amends the Department of Health and Human Services regulations implementing Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975 to conform with certain statutory amendments made by the Civil Rights Restoration Act of 1987 (CRRA). The principal conforming amendment is to add definitions of ''program or activity'' or ''program'' that correspond to the statutory definitions enacted under the CRRA.

DATES: These regulations are effective June 8, 2005.

FOR FURTHER INFORMATION CONTACT: Peggy A. Schmidt, (202) 619–1279; TDD 1–800–619–3257.

SUPPLEMENTARY INFORMATION: On October 26, 2000, the Department of Health and Human Services (Department or HHS) published a notice of proposed rulemaking (NPRM) in the **Federal Register** (65 FR 64194) proposing to amend its civil rights regulations to conform to certain provisions of the Civil Rights Restoration Act of 1987 (Pub. L. 100–259)(CRRA), regarding the scope of coverage under civil rights statutes administered by the Department. These statutes include Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, *et seq.* (Title VI); Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681, *et seq.* (Title IX); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (Section 504); and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.* (Age Discrimination Act). Title VI prohibits discrimination on the basis of race, color, and national origin in all programs or activities that receive Federal financial assistance; Title IX prohibits discrimination on the basis of sex in education programs or activities that receive Federal financial assistance; Section 504 prohibits discrimination on

the basis of disability in all programs or activities that receive Federal financial assistance; and the Age Discrimination Act prohibits discrimination on the basis of age in all programs or activities that receive Federal financial assistance.

The principal conforming change amends each of these regulations to add a definition of ''program or activity'' or ''program'' that adopts the statutory definition of ''program or activity'' or ''program'' enacted as part of the CRRA. We believe that adding this statutory definition to the regulatory language is the best way to avoid confusion on the part of recipients, beneficiaries, and other interested parties about the scope of civil rights coverage.

The Department's civil rights regulations, when originally issued and implemented, were interpreted by the Department to mean that acceptance of Federal assistance by an entity resulted in broad institutional coverage. In *Grove City College* v. *Bell,* 465 U.S. 555, 571–72 (1984)(*Grove City College*), the Supreme Court held, in a Title IX case, that the provision of Federal student financial assistance to a college resulted in Federal jurisdiction to ensure Title IX compliance in the specific program receiving the assistance, *i.e.*, the student financial aid office, but that the Federal student financial assistance would not provide jurisdiction over the entire institution. Following the Supreme Court's decision in *Grove City College,* the Department changed its interpretation, but not the language, of the governing regulations to be consistent with the Court's restrictive, ''program specific'' definition of ''program or activity'' or ''program.'' Because Title IX was patterned after Title VI, *Grove City College* significantly narrowed the coverage of Title VI and two other statutes based on it: The Age Discrimination Act and Section 504. *See* S. Rep. No. 100–64, at 2–3, 11–16, *reprinted in* 1988 U.S.C.C.A.N. at 3–5, 13–18 (1987).

Then, in 1988, the CRRA was enacted to ''restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered.'' 20 U.S.C. 1687 note 1. Congress enacted the CRRA in order to remedy what it perceived to be a serious narrowing by the Supreme Court of a longstanding administrative interpretation of the coverage of the regulations. At that time, the Department reinstated its broad interpretation to be consistent with the CRRA, again without changing the language of the regulations. It was and remains the Department's consistent interpretation that—with regard to the differences between the interpretation of the regulations given by the Supreme Court in *Grove City College* and the language of the CRRA—the CRRA, which took effect upon enactment, superseded the *Grove City College* decision and, therefore, the regulations must be read in conformity with the CRRA in all their applications.

This interpretation reflects the understanding of Congress, as expressed in the legislative history of the CRRA, that the statutory definition of ''program or activity'' or ''program'' would take effect immediately, by its own force, without the need for Federal agencies to amend their existing regulations. *See* S. Rep. No. 100–64, at 32, *reprinted* in 1988 U.S.C.C.A.N. at 34. The legislative history also evidences congressional concern about the Department's immediate need to address complaints and findings of discrimination in federally assisted schools under the CRRA definition of ''program or activity,'' and includes examples demonstrating why the CRRA was ''urgently'' needed. *See* S. Rep. No. 100–64, at 11–16, *reprinted* in 1988 U.S.C.C.A.N. at 13–18.

The regulatory amendments would address an issue recently raised by the Court of Appeals for the Third Circuit in *Cureton* v. *NCAA,* 198 F.3d 107, 115–16 (1999) (*Cureton*). That court determined that, because the Department did not amend its Title VI regulation after the enactment of the CRRA, application of the Department's Title VI regulation to disparate impact discrimination claims is ''program specific'' (*i.e.*, limited to specific programs in an institution affected by the Federal funds), rather than institution-wide (*i.e.*, applicable to all of the operations of the institution regardless of the use of the Federal funds). The Department disagrees with the *Cureton* decision for the reasons described in this preamble. That decision would thwart clearly expressed congressional intent.

Nevertheless, the regulatory changes incorporate definitions of ''program or activity'' or ''program'' that correspond to those enacted under the CRRA and thereby remove any doubt that the regulations apply institution-wide to both disparate impact discrimination and disparate treatment discrimination. (''Disparate treatment'' refers to policies or practices that treat individuals differently based on their race, color, national origin, sex, disability, or age, as applicable. Disparate treatment is generally barred by the civil rights statutes and regulations. ''Disparate impact'' refers to criteria or methods of administration that have a significant disparate effect on individuals based on race, color, national origin, sex, disability, or age, as applicable. Those criteria or practices may constitute impermissible discrimination based on legal standards that include consideration of their necessity.)

The statutory definition, which is now incorporated into the regulations, addresses four broad categories of recipients: (1) State or local governmental entities; (2) colleges, universities, other postsecondary educational institutions, public systems of higher education, local educational agencies, systems of vocational education, and other school systems; (3) private entities, such as corporations, partnerships, and sole proprietorships, including those whose principal business is providing education, health care, housing, social services, or parks and recreation; and (4) entities that are established by a combination of two or more of the first three types of entities.

Under the first part of the definition, if State and local governmental entities receive financial assistance from the Department, the ''program or activity'' or ''program'' in which discrimination is prohibited includes all of the operations of any State or local department or agency to which the Federal assistance is extended. For example, if the Department provides financial assistance to a State health agency, all of the agency's operations are subject to the nondiscrimination requirements of the regulations. In addition, ''program or activity'' or ''program'' includes all of the operations of the entity of a State or local government that distributes the Federal assistance to another State or local governmental agency or department and all of the operations of the State or local governmental entity to which the financial assistance is extended.

Under the second part of the definition of ''program or activity'' or ''program,'' if colleges, universities, other postsecondary institutions, public systems of higher education, local educational agencies, systems of vocational education, or other school systems receive financial assistance from the Department, all of their operations are subject to the nondiscrimination requirements of the regulations. For example, if a college or university receives Federal financial assistance from the Department to support medical research, all of the operations of the college or university are covered, not solely the operations of the component performing the medical research.

Under the third part of the definition, in the case of private entities not already

listed under the second part of the definition, if the Federally assisted entity or organization is principally engaged in the business of education, health care, housing, social services, or parks and recreation, then the entire corporation, partnership, or other private organization or sole proprietorship is the covered ''program or activity'' or ''program.'' For example, if a private hospital receives financial assistance from the Department, it will be covered on an institution-wide basis under this portion of the definition of ''program or activity'' or ''program'' because it is an entity principally engaged in the business of providing health care. All of its operations are covered by the nondiscrimination requirements of the regulations.

Also under the third part of the definition, if a private entity is not principally engaged in the business of education, health care, housing, social services, or parks and recreation, and the Department extends financial assistance to the private entity ''as a whole,'' all of the private entity's operations at all of its locations would be covered. If the Department were to extend general assistance, that is, assistance that is not designated for a particular purpose, to this type of corporation or other private entity, that would be considered financial assistance to the private entity ''as a whole.'' In other instances in which the Department extends financial assistance to this type of entity, the coverage would be limited to the entire plant or other comparable geographically separate facility to which assistance is extended.

Under the fourth part of the definition, if an entity of a type not already covered by one of the first three parts of the definition is established by two or more of the entities listed under the first three parts of the definition, then all of the operations of that new entity are covered.

The regulatory changes also modify or delete some sections of the Department regulations that have become superfluous following the CRRA enactment, to conform with the CRRA definitions of ''program or activity'' or ''program.'' These regulatory changes do not change the requirements of the existing regulations. This is consistent with the approach taken by other Federal agencies in the Title IX common rule NPRM, for example, in which it was noted that regulatory language in the Department of Education's Title IX regulations made superfluous by the enactment of the CRRA was omitted in that proposed rule (64 FR 58568, 58571). The Title IX, Title VI, and Section 504 regulations of the Department of Education and HHS are substantially similar because both were derived from the original Department of Health, Education and Welfare regulation.

The Department's Title IX regulations, promulgated in 1975, defined ''recipient'' as an entity ''to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance.'' 45 CFR 86.2(h). At that time, the words ''or benefits from'' were necessary to clarify that *all* of the operations of a university or other educational institution that receives Federal financial assistance—not just the particular programs receiving financial assistance—are covered by Title IX's nondiscrimination requirements. As previously discussed, this interpretation was rejected by the Supreme Court in 1984 in *Grove City College,* which held that Federal student financial aid established Title IX jurisdiction only over the financial aid program, not the entire institution. However, Congress's 1988 enactment of the CRRA counteracted this decision by defining ''program or activity'' and ''program'' to provide expressly that Title IX covers all educational programs of a recipient institution. Because of this statutory change, the words ''or benefits from'' and similar phrases are no longer necessary as a regulatory matter, and we deleted them from the Title IX regulation. For the same reason, we deleted the words ''or benefits from'' and similar language from the Department's Section 504 and Age Discrimination Act regulations. These deletions do not affect the reach of Title IX, Section 504, or the Age Discrimination Act.

The existing Title VI regulation of the Department of Health and Human Services, promulgated in 1964 by the Department of Health, Education, and Welfare in 29 FR 16298 and 29 FR 16988 and in 1965 in 30 FR 16988, includes an assurance requirement for institutions in § 80.4(d)(2) that has created confusion with regard to the scope of ''program or activity'' and ''program'' under Title VI. One example is the previously referenced decision in *Cureton.* The current provision states, in part: ''The assurance * * * shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible Department official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought * * *.'' 45 CFR 80.4(d)(2). We have deleted that portion of the assurance that begins with the word ''unless'' to avoid any further confusion. As previously stated, it was appropriate to apply the CRRA statutory definition of ''program or activity'' to the regulations. For the same reasons, we have deleted portions of the illustrations in § 80.5(c) and (e), since they could create similar confusion. Specifically, in § 80.5(c), which states that with regard to prohibited discrimination in university graduate research, training, demonstration, or other grants, the prohibition extends to the entire university, we deleted the language that states that ''unless it satisfies the responsible Department official that practices with respect to other parts or programs of the university will not interfere, directly or indirectly, with fulfillment of the assurance required with respect to the graduate school.'' Similarly, in § 80.5(e), we have deleted the portion of the illustration that states: ''In other construction grants the assurances required will be adapted to the nature of the activities to be conducted in the facilities for construction of which the grants have been authorized by Congress.'' These deletions would not affect the reach of Title VI.

In addition, we deleted references to ''program'' or ''program or activity'' in the regulations that do not refer to the CRRA broad definition of those phrases, in order to eliminate potential confusion in the use of these terms and to continue the longstanding Department interpretation of the statutes and regulations. For example, in the Title VI regulation § 80.2 refers to ''Federal assisted programs and activities listed in Appendix A to this part.'' Appendix A is a list of Federal financial assistance triggering coverage under the civil rights laws. ''Federal assisted programs and activities'' as used in § 80.2 clearly refers to Federal programs of assistance. We have deleted ''assisted programs and activities'' in this subsection and substituted ''financial assistance.'' We have made comparable conforming changes in our Title VI, Section 504, Title IX and Age Discrimination Act regulations, including both the government-wide coordinating Age Discrimination Act regulation and the HHS-specific Age Discrimination Act regulation. For example, in some instances, we deleted ''program'' or ''program or activity'' and substituted ''Federal financial assistance,'' or ''aids, benefits or services.'' These substitutions are not intended to change

the scope or substance of the regulations. They are intended only to remove any confusion that might result from the adoption of the proposed definitions of ''program or activity'' or ''program.'' In other instances, we changed ''programs *and* activities'' to ''programs or activities'' to conform the regulations to the phrase used in the CRRA—when it is used in the broad manner defined in the CRRA. We did not modify the term ''activity'' when it appears separately from the phrase ''program or activity'' and is used in a manner unrelated to the CRRA phrase ''program or activity.'' These changes are not intended to change the scope or substance of the regulations, but to remove any confusion that might result from the proposed definitions.

These final regulations use the plural terms ''programs'' and ''programs or activities'' to refer generally to multiple programs or activities operated by multiple recipients. In other instances, the singular terms ''program'' or ''program or activity'' are used. Because the singular may be interpreted to encompass the plural, these regulations typically use the singular even though in certain cases the Department may fund a recipient that operates more than one program or activity that receives Federal financial assistance (such as when an individual recipient corporation has multiple plants, each of which is a separate program or activity). In addition, similar regulations of other Federal agencies may differ in the use of the singular or plural forms of these terms. Use of the singular or plural forms of these terms should not be interpreted to imply any legal difference in the intended scope of coverage.

It is important to note that these changes do not in any way alter the requirement of the CRRA that a proposed or effectuated fund termination be limited to the particular program or programs ''or part thereof'' that discriminates or, as appropriate, to all of the programs that are infected by the discriminatory practices. *See* S. Rep. No. 100–64, at 20, *reprinted in* 1988 U.S.C.C.A.N. at 22 (''The [CRRA] defines 'program' in the same manner as 'program or activity,' and leaves intact the 'or part thereof' pinpointing language.'').

We replaced the current definition of ''program'' in the Title VI regulation in 45 CFR 80.13 with the definition of ''program or activity'' and ''program.'' We added the definition of ''program or activity'' and ''program'' to the Title IX regulation in 45 CFR 86.2. We added the definition of ''program or activity'' to the Section 504 regulation in 45 CFR 84.3, the government-wide Age Discrimination Act regulation in 45 CFR 90.4, and the HHS-specific Age Discrimination Act regulation in 45 CFR 91.4. The changes merely incorporate statutory language and do not alter the Department's consistent position that the regulations must be read in conformity with the CRRA. Conforming changes to the nonregulatory guidance in Appendix B of Part 80 and Appendix A of Part 84 will be published in the **Federal Register** in a separate notice. Nothing in these changes affects coverage under the Federal employment nondiscrimination statutes, including Title VII of the Civil Rights Act of 1964, Title I of the Americans with Disabilities Act, and the Age Discrimination in Employment Act.

Except for minor editorial and technical revisions, there are no differences between the NPRM and these final regulations.

Analysis of Comments and Changes

In the NPRM, we invited comments on the proposed regulations. The Department received three comments. One commenter suggested that the Department take the opportunity to revise Part 1 of Appendix A of Part 80, the regulation implementing Title VI of the Civil Rights Act of 1964. Part 1 lists Federal financial assistance to States. The commenter suggested a change to one of the citations in that list to address what the commenter viewed as an incorrect reference. The Department has not adopted the suggestion because it departs from the focus of our proposed changes, to amend the regulations to conform to the CRRA. Two other commenters advanced the view that the Department should not amend the regulations at this time because they believed amendment would be untimely due to a case then-pending before the United States Supreme Court (*Alexander* v. *Sandoval*, 532 U.S. 275 (2001)). *Sandoval* did not, however, address the focus of this rulemaking—revising the regulations to conform them to the added definition of ''program or activity'' or ''program.'' Rather, *Sandoval* addressed a different issue—whether there is an implied private right of action to enforce disparate-impact regulations promulgated under Section 602 of Title VI and concluded that there was not such a right. The Department has decided to proceed with the amendment of its regulations because we believe it is important to conform the regulations to the civil rights statutes as amended by the CRRA. We are, however, mindful of the Supreme Court's statements in *Sandoval* that call the validity of the Title VI disparate-impact regulations into question.[1]

We have also reviewed the regulations, in consultation with the Department of Justice, since the publication of the NPRM and have made minor editorial and technical changes.

Collection of Information Requirements

These regulations do not contain any information collection requirements subject to the Paperwork Reduction Act of 1995.

Regulatory Impact Analysis

We have examined the impacts of this proposed rule as required by Executive Order 12866, the Unfunded Mandates Reform Act of 1995, and the Regulatory Flexibility Act. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects of $100 million or more annually. We have determined that there probably will be no cost impacts because this regulatory action implements statutory amendments and longstanding Department policy. Recently the Court of Appeals for the Third Circuit interpreted existing regulations inconsistently with the language of the CRRA and our existing practices. The Department disagrees with that decision. However, these regulations would clarify the Department's policy and practice in light of that decision, and would do that only a short time after the court decision, thereby ensuring continuity in that policy and practice and avoiding changes in the behavior of recipients within the Third Circuit that could occur if Federal civil rights jurisdiction were changed. Therefore, it is possible that there will be no costs associated with the regulations. Since we believe that this rule would have no significant effect on program expenditures, we do not consider this to be a major rule. Accordingly, we have not prepared an RIA.

[1] *See Sandoval*, 532 U.S. at 286, 286n.6 (''[W]e assume for purposes of this decision that § 602 confers the authority to promulgate disparate-impact regulations''; ''[w]e cannot help observing, however, how strange it is to say that disparate-impact regulations are 'inspired by, at the service of, and inseparably intertwined with' § 601 * * * when § 601 permits the very behavior that the regulations forbid.'').

The Unfunded Mandates Reform Act of 1995 also requires that agencies perform an assessment of anticipated costs and benefits before proposing any rule that may result in expenditures, in any given year by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. *See* 2 U.S.C. 1532. These amendments make technical changes to existing regulations that enforce statutory prohibitions on discrimination on the basis of race, color, national origin, age, sex, or disability. Therefore, these amendments will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and they will not significantly or uniquely affect small governments. They will not have a significant economic impact on the operations of a substantial number of small providers of health and human services. The rule implements statutory amendments and longstanding Department policy.

We have reviewed this rule under the threshold criteria of Executive Order 13132, Federalism. We have determined that it does not significantly affect the rights, roles and responsibilities of States.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

45 CFR Part 80

Civil rights, Discrimination.

45 CFR Part 84

Blind, Civil rights, Discrimination, Handicapped, Individuals with Disabilities.

45 CFR Part 86

Civil rights, Sex discrimination.

45 CFR Part 90 and 91

Aged, Civil rights, Discrimination.

Dated: February 27, 2004.

Richard M. Campanelli,

Director, Office for Civil Rights.

Dated: April 1, 2004.

Tommy G. Thompson,

Secretary.

Editorial note: This document was received by the Office of the Federal Register on May 2, 2005.

■ For the reasons discussed in the preamble, the Secretary amends parts 80, 84, 86, 90, and 91 of title 45 of the Code of Federal Regulations as follows:

PART 80—NONDISCRIMINATION UNDER PROGRAMS RECEIVING FEDERAL ASSISTANCE THROUGH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

■ 1. The authority citation for part 80 continues to read as follows:

Authority: Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d–1.

§ 80.2 [Amended]

■ 2. Section 80.2 is amended in the first sentence by removing the words ''program for which'' and adding, in their place, ''program to which'' and removing the words ''assisted programs and activities'' and adding, in their place, ''financial assistance''.

§ 80.3 [Amended]

■ 3. Section 80.3(d) is amended by removing the words ''the benefits of a program'', and adding, in their place, the word ''benefits''.

■ 4. Section 80.4 is amended as follows—

■ A. Removing the words ''to carry out a program'' in the first sentence of paragraph (a)(1);

■ B. Removing the words ''except a program'' and adding, in their place, the words ''except an application'' in the first sentence of paragraph (a)(1);

■ C. Removing the words ''for each program'' and the words ''in the program'' in the fifth sentence of paragraph (a)(1);

■ D. Removing the words ''*State programs*'' and adding, in their place, the words ''*Federal financial assistance*'' in the heading of paragraph (b);

■ E. Removing the words ''to carry out a program involving'' and adding, in their place, the word ''for'' in paragraph (b); and

■ F. Revising paragraph (d)(2).

The revision of paragraph (d)(2) reads as follows:

§ 80.4 Assurances required.

* * * * *

(d) * * *

(2) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution.

* * * * *

■ 5. Section 80.5 is amended as follows—

■ A. Removing the words ''under the program'' in the second sentence in paragraph (a).

■ B. Revising paragraph (c); and

■ C. Removing the last sentence of paragraph (e).

The revision of paragraph (c) reads as follows:

§ 80.5 Illustrative application.

* * * * *

(c) In a research, training, demonstration, or other grant to a university for activities to be conducted in a graduate school, discrimination in the admission and treatment of students in the graduate school is prohibited, and the prohibition extends to the entire university.

* * * * *

§ 80.6 [Amended]

■ 6. Section 80.6(b) is amended by removing the words ''of any program under'' in the last sentence and adding, in their place, the word ''in''.

§ 80.9 [Amended]

■ 7. Section 80.9(e) is amended by removing the word ''programs'' in the first sentence and adding, in its place, the words ''Federal statutes, authorities, or other means by which Federal financial assistance is extended,''.

■ 8. Section 80.13 is amended by removing the words ''for any program,'' and ''under any such program'' in paragraph (i); removing the words ''for the purpose of carrying out a program'' in paragraph (j); and revising paragraph (g) and revising the authority citation following the section to read as follows:

§ 80.13 Definitions.

* * * * *

(g) The term *program or activity* and the term *program* mean all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government; (2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (g)(1), (g)(2), or (g)(3) of this section; any part of which is extended Federal financial assistance.

* * * * *

(Secs. 602, 606, Civil Rights Act of 1964, (42 U.S.C. 2000d–1, 2000d–4a))

■ 9. Appendix A to part 80 is amended by revising the heading of part 1 and the heading of part 2 to read as follows:

APPENDIX A TO PART 80—FEDERAL FINANCIAL ASSISTANCE TO WHICH THESE REGULATIONS APPLY

PART 1—ASSISTANCE OTHER THAN CONTINUING ASSISTANCE TO STATES

* * * * *

PART 2—CONTINUING ASSISTANCE TO STATES

* * * * *

■ 10. The heading to part 84 is revised to read as follows:

PART 84—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

■ 11. The authority citation for part 84 continues to read as follows:

Authority: 20 U.S.C. 1405; 29 U.S.C. 794; 42 U.S.C. 290dd–2; 21 U.S.C. 1174.

§ 84.2 [Amended]

■ 12. Section 84.2 is amended by removing the word ''each'' the second time it appears and adding, in its place, the word ''the''; and by removing the words ''or benefits from''.

■ 13. Section 84.3 is amended by redesignating paragraphs (k) and (l) as paragraphs (l) and (m), respectively; and adding a new paragraph (k) and adding an authority citation following this section to read as follows:

§ 84.3 Definitions.

* * * * *

(k) *Program or activity* means all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (k)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

* * * * *

(29 U.S.C. 794(b))

§ 84.4 [Amended]

■ 14. Section 84.4 is amended by—

■ A. Removing the words ''or benefits from'' in paragraphs (a) and (b)(5)(i);

■ B. Removing the words ''programs or activities'' whenever they appear in paragraph (b)(3), and adding, in their place, the words ''aids, benefits, or services'';

■ C. Removing the words ''or benefiting from'' in paragraph (b)(6); and

■ D. In paragraph (c) removing the word ''*Programs*'' in the heading and adding, in its place, the words ''*Aids, benefits, or services*''; removing the words ''from the benefits of a program'' and adding, in their place, the words ''from aids, benefits, or services'', and removing the words ''from a program'' and adding, in their place, the words ''from aids, benefits, or services''.

§§ 84.4, 84.6, 84.12, 84.32, 84.33, 84.36 [Amended]

■ 15. Remove the word ''program'' and add, in its place, the words ''program or activity'' in the following sections:

A. Section 84.4(b)(1)(v);

B. Section 84.4(b)(4)(ii);

C. Section 84.6(a)(3), whenever it appears;

D. Section 84.12(a), (c) introductory text, and (c)(1);

E. Section 84.32 introductory text;

F. Section 84.33(a); and

G. Section 84.36, in the first sentence.

§ 84.5 [Amended]

■ 16. Section 84.5(a) is amended in the first sentence by removing the words ''for a program or activity'' and by removing the words ''the program'' and adding, in their place, the words ''the program or activity''.

§ 84.8 [Amended]

■ 17. Section 84.8(a) is amended by removing the words ''programs and activities'' in the second sentence and adding, in their place, the words ''programs or activities''.

§ 84.11 [Amended]

■ 18. Section 84.11 is amended by—

■ A. Removing the words ''programs assisted'' and adding, in their place, the words ''programs or activities assisted'' in paragraph (a)(2);

■ B. Removing the word ''programs'' and revising ''apprenticeship'' to read ''apprenticeships'' in the last sentence of paragraph (a)(4).

■ C. Removing the word ''programs'' and adding the words ''those that are'' before ''social or recreational'' in paragraph (b)(8).

Subpart C—Accessibility

■ 19. The heading of Subpart C is amended by removing the word ''PROGRAM''.

§ 84.22 [Amended]

■ 20. Section 84.22 is amended as follows:

■ A. In paragraph (a) by removing the words ''*Program accessibility*'' in the heading and adding, in their place, the word ''*Accessibility*'' and by removing the words ''each program or activity to which this part applies so that the program or activity, when viewed in its entirety,'' in the first sentence and

adding in their place, the words ''its program or activity so that when each part is viewed in its entirety, it'';

■ B. In paragraph (b) by removing the words ''offer programs and activities to'' in the last sentence and adding, in their place, the word ''serve''; and

■ C. In paragraph (e)(3) by removing the words ''program accessibility'' and adding, in their place, the words ''full accessibility under paragraph (a)''.

§ 84.31 [Amended]

■ 21. Section 84.31 is amended by removing the words ''or benefit from'' whenever they appear; and by removing the words ''programs and activities'' and adding, in their place, the words ''programs or activities''.

§ 84.33 [Amended]

■ 22. Section 84.33 is amended by—

■ A. Removing the words ''individualized education program'' and adding, in their place, the words ''Individualized Education Program'' in paragraph (b)(2);

■ B. Removing the words ''in or refer such person to a program other than the one that it operates'' and adding, in their place, the words ''or refer such a person for aids, benefits, or services other than those that it operates or provides'' in the first sentence of paragraph (b)(3);

■ C. Removing the words ''in or refers such person to a program not operated'' in the second sentence of paragraph (c)(1), and adding, in their place, the words ''or refers such person for aids, benefits, or services not operated or provided'';

■ D. Removing the words ''of the program'' in the second sentence of paragraph (c)(1) and adding, in their place, the words ''of the aids, benefits, or services'';

■ E. Removing the words ''in or refers such person to a program not operated'' in paragraph (c)(2), and adding, in their place, the words ''or refers such person for aids, benefits, or services not operated or provided'';

■ F. Removing the words ''from the program'' in paragraph (c)(2), and adding, in their place, the words ''from the aids, benefits, or services'';

■ G. Removing the words ''in the program'' in paragraph (c)(2), and adding, in their place, the words ''in the aids, benefits, or services'';

■ H. Removing the words ''If placement in a public or private residential program'' and adding, in their place, the words ''If a public or private residential placement'' in paragraph (c)(3); and removing the words ''the program'', and adding, in their place, the words ''the placement''; and

■ I. Removing the words ''such a program'' in the last sentence of paragraph (c)(4), and adding, in their place, the words ''a free appropriate public education''.

§ 84.35 [Amended]

■ 23. Section 84.35(a) is amended by removing the words ''program shall'' and adding, in their place, the words ''program or activity shall'' and by removing the word ''a'' before the word ''regular'' and by removing the word ''program'' before the word ''and''.

§ 84.37 [Amended]

■ 24. Section 84.37(c)(1) is amended by removing the words ''programs and activities'' in the first sentence and adding, in their place, the words ''aids, benefits, or services''; and by removing the words ''in these activities'' in the last sentence.

§ 84.38 [Amended]

■ 25. Section 84.38 is amended by—

■ A. Removing the word ''programs'' in the section heading;

■ B. Removing the words ''operates a'' and adding, in their place, the word ''provides'';

■ C. Removing the words ''program or activity or an'' after the word ''care'' and adding, in their place, the word ''or'';

■ D. Removing the words ''program or activity'' after the word ''education'';

■ E. Removing the words ''from the program or activity'';

■ F. Revising the word ''aid'' to read ''aids''; and

■ G. Removing the words ''under the program or activity''.

§ 84.39 [Amended]

■ 26. Section 84.39 is amended by—

■ A. Removing the word ''programs'' in the section heading;

■ B. Removing the words ''operates a'' and adding, in their place, the word ''provides'' in paragraph (a);

■ C. Removing the word ''program'' after the word ''education'' in paragraph (a);

■ D. Removing the words ''from such program'' in paragraph (a);

■ E. Removing the words ''the recipient's program'' in paragraph (a), and adding, in their place, the words ''that recipient's program or activity''; and

■ F. Removing the words ''operates special education programs shall operate such programs'' in paragraph (c), and adding, in their place, the words ''provides special education shall do so''.

§ 84.41 [Amended]

■ 27. Section 84.41 is amended by removing the words ''programs and activities'' whenever they appear in the section and adding, in their place, the words ''programs or activities''; and by removing the words ''or benefit from'' whenever they appear in the section.

§ 84.43 [Amended]

■ 28. Section 84.43 is amended by—

■ A. Removing the words ''program or activity'' in paragraph (a) and adding, in their place, the words ''aids, benefits, or services''; and

■ B. Removing the words ''programs and activities'' in paragraph (d), and adding, in their place, the words ''program or activity''.

§ 84.44 [Amended]

■ 29. Section 84.44 is amended by—

■ A. Removing the words ''program of'' in the second sentence of paragraph (a);

■ B. Removing the words ''in its program'' in paragraph (c); and

■ C. Removing the words ''under the education program or activity operated by the recipient'' in paragraph (d)(1).

§ 84.47 [Amended]

■ 30. Section 84.47 is amended by removing the words ''programs and activities'' in paragraph (a)(1), and adding, in their place, the words ''aids, benefits, or services''.

§ 84.51 [Amended]

■ 31. Section 84.51 is amended by removing the words ''or benefit from'' whenever they appear in the section; and by removing the word ''and'' before the word ''activities'' and adding, in its place, the word ''or''.

§ 84.54 [Amended]

■ 32. Section 84.54 is amended by removing the words ''operates or supervises a program or activity'' and adding, in their place, the words ''provides aids, benefits, or services'', and removing ''§ 84.3(k)(2)'' and adding, in its place, ''§ 84.3(l)(2)''.

§ 84.55 [Amended]

■ 33. Section 84.55 is amended by removing the word ''programs'' in the first sentence in paragraph (a) and adding in its place, the words ''programs or activities''.

PART 86—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

■ 34. The heading for part 86 is revised to read as set forth above.

■ 35. Section 86.2 is amended by —

■ A. Redesignating paragraphs (h) through (r) as paragraphs (i) through (s), respectively;

■ B. Adding a new paragraph (h) and revising the authority citation following the section;
■ C. Removing the words ''or benefits from'' from newly designated paragraph (i); and
■ D. Removing from newly designated paragraph (k) the words ''paragraph (k), (l), (m), or (n) of this section'' and adding, in their place, the words ''paragraph (l), (m), (n), or (o) of this section''.

New paragraph (h) reads as follows:

§ 86.2 Definitions

* * * * *

(h) *Program or activity* and *program* means all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such a State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (h)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

* * * * *

(Secs. 901, 902, 908, Education Amendments of 1972, 20 U.S.C. 1681, 1682, 1687)

* * * * *

§ 86.4 [Amended]

■ 36. Section 86.4 is amended by removing the word ''each'' and adding, in its place, the word ''the'' in the first sentence of paragraph (a).

§ 86.6 [Amended]

■ 37. Section 86.6 is amended by removing the words ''or benefits from'' in paragraph (c).

§ 86.11 [Amended]

■ 38. Section 86.11 is amended by removing the word ''each'' and adding, in its place, the word ''the''; and by removing the words ''or benefits from''.
■ 39. The titles of Subparts D and E are amended by removing the word ''AND'' and adding, in its place, the word ''OR''.

§ 86.31 [Amended]

■ 40. Section 86.31 is amended by —
■ A. Removing the word ''and'' in the section heading, and adding, in its place, the word ''or'';
■ B. Removing the words ''or benefits from'' in the first sentence of paragraph (a); and
■ C. Removing the words ''*Programs not operated*'' in the heading of paragraph (d), and adding, in their place, the words ''*Aid, benefits, or services not provided*''.

§ 86.40 [Amended]

■ 41. Section 86.40 is amended by removing the words ''in the normal education program or activity'' in paragraph (b)(2); and by removing the words ''instructional program in the separate program'' in paragraph (b)(3) and adding, in their place, the words ''separate portion''.

§ 86.51 [Amended]

■ 42. Section 86.51 is amended by removing the words ''or benefits from'' in paragraph (a)(1); and by removing the words ''social or recreational programs'' and adding, in their place, the words ''those that are social or recreational'' in paragraph (b)(9).

PART 90—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

■ 43. The authority citation for part 90 is revised to read as follows:

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.*

§ 90.1 [Amended]

■ 44. Section 90.1 is amended by removing the words ''programs and activities'' in the last sentence and adding, in their place, the words ''programs or activities''.

§ 90.3 [Amended]

■ 45. Section 90.3 is amended by removing the word ''and'' in the section heading and adding, in its place, the word ''or''.

■ 46. Section 90.4 is amended by adding in alphabetical order a new definition of ''Program or activity'' and adding an authority citation following the section to read as follows:

§ 90.4 How are the terms in these regulations defined?

* * * * *

Program or activity means all of the operations of—

(a)(1) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(2) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(b)(1) A college, university, or other postsecondary institution, or a public system of higher education; or

(2) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(c)(1) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(2) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(d) Any other entity which is established by two or more of the entities described in paragraph (a), (b), or (c) of this definition; any part of which is extended Federal financial assistance.

* * * * *

(42 U.S.C. 6107)

§ 90.34 [Amended]

■ 47. Section 90.34 is amended by removing the word ''programs'' and adding, in its place, the words ''programs or activities'' whenever they appear in the section.

§ 90.42 [Amended]

■ 48. Section 90.42 is amended by removing the words ''programs and activities'' in the first sentence of paragraph (a) and adding, in their place, the words ''programs or activities''.

§ 90.43 [Amended]

■ 49. Section 90.43 is amended by removing the word ''program'' in the last sentence of paragraph (c)(4).

§ 90.47 [Amended]

■ 50. Section 90.47 is amended by removing the word ''Federal'' in the first sentence of paragraph (c)(2).

§ 90.48 [Amended]

■ 51. Section 90.48 is amended by removing the words ''program or activity'' in the last sentence and adding, in their place, the words ''Federal financial assistance''.

§ 90.49 [Amended]

■ 52. Section 90.49 is amended by removing the word ''program'' whenever it appears in paragraph (c) and adding, in its place, the words ''program or activity''.

PART 91—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM HHS

■ 53. The heading for part 91 is revised to read as set forth above.

■ 54. The authority citation for part 91 continues to read as follows:

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.* (45 CFR part 90).

§ 91.1 [Amended]

■ 55. Section 91.1 is amended by removing the words ''programs and activities'' in the last sentence and adding, in their place, the words ''programs or activities''.

§ 91.2 [Amended]

■ 56. Section 91.2 is amended by removing the words ''programs and activities'' in the last sentence and adding, in their place, the words ''programs or activities''.

§ 91.3 [Amended]

■ 57. Section 91.3 is amended by removing the word ''programs'' in the section heading and adding, in its place, the words ''programs or activities''; and removing the words ''or benefits from'' in paragraph (a).

■ 58. Section 91.4 is amended by adding in alphabetical order a new definition of ''Program or activity'' and adding an authority citation following the section to read as follows:

§ 91.4 Definition of terms used in these regulations.

* * * * *

Program or activity means all of the operations of—

(a)(1) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(2) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(b)(1) A college, university, or other postsecondary institution, or a public system of higher education; or

(2) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(c)(1) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(2) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(d) Any other entity which is established by two or more of the entities described in paragraph (a), (b), or (c) of this definition; any part of which is extended Federal financial assistance.

* * * * *

(Authority: 42 U.S.C. 6107)

§ 91.17 [Amended]

■ 59. Section 91.17 is amended by removing the word ''program'' whenever it appears and adding, in its place, the words ''program or activity''.

§ 91.18 [Amended]

■ 60. Section 91.18 is amended by removing the word ''program'' and adding, in its place, the words ''program or activity''.

§ 91.31 [Amended]

■ 61. Section 91.31 is amended by removing the words ''programs and activities'' in the first sentence and adding, in their place, the words ''programs or activities''.

§ 91.32 [Amended]

■ 62. Section 91.32 is amended by removing the word ''program'' in paragraph (b).

§ 91.44 [Amended]

■ 63. Section 91.44 is amended by removing the word ''program'' in paragraph (a)(2).

§ 91.46 [Amended]

■ 64. Section 91.46 is amended by removing the words ''program and activity'' in the first sentence of paragraph (b) and adding, in their place, the words ''program or activity''; and by removing the word ''Federal'' in the first sentence of paragraph (c)(2).

§ 91.49 [Amended]

■ 65. Section 91.49 is amended by removing the words ''program or activity'' in paragraph (b)(2) and adding, in their place, the words ''Federal financial assistance''.

[FR Doc. 05–9033 Filed 5–6–05; 8:45 am]

BILLING CODE 4153–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 05–64; MM Docket No. 98–155; RM–9082, RM–9133]

Radio Broadcasting Services; Alva, Mooreland, Tishomingo, Tuttle and Woodward, OK

AGENCY: Federal Communications Commission, FCC.

ACTION: Final rule.

SUMMARY: This document grants an Application for Review filed by Chisholm Trail Broadcasting Co. directed to the earlier *Memorandum Opinion and Order* in this proceeding to the extent of setting aside three previous actions. *See* 67 FR 52876, August 14, 2002. Specifically, Channel 259C3 will now be allotted at Tishomingo, Oklahoma, Channel 259C1 will be allotted at Alva, Oklahoma, and Channel 261C1 will be allotted at Woodward, Oklahoma. The reference coordinates for the Channel 259C1 allotment at Alva, Oklahoma, are 36–35–41 and 98–15–38. The reference coordinates for the Channel 261C1 allotment at Woodward, Oklahoma, are 36–25–42 and 99–24–10. The reference coordinates for the Channel 259C3

allotment at Tishomingo, Oklahoma, are 34–21–34 and 96–33–34. With this action, the proceeding is terminated.

DATES: Effective May 9, 2005.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Memorandum Opinion and Order* in MM Docket No. 98–155 adopted March 10, 2005, and released March 14, 2005. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals 11, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* The Commission will not send a copy of this *Memorandum Opinion and Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability.

List of Subjects in 47 CFR Part 73

Radio, Radio Broadcasting.

■ Accordingly, 47 CFR Part 73 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 260C1 and adding Channel 259C1 at Alva, by adding Tishomingo, Channel 259C3, by removing Tuttle, Channel 259C3, by removing Channel 292C1 and adding Channel 261C1 at Woodward.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–9289 Filed 5–6–05; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Part 217

[DFARS Case 2004–D024]

Defense Federal Acquisition Regulation Supplement; Multiyear Contracting

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 8008 of the Defense Appropriations Act for Fiscal Year 2005 and Section 814 of the National Defense Authorization Act for Fiscal Year 2005. Sections 8008 and 814 establish new requirements related to the funding of multiyear contracts.

DATES: *Effective date:* May 9, 2005.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before July 8, 2005, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2004–D024, using any of the following methods:

○ Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

○ Defense Acquisition Regulations Web site: *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* Follow the instructions for submitting comments.

○ E-mail: *dfars@osd.mil.* Include DFARS Case 2004–D024 in the subject line of the message.

○ Fax: (703) 602–0350.

○ Mail: Defense Acquisition Regulations Council, Attn: Ms. Robin Schulze, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

○ Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends DFARS Subpart 217.1 to implement Section 8008 of the Defense Appropriations Act for Fiscal Year 2005 (Pub. L. 108–287) and Section 814 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375).

Section 8008 provides that DoD may not use fiscal year 2005 funds to award a multiyear contract unless: (1) The Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract; (2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract; (3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and (4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract. These requirements have been added to the DFARS at 217.172(g) and (h).

Section 814 amended 10 U.S.C. 2306b and 10 U.S.C. 2306c to require that, for any multiyear contract with a cancellation ceiling exceeding $100 million that is not fully funded, the agency head must give written notification to the congressional defense committees of (1) the cancellation ceiling amounts planned for each program year in the proposed multiyear contract, together with the reasons for the amounts planned; (2) the extent to which costs of contract cancellation are not included in the budget for the contract; and (3) a financial risk assessment of not including budgeting for costs of contract cancellation. These requirements have been added to the DFARS at 217.171(a)(5) and 217.172(e)(2)(ii).

In addition to implementation of the new statutory requirements, DoD has relocated text from DFARS 217.173(b) to 217.172(e) to more closely align with the structure of 10 U.S.C. 2306b(h).

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule primarily addresses DoD planning and budget considerations with regard to multiyear contracts. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2004-D024.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 8008 of the Defense Appropriations Act for Fiscal Year 2005 (Pub. L. 108–287) and Section 814 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375). Sections 8008 and 814 establish new requirements related to funding that DoD must meet before entering into multiyear contracts for supplies or services. Sections 8008 and 814 became effective upon enactment on August 5, 2004, and October 28, 2004, respectively. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 217

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR Part 217 is amended as follows:

■ 1. The authority citation for 48 CFR Part 217 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 217—SPECIAL CONTRACTING METHODS

■ 2. Section 217.170 is amended by revising paragraph (d)(1)(i) to read as follows:

217.170 General.

* * * * *

(d)(1) * * *

(i) Exceed $500 million (see 217.171(a)(6); 217.172(c); and 217.172(e)(4));

* * * * *

■ 3. Section 217.171 is amended as follows:

■ a. By redesignating paragraph (a)(5) as paragraph (a)(6); and

■ b. By adding a new paragraph (a)(5) to read as follows:

217.171 Multiyear contracts for services.

(a) * * *

(5) If the budget for a contract that contains a cancellation ceiling in excess of $100 million does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established in the contract—

(i) The notification required by paragraph (a)(4) of this section shall include—

(A) The cancellation ceiling amounts planned for each program year in the proposed multiyear contract, together with the reasons for the amounts planned;

(B) The extent to which costs of contract cancellation are not included in the budget for the contract; and

(C) A financial risk assessment of not including budgeting for costs of contract cancellation (10 U.S.C. 2306c(d)); and

(ii) The head of the agency shall provide copies of the notification to the Office of Management and Budget at least 14 days before contract award in accordance with the procedures at PGI 217.1.

* * * * *

■ 4. Section 217.172 is amended as follows:

■ a. By revising the last sentence of paragraph (a);

■ b. By redesignating paragraph (e) as paragraph (f); and

■ c. By adding new paragraphs (e), (g), and (h) to read as follows:

217.172 Multiyear contracts for supplies.

(a) * * * For additional policies that apply only to multiyear contracts for weapon systems, see 217.173.

* * * * *

(e) The head of the agency shall ensure that the following conditions are satisfied before awarding a multiyear contract under the authority described in paragraph (b) of this section:

(1) The multiyear exhibits required by DoD 7000.14–R, Financial Management Regulation, are included in the agency's budget estimate submission and the President's budget request.

(2) The Secretary of Defense certifies to Congress that the current 5-year defense program fully funds the support costs associated with the multiyear program (10 U.S.C. 2306b(i)(1)(A)).

(i) The head of the agency shall submit information supporting this certification to USD(C)(P/B) for transmission to Congress through the Secretary of Defense.

(ii) In the case of a contract with a cancellation ceiling in excess of $100 million, if the budget for the contract does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established in the contract—

(A) The head of the agency shall, as part of this certification, give written notification to the congressional defense committees of—

(1) The cancellation ceiling amounts planned for each program year in the proposed multiyear contract, together with the reasons for the amounts planned;

(2) The extent to which costs of contract cancellation are not included in the budget for the contract; and

(3) A financial risk assessment of not including the budgeting for costs of contract cancellation (10 U.S.C. 2306b(g)); and

(B) The head of the agency shall provide copies of the notification to the Office of Management and Budget at least 14 days before contract award in accordance with the procedures at PGI 217.1.

(3) The proposed multiyear contract provides for production at not less than minimum economic rates, given the existing tooling and facilities (10 U.S.C. 2306b(i)(1)(B)). The head of the agency shall submit to USD(C)(P/B) information supporting the agency's determination that this requirement has been met.

(4) If the value of a multiyear contract for a particular system or component exceeds $500 million, use of a multiyear contract is specifically authorized by—

(i) An appropriations act (10 U.S.C. 2306b(l)(3)); and

(ii) A law other than an appropriations act (10 U.S.C. 2306b(i)(3)).

(5) The contract is for the procurement of a complete and usable end item (10 U.S.C. 2306b(i)(4)(A)).

(6) Funds appropriated for any fiscal year for advance procurement are obligated only for the procurement of those long-lead items that are necessary in order to meet a planned delivery schedule for complete major end items that are programmed under the contract to be acquired with funds appropriated for a subsequent fiscal year (including an economic order quantity of such long-lead items when authorized by law (10 U.S.C. 2306b(i)(4)(b)).

(7) All other requirements of law are met and there are no other statutory restrictions on using a multiyear contract for the specific system or component (10 U.S.C. 2306b(i)(2)). One such restriction may be the achievement of specified cost savings. If the agency finds, after negotiations with the contractor(s), that the specified savings cannot be achieved, the head of the agency shall assess the savings that, nevertheless, could be achieved by using a multiyear contract. If the savings are substantial, the head of the agency may request relief from the law's

specific savings requirement. The request shall—

(i) Quantify the savings that can be achieved;

(ii) Explain any other benefits to the Government of using the multiyear contract;

(iii) Include details regarding the negotiated contract terms and conditions; and

(iv) Be submitted to OUSD (AT&L) DPAP for transmission to Congress via the Secretary of Defense and the President.

* * * * *

(g) The head of an agency shall not award a multiyear contract using fiscal year 2005 appropriated funds unless—

(1) The Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract;

(2) Cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract; and

(3) The contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units (Section 8008 of Pub. L. 108–287).

(h) Do not award a multiyear contract using fiscal year 2005 appropriated funds that provides for a price adjustment based on a failure to award a follow-on contract (Section 8008 of Public Law 108–287).

■ 5. Section 217.173 is revised to read as follows:

217.173 Multiyear contracts for weapon systems.

As authorized by 10 U.S.C. 2306b(h) and subject to the conditions in 217.172(e), the head of the agency may enter into a multiyear contract for—

(a) A weapon system and associated items, services, and logistics support for a weapon system; and

(b) Advance procurement of components, parts, and materials necessary to manufacture a weapon system, including advance procurement to achieve economic lot purchases or more efficient production rates (see 217.174 regarding economic order quantity procurement).

217.174 [Amended]

■ 6. Section 217.174 is amended in paragraph (c) by removing ''217.173(b)(6)'' and adding in its place ''217.172(e)(6)''.

[FR Doc. 05–9183 Filed 5–6–05; 8:45 am]

BILLING CODE 5001–08–P

Proposed Rules

Federal Register
Vol. 70, No. 88
Monday, May 9, 2005

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21137; Directorate Identifier 2002–NM–86–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. This proposed AD would require repetitive detailed and specialized inspections to detect fatigue damage in the fuselage, replacement of certain bolt assemblies, and corrective actions if necessary. This proposed AD is prompted by a review of primary airframe fatigue test results and Maintenance Steering Group 3 (MSG–3) analysis. We are proposing this AD to detect and correct fatigue damage of the fuselage, door, engine nacelle, empennage, and wing structures, which could result in reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by June 8, 2005.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. The docket number is FAA–2005–21137; the directorate identifier for this docket is 2002–NM–86–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–21137; Directorate Identifier 2002–NM–86–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket website, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov*.

Examining the Docket

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

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified us that an unsafe condition may exist on all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. The CAA advises that, following an extensive review of the primary airframe fatigue test results and Maintenance Steering Group 3 (MSG–3) analysis for the Model 4101 airplanes, new areas and thresholds of fatigue damage were identified. New inspections and revisions to existing inspections for fatigue damage (requirements and inspection thresholds in particular) are needed to address the findings. These inspections are necessary to maintain the structural integrity of the airplane. Fatigue damage of the fuselage, door, engine nacelle, empennage, and wing structures, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airplane.

Relevant Service Information

BAE Systems (Operations) Limited has issued Service Bulletin J41–51–001, Revision 2, dated April 30, 2003. The service bulletin describes procedures for repetitive detailed and specialized inspections of the fuselage to detect fatigue damage, replacement of the bolt assemblies of the pintle bearing housing and upper club foot fitting with new bolt assemblies, and corrective actions if necessary. The specialized inspections include eddy current inspections (including high frequency and rotating), radiographic inspections, a magnetic particle inspection, and a torque measurement. The areas to be inspected

are located in or around door, fuselage, engine nacelle, empennage, and wing structures. In addition, the service bulletins specify submitting inspection reports after most of the inspection procedures are completed. The corrective actions include replacing a damaged part with a new part, and repairing damage in accordance with the service bulletin, or in accordance with a method approved by BAE Systems (Operations) Limited if damage is outside specified limits. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA mandated the service information and issued British airworthiness directive 005–02–2002 to ensure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Determination and Requirements of the Proposed AD

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. We have examined the CAA's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and the Service Bulletin.''

Differences Between the Proposed AD and the Service Bulletin

Operators should note that, although the Accomplishment Instructions of the referenced service bulletin describes procedures for submitting inspection reports, this proposed AD would not require those actions. We do not need this information from operators.

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions using a method that we or the CAA (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair we or the CAA approve would be acceptable for compliance with this proposed AD.

Grace Period

Operators should note that, although the service bulletin does not list a grace period in the compliance times for some of the actions, this proposed AD adds a grace period to the compliance times. We find that a grace period will keep airplanes from being grounded unnecessarily.

Also, although the service bulletin specifies a grace period for some actions, this proposed AD has a different grace period. We find that this modified grace period will keep airplanes from being grounded unnecessarily.

Clarification of Flight Cycle Terminology

Operators should note that, although the Accomplishment Instructions of the referenced service bulletins use ''flights'' to define some compliance times, this proposed AD uses ''total flight cycles.''

Clarification of Inspection Terminology

In this proposed AD, the ''detailed visual inspection,'' ''detailed internal visual inspection,'' ''detailed internal inspection,'' and ''detailed external visual inspection'' specified in the service bulletin are referred to as a ''detailed inspection.'' We have included the definition for a detailed inspection in Note 1 of the proposed AD.

Clarification of Initial Inspection Threshold

For airplanes not inspected previously, the service bulletin specifies inspection thresholds of 8 years and 4 years after first flight. However, for these same airplanes, paragraph (g) of this proposed AD specifies an inspection threshold of 96 months (8 years) and 48 months (4 years), as applicable, after the date of issuance of the original standard Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness. This decision is based on our determination that ''first flight'' may be interpreted differently by different operators. We find that our proposed terminology is generally understood within the industry and records will always exist that establish these dates with certainty.

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane, per inspection cycle	Number of U.S.-registered airplanes	Fleet cost
Inspections of the door structure.	17	$65	None	$1,105	57	Up to $62,985, per inspection cycle.
Inspections of the fuselage structure.	164	65	None	10,660	57	Up to $607,620, per inspection/replacement cycle.
Inspections of the engine nacelle structure.	4	65	None	260	57	Up to $14,820, per inspection cycle.
Inspections of the empennage structure.	14	65	None	910	57	Up to $51,870, per inspection cycle.
Inspections of the wing structure.	24	65	None	1,560	57	Up to $88,920, per inspection cycle.

The total proposed actions would take about 223 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the total proposed AD for U.S. operators is up to $826,215, or $14,495 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket No. FAA–2005–21137; Directorate Identifier 2002–NM–86–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by June 8, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Model Jetstream 4101 airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by a review of primary airframe fatigue test results and Maintenance Steering Group 3 (MSG–3) analysis. We are issuing this AD to detect and correct fatigue damage of the fuselage, door, engine nacelle, empennage, and wing structures, which could result in reduced structural integrity of the airplane.

Compliance

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

Service Bulletin Reference

(f) The term ''the service bulletin,'' as used in this AD, means BAE Systems (Operations) Limited Service Bulletin J41–51–001, Revision 2, dated April 30, 2003.

Inspection and Corrective Actions

(g) At the compliance times specified in the ''Initial Compliance Time'' column of Tables 1, 2, 3, 4, and 5 of this AD: Do the applicable detailed inspections and specialized inspections to detect fatigue damage, and replacement of certain bolt assemblies, and any applicable corrective actions, in accordance with the Accomplishment Instructions of the service bulletin. Do any corrective action before further flight. Repeat the inspections and replacement thereafter at intervals specified in the ''Repetitive Intervals'' column of Tables 1, 2, 3, 4, and 5 of this AD.

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

TABLE 1.—APPENDIX 1 COMPLIANCE TIMES

Part # of actions specified in appendix 1 of the service bulletin	Initial compliance time (whichever occurs later between the times in ''inspection threshold'' and ''grace period'')		Repetitive intervals
	Inspection threshold	Grace period	
1, 6	Before the accumulation of 22,500 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 3,300 flight cycles.
2	Before the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 5,200 flight cycles.
3, 5, 7	Before the accumulation of 21,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 10,000 flight cycles.
4	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 26,000 flight cycles.

TABLE 2.—APPENDIX 2 COMPLIANCE TIMES

Part # of actions specified in appendix 2 of the service bulletin	Initial compliance time (whichever occurs later between the times in "inspection/replacement threshold" and "grace period")		Repetitive intervals
	Inspection/replacement threshold	Grace period	
1, 3, 32	Within 96 months after the date of issuance of the original standard Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever occurs later.	12 months after the effective date of this AD.	At intervals not to exceed 24 months.
2	Before the accumulation of 23,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 10,000 flight cycles.
4, 10, 11, 12, 13	Before the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 6,600 flight cycles.
5	Within 48 months after the date of issuance of the original standard Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever occurs later.	12 months after the effective date of this AD.	At intervals not to exceed 24 months.
6	Before the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 5,400 flight cycles.
7	Before the accumulation of 22,400 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 8,200 flight cycles.
8	Before the accumulation of 19,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 8,200 flight cycles.
9	Before the accumulation of 23,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 23,000 flight cycles.
14	Before the accumulation of 19,700 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 4,700 flight cycles.
15	Before the accumulation of 25,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 13,600 flight cycles.
16, 19, 20	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 25,800 flight cycles.
17, 21, 29, 30	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 30,000 flight cycles.
18	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 33,000 flight cycles.
22	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 16,500 flight cycles.
23	Before the accumulation of 22,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 7,400 flight cycles.
24	Before the accumulation of 23,600 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 15,700 flight cycles.
25	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 12,700 flight cycles.
26	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed the 21,800 flight cycles.
27	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 18,300 flight cycles.
28	Between 20,000 and 26,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 9,500 flight cycles.
31	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 16,300 flight cycles.
33	Before the accumulation of 26,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 26,000 flight cycles.

TABLE 3.—APPENDIX 3 COMPLIANCE TIMES

Part # of actions specified in appendix 3 of the service bulletin	Initial compliance time (whichever occurs later between the times in "inspection threshold" and "grace period")		Repetitive intervals
	Inspection threshold	Grace period	
1, 2	Before the accumulation of 24,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 11,000 flight cycles.

TABLE 4.—APPENDIX 4 COMPLIANCE TIMES

Part # of actions specified in appendix 4 of the service bulletin	Initial Compliance time (whichever occurs later between the times in "inspection threshold" and "grace period")		Repetitive intervals
	Inspection threshold	Grace period	
1	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 12,000 flight cycles.
2	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 30,000 flight cycles.
3, 5	Within 48 months after the date of issuance of the original standard Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever occurs later.	12 months after the effective date of this AD	At intervals not to exceed 48 months.
4, 6	96 months after the date of issuance of the original standard Airworthiness Certificate or the date of issuance of the original Export certificate of Airworthiness, whichever occurs later.	12 months after the effective date of this AD	At intervals not to exceed 48 months.

TABLE 5.—APPENDIX 5 COMPLIANCE TIMES

Part # of actions specified in appendix 5 of the service bulletin	Initial compliance time (whichever occurs later between the times in "inspection threshold" and "grace period")		Repetitive intervals
	Inspection threshold	Grace period	
1, 7	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 30,000 flight cycles.
2, 5, 6	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 9,000 flight cycles.
3, 4	Before the accumulation of 26,000 total flight cycles and after the accumulation 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 7,900 flight cycles.

Repairs for Damage Beyond Service Bulletin Limits

(h) If any fatigue damage is found that exceeds the limits specified in the service bulletin: Before further flight, repair the damage according to a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority (or its delegated agent).

Previous Actions

(i) Actions done before the effective date of this AD in accordance with BAE Systems (Operations) Limited Service Bulletin J41–51–001, dated February 15, 2002; and Revision 1, dated August 7, 2002, are acceptable for compliance with the requirements of paragraphs (g) and (h) of this AD.

No Report Required

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

Alternative Methods of Compliance (AMOCs)

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

Related Information

(l) British airworthiness directive 005–02–2002 also addresses the subject of this AD.

Issued in Renton, Washington, on April 29, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–9185 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21139; Directorate Identifier 2003–NM–196–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL600–1A11 (CL–600), Model CL–600–2A12 (CL–601), and Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier Model CL600–1A11 (CL–600), Model CL–600–2A12 (CL–601), and Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) series airplanes. This proposed AD would require operators to assign serial numbers or part numbers to certain landing gear parts; and to establish the number of landings on the parts, if necessary. This proposed AD also would require operators to revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness to reflect the new life limits of the landing gear parts. This proposed AD is prompted by reports that landing gear parts that have safe-life limits but do not have serial numbers or part numbers can be removed from one landing gear and re-installed on another, making tracking difficult. We are proposing this AD to prevent life-limited landing gear parts from being used beyond their safe-life limits, which could lead to collapse of the landing gear.

DATES: We must receive comments on this proposed AD by June 8, 2005.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (202) 493–2251.
- Hand Delivery: room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21139; the directorate identifier for this docket is 2003–NM–196–AD.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7312; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–21139; Directorate Identifier 2003–NM–196–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that an unsafe condition may exist on certain Bombardier Model CL600–1A11 (CL–600), Model CL–600–2A12 (CL–601), and Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL604) series airplanes. TCCA advises that certain main landing gear (MLG) and nose landing gear (NLG) parts that are listed as safe-life items with structural life limits in the Airworthiness Limitations Section of the Instructions for Continued Airworthiness, could be removed from a landing gear and re-installed on another landing gear. These parts may not have part numbers or serial numbers, making tracking difficult. This condition, if not corrected, could result in life-limited landing gear parts being used beyond their safe-life limits, which could lead to collapse of the landing gear.

Relevant Service Information

Bombardier has issued the service bulletins listed in the following table. These service bulletins describe procedures for assigning part numbers or serial numbers to certain MLG and NLG life-limited parts.

BOMBARDIER SERVICE BULLETINS

Bombardier service bulletin	Revision	Date	Model
600–0710	01	December 15, 2003	CL600–1A11 (CL–600) series airplanes.
601–0546	01	December 15, 2003	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A, and CL–601–3R) series airplanes.

BOMBARDIER SERVICE BULLETINS—Continued

Bombardier service bulletin	Revision	Date	Model
604–32–014	Original	May 31, 2002	CL–600–2B16 (CL–604) series airplanes.

Bombardier has also issued the following Canadair temporary revisions (TR) to the applicable Airworthiness Limitations Section for the Instructions for Continued Airworthiness of the applicable Canadair Time-Limits/Maintenance Check Manual. These TRs incorporate new life limits for the landing gear parts described in the Bombardier service bulletins.

CANADAIR TEMPORARY REVISIONS

Temporary revision	Applicable Canadair time-limits/maintenance check manual	Manual section	Model
5–116, dated April 11, 2002	PSP 605	5–10–10	CL600–1A11 (CL–600) series airplanes.
5–190, dated April 11, 2002	PSP 601–5	5–10–10	CL–600–2A12 (CL–601) and Model CL–600–2B16, (CL–601–3A and CL–601–3R) series airplanes.
5–191, dated April 11, 2002	PSP 601–5	5–10–11	CL–600–2A12 (CL–601) and Model CL–600–2B16, (CL–601–3A and CL–601–3R) series airplanes.
5–192, dated April 11, 2002	PSP 601–5	5–10–12	CL–600–2A12 (CL–601) and Model CL–600–2B16, (CL–601–3A and CL–601–3R) series airplanes.
5–2–6, dated April 11, 2002	CL–604	5–10–10	CL–600–2B16, (CL–604) series airplanes.
5–204, dated April 11, 2002	PSP 601A–5	5–10–10	CL–600–2A12 (CL–601) and Model CL–600–2B16, (CL–601–3A and CL–601–3R) series airplanes.
5–205, dated April 11, 2002	PSP 601A–5	5–10–11	CL–600–2A12 (CL–601) and Model CL–600–2B16, (CL–601–3A and CL–601–3R) series airplanes.
5–206, dated April 11, 2002	PSP 601A–5	5–10–12	CL–600–2A12 (CL–601) and Model CL–600–2B16, (CL–601–3A and CL–601–3R) series airplanes.

We have determined that accomplishment of the actions specified in the service information will adequately address the unsafe condition. TCCA mandated the service information and issued Canadian airworthiness directives CF–2003–18R1, dated January 17, 2005; CF–2003–20, dated July 24, 2003; and CF–2003–21R1, dated January 21, 2005; to ensure the continued airworthiness of these airplanes in Canada.

The Bombardier service bulletins refer to the following Messier-Dowty service bulletins as additional sources of service information for adding part numbers or serial numbers by vibro-peening the numbers on MLG and NLG components that do not have them. The Messier-Dowty service bulletins also give instructions for ensuring that the new serial numbers are listed in the aircraft log as life-limited parts, and for determining the number of landings for parts without a part number or serial number on which the time since new and cycles since new have not been tracked.

MESSIER-DOWTY SERVICE BULLETINS

Messier-Dowty service bulletin	Model	Landing gear component	Corresponding Bombardier service bulletin(s)
M–DT SB104467009/010–32–1, dated March 19, 2001.	CL600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	MLG side strut retraction actuator eye bolt.	600–0710 and 601–0546.
M–DT SB19090–32–4, dated March 19, 2001	CL–600–2B16 (CL–604) series airplanes	MLG shock strut	604–32–014.
M–DT SB20020–32–5, dated July 12, 2001	CL–600–2B16 (CL–604) series airplanes	NLG shock strut	604–32–014.
M–DT SB200814001–32–3, dated March 19, 2001.	CL600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	NLG drag brace hinge pin.	600–0710 and 601–0546.
M–DT SB200922001/2–32–6, dated March 19, 2001.	CL600–1A11 (CL–600) series airplanes	MLG shock strut	600–0710.
M–DT SB200924003/004–32–16, dated July 12, 2001.	CL600–1A11(CL–600) series airplanes	NLG shock strut	600–0710.
M–DT SB6100–32–10, dated March 19, 2001	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	MLG side strut retraction actuator.	600–0710 and 601–0546.
M–DT SB6500–32–1, dated March 19, 2001	CL600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	MLG side strut retraction actuator.	600–0710 and 601–0546.
M–DT SB7200–32–6, dated March 19, 2001	CL600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	NLG drag brace hinge pin.	600–0710 and 601–0546.

MESSIER-DOWTY SERVICE BULLETINS—Continued

Messier-Dowty service bulletin	Model	Landing gear component	Corresponding Bombardier service bulletin(s)
M–DT SB7300–32–16, dated July 12, 2001	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	NLG shock strut	601–0546.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in Canada and are type-certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. We have examined TCCA's findings, evaluated all pertinent information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States. Therefore, we are proposing this AD, which would require operators to assign serial numbers or part numbers to certain landing gear parts; and to establish the number of landings on the parts, if necessary. This proposed AD also would require operators to revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness to reflect the new life limits of the landing gear parts. The proposed AD would require you to use the service information described previously to perform these actions, except as discussed under ''Difference Between the Proposed AD and the Bombardier Service Bulletins.''

Difference Between the Proposed AD and the Bombardier Service Bulletins

The Bombardier service bulletins request that operators submit incorporation notices to Bombardier after each new part/serial number and landings assigned to these parts are added. This proposed AD does not include this action.

Clarification of Compliance Time

Canadian airworthiness directive CF–2003–18R1, dated January 17, 2005, does not list specific compliance times in paragraph D for recording the number of landings. For those airplanes affected by Canadian airworthiness directive CF–2003–18R1, this proposed AD would require compliance at the applicable compliance time listed in paragraphs A and B of that airworthiness directive.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to assign serial numbers or part numbers to certain landing gear parts to comply with this proposed AD.

ESTIMATED COSTS

Model	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.- registered airplanes	Fleet cost
CL600–1A11 (CL–600)	13	$65	None	$845	54	$45,630
CL–600–2A12 (CL–601), CL–600–2B16 (CL–601–3A and CL–601–3R).	9	65	None	585	128	74,880
CL–600–2B16 (CL604)	5	65	None	325	119	38,675

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly Canadair):
Docket No. FAA–2005–21139;
Directorate Identifier 2003–NM–196–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by June 8, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the Bombardier airplane models, certificated in any category, listed in Table 1 of this AD.

TABLE 1.—APPLICABILITY

Bombardier model—	As identified in Bombardier service bulletin—
CL600–1A11 (CL–600) series airplanes	600–0710, Revision 01, dated December 15, 2003.
CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A, and CL–601–3R) series airplanes.	601–0546, Revision 01, dated December 15, 2003.
CL–600–2B16 (CL–604) series airplanes	604–32–014, dated May 31, 2002.

Unsafe Condition

(d) This AD was prompted by reports that landing gear parts that have safe-life limits but do not have serial numbers or part numbers can be removed from one landing gear and re-installed on another, making tracking difficult. We are issuing this AD to prevent life-limited landing gear parts from being used beyond their safe-life limits, which could lead to collapse of the landing gear.

Compliance

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

Add Serial Numbers or Part Numbers

(f) At the applicable compliance time specified in paragraph (f)(1), (f)(2), or (f)(3) of this AD: Add serial numbers and part numbers, as applicable, to the parts identified in the service bulletins. Do all actions in accordance with the applicable service bulletin.

(1) For parts identified in the Bombardier Service Bulletin 600–0710, Revision 01, dated December 15, 2003; and Bombardier Service Bulletin 601–0546, Revision 01, dated December 15, 2003; as having a compliance time of ''five years for the parts listed in Part A'': Within 60 months after the effective date of this AD.

(2) For parts identified in Bombardier Service Bulletin 600–0710, Revision 01, dated December 15, 2003; and Bombardier Service Bulletin 601–0546, Revision 01, dated December 15, 2003; as having a compliance time of ''ten years for the parts listed in Part B'': Within 120 months after the effective date of this AD.

(3) For parts identified in the Bombardier Service Bulletin 604–32–014, dated May 31, 2002, as having a compliance time of ''no later than a calendar time of 8 years'': Within 96 months after the effective date of this AD.

Note 1: The Bombardier service bulletins refer to the Messier-Dowty service bulletins in Table 2 of this AD as additional sources of service information for adding part numbers or serial numbers by vibro-peening the numbers on MLG and NLG components that do not have them; and for determining the number of landings for parts without a part number or serial number on which the time since new (TSN) and cycles since new (CSN) have not been tracked.

TABLE 2.—MESSIER-DOWTY SERVICE BULLETINS

Messier-Dowty service bulletin	Model	Landing gear component	Corresponding Bombardier service bulletin(s)
M–DT SB104467009/010–32–1, dated March 19, 2001.	CL600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	MLG side strut retraction actuator eye bolt.	600–0710 and 601–0546.
M–DT SB19090–32–4, dated March 19, 2001	CL–600–2B16 (CL–604) series airplanes	MLG shock strut	604–32–014.
M–DT SB20020–32–5, dated July 12, 2001	CL–600–2B16 (CL–604) series airplanes	NLG shock strut	604–32–014.
M–DT SB200814001–32–3, dated March 19, 2001.	CL600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	NLG drag brace hinge pin.	600–0710 and 601–0546.
M–DT SB200922001/2–32–6, dated March 19, 2001.	CL600–1A11 (CL–600) series airplanes	MLG shock strut	600–0710.
M–DT SB200924003/004–32–16, dated July 12, 2001.	CL600–1A11 (CL–600) series airplanes	NLG shock strut	600–0710.
M–DT SB6100–32–10, dated March 19, 2001	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	MLG shock strut pin	601–0546.
M–DT SB6500–32–1, dated March 19, 2001	CL600–1A11 (CL–600), CL–600–2A12 retraction (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	MLG side strut retraction actuator.	600–0710 and 601–0546.
M–DT SB7200–32–6, dated March 19, 2001	CL600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	NLG drag brace hinge pin.	600–0710 and 601–0546.
M-DT SB7300–32–16, dated July 19, 2001	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	NLG shock strut	601–0546.

Establish the Number of Landings

(g) At the applicable time specified in paragraph (f) of this AD: If a component does not have a S/N and the CSN or TSN were not tracked, use the formula in the applicable Messier-Dowty service bulletin in Table 2 of this AD to establish the number of landings (TSN or CSN), and record the newly calculated TSN or CSN in the aircraft log books.

Revise the Airworthiness Limitations Section (ALS)

(h) Within 30 days after the effective date of this AD, revise the ALS of the applicable Instructions for Continued Airworthiness to reflect the new life limits of the landing gear parts by inserting copies of the Canadair temporary revisions (TR) in Table 3 of this AD into the ALS of the applicable Canadair Time-Limits/Maintenance Check Manual. When the contents of the TRs are included in the general revisions of the ALS, these TRs may be removed provided the relevant information in the ALS is identical to that in the TRs.

TABLE 3.—CANADAIR TEMPORARY REVISIONS

Temporary revision	Applicable Canadair time-limits/maintenance check manual	Manual section	Model
5–116, dated April 11, 2002	PSP 605	5–10–10	CL600–1A11 (CL–600) series airplanes
5–190, dated April 11, 2002	PSP 601–5	5–10–10	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes
5–191, dated April 11, 2002	PSP 601–5	5–10–11	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes
5–192, dated April 11, 2002	PSP 601–5	5–10–12	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes
5–2–6, dated April 11, 2002	CL–604	5–10–10	CL–600–2B16 (CL–604) series airplanes
5–204, dated April 11, 2002	PSP 601A–5	5–10–10	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes
5–205, dated April 11, 2002	PSP 601A–5	5–10–11	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes
5–206, dated April 11, 2002	PSP 601A–5	5–10–12	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes

Parts Installation

(i) As of the effective date of this AD, no person may install on any airplane a landing gear part, unless it has had the applicable part number (P/N) or serial number (S/N) added in accordance with paragraph (f) of this AD; and had the number of landings established in accordance with paragraph (g) of this AD.

No Reporting Required

(j) Although the service bulletins identified in paragraph (f) of this AD request that operators submit incorporation notices to Bombardier after each new P/N or S/N and landings assigned to these parts is added, this AD does not include that action.

Actions Done in Accordance With Previous Issues of Service Bulletins

(k) Actions done before the effective date of this AD in accordance with Bombardier Service Bulletin 601–0546, dated May 31, 2002; and Bombardier Service Bulletin 600–0710, dated May 31, 2002; are acceptable for compliance with the corresponding action specified in this AD.

Alternative Methods of Compliance (AMOCs)

(l) The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(m) Canadian airworthiness directives CF–2003–18R1, dated January 17, 2005; CF–2003–20, dated July 24, 2003; and CF–2003–21R1, dated January 21, 2005; also address the subject of this AD.

Issued in Renton, Washington, on April 29, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–9186 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21138; Directorate Identifier 2004–NM–131–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, and –200C Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737–100, –200, and –200C series airplanes. This proposed AD would require a one-time detailed inspection for cracking of the lugs of the inboard attach fittings of the wing leading edge slat tracks at slat numbers 2 and 5; prior or concurrent actions for certain airplanes; repetitive high-frequency eddy current (HFEC) inspections for cracking of the lug surfaces of those inboard attach fittings if necessary; and replacement of the attach fittings with new, improved fittings. This proposed AD is prompted by reports of damage to the lugs of certain inboard attach fittings of the leading edge slat tracks. We are proposing this AD to prevent a lifted slat, which, if the airplane performs any non-normal maneuver during takeoff or landing at very high angles of attack, could lead to the loss of the slat and reduced control of the airplane.

DATES: We must receive comments on this proposed AD by June 23, 2005.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21138; the directorate identifier for this docket is 2004–NM–131–AD.

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6440; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21138; Directorate Identifier 2004–NM–131–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

Examining the Docket

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

Discussion

We have received reports of damage to the lugs of the inboard attach fittings of the wing leading edge slat tracks at slat numbers 2 and 5 on several Boeing Model 737–100, –200, and –200C series airplanes. Two reports addressed damage that occurred during takeoff and four reports addressed damage that occurred during flight. The other damaged fittings were found during routine maintenance inspections. In most of the reports, the lugs of the fittings had fractured or cracked. Both lugs of one fitting had fractured and were completely separated at the slat-to-track attach bolt. The auxiliary track was also lifted and there was damage to the upper skin of the leading edge cavity on each side. Boeing analysis has determined this fitting damage was due to cyclic fatigue. This condition, if not corrected, could result in a lifted slat, which, if the airplane performs any non-normal maneuver during takeoff or landing at very high angles of attack, could lead to loss of the slat and reduced control of the airplane.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 737–57–1273, Revision 2, dated October 30, 2003. The service bulletin describes procedures for a one-time detailed visual inspection for cracking of the lugs of the inboard attach fittings at slat tracks 2 and 5 of the wing leading edge, repetitive high-frequency eddy current (HFEC) inspections for cracking of the lug surfaces of those inboard attach fittings, and replacement of the aluminum inboard attach fittings with new, improved steel inboard attach fittings. Replacement of any aluminum inboard attach fitting with a new, improved steel inboard attach fitting eliminates the need for the one-time detailed inspection and the repetitive HFEC inspections for that fitting. Accomplishing the actions specified in the service bulletin is intended to adequately address the unsafe condition.

Service Bulletin 737–57–1273, Revision 2, specifies prior accomplishment of portions of Boeing Service Bulletin 737–57–1080, Revision 3, dated September 24, 1992 (applicable to Group 2 airplanes only as listed in Service Bulletin 737–57–1273). Among other things, Service Bulletin 737–57–1080, Revision 3, Figure 3, describes procedures for inspecting the slat tab support clip on slats 2 and 5 for interference with the slat track inboard attach fittings and trimming the subject slat tab support clips to eliminate any such interference.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require a one-time detailed inspection for cracking of the lugs of the inboard attach fittings at slat tracks 2 and 5 of the wing leading edge, related investigative actions, trimming the slat tab support clip on slats 2 and 5 to eliminate any interference with the slat track inboard attach fittings if necessary, and replacing the attach fittings with new, improved fittings. Replacement of any aluminum inboard attach fitting with a new, improved steel inboard attach fitting terminates the one-time detailed inspection and the repetitive HFEC inspections for that fitting. The proposed AD would require you to use the service information described previously to perform these actions, except as discussed under ''Clarification of Inspection Terminology.''

Clarification of Inspection Terminology

In this proposed AD, the ''detailed visual inspection'' specified in the Boeing service bulletin is referred to as a ''detailed inspection.'' We have included the definition for a detailed inspection in the proposed AD.

Costs of Compliance

This proposed AD would affect about 909 airplanes worldwide. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts cost	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Detailed inspection	1	$65	None	$65	522	$33,930

ESTIMATED COSTS—Continued

Action	Work hours	Average labor rate per hour	Parts cost	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
HFEC Inspection	4	65	None	230, per inspection cycle..	522	120,060, per inspection cycle.
Replace fitting	2	65	$1,674	1,804	522	941,688

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2005–21138; Directorate Identifier 2004–NM–131–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by June 23, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–100, –200, and –200C series airplanes; line numbers 1 through 1585 inclusive; certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports of damage to the lugs of certain inboard attach fittings of the leading edge slat tracks. We are issuing this AD to prevent a lifted slat, which, if the airplane performs any non-normal maneuver during takeoff or landing at very high angles of attack, could lead to the loss of the slat and reduced control of the airplane.

Compliance

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

Service Bulletin Reference

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–57–1273, Revision 2, dated October 30, 2003; unless otherwise specified in this AD.

Inspections

(g) Prior to the accumulation of 7,000 total flight cycles or within 12 months after the effective date of this AD, whichever occurs later, perform a one-time detailed inspection for cracking and damage of the inboard attach fittings at slats 2 and 5 of the wing leading edge in accordance with the Accomplishment Instructions of the service bulletin.

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

(1) If any crack or damage is found, replace the cracked inboard attach fitting in accordance with paragraph (h) of this AD.

(2) If no crack or damage is found, within 4,500 flight cycles or 18 months after the detailed inspection required by paragraph (g) of this AD, whichever occurs first, perform a high-frequency eddy current (HFEC) inspection for cracking of the lugs of the inboard attach fittings in accordance with the Accomplishment Instructions of the service bulletin. If no crack is found, repeat the HFEC inspection at intervals not to exceed 4,500 flight cycles.

Replacement of Fittings

(h) Replace the aluminum inboard attach fittings with new, improved steel fittings at the applicable compliance time in paragraph (h)(1) or (h)(2) of this AD in accordance with the Accomplishment Instructions of the service bulletin. Replacement of any aluminum fitting with a new, improved steel fitting terminates the one-time detailed inspection and the repetitive HFEC inspections required by paragraph (g) of this AD for that fitting.

(1) If any crack or damage is found during any inspection required by paragraphs (g) or (i) of this AD, before further flight.

(2) If no crack or damage is found during any inspection required by paragraph (g) or (i) of this AD, within 30,000 flight cycles or within 120 months after the effective date of this AD, whichever occurs first.

Concurrent Service Bulletin

(i) For airplanes listed in Group 2 of Boeing Special Attention Service Bulletin 737–57–1273, Revision 2: Prior to or during the one-time detailed inspection for cracking or damage required by paragraph (g) of this AD or during replacement of the fitting required by paragraph (h) of this AD, whichever occurs first, perform a detailed inspection on slats 2 and 5 for interference of the slat tab

support clips with the slat track attach fittings and trim the support clips to eliminate any interference with the attach fittings as applicable; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–57–1080, Revision 3, Figure 3, dated September 24, 1992; and replace any cracked or damaged aluminum attach fitting with a new, improved steel fitting in accordance with paragraph (h) of this AD.

Actions Accomplished Per Previous Issue of Service Bulletin

(j) Actions accomplished before the effective date of this AD in accordance with Boeing Service Bulletin 737–57–1080, dated September 10, 1973; Boeing Service Bulletin 737–57–1080, Revision 1, dated February 25, 1983; and Boeing Service Bulletin 737–57–1080, Revision 2, dated August 24, 1989; are considered acceptable for compliance with the corresponding actions specified in paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on April 29, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–9187 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21140; Directorate Identifier 2004–NM–274–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–14, DC–9–15, and DC–9–15F Airplanes; and McDonnell Douglas Model DC–9–20, DC–9–30, DC–9–40, and DC–9–50 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all transport category airplanes listed above. This proposed AD would require repetitive inspections for cracks of the main landing gear (MLG) shock strut cylinder, and related investigative and corrective actions if necessary. This proposed AD is prompted by two reports of a collapsed MLG and a report of cracks in two MLG cylinders. We are proposing this AD to detect and correct fatigue cracks in the shock strut cylinder of the MLG, which could result in a collapsed MLG during takeoff or landing, and possible reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by June 23, 2005.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- By fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21140; the directorate identifier for this docket is 2004–NM–274–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21140; Directorate Identifier 2004–NM–274–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that website, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov*.

Examining the Docket

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

Discussion

We have received a report of two incidents of a collapsed main landing gear (MLG) on one McDonnell Douglas Model DC–9–32 airplane and one Model DC–9–31 airplane. These incidents happened when the MLG cylinder cracked and failed. The cracks and failures were caused by fatigue stresses from inclusions in high-stress areas, which caused sub-surface fatigue cracks to propagate to the surface of the MLG cylinder. After the two failures, the airplane operator started an inspection program and found cracks in two additional cylinders before the cracks

grew large enough to cause an MLG failure. These additional cracks were found on one McDonnell Douglas Model DC–9–14 airplane and one Model DC–9–15 airplane. Laboratory testing and failure analysis confirmed that inclusions and sub-surface fatigue cracks were present in all four cases, at the same location. This condition, if not corrected, could result in a collapsed MLG during takeoff or landing, and possible reduced structural integrity of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin DC9–32A350, dated December 3, 2004. The service bulletin gives procedures for verifying the number of landings on the MLG shock strut cylinder by examining each airplane's service history. For airplanes that have less than 60,000 landings on the MLG, the service bulletin states that no further action is required until the MLG reaches the 60,000-landing threshold.

The service bulletin also gives procedures for reviewing the maintenance records to determine if the MLG shock strut cylinders on airplanes identified in the service bulletin as Group 3 have always been on Group 3 airplanes.

The service bulletin gives two inspection options:

- Option 1: Fluorescent dye penetrant inspection combined with fluorescent magnetic particle inspection.
- Option 2: Phased array ultrasonic inspection.

For MLG shock strut cylinders on which no crack indication is found, the service bulletin gives procedures for repeating the inspections.

For MLG shock strut cylinders on which any crack indication is found during any inspection, the service bulletin recommends related investigative and corrective actions. The related investigative and corrective actions vary according to the inspection option and are described in the table below.

RELATED INVESTIGATIVE AND CORRECTIVE ACTIONS FOR CRACK INDICATIONS

	Inspect to confirm crack indication—	If crack indication confirmed—	If crack indication not confirmed—
Option 1	Remove the cadmium plating and repeat the Option 1 inspection to confirm the crack.	Replace the shock strut cylinder and repeat either the Option 1 or Option 2 inspection at the applicable interval indicated in the service bulletin.	Apply the primer and topcoat, and repeat either the Option 1 or Option 2 inspection at the applicable interval indicated in the service bulletin.
Option 2	Remove the primer and topcoat and repeat the Option 2 inspection to confirm the crack.	Remove the cadmium plating and repeat the Option 2 inspection to re-confirm the crack indication. If the crack indication is re-confirmed, replace the shock strut cylinder and repeat either the Option 1 or Option 2 inspection at the applicable interval indicated in the service bulletin	Apply the primer and topcoat and repeat either the Option 1 or Option 2 inspection at the applicable interval indicated in the service bulletin.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service bulletin described previously.

Costs of Compliance

There are about 644 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection, per inspection cycle	4 to 6	$65	None	$260 to 390	426	$110,760 to $166,140, per inspection cycle.

Explanation of Change to Applicability

We have specified model designations in the applicability of this proposed AD as published in the most recent type certificate data sheet for the affected models. These model designations do not include the DC–9–10 and DC–9–33, which are listed in paragraph 1.A. ''Effectivity,'' of the referenced service bulletin.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket No. FAA–2005–21140; Directorate Identifier 2004–NM–274–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by June 23, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all McDonnell Douglas Model DC–9–14, DC–9–15, and DC–9–15F airplanes; Model DC–9–21 airplanes; Model DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–33F, DC–9–34, DC–9–34F, and DC–9–32F (C–9A, C–9B) airplanes; Model DC–9–41 airplanes; and Model DC–9–51 airplanes; certificated in any category.

Unsafe Condition

(d) This AD was prompted by two reports of a collapsed main landing gear (MLG) and a report of cracks in two MLG cylinders. We are issuing this AD to detect and correct fatigue cracks in the shock strut cylinder of the MLG, which could result in a collapsed MLG during takeoff or landing, and possible reduced structural integrity of the airplane.

Compliance

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

Service Bulletin Reference Paragraph

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Boeing Alert Service Bulletin DC9–32A350, dated December 3, 2004.

Records Review

(g) Before the applicable compliance time specified in paragraph (h) or Table 1 of this AD, as applicable, do the applicable actions in paragraphs (g)(1) and (g)(2) of this AD.

(1) For all airplane groups: Review the airplane maintenance records of the MLG to determine its service history and the number of landings on the MLG shock strut cylinder.

(2) For Group 3 airplanes identified in the service bulletin: Review the maintenance records to determine if the MLG cylinder on each Group 3 airplane has always been on a Group 3 airplane, and do the actions in paragraph (k) of this AD.

Inspection

(h) Inspect the MLG shock strut cylinders for cracks using the Option 1 or Option 2 non-destructive testing inspection described in the service bulletin. Inspect in accordance with the Accomplishment Instructions of the service bulletin. Do the detailed inspection before the accumulation of 60,000 total landings on the MLG, or at the applicable grace period specified in Table 1 of this AD, whichever occurs later, except as provided by paragraph (k) of this AD. If the review of maintenance records is not sufficient to conclusively determine the service history and number of landings on the MLG shock strut cylinder, perform the initial inspection at the applicable grace period specified in Table 1 of this AD.

TABLE 1.—GRACE PERIOD AND REPETITIVE INTERVAL

Airplanes identified in the service bulletin as group	Grace period	Repetitive interval
1	Within 18 months or 650 landings after the effective date of this AD, whichever occurs first.	Intervals not to exceed 650 landings.
2	Within 18 months or 500 landings after the effective date of this AD, whichever occurs first.	Intervals not to exceed 500 landings.
3, except as provided by paragraph (k) of this AD.	Within 18 months or 2,500 landings after the effective date of this AD, whichever occurs first.	Intervals not to exceed 2,500 landings.
4	Within 18 months or 2,100 landings after the effective date of this AD, whichever occurs first.	Intervals not to exceed 2,100 landings.

No Crack Indication Found

(i) If no crack indication is found during the inspection required by paragraph (h) of this AD, repeat the inspection at the applicable interval specified in Table 1 of this AD.

Related Investigative and Corrective Actions

(j) If any crack indication is found during any inspection required by paragraph (h) or (i) of this AD, before further flight: Confirm the crack indication by doing all applicable related investigative actions and doing the applicable corrective actions in accordance with the service bulletin. Repeat the inspection at the applicable threshold and interval specified in paragraph (h) of this AD.

MLG Cylinder Previously Installed on Group 4 Airplanes

(k) For MLG cylinders on Group 3 airplanes as identified in the service bulletin: If the MLG cylinder was previously installed on a Group 4 airplane, as identified in the service bulletin, or if the service history and number of landings cannot be determined, the MLG cylinder must be inspected at the grace period and repetitive interval that applies to Group 4 airplanes, as specified in Table 1 of this AD.

Alternative Methods of Compliance (AMOCs)

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

Issued in Renton, Washington, on April 29, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–9188 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20111; Directorate Identifier 2004–NM–154–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model HS.125 Series 700A Airplanes, Model BAe.125 Series 800A Airplanes, and Model Hawker 800 and Hawker 800XP Airplanes

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

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: The FAA is revising an earlier proposed airworthiness directive (AD) for certain Raytheon Model HS.125 series 700A airplanes, BAe.125 Series 800A airplanes, and Model Hawker 800 and Hawker 800XP airplanes. The original NPRM would have required an inspection to determine the current rating of the circuit breakers of certain cockpit ventilation and avionics cooling system blowers; and replacing the circuit breakers and modifying the blower wiring, as applicable. The original NPRM was prompted by a report indicating that a blower motor seized up and gave off smoke. This action revises the original NPRM by clarifying the compliance time and removing a reporting requirement. We are proposing this supplemental NPRM to prevent smoke and fumes in the cockpit in the event that a blower motor seizes and overheats due to excessive current draw.

DATES: We must receive comments on this supplemental NPRM by June 3, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this supplemental NPRM.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–20111; the directorate identifier for this docket is 2004–NM–154–AD.

FOR FURTHER INFORMATION CONTACT: Philip Petty, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4139; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–20111; Directorate Identifier 2004–NM–154–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

We will post all comments submitted, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this supplemental NPRM. Using the search function of our docket web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov*.

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level in the Nassif Building at the DOT street address stated in **ADDRESSES.** Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an AD (the ''original NPRM'') for certain Raytheon Model HS.125 series 700A airplanes, Model BAe.125 series 800A airplanes, and Model Hawker 800 and Hawker 800XP airplanes. The original NPRM was published in the **Federal Register** on January 24, 2005 (70 FR 3318). The original NPRM proposed to require an inspection to determine the current rating of the circuit breakers of certain cockpit ventilation and avionics cooling system blowers; and replacing the circuit breakers and modifying the blower wiring, as applicable.

Actions Since Original NPRM was Issued

Since we issued the original NPRM, we discovered an important inconsistency in the phrasing of the compliance time. Certain wording in paragraph (f) of the original NPRM reads ''* * * and avionics cooling system blowers; and replace the circuit breakers * * *'' To ensure that the unsafe condition is corrected in a timely manner, we have revised the wording in paragraph (f) of this supplemental NPRM to read ''* * * and avionics cooling system blowers; and, before further flight, replace the circuit breakers * * *''

We have also determined that the phrasing of paragraph (f) would have placed undue hardship on operators by requiring reporting of compliance with the service bulletin. We do not need this information and have revised paragraph (f) and added a new paragraph (h) to explicitly remove the reporting requirement in this supplemental NPRM. Because of the new paragraph (h), we have reidentified the existing paragraph (h) of the original NPRM as paragraph (i) in this supplemental NPRM.

FAA's Determination and Proposed Requirements of the Supplemental NPRM

The changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

Differences Between the Supplemental NPRM and Service Information

Although the service bulletin specifies that operators may contact the manufacturer for disposition of certain repair conditions, this proposed AD would require operators to repair those conditions according to a method approved by the FAA.

Although the service bulletin describes procedures for reporting compliance to the manufacturer, this supplemental NPRM would not make such a requirement. We do not need this information from operators.

Costs of Compliance

There are about 350 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 250 airplanes of U.S. registry. The proposed inspection would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of this supplemental NPRM on U.S. operators is $16,250, or $65 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Raytheon Aircraft Company: Docket No. FAA–2005–20111; Directorate Identifier 2004–NM–154–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by June 3, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Raytheon Model HS.125 series 700A airplanes, BAe.125 Series 800A airplanes, and Model Hawker 800 and Hawker 800XP airplanes; certificated in any category; equipped with Brailsford TBL–2.5 blowers; as identified in Raytheon Service Bulletin SB 24–3272, Revision 1, dated October 2000.

Unsafe Condition

(d) This AD was prompted by a report indicating that a cockpit ventilation and avionics cooling system blower motor seized up and gave off smoke due to inadequate short circuit protection on the blower motor electrical circuit. We are issuing this AD to prevent smoke and fumes in the cockpit in the event that a blower motor seizes and overheats due to excessive current draw.

Compliance

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

Inspection and Corrective Actions

(f) Within 600 flight hours or 6 months after the effective date of this AD, whichever occurs first, inspect to determine the current rating of the circuit breakers of certain cockpit ventilation and avionics cooling system blowers; and, before further flight, replace the circuit breakers and modify the blower wiring, as applicable; by doing all the actions in accordance with the Accomplishment Instructions of Raytheon Service Bulletin SB 24–3272, Revision 1, dated October 2000; except as provided by paragraphs (g) and (h) of this AD.

Contacting the Manufacturer

(g) Where the service bulletin specifies contacting the manufacturer for information if any difficulties are encountered while accomplishing the service bulletin, this AD requires you to contact the Manager, Wichita Aircraft Certification Office (ACO), FAA.

No Reporting Requirement

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

Alternative Methods of Compliance (AMOCs)

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

Issued in Renton, Washington, on April 29, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–9189 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13–05–007]

RIN 1625–AA87

Security Zone: Portland Rose Festival on Willamette River

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the Portland Rose Festival on

Willamette River security zone. This regulation is enforced annually during the Portland, Oregon Rose Festival on the waters of the Willamette River between the Hawthorne and Steel Bridges. The proposed change would clarify the annual enforcement period for this regulation. This change is intended to better inform the boating public and to improve the level of safety at this event. Entry into the area established is prohibited unless authorized by the Captain of the Port.

DATES: Comments and related material must reach the Coast Guard on or before May 31, 2005.

ADDRESSES: You may mail comments and related material to U.S. Coast Guard Marine Safety Office, c/o Captain of the Port, 6767 North Basin Avenue Portland, OR 97217. Marine Safety Office Portland, Oregon, maintains the public docket [CGD13–05–007] for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Portland, Oregon, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Tad Drozdowski, c/o Captain of the Port Portland, OR 6767 North Basin Avenue Portland, OR 97217 at (503) 240–9301.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD13–05–007), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Portland, Oregon, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Each year in June, the annual Portland, Oregon, Rose Festival is held on the waters of the Willamette River near Portland, Oregon. On May 29, 2003, the Coast Guard published a final rule (68 FR 31979) establishing a security zone, in 33 CFR 165.1312, for the security of naval vessels on a portion of the Willamette River during the fleet week of the Rose Festival. The security zone in 33 CFR 165.1312 is enforced each year during the event to provide for public safety by controlling the movement of vessel traffic in the regulated area. The current regulation does not accurately describe the enforcement period.

Discussion of Proposed Rule

In this proposed rule, the Coast Guard would amend 33 CFR 165.1312, ''Security Zone; Portland Rose Festival on Willamette River'', to require compliance with the regulation each year in June from the first Wednesday in June falling on the 4th or later through the following Monday in June. The location of the security zone would remain unchanged.

This proposed rule, for safety and security concerns, would control vessel movements in a security zone surrounding vessels participating in the annual Portland, Oregon, Rose Festival. U.S. Naval Vessels are covered under 33 CFR part 165 subpart G—Protection of Naval Vessels, however, the Portland, Oregon, Rose Festival is a major maritime event that draws many different vessels including Navy, Coast Guard, Army Corps of Engineers, and Canadian Maritime Forces. It is crucial that the same level of security be provided to all participating vessels.

Entry into this zone is prohibited unless authorized by the Captain of the Port, Portland, Oregon, or his designated representatives.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This expectation is based on the fact that the regulated area of the Willamette River is a small area, enforced for a short period of time, and it is established for the benefit and safety of the recreational boating public.

Small Entities

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

Vessels desiring to transit this area of the Willamette River may do so by scheduling their trips in the early morning or evening when the restrictions on general navigation imposed by this section would not be in effect. For these reasons, the Coast Guard certifies under 5 U.S.C. 605(b) that this change would not have a significant economic impact on a substantial number of small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. Comments submitted in response to this finding will be evaluated under the criteria in the ''Regulatory Information'' section of this preamble.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The

Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction from further environmental documentation. Under figure 2–1, paragraph (34)(g), of the Instruction, an ''Environmental Analysis Check List'' is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. In § 165.1312 revise paragraph (d) to read as follows:

§ 165.1312 Security Zone; Portland Rose Festival on Willamette River.

* * * * *

(d) *Enforcement period.* This section is enforced annually in June from the first Wednesday in June falling on the 4th or later through the following Monday in June. The event will be 6 days in length and the specific dates of enforcement will be published each year in the **Federal Register**. In 2005, the zone will be enforced on Wednesday, June 8, through Monday, June 13.

Dated: April 20, 2005.

Daniel T. Pippenger,

Commander, U.S. Coast Guard, Acting Captain of the Port, Portland, OR.

[FR Doc. 05–9154 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 05–006]

RIN 1625–AA87

Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the perimeter of the existing

security zone that extends approximately 150 feet into the navigable waters of the Oakland Estuary, Alameda, California, around the United States Coast Guard Island Pier to coincide with the perimeter of a floating security barrier. This action is necessary to provide continued security for the military service members on board vessels moored at the pier and the government property associated with these valuable national assets. This security zone would prohibit all persons and vessels from entering, transiting through, or anchoring within a portion of the Oakland Estuary surrounding the Coast Guard Island Pier unless authorized by the Captain of the Port (COTP) or his designated representative.

DATES: Comments and related material must reach the Coast Guard on or before June 8, 2005.

ADDRESSES: You may mail comments and related material to the Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California 94501. The Waterways Management Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Waterways Management Branch between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Doug Ebbers, U.S. Coast Guard Marine Safety Office San Francisco Bay, (510) 437–3073.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (05–006), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Waterways Management Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

In its effort to thwart potential terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Espionage Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

On January 29, 2004, we published a notice of proposed rulemaking (NPRM) entitled ''Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA'' in the **Federal Register** (69 FR 4267) proposing to establish a security zone extending approximately 150 feet around the Coast Guard Island Pier in the navigable waters of the Oakland Estuary in Alameda, California. We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. On June 7, 2004, we published a final rule (codified as 33 CFR 165.1190) with the same title in the **Federal Register** (69 FR 31737) that established a security zone extending approximately 150 feet around the Coast Guard Island Pier in the navigable waters of the Oakland Estuary in Alameda, California.

Since that time, the Coast Guard has determined that a floating security barrier should also be installed to provide an added level of security for the Coast Guard Cutters that moor at the Coast Guard Island Pier. Because the navigational channel is less than 150 feet from the two ends of the Coast Guard Island Pier, and in order to provide approximately 150 feet of maneuvering space for the cutters along the entire length of the pier, the barrier would extend into the navigational channel approximately 30 to 50 feet at each end.

In this NPRM, the Coast Guard is proposing to revise the perimeter of the existing security zone around the Coast Guard Island pier to mirror the perimeter of a proposed floating security barrier. The need for the security zone still exits due to heightened security concerns and the catastrophic impact a terrorist attack on a Coast Guard Cutter would have on the crew on board and surrounding government property.

Discussion of Proposed Rule

The Coast Guard proposes to revise the existing security zone around and under the Coast Guard Island Pier that encompasses all waters of the Oakland Estuary, extending from the surface to the sea floor, within approximately 150 feet of the pier. The revision to the existing security zone would ensure that a proposed floating security barrier could be installed and that the perimeter of the security zone would provide the necessary maneuvering space for Coast Guard Cutters. The perimeter of the proposed security barrier is located along the following coordinates: commencing at a point on land approximately 150 feet northwest of the northwestern end of the Coast Guard Island Pier at latitude 37°46′52.73″ N and longitude 122°15′06.99″ W; thence to the edge of the navigable channel at latitude 37°46′51.83″ N and longitude 122°15′07.47″ W; thence to a position approximately 30 feet into the charted navigation channel at latitude 37°46′51.27″ N and longitude 122°15′07.22″ W; thence closely paralleling the edge of the charted navigation channel to latitude 37°46′46.75″ N and longitude 122°15′00.21″ W; thence closely paralleling the edge of the charted navigation channel to a point approximately 50 feet into the charted navigation channel at latitude 37°46′42.36″ N and longitude 122°14′51.55″ W; thence to a point on land approximately 150 feet southeast of the southeastern end of the Coast Guard Island Pier at latitude 37°46′43.94″ N and longitude 122°14′49.89″ W; thence northwest along the shoreline back to the beginning point.

The security zone continues to be needed for national security reasons to protect Coast Guard Cutters, their crews, the public, transiting vessels, and adjacent waterfront facilities from potential subversive acts, accidents or other events of a similar nature. Entry into the revised security zone would be

prohibited unless specifically authorized by the Captain of the Port or his designated representative.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this proposed rule restricts access to the waters encompassed by the security zone, the effect of this proposed rule would not be significant for the following reasons: (i) Vessel traffic would be able to pass safely around the area, (ii) vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the proposed security zone to engage in these activities, (iii) the perimeter of the proposed security zone would only extend 30 to 50 feet into the 500-foot wide navigational channel, and (iv) this proposed security zone is only slightly larger than the Coast Guard Island security zone that has been in place since July 7, 2004.

The size of the proposed zone is the minimum necessary to provide adequate protection for Coast Guard Cutters, their crews, other vessels and crews operating in the vicinity, adjoining areas, and the public while allowing adequate maneuvering space for the Coast Guard Cutters. The entities most likely to be affected are tug and barge companies transiting the Oakland Estuary and pleasure craft engaged in recreational activities and sightseeing.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. We expect this proposed rule may affect owners and operators of private and commercial vessels, some of which may be small entities, transiting the Oakland Estuary. The proposed security zone would not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Vessel traffic would be able to pass safely around the area, (ii) vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the proposed security zone to engage in these activities, and (iii) the perimeter of the proposed security zone would only extend 30 to 50 feet into the 500-foot wide navigational channel. In addition, small entities and the maritime public would be advised of this revision to the existing security zone via public notice to mariners.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Doug Ebbers, Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, (510) 437–3073. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action''

under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a security zone.

A draft ''Environmental Analysis Check List'' and a draft ''Categorical Exclusion Determination'' (CED) are available in the docket where indicated under **ADDRESSES.** Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Revise § 165.1190 to read as follows:

§ 165.1190 Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA.

(a) *Location.* The following area is a security zone: All navigable waters of the Oakland Estuary, California, from the surface to the sea floor, approximately 150 feet into the Oakland Estuary surrounding the Coast Guard Island Pier. The perimeter of the security zone follows the same perimeter as the floating security barrier installed around the Coast Guard Island pier. The perimeter of the security barrier is located along the following coordinates: Commencing at a point on land approximately 150 feet northwest of the northwestern end of the Coast Guard Island Pier at latitude 37°46′52.73″ N and longitude 122°15′06.99″ W; thence to the edge of the navigable channel at latitude 37°46′51.83″ N and longitude 122°15′07.47″ W; thence to a position approximately 30 feet into the charted navigation channel at latitude 37°46′51.27″ N and longitude 122°15′07.22″ W; thence closely paralleling the edge of the charted navigation channel to latitude 37°46′46.75″ N and longitude 122°15′00.21″ W; thence closely paralleling the edge of the charted navigation channel to a point approximately 50 feet into the charted navigation channel at latitude 37°46′42.36″ N and longitude 122°14′51.55″ W; thence to a point on land approximately 150 feet southeast of the southeastern end of the Coast Guard Island Pier at latitude 37°46′43.94″ N and longitude 122°14′49.89″ W; thence northwest along the shoreline back to the beginning point.

(b) *Regulations.* (1) Under § 165.33, entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, San Francisco Bay, or his designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 415–399–3547 or on VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

(c) *Enforcement.* The Captain of the Port will enforce this security zone and may be assisted in the patrol and enforcement of this security zone by any Federal, State, county, municipal, or private agency.

Dated: April 28, 2005.

Gordon A. Loebl,

Commander, U.S. Coast Guard, Acting Captain of the Port, San Francisco Bay, California.

[FR Doc. 05–9206 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R04–OAR–2005–GA–0004–200504(b); FRL–7909–6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the State Implementation Plan (SIP) revisions submitted by the State of Georgia, through the Georgia Environmental Protection Division (GAEPD), on March 15, 2005. These revisions pertain to Georgia's rules for Air Quality Control and were the subject of a public hearing held on March 18, 2004, and adopted by the Board of Natural Resources on April 28, 2004. The revisions became effective in the State on July 8, 2004. On September 26, 2003, EPA published a final rule in the **Federal Register** (*see* 68 FR 55469) reclassifying the Atlanta 1-hour ozone nonattainment area from serious to severe. These revisions satisfy the additional requirements for severe 1-hour ozone nonattainment areas. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments

received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before June 8, 2005.

ADDRESSES: Comments may be submitted by mail to: Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in the direct final rule, **ADDRESSES** section which is published in the Rules Section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9036. Mr. Martin can also be reached via electronic mail at *martin.scott@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: April 29, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 05–9214 Filed 5–6–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06–OAR–2005–TX–0022; FRL–7909–1]

Limited Approval and Promulgation of Implementation Plans; Texas; Excess Emissions During Startup, Shutdown, and Malfunction Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to grant limited approval of revisions to the Texas State Implementation Plan (SIP) through the parallel processing mechanism. Specifically, we are proposing to grant limited approval of revisions to 30 TAC Chapter 101, General Air Quality Rules concerning excess emissions during startup, shutdown, and malfunction (SSM) activities. The action will have the effect of extending the expiration date of certain provisions from June 30, 2005 to no later than June 30, 2006. Texas is making this change to allow for additional time before these provisions expire from the SIP to submit a revised excess emissions rule for our approval into the SIP. See sections 2 and 3 of this document for more information.

DATES: Comments must be received on or before June 8, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06-OAR–2005-TX–0022, by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the on-line instructions for submitting comments.

Agency Web site: http://docket.epa.gov/rmepub/ Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

U.S. EPA Region 6 ''Contact Us'' Web site: http://epa.gov/region6/r6coment.htm. Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.

E-mail: Mr. Thomas Diggs at *diggs.thomas@epa.gov.* Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.

Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R06–OAR–2005–TX–0022. The EPA's policy is that all comments received will be included in the public file without change, and may be made available online at *http://docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through RME, regulations.gov, or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the Federal regulations.gov are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at *http://docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in the official file which is available at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air

Agency listed below during official business hours by appointment:

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

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733 at (214) 665–6691, or *shar.alan@epa.gov.*

SUPPLEMENTARY INFORMATION:

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Throughout this document ''we,'' ''us,'' and ''our'' mean EPA.

I. Background

1. What Action Are we Taking in This Document?

On April 5, 2005, we received a letter from the Executive Director of the TCEQ requesting us to parallel process SIP revisions to 30 TAC, General Air Quality Rule 101, Subchapter F, subsections 101.221(g), 101.222(h), and 101.223(e). See section 2 of this document for more information on parallel processing. These subsections state that sections 101.221, 101.222 and 101.223, which address excess emissions resulting from SSM related activities, will expire by their own terms on June 30, 2005. The EPA has interpreted those provisions to mean the sections will expire from state law and from the approved SIP on that date. The proposed revision will delete the existing SIP provisions and add revised versions of those sections. The proposed provisions state,

''This section expires on January 15, 2006, unless the commission submits a revised version of this section to the Environmental Protection Agency (EPA) for review and approval into the Texas state implementation plan. If the commission submits a revised version of this section, this section expires on June 30, 2006.''

The change will, in effect, extend the expiration date of the affected subsections from June 30, 2005, to January 15, 2006, unless the State submits a revised version of sections 101.221–101.223 to EPA for review and approval into the Texas SIP, which would have the effect of extending the expiration date in the SIP to June 30, 2006.

The EPA believes it is important to explain our interpretation of the phrase in the State's rule, ''submits a revised version of this section.'' If we receive a complete SIP submission of the revised version of the specified sections prior to January 15, 2006, we will make a preliminary determination of whether the rule is consistent with the Clean Air Act (the Act), EPA policy and guidance, and therefore approvable. We will interpret the June 30 date in the approved SIP to be effective, if the State submits a complete SIP revision prior to January 15, 2006, that, after our preliminary review, we determine can be fully approved. The EPA intends to work with the State during its rulemaking on the revised version of the rule to identify any issues that would prevent our approval of the rule. Although we cannot prejudge our ultimate decision on the SIP submission prior to our review of public comments, we will make clear through our public comments during the State's rulemaking and discussions with the State whether there are obvious problems which would prevent our approval of the revised rule, and hence, trigger the earlier January 15, 2006, date for the existing rule to expire from the Texas SIP. If we determine that the June 30, 2006, expiration date has become effective, the provisions will expire from the SIP on that date whether or not EPA has taken final action on the SIP submission. In sum, the proposed rule revision will extend the expiration date of affected subsections from June 30, 2005, to no later than June 30, 2006. Absent final action by EPA to approve this revision, sections 101.221, 101.222, and 101.223 will expire from the Texas SIP by their own terms on June 30, 2005, without further action by EPA. Due to the concerns expressed in our limited approval of March 30, 2005 (70 FR 16129), we will not extend limited approval of the expiration date of the affected subsections beyond the currently proposed June 30, 2006.

Today, we are proposing to grant limited approval of the deletion of existing SIP subsections 101.221(g), 101.222(h), and 101.223(e) and the addition of revised subsections 101.221(g), 101.222(h), and 101.223(e) into the Texas SIP. Specifically, we are seeking only those comments relevant to the date extension aspect of the proposed rule. Texas' rulemaking also seeks comments on the only proposed expiration date changes and does not intend to make changes to any other sections of Chapter 101. We will evaluate any future rule revisions or other components of the 30 TAC, General Air Quality Rule 101 independently in a separate **Federal Register** publication for consistency with the requirements of the Act, and EPA guidance and policy.

2. What Is Parallel Processing of a SIP Submittal?

We are proposing limited approval of this revision to the Texas SIP using the parallel processing mechanism of concurrent state and federal rulemaking actions. Parallel processing means that EPA proposes rulemaking action on a rule revision before the state regulation becomes final under state law. *See* 40 CFR part 51, appendix V, section 2.3. Parallel processing generally saves total processing time and makes the SIP revision effective in a shorter period of time than our normal review process. Under parallel processing, EPA will take final action on its proposal if the final version of the adopted state submission remains substantially unchanged from the submission on which the proposed rulemaking was based. If there are significant changes in the State's final submission, EPA could not take final action on this proposal.

3. What Is the Basis for a Limited, Rather Than a Full, Approval?

We are proposing to grant limited, rather than full, approval of this SIP submittal. We are proposing limited approval of this rule because we granted limited approval of the regulations which are modified by this revision. We are similarly proposing limited approval of these provisions. If finalized, this action will have the effect of extending the limited approval which we published on March 30, 2005 (70 FR 16129). For more information on the basis for our limited approval of revisions to 30 TAC, General Air Quality Rule 101, Subchapter A and Subchapter F concerning excess emissions during SSM activities, see sections 3 and 5 of our March 30, 2005 **Federal Register** publication. Today's action does not affect the position we expressed in that rulemaking action.

4. What Areas in Texas Will the Proposed SIP Submittal Affect?

The proposed SIP submittal will affect all sources of air emissions operating within the State of Texas.

II. Proposed Action

Today, we are proposing to grant limited approval of the deletion of existing SIP subsections 101.221(g), 101.222(h), and 101.223(e), and the addition of revised subsections 101.221(g), 101.222(h), and 101.223(e) into the Texas SIP.

III. Statutory and Executive Order Reviews

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

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 29, 2005.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 05–9216 Filed 5–6–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 05–181; FCC 05–92]

Implementation of Section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 To Amend Section 338 of the Communications Act

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Commission proposes rules to implement section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (''SHVERA''). The Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA) was enacted on December 8, 2004 as title IX of the ''Consolidated Appropriations Act, 2005.'' This proceeding to implement section 210 of SHVERA is one of a number of Commission proceedings that will be required to implement SHVERA.

DATES: Comments for this proceeding are due on or before June 8, 2005; reply comments are due on or before June 23, 2005. Written comments on the proposed information collection requirements contained in this document must be submitted by the public, the Office of Management and Budget (OMB), and other interested parties on or before July 8, 2005.

ADDRESSES: You may submit comments, identified by MB Docket No. 05–181, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Federal Communications Commission's Web site: *http://www.fcc.gov/cgb/ecfs/*. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Eloise Gore, *Eloise.Gore@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this *NPRM*, contact Cathy Williams, Federal Communications Commission, 445 12th St, SW., Room 1–C823, Washington, DC 20554, or via the Internet to *Cathy.Williams@fcc.gov*. If you would like to obtain or view a copy of this revised information collection, OMB Control Number 3060–0980, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking (NPRM)*, FCC 05–92, adopted on April 29, 2005, and released on May 2, 2005. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats

(computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due July 8, 2005. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0980.

Title: SHVERA Rules; Implementation of Section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (Broadcast Signal Carriage Issues, Retransmission Consent Issues).

Form No.: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Estimated Number of Respondents: 7,179.

Estimated Time Per Response: 1–5 hours.

Frequency of Response: On occasion reporting requirement; every three years reporting requirement.

Estimated Total Annual Burden: 10,196 hours.

Estimated Total Annual Costs: $30,000.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On April 29, 2005, the Commission adopted a *Notice of Proposed Rule Making (NPRM)*, In the Matter of the Implementation of Section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 to Amend Section 338 of the Communications Act, MB Docket No. 05–181, FCC 05–92. The *NPRM* proposed amendments to 47 CFR 76.66 to implement section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (''SHVERA''). Section 210 of the SHVERA amends section 338(a) of the Communications Act of 1934, as amended, (''Communications Act'' or ''Act''). Section 338 governs the carriage of local television broadcast stations by satellite carriers. In general, the SHVERA amends this section to require satellite carriers to carry both the analog and digital signals of television broadcast stations in local markets in noncontiguous States (including Alaska and Hawaii), and to provide these signals to substantially all of their subscribers in each station's local market by December 8, 2005 for analog signals and by June 8, 2007 for digital signals.

On March 28, 2005, the Commission adopted an Order, FCC 05–81, Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (''SHVERA''), Procedural Rules, to implement procedural rules as required by the SHVERA. The SHVERA is the third statute that addresses satellite carriage of television broadcast stations. The 2004 SHVERA gives satellite carriers the additional option to carry Commission-determined ''significantly viewed'' out-of-market signals to subscribers. The SHVERA requires the Commission to undertake several proceedings to implement new rules, revise existing rules, and conduct studies. The Procedural Rules Order to implement sections 202, 205, and 209 of the SHVERA is one of a number of Commission proceedings that will be required to implement the SHVERA.

Summary of the Notice of Proposed Rulemaking

I. Introduction

1. In this Notice of Proposed Rulemaking, *NPRM*, we propose rules to implement section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (''SHVERA''). The Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA), Pub. L. 108–447, section 210, 118 Stat 2809 (2004). SHVERA was enacted on December 8, 2004, as title IX of the ''Consolidated Appropriations Act, 2005.'' This proceeding to implement section 210 of SHVERA is one of a number of Commission proceedings that will be required to implement SHVERA. The other proceedings will be undertaken and largely completely in 2005; *see* section 202 of the SHVERA (entitled ''Significantly Viewed Signals Permitted To Be Carried''), SHVERA NPRM, MB Docket No. 05–49, FCC 05–24, 2005 WL 289026 (rel. Feb. 7, 2005); sections 202, 204, 205, 207, 208, 209 and 210 of the SHVERA; *see also* Public Notice, ''Media Bureau Seeks Comment for Inquiry Required by the SHVERA on Rules Affecting Competition in the Television Marketplace,'' MB Docket No. 05–28, DA 05–169 (rel. Jan. 25, 2005) (Public Notice regarding Inquiry required by section 208 of the SHVERA concerning the impact of certain rules and statutory provisions on competition in the television marketplace); Implementation of Section 207 of the Satellite Home Viewer Extension and Reauthorization Act of 2004, Reciprocal Bargaining Obligations, MB Docket No. 05–89, FCC 05–49 (rel. Mar. 7. 2005); and Procedural Rules, FCC 05–81 (rel. March 30, 2005) (Order implementing rule revisions required by sections 202, 205, and 209). Section 210 of the SHVERA amends section 338(a) of the Communications Act of 1934, as amended, (''Communications Act'' or ''Act''). Section 338 governs the carriage of local television broadcast stations by satellite carriers; *see* 47 U.S.C. 338. In general, the SHVERA amends this section to require satellite carriers to carry both the analog and digital signals of television broadcast stations in local markets in noncontiguous states, including Alaska and Hawaii, and to provide these signals to substantially all of their subscribers in each station's local market by December 8, 2005 for analog signals and by June 8, 2007 for digital signals; *see* 47 U.S.C. 338(a)(4) (*as amended by* section 210 of the SHVERA).

II. Background

A. Satellite Home Viewer Act (SHVA) and Satellite Home Viewer Improvement Act of 1999 (SHVIA)

2. In 1988, Congress passed the Satellite Home Viewer Act (''SHVA''), which established a statutory copyright license for satellite carriers to offer subscribers access to broadcast programming via satellite when they are unable to receive the signal of a broadcast station over the air (that is, an ''unserved'' household). The Satellite Home Viewer Act of 1988, Pub. L. 100–667, 102 Stat. 3935, Title II (1988)

(codified at 17 U.S.C. 111, 119). SHVA was enacted on November 16, 1988, as an amendment to the copyright laws. SHVA gave satellite carriers a statutory license to offer signals to ''unserved'' households. 17 U.S.C. 119(a). In 1999, Congress enacted the Satellite Home Viewer Improvement Act (''SHVIA''), which expanded on the 1988 SHVA by amending both the 1988 copyright laws, and the Communications Act to permit satellite carriers to retransmit local broadcast television signals directly to subscribers in the station's local market (''local-into-local'' service) without requiring that they be in ''unserved'' households; *see* 17 U.S.C. 119 and 122, 47 U.S.C. 325, 338 and 339. The Satellite Home Viewer Improvement Act of 1999, Pub. L. 106–113, 113 Stat. 1501 (1999) (codified in scattered sections of 17 and 47 U.S.C.). SHVIA was enacted on November 29, 1999, as Title I of the Intellectual Property and Communications Omnibus Reform Act of 1999 (''IPACORA'') (relating to copyright licensing and carriage of broadcast signals by satellite carriers). The SHVIA created the copyright license to provide local signals to subscribers regardless of whether they were ''unserved;'' *see* 17 U.S.C. 122.

3. A satellite carrier provides ''local-into-local'' service when it retransmits a local television station's signal back into the local market of the television station for reception by subscribers. If a carrier carries one or more stations in the market pursuant to the statutory copyright license, it is required to carry all of the other local stations in the local market, upon the station's request (that is, the ''carry-one, carry-all'' requirement); *see* 47 U.S.C. 338(a)(1). Generally, a television station's ''local market'' is the designated market area (''DMA'') in which it is located. Section 340(i)(1) (*as amended by* section 202 of the SHVERA), defines the term ''local market'' by using the definition in 17 U.S.C. 122(j)(2): ''The term 'local market,' in the case of both commercial and noncommercial television broadcast stations, means the designated market area in which a station is located, and—(i) in the case of a commercial television broadcast station, all commercial television broadcast stations licensed to a community within the same designated market area are within the same local market; and (ii) in the case of a noncommercial educational television broadcast station, the market includes any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station.'' DMAs describe each television market in terms of a unique geographic area, and are established by Nielsen Media Research based on measured viewing patterns; *see* 17 U.S.C. 122(j)(2)(A)–(C). There are 210 DMAs that encompass all counties in the 50 United States, except for certain areas in Alaska. Alaska has three DMAs situated around major population centers, but most of the State, which is sparsely populated, is not included in DMAs. A satellite carrier choosing to provide such local-into-local service is generally obligated to carry any qualified local station in a particular DMA that has made a timely election for mandatory carriage, unless the station's programming is duplicative of the programming of another station carried by the carrier in the DMA, or the station does not provide a good quality signal to the carrier's local receive facility; *see* 47 U.S.C. 338(a)(1), (b)(1) and (c)(1).

B. Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA)

4. In December 2004, Congress passed and the President signed the Satellite Home Viewer Extension and Reauthorization Act of 2004. SHVERA again amends the 1988 copyright laws and the Communications Act to further aid the competitiveness of satellite carriers and expand program offerings for satellite subscribers; *see* 47 U.S.C. 325, 338, 339 and 340. Section 102 of SHVERA creates a new 17 U.S.C. 119(a)(3) to provide satellite carriers with a statutory copyright license to offer ''significantly viewed'' signals as part of their local service to subscribers. This rulemaking is required to implement provisions in section 210 of the SHVERA concerning satellite carriage of local stations in the noncontiguous states, including Alaska and Hawaii; *see* 47 U.S.C. 338(a)(4).

III. Discussion

5. Section 210 of the SHVERA amends section 338(a) of the Communications Act to require satellite carriers with more than five million subscribers in the United States to carry the analog and digital signals of each television broadcast station licensed in local markets ''within a State that is not part of the contiguous United States.'' Analog signals are required to be carried by December 8, 2005, and digital signals by June 8, 2007. A carrier is required to provide these signals to substantially all of its subscribers in each station's local market. In addition, a satellite carrier is required to make available the stations that it carries in at least one local market to substantially all of its subscribers located outside of local markets and in the same State. The SHVERA also mandates that satellite carriers may not charge subscribers for these local signals more than they charge subscribers in other States to receive local market television stations. Although most of the requirements imposed by the new section 338(a)(4) are self-effectuating, the SHVERA requires the Commission to promulgate regulations concerning the timing of carriage elections by stations in local markets in the noncontiguous states; *see* 47 U.S.C. 338(a)(4) (as amended by the SHVERA), which provides: (4) CARRIAGE OF SIGNALS OF LOCAL STATIONS IN CERTAIN MARKETS–A satellite carrier that offers multichannel video programming distribution service in the United States to more than 5,000,000 subscribers shall (A) within 1 year after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, retransmit the signals originating as analog signals of each television broadcast station located in any local market within a State that is not part of the contiguous United States, and (B) within 30 months after such date of enactment retransmit the signals originating as digital signals of each such station. The retransmissions of such stations shall be made available to substantially all of the satellite carrier's subscribers in each station's local market, and the retransmissions of the stations in at least one market in the State shall be made available to substantially all of the satellite carrier's subscribers in areas of the State that are not within a designated market area. The cost to subscribers of such retransmissions shall not exceed the cost of retransmissions of local television stations in other States. Within 1 year after the date of enactment of that Act, the Commission shall promulgate regulations concerning elections by television stations in such State between mandatory carriage pursuant to this section and retransmission consent pursuant to section 325(b), which shall take into account the schedule on which local television stations are made available to viewers in such State. As required by the SHVERA, we open this rulemaking proceeding and seek comments on implementation of the SHVERA's amendments to section 338(a) of the Act, on rule proposals in this *NPRM*, and tentative conclusions regarding these rules. The proposed rules are in the Appendix to this *NPRM.* These amendments apply only to satellite service in the noncontiguous states. The existing signal carriage provisions in section 76.66 also continue to apply to satellite service in

the noncontiguous states, where relevant and not inconsistent with the rules proposed in this proceeding; *see* 47 CFR 76.66.

A. Satellite Carriers With More Than 5,000,000 Subscribers

6. The SHVERA adds subsection 338(a)(4) to the Act, which applies to a ''satellite carrier that offers multichannel video programming distribution service in the United States to more than 5,000,000 subscribers;'' *see* 47 U.S.C. 338(a)(4). We include this limitation in the proposed new section 76.66(b)(2). This provision applies to satellite carriers that have more than five million subscribers in 2005 and, in the future, to any carriers with more than five million subscribers. Currently, DirecTV and EchoStar qualify under this definition. We seek comments regarding the proposed rule.

B. Noncontiguous States

7. Section 210 of SHVERA applies to ''a State that is not part of the contiguous United States;'' *see* 47 U.S.C. 338(a)(4). In the Communications Act, the definition of ''State'' includes ''the Territories and possessions;'' *see* 47 U.S.C. 153(40). We seek comment on whether ''State'' as used in the SHVERA includes the noncontiguous territories and possessions of the United States, including but not limited to Puerto Rico and Guam and whether considerations such as a satellite provider's regulatory authorizations and/or actual service area are relevant to interpreting the obligation under section 338(a)(4) to serve ''noncontiguous states.'' We note that territories in the Pacific, such as Guam, are in a different International Telecommunication Union (''ITU'') region. The contiguous United States, Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands are located in ITU Region 2 and have orbital assignments in the Region 2 BSS Plan. Guam, the Northern Marianas, Wake Island and Palmyra Island are located in ITU Region 3 and have orbital assignments in the Region 3 BSS plan at 122.0° E.L., 121.80° E.L., 140.0° E.L. and 170.0° E.L. respectively. We seek comment on the impact of regulatory differences (*e.g.*, use of different frequency bands) between ITU regions in providing service to these locations. Spot beam technology may allow coverage of widely spaced areas if visible from the satellite location. Many areas are not visible to all satellites. For example, Guam is below the horizon for United States allocations east of 148° W.L. Previously the Commission recognized that contiguous United States (''CONUS'') antenna beams modified to include Puerto Rico and the U.S. Virgin Islands could divert power from other regions and potentially adversely affect the services of other countries. We seek comment on satellite carriers' current capability to serve these areas using current or planned technology.

C. Analog and Digital Signals

8. The SHVERA requirements for satellite carriage to the noncontiguous states differ significantly from the existing satellite broadcast carriage requirements, both in scope and timing. Currently, under the Communications Act and Commission rules implementing the Act, satellite carriers choose whether to rely on the statutory copyright license in section 122 of title 17 to offer ''local-into-local service,'' which in turn triggers the carry-one, carry-all obligation; *see* 47 U.S.C. 338(a)(1) and 47 CFR 76.66(b), *Implementation of the Satellite Home Viewer Improvement Act of 1999*, 16 FCC Rcd 1918 (2000) 16 FCC Rcd 16544 (2001) (''DBS Must Carry Reconsideration Order''). The U.S. Court of Appeals for the Fourth Circuit upheld the constitutional validity of SHVIA and the reasonableness of the Commission's rules promulgated thereunder; *see Satellite Broadcasting and Communications Ass'n* v. *FCC, 275 F.3d 337 (2001), cert. denied, 536 U.S. 922 (2002)*. The Communications Act, moreover, prohibits a multichannel video programming distributor from retransmitting the signal of a broadcast station unless it has ''the express authority'' of the station. 47 U.S.C. 325(b)(1)(A), 17 U.S.C. 122(a) (as amended by section 1002 of the SHVIA) and 47 U.S.C. 338(a)(1) (as amended by section 1008 of the SHVIA). Satellite carriers are not currently required to offer local-into-local service in all markets. The question of satellite carriage obligations concerning a station's digital signal is currently pending before the Commission.

9. The new SHVERA provision for noncontiguous states supersedes carry-one, carry-all and the pending digital carriage rulemaking proceeding by mandating dual analog and digital carriage in the noncontiguous states. A satellite carrier with more than five million subscribers is required by the SHVERA to retransmit the analog signals of each television station in local markets in the noncontiguous states to subscribers in those local markets by December 8, 2005 (one year after enactment of the SHVERA). The SHVERA expands this requirement to include the digital signals of each station no later than June 8, 2007 (30 months after enactment of SHVERA). If any or all of the local stations in the noncontiguous states are still broadcasting analog signals as well as digital signals, as of June 8, 2007, the SHVERA requirement mandates dual must carry. The Communciations Act provides for termination of analog signal licenses as of December 31, 2006, unless local stations request an extension and demonstrate that one or more criteria exist in their markets; *see* 47 U.S.C. 309(j)(14) (criteria include the so-called ''85% test''). Section 210 of the SHVERA, which adds the carriage obligations for stations in noncontiguous states (section 338(a)(4)), requires carriage of ''signals originating as analog signals'' and ''signals originating as digital signals'' with no mention of a term such as ''primary video,'' the term used in the cable mandatory carriage provisions. 47 U.S.C. 534(b)(3) and 535(g). The Commission recently concluded that the statutory term relating to cable mandatory carriage, ''primary video,'' was ambiguous with respect to whether it requires cable operators to carry broadcasters' multicast signals. Faced with an ambiguous statute, the Commission did not require mandatory carriage of multicast signals by cable systems. The SHVERA provision before us contains no such ambiguity. Moreover, we note that section 210 uses the plural term ''signals,'' requiring satellite carriers to retransmit the signals originating as digital signals of each such station; *see* 47 U.S.C. 338(a)(4). In sum, this SHVERA amendment to section 338 does not contain any limitation on the nature of the broadcast signal that satellite operators must carry in the non-contiguous states. We believe, therefore, that the amendment requires that satellite carriers carry all multicast signals of each station in noncontiguous states and carry the high definition digital signals of stations in noncontiguous states in high definition format. We note that satellite carriage of high definition local signals is also under review in the ongoing broadcast carriage rulemaking docket in the context of applying the statutory prohibition on material degradation. We seek comment on these interpretations, and any alternative construction of the SHVERA as the statute relates to the carriage of multicast and/or high definition signals; *see* MB Docket Nos. 98–120 and 00–96, *WHDT* v. *Echostar*, 18 FCC Rcd 396 (MB 2003) (''WHDT Order'').

D. Carriage Election by Stations

10. Section 210 of the SHVERA expressly requires only that the Commission promulgate regulations

concerning the timing of the carriage elections related to the new carriage provisions in the noncontiguous states. Section 210 of the SHVERA also refers to the ''cost to subscribers of such transmissions'' but does not require rules for implementation. The Commission does not regulate rates, costs or prices for satellite service to subscribers. In this proceeding we propose regulations to implement the timing required by the carriage requirements in the noncontiguous states, and we will otherwise apply the rules pertaining to satellite carriage as they were adopted to implement section 338 pursuant to the SHVIA; *see* 47 U.S.C. 338(a)(1), (b)(1), and (c), 47 CFR 76.66(g) and (h). Therefore, carriage is mandated in the noncontiguous states for the above dates in 2005 and 2007 when requested by a television station; *see* proposed rule section 76.66(b)(2). The carriage procedures for stations in the noncontiguous states shall follow the existing requirements, except with respect to the carriage election process, as proposed here; *see* proposed rule section 76.66(c)(6). Non-commercial television stations do not elect carriage because they cannot elect retransmission consent; *see* 47 U.S.C. 325(b)(2)(A). They are entitled to mandatory carriage; *see* 47 U.S.C. 338, proposed rule section 76.66(c)(6). They are entitled to mandatory carriage; *see* 47 U.S.C. 338. We invite comment on these interpretations and proposals.

11. The analog signal carriage requirement mandated by the SHVERA for satellite carriers serving noncontiguous states commences several weeks before the carriage cycle that applies to satellite carriers and broadcast stations in the contiguous states, which commences January 1, 2006, and continues until December 31, 2008; *see* 47 CFR 76.66(c). The carriage election process enables stations to choose between carriage pursuant to retransmission consent or mandatory carriage. Retransmission consent is based on an agreement between a broadcast station and satellite carrier, and includes a station's authorization and terms for allowing its broadcast signal to be carried; *see* 47 U.S.C. 325(b). Broadcast stations and satellite carriers are required to negotiate retransmission consent agreements in good faith; *see* 47 U.S.C. 338(b)(3)(c). If a station elects must-carry status, it is, in general, entitled to insist without other terms that the satellite carrier carry its signal in its local market; *see* 47 U.S.C. 338(a), 47 CFR 76.66(c).

12. To implement the carriage election timing requirements in section 210 of the SHVERA, we propose to track the existing regulations as closely as possible so that carriage elections in the noncontiguous states will be synchronized with carriage elections in the contiguous states quickly and smoothly. This synchronization is intended to make the process simple and certain for both the local stations and the satellite carriers. The first satellite carriage cycle (pursuant to the SHVIA) will end on December 31, 2005. The carriage election deadline for the second cycle is October 1, 2005, for carriage beginning January 1, 2006; *see* 47 CFR 76.66(c)(4). Because the analog carriage requirement in the noncontiguous states is effective only 24 days earlier, December 8, 2005, we propose to keep the same election deadline of October 1, 2005. Thus, television broadcast stations in a local market in the noncontiguous states would be required to make a retransmission consent-mandatory carriage (must carry) election by October 1, 2005, which is the same deadline as for local stations in local-into-local markets in the contiguous states; *see* proposed section 76.66(c)(6). Carriage pursuant to a mandatory carriage election in the contiguous states will begin on January 1, 2006, and carriage under our proposed rules for noncontiguous states would begin by December 8, 2005; *see* 47 CFR 76.66(c)(2).

13. With respect to carriage of the digital signals of stations in a noncontiguous state, we propose that the retransmission consent-must carry election by a television station in a local market in the noncontiguous states should be a two-step process with one election that applies to the analog signal carriage, which commences December 8, 2005, and a second carriage election that would govern carriage of the digital signal; *see* proposed rule section 76.66(c)(6). Carriage of signals originating as digital must commence by June, 8, 2007, but may begin pursuant to retransmission consent at any time. The deadline for the second carriage election, for digital carriage, would be April 1, 2007, two months before carriage must commence. Alternatively, the station's election by October 1, 2005, for its analog signal, could also apply to its digital signal, for which mandatory carriage will commence by June 8, 2007. We seek comment on our proposed two-step approach and on the alternative of a single election. Two separate elections would be consistent with the Commission's Cable Must Carry decision in 2001 which permits stations broadcasting both analog and digital signals to elect must carry for their analog signal and retransmission consent for their digital signal. We believe that, regardless of whether the carriage election is two-step or one-step, stations in the noncontiguous states should be permitted to elect must carry for their analog signals and negotiate for carriage of the digital signals via retransmission consent before the mandatory digital signal carriage takes effect. That is, until the digital carriage rights for local stations in the noncontiguous states take effect as of June 8, 2007, stations should be permitted to separately negotiate for voluntary carriage of their digital signals even if they elect mandatory carriage for their analog signals; *see* proposed section 76.66(c)(6). We seek comment on these proposals.

14. After the initial carriage cycle in the noncontiguous states, the election cycle provided in section 76.66(c) will apply in the future; *see* proposed section 76.66(c)(6). For example, the next election after the upcoming 2005 election is required by October 1, 2008, for carriage beginning January 1, 2009; *see* 47 CFR 76.66(c)(2) and (4). The election made by a station in 2008 would apply uniformly to both its analog and digital signals, if both signals are continuing to be broadcast.

15. A new television station in a noncontiguous state will have a right to mandatory carriage for its analog signal if it begins service after December 8, 2005, and for its digital signal if it begins service after June 8, 2007. New stations should follow section 76.66(d)(3) of the Commission's rules to notify the satellite carrier and elect carriage; *see* 47 CFR 76.66(d)(3). We seek comments on our proposed rules governing the carriage election process.

E. Availability of Signals

16. The SHVERA provides that in the noncontiguous states, satellite retransmissions of local stations ''shall be made available to substantially all of the satellite carrier's subscribers in each station's local market;'' *see* 47 U.S.C. 338(a)(4). The SHVERA does not define what is meant by ''substantially all'' subscribers. This wording is consistent with the physical limitations of some satellite technology that may not be able to reach all parts of a state or a DMA, particularly where a spot beam is used to provide local stations. We believe that this provision recognizes the existing physical limitations on satellite service particularly in these noncontiguous states. With respect to DBS service to Alaska, for example, the Commission has stated that although reliable service usually requires a minimum elevation angle of ten degrees

or more, service to Alaska is often offered at elevation angles as low as five degrees. The Commission defined elevation angle ''as the upward tilt of an earth station antenna measured in degrees relative to the horizontal plane (ground), that is required to aim the earth station antenna at the satellite. When aimed at the horizon, the elevation angle is zero. If the satellite were below the horizon, the elevation angle would be less than zero. If the earth station antenna were tilted to a point directly overhead, it would have an elevation angle of 90°;'' *see* 47 U.S.C. 338(a)(4). In addition, the Commission determined that in some areas of Alaska, from some orbit locations, the elevation angle was less than five degrees, or even below the horizon, thereby making service to those areas impossible. For example, the elevation angle for Attu Island, Alaska is less than zero or below the horizon for the 61.5°, 101°, and 110° orbit locations and only 4 for the 119° location. We note, however, that satellite carriers must abide by the geographic service rules that require service where technically feasible. We welcome comment on the meaning of ''substantially all of the carrier's subscribers in each station's market.''

17. We do not believe it is necessary to adopt new rules to implement this provision. This provision is similar to the Commission interpretation adopted in the implementation of the SHVIA, that satellite carriers that offer local-into-local service are not required to provide service to every subscriber in a DMA. We seek comment on whether it is necessary to adopt a rule on this point, and, if so, what it should provide.

F. Areas Outside Local Markets

18. The SHVERA also addresses the anomalous situation in Alaska, the only one of the fifty states that has areas that are not included within any DMA. The eight major islands of Hawaii are currently included within the Honolulu DMA. If the reference to ''noncontiguous States'' is read to include territories and possessions, none of them are in DMAs and would be subject to the special treatment described in section 210. The statute requires a satellite carrier in Alaska to make available the signals of all the local television stations that it carries in at least one local market to substantially all of its subscribers in areas outside of local markets who are in the same State; *see* 47 U.S.C. 338(a)(4). In Alaska, there are three DMAs covering the main population centers, but most of the State, which is sparsely populated, is not included in a DMA. Thus, a satellite carrier in Alaska would be required to provide the television stations that it carries in at least one of the three DMAs, in which carriage of local stations is required by section 210 of the SHVERA, to areas of the State not included in DMAs. We believe that the statute speaks for itself and that no special rule is required to implement this statutory requirement. We seek comment on this conclusion.

G. Notification by Satellite Carrier

19. Section 210 of the SHVERA does not expressly require revisions to the existing notification procedures in connection with the new carriage requirements in the noncontiguous states. However, to ensure that the purpose of section 210 is achieved, we seek comment on whether to require satellite carriers with more than 5 million subscribers to notify all television broadcast stations located in local markets in the noncontiguous states that they are entitled to carriage of their analog signals as of December 8, 2005, and of their digital signals as of June 8, 2007, and that they must elect mandatory carriage or retransmission consent by October 1, 2005 and April 1, 2007, respectively, to be assured of carriage, as provided in sections 76.66(b)(2) and (c)(6). If required, this notification to the stations should include a statement advising them of the opportunity to have their analog and digital signals made available by the carrier to the carrier's subscribers in the local market of each station. If adopted, this notification would be required by September 1, 2005, with respect to analog signal carriage election, and by March 1, 2007, with respect to the carriage election for digital signals; *see* proposed section 76.66(d)(2)(iii). A new satellite carrier that meets this definition after 2005 would be required to comply with section 76.66(d)(2) of the Commission's rules regarding ''new local-into-local service'' (imposes requirements when a new satellite carrier intends to retransmit a local television station back into its local market); *see* 47 CFR 76.66(d)(2). We seek comment on the need for this notification. We also request comment on whether such notice should be required only for stations in Alaska and Hawaii or also for television broadcast stations in all noncontiguous territories and possessions. We also seek comment on the need for a second notification 30 days prior to the second carriage election deadline, which is proposed for April 1, 2007 for carriage of digital signals. If, alternatively, the October 1, 2005 carriage election applies to both the analog and digital signals of local stations in the noncontiguous states, we propose that a second notification would not be required prior to the commencement of carriage of digital signals in June of 2007. We seek comment on these proposals.

IV. Procedural Matters

A. Initial Regulatory Flexibility Certification

20. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities;'' *see* 5 U.S.C. 605(b), 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104–121, Title II, 110 Stat. 857 (1996). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction;'' *see* 5 U.S.C. 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act; *see* 5 U.S.C. 601(3). A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA); *see* 15 U.S.C. 632.

21. As described in this *NPRM*, we propose to amend section 76.66 of the Commission's rules as required by section 210 of the SHVERA. We expect these rule amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed rules contained in this *NPRM*, as required by statute, are intended to allow for local television stations to elect carriage pursuant to retransmission consent or mandatory carriage with respect to satellite carriers with more than 5 million subscribers in a non-contiguous state. ''Satellite carriers,'' including Direct Broadcast Satellite (DBS) carriers, will be directly and primarily affected by the proposed rules, if adopted.

22. The satellite carriers covered by these proposed rules fall within the SBA-recognized small business size standard of Cable and Other Program Distribution; *see* 13 CFR 121.201. This size standard provides that a small entity is one with $12.5 million or less in annual receipts; *see* 13 CFR 121.201. The two satellite carriers that are subject

to these proposed rule amendments because they currently have more than five million subscribers, DirecTV (DirecTV is the largest DBS operator and the second largest MVPD, serving an estimated 13.04 million subscribers nationwide) and EchoStar (EchoStar, which provides service under the brand name Dish Network, is the second largest DBS operator and the fourth largest MVPD, serving an estimated 10.12 million subscribers nationwide), report annual revenues that are in excess of the threshold for a small business. We anticipate that any satellite carrier that, in the future, has more than five million subscribers would necessarily have more than $12.5 million in annual receipts. Thus, the entities directly affected by the proposed rules are not small entities.

23. We also note that, in addition to satellite carriers, television broadcast stations are indirectly affected by the proposed rule in that they potentially benefit from the satellite carriage required by the rule and must elect between mandatory carriage and retransmission consent. This carriage election, however, follows the existing Commission rules. These existing rules currently permit stations in the noncontiguous states to elect carriage if and when a satellite carrier offers local-into-local service in their market. The proposed rules would affect these election rights by merely providing a date certain for carriage in these specified markets, which would not have a significant economic impact.

24. Therefore, we certify that the proposed rules, if adopted, will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of this Notice of Proposed Rulemaking, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA; *see* 5 U.S.C. 605(b). This initial certification will also be published in the **Federal Register**; *see* 5 U.S.C. 605(b).

B. Initial Paperwork Reduction Act of 1995 Analysis

25. This *NPRM* has been analyzed with respect to the Paperwork Reduction Act of 1995 (''PRA''), and contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the proposed information collection requirements contained in this *NPRM*, as required by the PRA.

26. Written comments on the PRA proposed information collection requirements must be submitted by the public, the Office of Management and Budget (OMB), and other interested parties on or before July 8, 2005. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees;'' Pub. L. 107–198, *see* 44 U.S.C. 3506(c)(4).

27. In addition to filing comments with the Office of the Secretary, a copy of any comments on the proposed information collection requirements contained herein should be submitted to Cathy Williams, Federal Communications Commission, 445 12th St, SW., Room 1–C823, Washington, DC 20554, or via the Internet to *Cathy.Williams@fcc.gov*; and also to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503, or via Internet to *Kristy_L._LaLonde@omb.eop.gov*, or via fax at (202) 395–5167.

28. *Further Information.* For additional information concerning the PRA proposed information collection requirements contained in this *NPRM*, contact Cathy Williams at (202) 418–2918, or via the Internet to *Cathy.Williams@fcc.gov.* If you would like to obtain or view a copy of this revised information collection, OMB Control Number 3060–0980, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

C. Ex Parte Rules

29. *Permit-but-Disclose.* This proceeding will be treated as a ''permit-but-disclose'' proceeding subject to the ''permit-but-disclose'' requirements under section 1.1206(b) of the Commission's rules; *see* 47 CFR 1.1206(b); 47 CFR 1.1202, 1.1203. *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one-or two-sentence description of the views and arguments presented is generally required; *see* 47 CFR 1.1206(b)(2). Additional rules pertaining to oral and written presentations are set forth in section 1.1206(b).

D. Filing Requirements

30. *Comments and Replies.* The SHVERA requires the Commission to complete action within one year of enactment (December 8, 2004) to take account of carriage elections in light of the schedule for carriage as required in the noncontiguous states; *see* 47 U.S.C. 338(a)(4). The carriage election deadline is October 1, 2005 for the next carriage cycle. If the Commission waited until December 8, 2005, to implement this provision, it would be too late for stations to elect between must carry and retransmission consent for the carriage to commence on December 8, 2005. In addition, the Commission is proposing to require satellite carriers to provide notice to local stations in the noncontiguous states concerning the new carriage requirements one month prior to the carriage election deadline. Thus, the proposed notification requirement, if adopted, must be in effect by September 1, 2005, 30 days prior to the carriage election deadline of October 1, 2005, with respect to carriage of the analog signals required to commence by December 8, 2005. Consequently, the pleading cycle for comments and replies must be compressed and expedited. Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before June 6, 2005, and reply comments on or before June 20, 2005; *see* 47 CFR 1.415, 1419. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (''ECFS''), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies; *see* 13 FCC Rcd 11322 (1998).

31. *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must

transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

32. *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

33. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.

34. *Accessibility Information.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: *http://www.fcc.gov.*

35. *Additional Information.* For additional information on this proceeding, contact Eloise Gore, *Eloise.Gore@fcc.gov*, or Jim Keats, *Jim.Keats@fcc.gov*, of the Media Bureau, Policy Division, (202) 418–2120.

V. Ordering Clauses

36. Accordingly, *it is ordered* that pursuant to section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004, and sections 1, 4(i) and (j), and 338(a)(4) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), and 338(a)(4), *notice is hereby given* of the proposals and tentative conclusions described in this Notice of Proposed Rulemaking.

37. *It is further ordered* that the Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 76

Cable television, Television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for 47 CFR part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302a, 307, 308, 309, 312, 317, 325, 338, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, and 573.

2. Section 76.66 is amended by revising paragraphs (b)(2) and (c)(4), by adding paragraph (c)(6), redesignate paragraphs (d)(2)(iii) and (d)(2)(iv) as paragraphs (d)(2)(iv) and (d)(2)(v) and by adding a new paragraph (d)(2)(iii) to read as follows:

§ 76.66 Satellite broadcast signal carriage.

* * * * *

(b) * * *

(2) A satellite carrier that offers multichannel video programming distribution service in the United States to more than 5,000,000 subscribers shall, no later than December 8, 2005, carry upon request the signal originating as an analog signal of each television broadcast station that is located in a local market in a noncontiguous state; and shall, no later than June 8, 2007, carry upon request the signals originating as digital signals of each television broadcast station that is located in a local market in a noncontiguous State.

* * * * *

(c) * * *

(4) Except as provided in paragraphs (c)(6), (d)(2) and (d)(3) of this section, local commercial television broadcast stations shall make their retransmission consent-mandatory carriage election by October 1st of the year preceding the new cycle for all election cycles after the first election cycle.

* * * * *

(6) A commercial television broadcast station located in a local market in a noncontiguous State shall make its retransmission consent-mandatory carriage election by October 1, 2005, for carriage of its signal that originates as an analog signal for carriage commencing on December 8, 2005 and ending on December 31, 2008, and by April 1, 2007, for its signal that originates as a digital signal for carriage commencing on June 8, 2007 and ending on December 31, 2008. For analog and digital signal carriage cycles commencing after December 31, 2008, such stations shall follow the election cycle in paragraphs (c)(2) and (c)(4) of this section. A noncommercial television broadcast station located in a local market in Alaska or Hawaii must request carriage by October 1, 2005, for carriage of its signal that originates as an analog signal for carriage commencing on December 8, 2005 and ending on December 31, 2008, and for its signal that originates as a digital signal for carriage commencing on June 8, 2007 and ending on December 31, 2008.

* * * * *

(d) * * *

(2) * * *

(iii) A satellite carrier with more than five million subscribers shall provide the notice as required by paragraphs (d)(2)(i) and (d)(2)(ii) of this section to each television broadcast station located in a local market in the noncontiguous States, not later than September 1, 2005 with respect to carriage of analog signals and not later than March 1, 2007 with respect to carriage of digital signals; provided, however, that the notice shall

also describe the carriage requirements pursuant to section 338(a)(4) of title 47, United States Code, and paragraph (b)(2) of this section.

* * * * *

[FR Doc. 05–9290 Filed 5–6–05; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 383

[Docket No. FMCSA–2005–20043]

RIN 2126–AA01

Minimum Uniform Standards for a Biometric Identification System To Ensure Identification of Operators of Commercial Motor Vehicles; Withdrawal

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); withdrawal.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) (formerly the Federal Highway Administration's (FHWA) Office of Motor Carriers) withdraws two advance notices of proposed rulemaking (ANPRM) on using biometric identifiers to provide positive identification of drivers in the Commercial Driver's License Information System (CDLIS) and to prevent drivers from obtaining more than one commercial driver's license (CDL). The ANPRM requesting comments was published on May 15, 1989 at 54 FR 20875; an ANPRM providing additional information was published on March 8, 1991 at 56 FR 9925. The Transportation Security Administration (TSA) currently is developing a Transportation Worker Identification Credential (TWIC) that will incorporate biometric identifiers. FMCSA does not want to cause a conflict in standards adopted by each agency or place an undue burden on States by imposing two different standards and/or technologies for CDLs and the TWIC. In the future, FMCSA may assess the impact of the TWIC upon the Federal Motor Carrier Safety Regulations.

DATES: The ANPRM with request for comments published on May 15, 1989, and the ANPRM with additional information published on March 8, 1991, are withdrawn as of May 9, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Carol Gore, Leader, Commercial Driver's License Team, (202) 366–4013, Federal Motor Carrier Safety Administration, (MC–ESS), 400 Seventh Street SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 9105(a) of the Truck and Bus Safety and Regulatory Reform Act of 1988 [Pub. L. 100–690, November 18, 1988, 102 Stat. 4530] required the agency to issue minimum biometric identification standards for operators of commercial motor vehicles (CMVs) by December 31, 1990. The purpose of this system would be to provide positive identification of drivers in the Commercial Driver's License Information System (CDLIS) and to prevent drivers from obtaining more than one driver's license.

In 1988, FHWA [1] and a committee including four State licensing agencies and the American Association of Motor Vehicle Administrators (AAMVA) assessed the feasibility of using certain biometric identifier technologies to fulfill the statutory requirements of sec. 9105(a) of the Truck and Bus Safety and Regulatory Reform Act of 1988. The committee found both retinal scanning and automated fingerprint identification systems (AFIS) feasible [2] for use in the planned pilot study and identified an initial set of functional requirements [3] for a biometric identification system for CMV operators.

On May 15, 1989,[4] the agency requested comments on the establishment of biometric identifiers for operators of CMVs and announced the pilot study on the use of fingerprints and retinal scan technology to positively and uniquely identify operators of CMVs. The pilot study was conducted in 1990.

On March 8, 1991,[5] the agency published an ANPRM with the results of the pilot study and with a summary and response to comments to the 1989 ANPRM. (The 1991 ANPRM provided supplemental information on the biometric identifier issue but did not request additional comments.) FHWA concluded that neither retinal scanning nor AFIS was sufficiently accurate or cost effective to be practical at that time. Therefore, the agency did not issue a notice of proposed rulemaking. Instead, further rulemaking action on the matter was deferred until the technology developed to meet FHWA functional requirements. The agency continued to require States to make available in CDLIS a driver's personal identification information.

In 1998, section 4011(c) of the Transportation Equity Act for the 21st Century [49 U.S.C. 31308(2)] (TEA–21) required the agency to issue a rule mandating that all commercial driver's licenses (CDLs) issued by States after January 1, 2001, include a unique identifier that may be biometric. Although the 1998 legislation did not explicitly repeal the 1988 mandatory biometric identifier language, the agency concluded the contradictory language of the 1998 statute, when viewed against the lack of a statement of congressional intent in the legislative conference reports for TEA–21, supersedes and repeals by implication the 1988 mandate. Therefore, FMCSA found that TEA–21 changed the standard from mandating use of a biometric identifier to mandating use of a unique identifier, which may or may not be biometric.

In 1999, FMCSA again conducted a study to determine if a national biometric program was feasible and whether fingerprinting or facial imaging should be used. The results showed that a national biometric implementation program is feasible and that thumbprints are better than facial images as a biometric standard.

Withdrawal of Proposal

FMCSA believes the agency has satisfied the unique identifier standard in TEA–21 through its adoption of a specialized search procedure as part of the CDLIS. This procedure contains the following seven personal identifiers: Name, date of birth, sex, height, weight, eye color, and Social Security number, in an algorithm designed to produce a highly probable personal identification.

The Transportation Security Administration (TSA) currently is developing a Transportation Worker Identification Credential (TWIC) that

[1] The Federal Highway Administration (FHWA), Office of Motor Carriers became the Federal Motor Carrier Safety Administration (FMCSA) on January 1, 2000 (64 FR 72959, December 29, 1999).

[2] ''Personal Identifier Project Feasibility Study Report,'' State of California Department of Motor Vehicles, Project No. 2300–75, Log No. 215–88; Revised December 7, 1988.

[3] ''Functional Description for a Unique Identification System for the Commercial Driver's License Information System (CDLIS),'' Office of Motor Carriers; Report No. FHWA–MC–88–048; February 1988.

[4] ''Minimum Uniform Standards for a Biometric Identification System to Ensure Identification of Operators of Commercial Motor Vehicles;'' published at 54 FR 20875, May 15, 1989); ANPRM.

[5] ''Minimum Uniform Standards for Biometric Identification System to Ensure Identification of Operators of Commercial Motor Vehicles;'' published at 56 FR 9925 on March 8, 1991; ANPRM; additional information.

will incorporate biometric identifiers. Because FMCSA is no longer required to promulgate a regulation on biometric identifiers, the agency believes TSA is the agency in a better position to lead further development of biometric identifiers, thereby avoiding a potential conflict in standards adopted by each agency. The adoption of different standards and/or technologies for CDLs and a TWIC could place an unnecessary burden on States. Therefore, FMCSA is withdrawing its ANPRMs dated May 15, 1989, and March 8, 1991, on biometric identifiers.

FMCSA has shared its research on biometric identifiers with TSA. FMCSA will continue to work in a collaborative effort with TSA on the development of TSA's biometric identifier standard and the development of a TWIC. In the future, FMCSA may assess the impact of the TWIC upon the Federal Motor Carrier Safety Regulations.

Issued on: April 27, 2005.

Annette M. Sandberg,

Administrator.

[FR Doc. 05–9171 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 050304058–5113–02; I.D. 060204C]

RIN 0648–XB29

Endangered and Threatened Species; Proposed Threatened Status for Elkhorn Coral and Staghorn Coral

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

ACTION: Proposed rule; request for comments.

SUMMARY: We, the NMFS, have completed a comprehensive status review of elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals and determined that a petitioned action to list both species is warranted. We have determined that fused-staghorn coral (*A. prolifera*) is a hybrid and therefore does not warrant listing. We have made our determination based on the best scientific and commercial data available and efforts being made to protect the species, and we propose to place both elkhorn and staghorn corals on the list of threatened species under the Endangered Species Act of 1973, as amended (ESA). We are announcing that hearings will be held at four locations in June to provide additional opportunities and formats to receive public input.

DATES: Comments on this proposal must be received by August 8, 2005. See **SUPPLEMENTARY INFORMATION** for the specific public hearing dates.

ADDRESSES: You may submit comments, identified by the RIN 0648–XB29, by any of the following methods:

- E-mail: *Acropora.Info@noaa.gov*. Include Docket Number or RIN 0648–XB29 in the subject line of the message.
- Mail: Assistant Regional Administrator, Protected Resources Division, NMFS, Southeast Regional Office, Protected Resources Division, 263 13th Ave. South, St. Petersburg, FL 33701.
- Facsimile (fax) to: 727–824–5309.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments. Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking.
- See **SUPPLEMENTARY INFORMATION** for public hearing locations.

The proposed rule and status review are also available electronically at the NMFS website at *http://sero.nmfs.noaa.gov/pr/protres.htm*

FOR FURTHER INFORMATION CONTACT: Jennifer Moore or Stephania Bolden, NMFS, at the address above or at 727–824–5312, or Marta Nammack, NMFS, at 301–713–1401.

SUPPLEMENTARY INFORMATION:

Background

On March 4, 2004, the Center for Biological Diversity (CBD) petitioned us to list elkhorn, staghorn, and fused-staghorn corals as either threatened or endangered under the ESA and to designate critical habitat. On June 23, 2004, we made a positive 90–day finding (69 FR 34995) that CBD presented substantial information indicating that the petitioned actions may be warranted and announced the initiation of a formal status review as required by section 4(b)(3)(A) of the ESA. Concurrently, we solicited additional information from the public on these acroporid corals regarding historic and current distribution and abundance, population status and trends, areas that may qualify as critical habitat, any current or planned activities that may adversely affect them, and known conservation efforts. Additional information was requested during two public meetings held in December 2004 on: (1) distribution and abundance; (2) areas that may qualify as critical habitat; and (3) approaches/criteria that could be used to assess listing potential of the acroporids (e.g., viability assessment, extinction risk, etc.).

In order to conduct a comprehensive status review, we convened an Atlantic Acropora Biological Review Team (BRT). The members of the BRT were a diverse group of experts in their fields, including coral biologists and ecologists; specialists in coral disease, coral monitoring and restoration, climate change, water quality, coral taxonomy; regional experts in coral abundance/distribution throughout the Caribbean Sea; and state and Federal resource managers. The comprehensive, peer-reviewed status review report developed by the BRT incorporates and summarizes the best available scientific and commercial information as of March 2005. It addresses the status of the species, the five factors identified in ESA section 4(a)(1), and current regulatory, conservation and research efforts that may yield protection to the corals. The BRT also reviewed and considered the petition and materials we received as a result of the **Federal Register** document (69 FR 34995) and the public meetings; substantive materials were incorporated into the status review report.

Distribution and Abundance

Acropora spp. are widely distributed throughout the wider Caribbean (U.S. Florida, Puerto Rico, U.S. Virgin Islands (U.S.V.I.), Navassa; and Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Grenada, Guadeloupe, Haiti, Honduras, Jamaica, Martinique, Mexico, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, and Venezuela). Both elkhorn and staghorn corals used to be the most abundant and most important species on Caribbean coral reefs in terms of accretion of reef structure. In general, elkhorn and staghorn corals have the same distribution, with few exceptions. Staghorn coral's northern extent (Broward County, Florida) is farther north than that of elkhorn coral (Miami-Dade County, Florida). Relative to other corals, both have high growth rates that have allowed reef growth to keep pace with past changes in sea level. Additionally, both exhibit branching morphologies that provide important habitat for other reef organisms; no other Caribbean reef-building coral

species is able to fulfill these ecosystem functions. At the current reduced abundance of *A. palmata* and *A. cervicornis*, it is highly likely that both these ecosystem functions have been largely lost.

The third *Acropora* spp. present in the Caribbean Sea is the fused-staghorn coral (*A. prolifera*). Although it has a history in the taxonomic literature, recent genetic research has determined that it is an F1 (i.e., first generation) hybrid between *A. cervicornis* and *A. palmata*. While there is genetic evidence that A. prolifera has backcrossed with *A. cervicornis* on evolutionary time scales, and it undergoes gametogenesis, there is no evidence that it interbreeds (i.e., produces sexual offspring in a cross between two A. prolifera colonies). For this reason, the BRT did not include fused-staghorn coral as a species within the status review, and we determined that it does not meet the definition of a species under the ESA.

Both elkhorn and staghorn corals underwent precipitous declines in abundance in the early 1980s throughout their range, and this decline has continued. Although quantitative data on former distribution and abundance are scarce, in the few locations where quantitative data are available (i.e., Florida Keys, Dry Tortugas, Jamaica and the U.S.V.I.), declines in abundance are estimated at greater than 97 percent. Although this decline trend has been documented as continuing in the late 1990s, and even in the past 5 years in some locations, local extirpations (i.e., at the island or country scale) have not been documented. While recruitment of new colonies has been reported in various geographic locations, new recruits appear to be suffering mortality faster than they can mature (to sizes greater than 1 m in colony diameter). In a very few locations (e.g., Buck Island Reef National Monument) moderate recovery of elkhorn coral appears to be progressing. In most cases the genetic origin of the recruits, presumably from sexual reproduction, is unknown so that their contribution to the corals' Caribbean-wide recovery remains undetermined.

Analysis of the Definitions of Endangered and Threatened Species

We first considered whether all three of the corals listed in the petition met the definition of ''species'' pursuant to section 3 of the ESA. The term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' Based on this language, a ''species'' is given its ordinary, accepted biological meaning.

Species diagnoses for both elkhorn and staghorn were not debated as both species are recognized as separate taxa in the literature, have separate and discrete diagnoses and morphologies, and produce viable gametes, larvae, and successful sexual offspring. On the other hand, we carefully reviewed and deliberated on the taxonomic diagnosis for fused-staghorn coral (A. prolifera). While A. prolifera has been recognized in the taxonomic literature as a species based on morphology, it has always been rare, and little specific scientific information is available regarding its distribution, abundance, and trends. In addition, a wide range of intermediate A. prolifera morphologies exist in nature, and this further complicates in situ assessment of abundance and distribution. For the purpose of the status review, we did not consider A. prolifera a species as it does not interbreed with itself to produce viable offspring, and is therefore a hybrid for the reasons summarized below:

1. Recent scientific literature indicates that individuals of A. prolifera sampled from throughout the Caribbean region were all F1 (i.e., first generation) hybrids of A. palmata and A. cervicornis. This finding is consistent with the observed rarity of A. prolifera. There is also genetic evidence that A. prolifera has undergone rare backcrossing with the parent A. cervicornis on an evolutionary time scale.

2. Data from a single unpublished study indicate that A. prolifera does undergo gametogenesis, but there is no direct evidence that zygotes are produced due to colony rarity, or that successful sexual offspring result.

3. While it is unclear whether or not A. prolifera's gametes are viable, it is highly unlikely that genetically distinct colonies occur within sufficient proximity to routinely accomplish successful fertilization in nature.

Therefore, based on the best information available and the generally accepted biological definition of a species (consisting of related organisms capable of interbreeding to produce viable offspring), we determined that A. prolifera is a hybrid which has not been shown to interbreed when mature, and it does not constitute a species under the ESA.

Furthermore, although fused-staghorn is known to have backcrossed with staghorn at some time, similar elkhorn chromosome mapping has not been conducted. Therefore, we are reluctant to identify potential genealogy of the fused-staghorn relative to either elkhorn or staghorn coral. Instead, we determined that the hybrid should be considered a separate entity and that individuals of this entity are not considered members of either staghorn or elkhorn coral populations.

Next, we carefully examined the definitions of endangered and threatened species pursuant to section 3 of the ESA wherein: (1) ''endangered species'' is defined as ''any species which is in danger of extinction throughout all or a significant portion of its range;'' and (2) ''threatened species'' is defined as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.''

Corals are invertebrates, and, therefore, a listing determination must be based on the species' status throughout ''*all or a significant portion*'' of its range. The only information regarding discreteness or distinctiveness of Atlantic *Acropora* populations is a recent study that examined genetic exchange and clonal population structure in *A. palmata* by sampling and genotyping colonies from eleven locations throughout its geographic range using microsatellite markers. Results indicate that populations in the eastern Caribbean (St. Vincent and the Grenadines, U.S.V.I., Curacao, and Bonaire) have experienced little or no genetic exchange with populations in the western Caribbean (Bahamas, Florida, Mexico, Panama, Navassa, and Mona Island). Puerto Rico is an area of mixing where populations show genetic contribution from both regions, though it is more closely connected with the western Caribbean. Within these regions, the degree of larval exchange appears to be asymmetrical with some locations being entirely self-recruiting and some receiving immigrants from other locations within their region. No similar information exists for A. cervicornis. These results do not indicate source or sink areas, populations that are discrete or distinct, or any other specific geographic areas within the Caribbean Sea that should be considered more or less significant than another. Because there is no evidence indicating that any elkhorn or staghorn population within the geographic range of the species is more or less important than others, we considered the entire geographic range in determining status of these species.

Based on the ESA definition of an endangered species, the danger of extinction must be examined. While the number (in terms of abundance and coverage) of elkhorn and staghorn corals rangewide has precipitously declined

over the last 30 years, total number of colonies and presumably individuals remains very, very large (although the absolute number of colonies or coverage is unquantified). Given the high number of colonies, the species' large geographic range that remains intact (no evidence of range constriction), and the fact that asexual reproduction (fragmentation) provides a source for new colonies (albeit perhaps clones) which likely buffers natural demographic and environmental variability, we believe that both species retain significant potential for persistence and are at a low risk of extinction in the near term. Additionally, both elkhorn and staghorn corals have persisted through climate cooling and heating fluctuation periods over millions of years as determined by the geologic record, where other corals have gone extinct. Therefore, we have determined as a preliminary matter that neither elkhorn nor staghorn corals are in danger of extinction throughout all of their range.

For many of the same reasons discussed above, we determined that both elkhorn and staghorn corals may meet the ESA definition of threatened species. First, we established that the appropriate period of time corresponding to the foreseeable future is a function of the particular kinds of threats, the life-history characteristics, and the specific habitat requirements for the species under consideration. It is also consistent with the purpose of the ESA that the timeframe for the foreseeable future be adequate to provide for the conservation and recovery of threatened species and the ecosystems upon which they depend. Given this conceptual framework and the fact that some threats such as hurricanes or major disease outbreaks can happen at anytime and other threats happen over longer periods of time (e.g., habitat degradation, global climate change), the slow-growing and late maturing aspects of the species life history, and the fact that the current decline as documented by the BRT occurred during the last 20 to 30 years, we have preliminarily determined the foreseeable future for these species to be 30 years.

We then considered the following items on the timescale outlined above in evaluating the status of elkhorn and staghorn corals:

1. Recent drastic declines in abundance of both species have occurred throughout their geographic range and abundances are at historic lows;

2. Broad geographic ranges could become constricted due to local extirpations resulting from a single stochastic event (e.g., hurricanes, new disease outbreak);

3. Sexual recruitment is limited in some areas and unknown in most as fertilization success from clones is virtually zero; settlement of larvae is often unsuccessful given limited amount of appropriate habitat;

4. The Allee effect is occurring (fertilization success declines greatly as adult density declines).

Based upon these facts, we believe that abundance and distribution of both elkhorn and staghorn coral are likely to become further reduced. Furthermore, a series of local extirpations are likely to occur within the next 30 years. We believe that while elkhorn and staghorn coral are not currently in danger of extinction throughout all or a significant portion of their range, they are likely to become so within the foreseeable future. Therefore, we propose to list them as threatened under the ESA.

Analysis of Factors Affecting the Species

Section 4 of the ESA (16 U.S.C. 1533) and regulations promulgated to implement the listing provisions of the ESA (50 CFR part 424) set forth the procedures for adding species to the Federal list. Section 4 requires that listing determinations be based solely on the best scientific and commercial data available, without consideration of possible economic or other impacts of such determinations. Section 4(a)(1) of the ESA provides that the Secretary of Commerce shall determine whether any species is endangered or threatened because of any of five specified factors; these factors and their relevance to the status of elkhorn and staghorn corals are analyzed below.

The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Seven stressors (natural abrasion and breakage, anthropogenic abrasion and breakage, sedimentation, persistent elevated temperature, competition, excessive nutrients and sea level rise) were identified as threats affecting both species through present or threatened destruction, modification, or curtailment of their habitats or ranges. This consists of both destruction or disruption of substrate to grow on, and modification or alteration of the aquatic environment in which the corals live. Although habitat loss has occurred, to date, the range of these two species has not been reduced. However, because of the species' extremely low abundance, local extirpations are possible in the foreseeable future, leading to a reduction in range.

Elkhorn and staghorn corals, like most corals, require hard, consolidated substrate (i.e., attached, dead coral skeleton) for their larvae to settle or fragments to reattach. When the substrate is physically disturbed, and when the attached corals are broken and reduced to unstable rubble or sediment, settlement and reattachment habitat is lost. The most common causes of natural abrasion and breakage (physical disturbance) are severe storm events, including hurricanes. Severe storms can lead to the complete destruction and mortality of entire reef zones dominated by these species as well as destruction of the habitat on which these species depend (i.e., by covering settlement, reattachment and growing surfaces with unstable rubble and sediment). These major storms have physically disrupted reefs throughout the wider Caribbean and are among the primary causes of elkhorn and staghorn coral habitat loss in certain locations. Human activity in coral reef areas is another source of abrasion and breakage (anthropogenic), and thus destruction of *A. palmata* and *A. cervicornis* habitat. These activities include boating, anchoring, fishing, recreational SCUBA diving and snorkeling, and an increasing variety of maritime construction and development activities. The shallow habitat requirements of these two species make them especially susceptible to impacts from these anthropogenic activities, which have been documented as causing effects similar to severe storms, though usually on a smaller scale.

Acropora spp. also appear to be particularly sensitive to shading effects resulting from increased sediments in the water column. Because these corals are almost entirely dependent upon sunlight for nourishment, they are much more susceptible to increases in water turbidity and sedimentation than other species. Increased sediments in the water column, which have been documented to impede larval settlement, can result from, among other things, land development and run-off, dredging and disposal activities, and major storm events.

Optimal water temperatures for elkhorn and staghorn coral range from 25 to 29° C, with the species being able to tolerate higher temperatures for a brief period of time (e.g., order of days to weeks depending on the magnitude of the temperature elevation). Global atmospheric air and sea temperatures have been documented as rising over the past century, and shallow reef habitats are especially vulnerable. Water with sea surface temperatures above the optimal range does not provide suitable habitat for either of the two species.

Because of their fast growth rates (relative to other corals) and canopy-forming morphology, *A. palmata* and *A. cervicornis* are known to be competitive dominants within coral communities, in terms of their ability to overgrow other stony and soft corals. However, other types of reef benthic organisms (i.e., algae) have higher growth rates and are expected to have greater competitive ability than *Acropora* spp. Under current physical oceanographic conditions in shallow, coastal areas (i.e., elevated nutrients), algae are typically out-competing both Acropora spp. for space on the reef. The consequence of this competition is that less habitat is available for the two species to colonize.

Nutrients are added to coral reefs from both point sources (readily identifiable inputs where pollutants are discharged to receiving surface waters from a pipe or drain) and non-point sources (inputs that occur over a wide area and are associated with particular land uses). Coral reefs have been generally considered to be nutrient-limited systems, meaning that levels of accessible nitrogen and phosphorus limit the rates of plant growth. When nutrients levels are raised in such a system, plant growth can be expected to increase, and this can yield imbalance and changes in community structure. The widespread increase in algae abundance on Caribbean corals reefs has been attributed to nutrient enrichment. Therefore, less habitat is available for elkhorn and staghorn coral larval settlement or fragment reattachment.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Only one stressor under the second factor identified in section 4(a)(1), overutilization for commercial, recreational, scientific, or educational purposes, was identified as a potential threat to elkhorn and staghorn corals: overharvest for curio/aquarium demand. Overutilization does not appear to be a significant threat to either of these two species given current regulation and management.

Disease or Predation

Disease was identified as the single largest cause of both elkhorn and staghorn coral mortality and decline. It is also the greatest threat to the two species' persistence and recovery given its widespread, episodic, and unpredictable occurrence resulting in high mortality. The threat is exacerbated by the fact that disease, though clearly severe, is poorly understood in terms of etiology and possible links to anthropogenic stressors. Although the number or identity of specific disease conditions affecting Atlantic Acropora spp. and the causal factors involved are uncertain, several generalizations are evident. First, both total number of described Acropora spp. specific diseases as well as the prevalence and/or geographic range of impact have increased over the past decade, and the trend is expected to continue. Second, disease has had, and continues to have, major ongoing impacts on population abundance and colony condition of both elkhorn and staghorn coral. Diseases affecting these species may prevent or delay their recovery in the wider Caribbean. Finally, diseases constitute an ongoing, major threat about which specific mechanistic and predictive understanding is largely lacking, thus precluding effective control or management strategies.

Acropora spp. are also subject to invertebrate (e.g., polychaete, mollusk, echinoderm) and vertebrate (fish) predation, but ''plagues'' of coral predators such as the Indo-Pacific crown-of-thorns outbreaks (Acanthaster planci) have not been described in the Atlantic. Predation may directly cause mortality or injuries that lead to invasion of other biota (e.g., algae, boring sponges). The threat of predation, while apparently much less than that of disease, is also contributing to the status of these species.

Inadequacy of Existing Regulatory Mechanisms

We evaluated existing regulatory mechanisms (fourth factor identified in ESA section 4(a)(1)) currently in place and consisting of enforceable provisions which are directed at managing threats to elkhorn and staghorn corals. Most existing regulatory mechanisms are not specific to the two species, but were promulgated to manage corals or coral reefs in general. While the impact of many stressors were determined to be slightly reduced with the implementation of regulations, none were totally abated. For example, the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and South Atlantic (under the Magnuson-Stevens Fishery Conservation and Management Act) protects all corals from harvest, sale and destruction on the seabed in U.S. Federal waters during fishing related activities. In some cases, elkhorn and staghorn corals are incidentally destroyed during fishing practices, and, therefore, the regulation does not fully abate the threat from damaging fishing practices.

The major threats to these species' persistence (i.e., disease, elevated temperature and hurricanes) are severe, unpredictable, and have increased over the past 3 decades. At current levels of knowledge, the threats are unmanageable, and there is no apparent indication that these trends will change in the foreseeable future. No existing regulatory mechanisms are currently in place, or expected to be in place in the foreseeable future, to control or prevent these major threats to the two species. In the meantime, managing some of the stressors determined to be less severe (e.g., anchoring, vessel groundings, point and non-point source nutrients, sedimentation) may assist in decreasing the rate of *A. palmata* and *A. cervicornis* decline by enhancing coral condition and decreasing synergistic stress effects.

Other Natural or Manmade Factors Affecting the Continued Existence of the Species

We identified eleven stressors that affect the status of elkhorn and staghorn corals as a result of other natural or manmade factors (fifth factor identified in ESA section 4(a)(1)): elevated temperature, competition, elevated nutrients, sedimentation, sea level rise, abrasion and breakage, contaminants, loss of genetic diversity, African dust, elevated carbon dioxide, and sponge boring. Many of these threats are the same as those identified in the first factor (habitat) because the same mechanism can cause direct impacts to the organisms in addition to destroying or disrupting their habitat. Impacts from some of these stressors are complex, resulting in synergistic habitat impacts (first factor identified in ESA section 4(a)(1)).

Elevation of the typical sea surface temperature in tropical and subtropical oceans stresses *Acropora* spp. Global air and sea surface temperatures have risen over the past 100 years and shallow reef habitats are especially vulnerable. When exposed to elevated temperatures, elkhorn and staghorn corals expel the symbiotic algae (bleaching) on which they depend for a photosynthetic contribution to their energy budget, enhancement of calcification, and color. Temperature induced bleaching affects growth, maintenance, reproduction, and survival of these two species. As summarized in the status review report, bleaching has been documented as the source of extensive elkhorn and staghorn mortality in numerous locations throughout their range. The extent of bleaching is a function of the intensity of the temperature elevation and the duration of the event.

Along with elevated temperature, atmospheric carbon dioxide levels have increased in the last century and there is no apparent evidence that the trend

will not continue. As atmospheric carbon dioxide is dissolved in surface seawater, seawater becomes more acidic, shifting the balance of inorganic carbon species away from carbon dioxide and carbonate toward bicarbonate. This shift decreases the ability of corals to calcify because corals are thought to use carbonate (not bicarbonate) to build their aragonite skeletons. Experiments have shown the reduction of calcification in response to elevated carbon dioxide levels.

Rapid sea level rise was identified as a potential threat to these species; however, under current conditions, we conclude that this stressor is not affecting either of the two species' status.

As discussed above, increased sediments in the water column can result from, among other things, land development and run-off, dredging and disposal activities, and major storm events. In addition to the habitat impacts, sedimentation has been shown to cause direct physiological stress to elkhorn and staghorn corals. Direct deposition of sediments on coral tissue and shading due to sediments in the water column have both caused tissue death in these species.

In addition to the habitat impacts described above, natural and anthropogenic sources of abrasion and breakage (i.e., severe storms, vessel groundings, fishing debris) cause direct mortality to elkhorn and staghorn corals. Their branching morphology make them particularly susceptible to breakage. The creation of fragments through breakage is a natural means of asexual reproduction for these species. However, the fragments must encounter suitable habitat to be able to reattach and create a new colony. Under current conditions, suitable habitat is often not available, and entire elkhorn and staghorn reefs have been destroyed after these events.

Many of the threats identified as contributing to the status of elkhorn and staghorn coral are minor in intensity, but have an impact nonetheless because of their extremely reduced population sizes. Direct competition with other species, skeleton bioerosion by clionid sponges, and effects from African dust all are minor threats, but they are exacerbating the species' current status.

The severity of all of the threats (natural or manmade) ranges from high (e.g., temperature) to low (e.g., sponge boring). Some stressors (e.g., contaminants and loss of genetic diversity) are known to be threats to these two species, but their effect on the status is undetermined and understudied.

Summary and Synthesis of Analysis of the Factors Identified in ESA Section 4(a)(1)

We determined that the major factors affecting the two species are disease, elevated temperature, and hurricanes. Other factors identified as contributing to the status of the species, given their extremely reduced population sizes, are sedimentation, anthropogenic abrasion and breakage, competition, excessive nutrients, sea level rise, predation, contaminants, loss of genetic diversity, African dust, elevated carbon dioxide levels, and sponge boring.

Basis for Proposed Determination

In accordance with section 4(b)(1)(A) of the ESA, the determination that the petitioned action is warranted was based on the best scientific and commercial data available. As provided in 50 CFR 434.13, we used scientific and commercial publications, administrative reports, maps, and information received from experts on the subject.

As further required by section 4(b)(2), we considered those efforts being made by States or foreign nations to protect or conserve the two species. As discussed above, the major threats to the two species are currently unmanageable, and, therefore, these efforts do not alter the threatened status of elkhorn and staghorn corals.

Finally, section 4(b)(1)(B) of the ESA, requires us to give consideration to species which (1) have been designated as requiring protection from unrestricted commerce by any foreign nation, or (2) have been identified as in danger of extinction, or likely to become so within the foreseeable future, by any state agency or by any agency of a foreign nation. All corals are listed under Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which regulates international trade of species to ensure survival. Additionally, all corals, including elkhorn and staghorn corals, are protected under the U.S.V.I. Indigenous and Endangered Species Act of 1990, and both species have been listed recently in the ''red book'' of threatened marine invertebrates of Colombia by a technical commission coordinated by the Ministry of the Environment. Acropora cervicornis was considered as a critically endangered species in Colombia and A. palmata was included as endangered. Thus, the proposed listing is consistent with foreign and international actions taken with regard to these species.

Similarity of Appearance of the Hybrid

We also considered the risk to elkhorn and staghorn corals of not listing fused-staghorn coral pursuant to ESA section 4(e), Similarity of Appearance Cases. We determined that listing fused-staghorn coral under this provision is not warranted given its rarity, the fact that it is almost always found amongst colonies of other Acropora spp., and the conclusion by the BRT that the threat of overharvest by curio/aquarium demand is well regulated.

Effects of Listing

Conservation measures provided for species listed as endangered or threatened under the ESA include recovery actions (16 U.S.C. 1533(f)), critical habitat designations, Federal agency consultation requirements (16 U.S.C. 1536), and prohibitions on taking (16 U.S.C. 1538). Recognition of the species' plight through listing promotes conservation actions by Federal and state agencies, private groups, and individuals. Should the proposed listing be made final, a recovery program would be implemented, and critical habitat may be designated. We believe that to be successful, protective regulations and recovery programs for elkhorn and staghorn corals will need to be developed in the context of conserving aquatic ecosystem health. Federal, state and the private sectors will need to cooperate to conserve the listed elkhorn and staghorn corals and the ecosystems upon which they depend.

Service Policies on Role of Peer Review

On July 1, 1994, we and FWS published a policy regarding peer review of scientific data (59 FR 34270). The intent of this peer review policy is to ensure that listings are based on the best scientific and commercial data available. Prior to a final listing, we formally solicit expert opinions and analyses on one or more specific questions or assumptions. This solicitation process may take place during a public comment period on any proposed rule or draft recovery plan, during the status review of a species under active consideration for listing, or at any other time deemed necessary to clarify a scientific question. The status review was peer reviewed by six experts in the field, with their substantive comments incorporated in the final status review

Critical Habitat

Critical habitat is defined in section 3 of the ESA (16 U.S.C. 1532(3)) as: (1) the specific areas within the geographical area occupied by a species, at the time

it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the ESA is no longer necessary. Section 4(a)(3)(a) of the ESA (16 U.S.C. 1533(a)(3)(A)) requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. If we determine that it is prudent and determinable, we will publish a proposed designation of critical habitat for elkhorn and staghorn corals in a separate rule.

Public Comments Solicited

To ensure that any final action resulting from this proposal will be as accurate and effective as possible, we are soliciting comments from the public, other concerned governmental agencies, the scientific community, industry, and any other interested parties. Final promulgation of any regulation(s) on this species or withdrawal of this listing proposal will take into consideration the comments and any additional information we receive, and such communications may lead to a final regulation that differs from this proposal or result in a withdrawal of this listing proposal.

Solicitation of Information

In addition to comments on the proposed rule, we are soliciting information on areas that may qualify as critical habitat for elkhorn and staghorn coral. The physical and biological features essential to the conservation of the species and areas that contain these features should be identified. Areas outside the occupied geographic area should also be identified if such areas are essential to the conservation of the species. Essential features may include, but are not limited to: (1) space for individual growth and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and development of offspring; and (5) habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of the species (50 CFR 424.12(b)).

For areas potentially qualifying as critical habitat, we also request information describing: (1) activities or other threats to the essential features or activities that could be affected by designating them as critical habitat, and (2) the economic costs and benefits likely to result if these areas are designated as critical habitat.

Public Hearing Dates and Locations

Public hearings will be held at four locations in Puerto Rico, the U.S. Virgin Islands, and Florida in June. The specific dates and locations of these meetings are listed below:

(1) Monday, June 13, 2005, at the Caribe Hilton, The Flamboyan, San Geronimo Grounds, Los Rosales St., San Juan, Puerto Rico 00901, 7–9 p.m.

(2) Tuesday, June 14, 2005, at the Holiday Inn Windward Passage, Veterans Drive, Caribbean B Room, Charlotte Amalie, St. Thomas, U.S. Virgin Islands, 00804, 7–9 p.m.

(3) Tuesday, June 21, 2005, at the Marathon Garden Club, 5270 Overseas Highway, Marathon, FL, 33050, 1:30–3:30 p.m.

(4) Wednesday, June 22, 2005, at the Courtyard by Marriott Hotel, Manatee/Marlin Room, 400 Gulf Stream Way, Dania Beach, FL, 33004, 7–9 p.m.

Special Accommodations

These public hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jennifer Moore no later than June 7, 2005 (see **FOR FURTHER INFORMATION CONTACT**)

Classification

National Environmental Policy Act

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in Pacific Legal Foundation v. Andrus, 675 F. 2d 825 (6th Cir.1981), NMFS has concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act. (See NOAA Administrative Order 216–6.)

Executive Order 12866, Regulatory Flexibility Act and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts shall not be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this rule is exempt from review under Executive Order 12866. This proposed rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

Federalism

In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, this proposed rule will be given to the relevant state agencies in each state in which the species is believed to occur, who will be invited to comment. We have conferred with the State of Florida and the Territories of Puerto Rico and the U.S.V.I. in the course of assessing the status of the elkhorn and staghorn corals, and considered, among other things, Federal, state and local conservation measures. As we proceed, we intend to continue engaging in informal and formal contacts with the states and territories, and other affected local or regional entities, giving careful consideration to all written and oral comments received. We also intend to consult with appropriate elected officials in the establishment of any final rule.

References

Acropora Biological Review Team. 2005. Atlantic Acropora Status Review Document. Report to National Marine Fisheries Service, Southeast Regional Office. March 3, 2005. 152 p + App.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.

Dated: May 3, 2005.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 223 is proposed to be amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 et seq; subpart B, § 223.12 issued under 16 U.S.C. 1361 *et seq.*

2. In § 223.102, add paragraph (e) to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) *Marine invertebrates.* Elkhorn coral (*Acropora palmata*), rangewide, and staghorn coral (*Acropora*

cervicornis), rangewide. Includes United States Florida, Puerto Rico, U.S. Virgin Islands, Navassa; and wider-Caribbean - Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Grenada, Guadeloupe, Haiti, Honduras, Jamaica, Martinique, Mexico, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, and Venezuela.

* * * * *

[FR Doc. 05–9222 Filed 5–4–05; 3:16 pm]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 70, No. 88
Monday, May 9, 2005

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

Submission for OMB Review; Comment Request

May 4, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Homeowner Risk Reduction Behaviors Concerning Wildfire Risks.

OMB Control Number: 0596–NEW.

Summary of Collection: The threat of wildfire to residents located in areas next to forested public lands has increased significantly during the last decade. As homeowners migrate to areas that are at increasing risk from wildfire they face important decisions regarding how much risk to accept from various sources. An important component of making decisions regarding risk is to understand the behaviors that are effective at reducing the risk and the information sources that are considered reliable for risk reduction information. To gain a better insight into homeowners' perceptions of wildfire risk, behaviors that reduce wildfire, it is important to collect information directly from the homeowners that are at risk. The information will be collected using a survey instrument that is administered via the U.S. Postal Service. The type of information collected will include: (1) Risk perceptions regarding wildfire, (2) risk reduction behaviors associated with wildfire, (3) sources of information regarding wildfires and wildfire risk reduction, and (4) socio-economic information.

Need and Use of the Information: The data collected from the survey will benefit Forest Service (FS) and the communities that are surveyed. The data will be used to generate reports that are targeted toward FS personnel that are responsible for working with communities and homeowners in order to reduce the risks associated with wildfires. Without the information FS land managers and the public will continue to interact on the issues of wildfire risk without a broad-based understanding of the factors that lesson wildfire risk, factors that are important to homeowners.

Description of Respondents: Individuals or households.

Number of Respondents: 1,500.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 500.

Ruth Brown,
Departmental Information Collection Clearance Officer.

[FR Doc. 05–9193 Filed 5–6–05; 8:45 am]

BILLING CODE 3410–11–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04–126–1]

National Wildlife Services Advisory Committee; Notice of Renewal

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of renewal.

SUMMARY: We are giving notice that the Secretary of Agriculture has renewed the National Wildlife Services Advisory Committee for a 2-year period. The Secretary has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Ms. Joanne Garrett, Director, Operational Staff, WS, APHIS, 4700 River Road, Unit 87, Riverdale, MD 20737–1234; (301) 734–7921.

SUPPLEMENTARY INFORMATION: The purpose of the National Wildlife Services Advisory Committee (Committee) is to advise the Secretary of Agriculture on policies, program issues, and research needed to conduct the Wildlife Services program. The Committee also serves as a public forum enabling those affected by the Wildlife Services program to have a voice in the program's policies.

Done in Washington, DC, this 3rd day of May 2005.

Michael James Harrison,
Assistant Secretary for Administration.

[FR Doc. 05–9195 Filed 5–6–05; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Forest Service

Ketchikan Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ketchikan Resource Advisory Committee will meet in Ketchikan, Alaska, June 16, 2005 and August 18, 2005. The purpose of these meetings is to discuss potential projects under the Secure Rural Schools and Community Self-Determination Act of 2000.

DATES: The meetings will be held June 16, 2005 and August 18, 2005 at 6 p.m.

ADDRESSES: The meetings will be held at the Southeast Alaska Discovery Center Learning Center (back entrance), 50 Main Street, Ketchikan, Alaska. Send written comments to Ketchikan Resource Advisory Committee, c/o District Ranger, USDA Forest Service, 3031 Tongass Ave., Ketchikan, AK 99901, or electronically to *ikolund@fs.fed.us*.

FOR FURTHER INFORMATION CONTACT: Lyn Kolund, District Ranger, Ketchikan-Misty Fiords Ranger District, Tongass National Forest, (907) 228–4100.

SUPPLEMENTARY INFORMATION: The meetings are open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: April 22, 2005.

Forrest Cole,

Forest Supervisor.

[FR Doc. 05–9178 Filed 5–6–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Indiana

AGENCY: Natural Resources Conservation Service (NRCS) Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Indiana for review and comment.

SUMMARY: It is the intention of NRCS in Indiana to issue five revised conservation practice standards in Section IV of the FOTG. The revised standards are: Clearing and Snagging (326), Fence (382), Field Border (386), Riparian Herbaceous Cover (390) and Roof Runoff Structure (558). These practices may be used in conservation systems that treat highly erodible land and/or wetlands.

DATES: Comments will be received for a 30-day period commencing with this date of publication.

ADDRESSES: Address all requests and comments to Jane E. Hardisty, State Conservationist, Natural Resources Conservation Service (NRCS), 6013 Lakeside Blvd., Indianapolis, Indiana 46278. Copies of this standard will be made available upon written request. You may submit your electronic requests and comments to *darrell.brown@in.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Jane E. Hardisty, (317) 290–3200.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that after enactment of the law, revisions made to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Indiana will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Indiana regarding disposition of those comments and a final determination of changes will be made.

Dated: April 25, 2005.

Jane E. Hardisty,

State Conservationist, Indianapolis, Indiana.

[FR Doc. 05–9151 Filed 5–6–05; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to the Natural Resources Conservation Service's National Handbook of Conservation Practices

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture, New York State Office.

ACTION: Notice of availability of proposed changes in the NRCS National Handbook of Conservation Practices, Section IV of the New York State Field Office Technical Guide (FOTG) for review and comment.

SUMMARY: It is the intention of NRCS to issue one revised conservation practice standard in its National Handbook of Conservation Practices. This standard is: Feed Management (NY592).

DATES: Comments will be received for a 30-day period commencing with the date of this publication.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Paul W. Webb, State Resource Conservationist, Natural Resources Conservation Service (NRCS), 441 S. Salina Street, Fifth Floor, Suite 354, Syracuse, New York 13202–2450.

A copy of this standard is available from the above individual.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agricultural Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State Technical Guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS will receive comments relative to the proposed changes. Following that period, a determination will be made to the NRCS regarding disposition of those comments and final determination of change will be made.

Dated: April 26, 2005.

Paul W. Webb,

State Resource Conservationist, Natural Resources Conservation Service, Syracuse, NY.

[FR Doc. 05–9150 Filed 5–6–05; 8:45 am]

BILLING CODE 3410–16–U

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funding Availability: Section 515 Multi-Family Housing Preservation Revolving Loan Fund (PRLF) Demonstration Program

Announcement Type: Initial Notice of Funding Availability (NOFA) inviting applications from qualified applicants.

Catalog of Federal Domestic Assistance Number (CFDA): 10.415.

SUMMARY: The Rural Housing Service (RHS) announces the availability of funds and the timeframe to submit applications for loans to private non-profit organizations, or such non-profit organizations' affiliate loan funds and State housing finance agencies, to carry out a housing demonstration program to provide revolving loans for the preservation and revitalization of low-income multi-family housing. Housing that is assisted by this demonstration program must be financed by RHS through its multi-family housing loan program under Section 515 of the Housing Act of 1949. This demonstration program will be achieved through loans made to intermediaries that establish programs for the purpose of providing loans to ultimate recipients for the preservation and revitalization of

Section 515 multi-family housing as affordable housing.

DATES: The deadline for receipt of all applications in response to this NOFA is 5 p.m., Eastern Time, on August 8, 2005. The application closing deadline is firm as to date and hour. The Agency will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX), COD, and postage due applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: Henry Searcy, Jr., Senior Loan Specialist, Multi-Family Housing Processing Division—STOP 0781 (Room 1263–S), U.S. Department of Agriculture—Rural Housing Service, 1400 Independence Ave. SW., Washington, DC 20250–0781 or by telephone at (202) 720–1753. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 (2005) *et seq.*, OMB must approve all ''collections of information'' by RHS. The Act defines ''collection of information'' as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *.'' (44 U.S.C. 3502(3)(A)) Because this NOFA will receive less than 10 respondents, the Paperwork Reduction Act does not apply.

Overview

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (Division A of Pub. L. 108–447) provided funding for, and authorizes RHS to, establish a revolving loan fund demonstration program for the preservation and revitalization of the Section 515 multi-family housing portfolio. The Section 515 multi-family housing program is authorized by Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) and provides RHS the authority to make loans for low income multi-family housing and related facilities.

Program Administration

I. Funding Opportunities Description

This NOFA requests applications from eligible applicants for loans to establish and operate revolving loan funds for the preservation of low-income multi-family housing within the Agency's Section 515 multi-family housing portfolio. The Agency's Section 515 multi-family housing program is authorized by Section 515 (42 U.S.C. 1485) of the Housing Act of 1949. Agency regulations for the Section 515 multi-family housing program are published at 7 CFR part 3560.

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

II. Award Information

Public Law 108–447 (December 8, 2004) made funding available for loans to private non-profit organizations, or such non-profit organizations' affiliate loan funds and State housing finance agencies, to carry out a housing demonstration program to provide revolving loans for the preservation of the Section 515 multi-family housing portfolio. The total amount of funding available for this program is $6,364,414. Loans to intermediaries under this demonstration program shall have an interest rate of no more than one percent and the Secretary of Agriculture may defer the interest and principal payment to RHS for up to three years. The term of such loans shall not exceed 30 years. Funding priority will be given to entities with equal or greater matching funds, including housing tax credits for rural housing assistance and to entities with experience in the administration of revolving loan funds and the preservation of multi-family housing.

III. Eligibility Information

Applicant Eligibility

(1) Eligibility requirements—Intermediary.

(a) The types of entities which may become intermediaries are private nonprofit organizations or such non-profit organizations' affiliate loan funds and State housing finance agencies.

(b) The intermediary must have:

(i) The legal authority necessary for carrying out the proposed loan purposes and for obtaining, giving security for, and repaying the proposed loan.

(ii) A proven record of successfully assisting low-income multi-family housing projects. Such record will include recent experience in loan making and servicing with loans that are similar in nature to those proposed for the PRLF demonstration program and a delinquency and loss rate acceptable to the Agency.

(iii) The services of a staff with loan making and servicing expertise acceptable to the Agency.

(iv) Capitalization acceptable to the Agency.

(c) No loans will be extended to an intermediary unless:

(i) There is adequate assurance of repayment of the loan based on the fiscal and managerial capabilities of the proposed intermediary.

(ii) The amount of the loan, together with other funds available, is adequate to assure completion of the project or achieve the purposes for which the loan is made.

(iii) At least 51 percent of the outstanding interest or membership in any nonpublic body intermediary must be composed of citizens of the United States or individuals who reside in the United States after being legally admitted for permanent residence.

(d) Intermediaries, and the principals of the intermediaries, must not be suspended, debarred, or excluded based on the ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs.'' In addition, intermediaries and their principals must not be delinquent on Federal debt.

(2) Eligibility requirements—Ultimate recipients.

(a) To be eligible to receive loans from the PRLF, ultimate recipients must:

(i) Currently have a RHS Section 515 loan for the property being assisted by the PRLF demonstration program, or be a transferee of such a loan before receiving any benefits from the PRLF demonstration program.

(ii) Be unable to provide the necessary housing from its own resources and, except for State or local public agencies and Indian tribes, be unable to obtain the necessary credit from other sources upon terms and conditions the applicant could reasonably be expected to fulfill.

(iii) Along with its principal officers (including their immediate family), hold no legal or financial interest or

influence in the intermediary. Also, the intermediary and its principal officers (including immediate family) must hold no legal or financial interest or influence in the ultimate recipient.

(iv) Be in compliance with all Agency program requirements or have an Agency approved workout plan in place which will correct a non-compliance status.

(b) Any delinquent debt to the Federal Government, by the ultimate recipient or any of its principals, shall cause the proposed ultimate recipient to be ineligible to receive a loan from the PRLF. PRLF loan funds may not be used to satisfy the delinquency.

Cost Sharing or Matching. Funding priority will be given to entities with equal or greater matching funds, including housing tax credits for rural housing assistance. Refer to the Selection Criteria section of the NOFA for further information on funding priorities.

Equal Opportunity and Nondiscrimination Requirements

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

(2) The policies and regulations contained in 7 CFR part 1901, subpart E apply to this program.

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

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

(5) In accordance with RD Instruction 2006–P and Departmental Regulation 5600–2, the Agency should conduct a Civil Rights Impact Analysis for each loan made to an intermediary and the Agency should document their analyses through the completion of Form RECD 2006–38, ''Civil Rights Impact Analysis Certification.''

Other Administrative Requirements

(1) The following policies and regulations apply to loans to intermediaries made in response to this NOFA:

(a) PRLF intermediaries will be required to provide the Agency with the following reports:

(i) An annual audit;

(A) Dates of audit report period need not necessarily coincide with other reports on the PRLF. Audit reports shall be due 90 days following the audit period. Audits must cover all of the intermediary's activities. Audits will be performed by an independent certified public accountant. An acceptable audit will be performed in accordance with Generally Accepted Government Auditing Standards and include such tests of the accounting records as the auditor considers necessary in order to express an opinion on the financial condition of the intermediary. The Agency does not require an unqualified audit opinion as a result of the audit. Compilations or reviews do not satisfy the audit requirement.

(B) It is not intended that audits required by this program be separate and apart from audits performed in accordance with State and local laws or for other purposes. To the extent feasible, the audit work for this program should be done in connection with these other audits. Intermediaries covered by OMB Circular A–128 or A–133 should submit audits made in accordance with those circulars.

(ii) Quarterly or semiannual reports (due 30 days after the end of the period);

(A) Reports will be required quarterly during the first year after loan closing. Thereafter, reports will be required semiannually. Also, the Agency may resume requiring quarterly reports if the intermediary becomes delinquent in repayment of its loan or otherwise fails to fully comply with the provisions of its work plan or Loan Agreement, or the Agency determines that the intermediary's PRLF is not adequately protected by the current financial status and paying capacity of the ultimate recipients.

(B) These reports shall contain information only on the PRLF, or if other funds are included, the PRLF portion shall be segregated from the others; and in the case where the intermediary has more than one PRLF from the Agency, a separate report shall be made for each PRLF.

(C) The reports will include, on a form to be provided by the Agency, information on the intermediary's lending activity, income and expenses, financial condition and a summary of names and characteristics of the ultimate recipients the intermediary has financed.

(iii) Annual proposed budget for the following year; and

(iv) Other reports as the Agency may require from time to time.

(b) RHS may consider, on a case by case basis, subordinating its security interest on the property to the lien of the intermediary so that RHS has a junior lien interest when an independent appraisal documents the RHS subordinated lien will continue to be fully secured.

(c) The term of the loan to the ultimate recipient may not exceed the remaining term of the RHS loan.

(d) When loans are made to the ultimate recipients for equity purposes, Restrictive Use Provisions must be incorporated into the loan documents, as outlined in 7 CFR part 3560.662.

(e) The policies and regulations contained in 7 CFR part 1901, subpart F regarding historical and archaeological properties.

(f) The policies and regulations contained in 7 CFR part 1940, subpart G regarding environmental assessments. Loans to intermediaries under this program will be considered a Categorical Exclusion under the National Environmental Policy Act, requiring the completion of Form RD 1940–22, ''Environmental Checklist for Categorical Exclusions,'' by the Agency.

(g) An ''Intergovernmental Review,'' if required by RD Instruction 1940–J, will be conducted in accordance with the procedures contained in that Instruction.

(2) The intermediary agrees to the following:

(a) To obtain the written Agency approval, before the first lending of PRLF funds to an ultimate recipient, of:

(i) All forms to be used for relending purposes, including application forms, loan agreements, promissory notes, and security instruments; and

(ii) Intermediary's policy with regard to the amount and form of security to be required.

(b) To obtain written approval from the Agency before making any significant changes in forms, security policy, or the work plan. The Agency may approve changes in forms, security policy, or work plans at any time upon a written request from the intermediary and determination by the Agency that the change will not jeopardize repayment of the loan or violate any requirement of this NOFA or other Agency regulations. The intermediary must comply with the work plan approved by the Agency so long as any portion of the intermediary's PRLF loan is outstanding;

(c) To secure the indebtedness by pledging the PRLF, including its portfolio of investments derived from the proceeds of the loan award, and other rights and interests as the Agency may require;

(d) To return, as an extra payment on the loan any funds that have not been used in accordance with the intermediary's work plan by a date 2 years from the date of the loan agreement. The intermediary acknowledges that the Agency may cancel the approval of any funds not yet delivered to the intermediary if funds have not been used in accordance with the intermediary's work plan within the 2 year period. The Agency, at its sole discretion, may allow the intermediary additional time to use the loan funds by delaying cancellation of the funds by not more than 3 additional years. If any loan funds have not been used by 5 years from the date of the loan agreement, the approval will be canceled for any funds that have not been delivered to the intermediary and the intermediary will return, as an extra payment on the loan, any funds it has received and not used in accordance with the work plan. In accordance with the Agency approved promissory note, regular loan payments will be based on the amount of funds actually drawn by the intermediary.

(3) The intermediary will be required to enter into an Agency approved loan agreement and promissory note.

(4) Loans made to the PRLF ultimate recipient must meet the intent of providing decent, safe, and sanitary rural housing and be consistent with the requirements of title V of the Housing Act of 1949.

(5) When an intermediary proposes to make a loan from the PRLF to an ultimate recipient, Agency concurrence is required prior to final approval of the loan. A request for Agency concurrence in approval of a proposed loan to an ultimate recipient must include:

(a) Certification by the intermediary that:

(i) The proposed ultimate recipient is eligible for the loan;

(ii) The proposed loan is for eligible purposes;

(iii) The proposed loan complies with all applicable statutes and regulations; and

(iv) Prior to closing the loan to the ultimate recipient, the intermediary and its principal officers (including immediate family) hold no legal or financial interest or influence in the ultimate recipient, and the ultimate recipient and its principal officers (including immediate family) hold no legal or financial interest or influence in the intermediary.

(b) Copies of sufficient material from the ultimate recipient's application and the intermediary's related files, to allow the Agency to determine the:

(i) Name and address of the ultimate recipient;

(ii) Loan purposes;

(iii) Interest rate and term;

(iv) Location, nature, and scope of the project being financed;

(v) Other funding included in the project; and

(vi) Nature and lien priority of the collateral.

(vii) Environmental impacts of this action. This will include an original Form RD 1940–20, ''Request for Environmental Information,'' completed and signed by the intermediary. Attached to this form will be a statement stipulating the age of the building to be rehabilitated and a completed and signed FEMA Form 81–93, ''Standard Flood Hazard Determination.'' If the age of the building is over 50 years old or if the building is either on or eligible for inclusion in the National Register of Historic Places, then the intermediary will immediately contact the Agency to begin Section 106 consultation with the State Historic Preservation Officer. If the building is located within a 100-year flood plain, then the intermediary will immediately contact the Agency to analyze any effects as outlined in 7 CFR part 1940, subpart G, Exhibit C. The intermediary will assist the Agency in any additional requirements necessary to complete the environmental review.

(c) Such other information as the Agency may request on specific cases.

(6) Upon receipt of a request for concurrence in a loan to an ultimate recipient the Agency will:

(a) Review the material submitted by the intermediary for consistency with the Agency's preservation and revitalization principals which include the following;

(i) There is a continuing need for the property in the community as affordable housing.

(ii) When the transaction is complete, the property will be owned and controlled by eligible section 515 borrowers.

(iii) The transaction will address the physical needs of the property.

(iv) Existing tenants will not be displaced because of increased post transaction rents.

(v) Post transaction basic rents will not exceed comparable market rents.

(vi) Any equity loan amount will be supported by a market value appraisal.

(vii) The RHS Office of Rental Housing Preservation concurs with any equity payments or increased return to owner and coordinates the approval of exceptions, National Office approvals, or revitalization related policy issues.

(viii) Complete an environmental review in accordance with 7 CFR part 1940, subpart G, beginning with a Categorical Exclusion classification as shown in 7 CFR 1940.310(b)(3). The information received from the intermediary (RD Form 1940–20, the age of the building, FEMA Form 81–93, and the description of the project) will be attached to the environmental review forms.

(b) Issue a letter concurring in the loan when all requirements have been met or notify the intermediary in writing of the reasons for denial when the Agency determines it is unable to concur in the loan.

IV. Application and Submission Information

The application process will be in two phases: the initial preapplication (or proposal) and the submission of a formal application. Only those proposals that are selected for further processing will be invited to submit formal applications. In the event that a proposal is selected for further processing and the applicant declines, the next highest ranked unfunded preapplication may be selected. If a preapplication is accepted for further processing, the applicant will be expected to submit the additional information prior to the obligation of loan funds. At the time of final approval, the Agency and loan recipient shall enter into a loan agreement.

Preapplication Requirements

The preapplication must contain the following:

(1) A summary page, that is double-spaced and not in narrative form, that lists the following items.

(a) Applicant's name.

(b) Applicant's Taxpayer Identification Number.

(c) Applicant's address.

(d) Applicant's telephone number.

(e) Name of applicant's contact person, telephone number, and address.

(f) Amount of loan requested.

(2) Form RD 4274–1, ''Application for Loan (Intermediary Relending Program).''

(3) A written work plan and other evidence the Agency requires to demonstrate the feasibility of the intermediary's program to meet the objectives of this demonstration program. The plan must, at a minimum:

(a) Document the intermediary's ability to administer this demonstration program in accordance with the provisions of this NOFA. In order to adequately demonstrate the ability to administer the program, the intermediary must provide a complete listing of all personnel responsible for administering this program along with a statement of their qualifications and experience. The personnel may be either members or employees of the intermediary's organization or contract personnel hired for this purpose. If the personnel are to be contracted for, the contract between the intermediary and the entity providing such service will be submitted for Agency review, and the terms of the contract and its duration must be sufficient to adequately service the Agency loan through to its ultimate conclusion. If the Agency determines the personnel lack the necessary expertise to administer the program, the loan request will not be approved;

(b) Document the intermediary's ability to commit financial resources under the control of the intermediary to the establishment of the demonstration program. This should include a statement of the sources of non-Agency funds for administration of the intermediary's operations and financial assistance for projects;

(c) Demonstrate a need for loan funds. As a minimum, the intermediary should identify a sufficient number of proposed and known ultimate recipients to justify Agency funding of its loan request, or include well developed targeting criteria for ultimate recipients consistent with the intermediary's mission and strategy for this demonstration program, along with supporting statistical or narrative evidence that such prospective recipients exist in sufficient numbers to justify Agency funding of the loan request;

(d) Include a list of proposed fees and other charges it will assess the ultimate recipients;

(e) Demonstrate to Agency satisfaction that the intermediary has secured commitments of significant financial support from public agencies and private organizations;

(f) Include the intermediary's plan (specific loan purposes) for relending the loan funds. The plan must be of sufficient detail to provide the Agency with a complete understanding of what the intermediary will accomplish by lending the funds to the ultimate recipient and the complete mechanics of how the funds will get from the intermediary to the ultimate recipient. The service area, eligibility criteria, loan purposes, fees, rates, terms, collateral requirements, limits, priorities, application process, method of disposition of the funds to the ultimate recipient, monitoring of the ultimate recipient's accomplishments, and reporting requirements by the ultimate recipient's management are some of the items that must be addressed by the intermediary's relending plan;

(g) Provide a set of goals, strategies, and anticipated outcomes for the intermediary's program. Outcomes should be expressed in quantitative or observable terms such as low-income housing complexes rehabilitated or low-income housing units preserved, and should relate to the purpose of this demonstration program; and

(h) Provide specific information as to whether and how the intermediary will ensure that technical assistance is made available to ultimate recipients and potential ultimate recipients. Describe the qualifications of the technical assistance providers, the nature of technical assistance that will be available, and expected and committed sources of funding for technical assistance. If other than the intermediary itself, describe the organizations providing such assistance and the arrangements between such organizations and the intermediary.

(4) A pro forma balance sheet at start-up and projected balance sheets for at least 3 additional years; financial statements for the last 3 years, or from inception of the operations of the intermediary if less than 3 years; and projected cash flow and earnings statements for at least 3 years supported by a list of assumptions showing the basis for the projections. The projected earnings statement and balance sheet must include one set of projections that shows the PRLF must extend to include a year with a full annual installment on the PRLF loan.

(5) A written agreement of the intermediary to the Agency audit requirements.

(6) Form RD 400–4, ''Assurance Agreement.''

(7) Complete organizational documents, including evidence of authority to conduct the proposed activities.

(8) Latest audit report, if available.

(9) Form RD 1910–11, ''Applicant Certification Federal Collection Policies for Consumer or Commercial Debts.''

(10) Form AD–1047, ''Certification Regarding Debarment, Suspension, and other Responsibility Matters—Primary Covered Transactions.''

(11) Exhibit A–1 of RD Instruction 1940–Q, ''Certification for Contracts, Grants, and Loans.''

(12) A separate one-page information sheet listing each of the ''Application Scoring Criteria'' contained in this Notice, followed by the page numbers of all relevant material and documentation that is contained in the proposal that supports these criteria. Applicants are also encouraged, but not required, to include a checklist of all of the application requirements and to have their application indexed and tabbed to facilitate the review process.

Funding Restrictions

Loans made to the PRLF intermediary under this demonstration program may not exceed $2,125,000 and may be limited by geographic area so that multiple loan recipients are not providing similar services to the same service areas.

Loans made to the PRLF ultimate recipient must meet the intent of providing decent, safe, and sanitary rural housing and be consistent with the requirements of title V of the Housing Act of 1949.

Submission address. Preapplications should be submitted to USDA—Rural Housing Service; Attention: Henry Searcy, Jr., Multi-Family Housing Processing Division ''STOP 0781 (Room 1263–S), 1400 Independence Ave. SW., Washington, DC 20250–0781.

V. Application Review Information

All applications will be evaluated by a loan committee. The loan committee will make recommendations to the Agency Administrator concerning preliminary eligibility determinations and for the selection of applications for further processing based on the selection criteria contained in this NOFA and the availability of funds. The Administrator will inform applicants of the status of their application within 30 days of the loan application closing date of the NOFA.

Selection Criteria

Selection criteria points will be allowed only for factors indicated by well documented, reasonable plans which, in the opinion of the Agency, provide assurance that the items have a

high probability of being accomplished. The points awarded will be as specified in paragraphs (1) through (4) of this section. In each case, the intermediary's work plan must provide documentation that the selection criteria have been met in order to qualify for selection criteria points. If an application does not fit one of the categories listed, it receives no points for that paragraph.

(1) *Other funds.* Points allowed under this paragraph are to be based on documented successful history or written evidence that the funds are available.

(a) The intermediary will obtain non-Agency loan or grant funds or provide housing tax credits (measured in dollars) to pay part of the cost of the ultimate recipients' project cost. Points for the amount of funds from other sources are as follows:

(i) At least 10% but less than 25% of the total project cost—5 points;

(ii) At least 25% but less than 50% of the total project cost—10 points; or

(iii) 50% or more of the total project cost—15 points.

(b) The intermediary will provide loans to the ultimate recipient from its own funds (not loan or grant) to pay part of the ultimate recipients' project cost. The amount of the intermediary's own funds will average:

(i) At least 10% but less than 25% of the total project costs—5 points;

(ii) At least 25% but less than 50% of total project costs—10 points; or

(iii) 50% or more of total project costs—15 points.

(2) *Intermediary contribution.* All assets of the PRLF will serve as security for the PRLF loan, and the intermediary will contribute funds not derived from the Agency into the PRLF along with the proceeds of the PRLF loan. The amount of non-Agency derived funds contributed to the PRLF will equal the following percentage of the Agency PRLF loan:

(a) At least 5% but less than 15%—15 points;

(b) At least 15% but less than 25%—30 points; or

(c) 25% or more—50 points.

(3) *Experience.* The intermediary has actual experience in the administration of revolving loan funds and the preservation of multi-family housing, with a successful record, for the following number of full years. Applicants must have actual experience in both the administration of revolving loan funds and the preservation of multi-family housing in order to qualify for points under this selection criteria. If the number of years of experience differs between the two types of experience, the type with the least number of years will be used for this selection criteria.

(a) At least 1 but less than 3 years—5 points;

(b) At least 3 but less than 5 years—10 points;

(c) At least 5 but less than 10 years—20 points; or

(d) 10 or more years—30 points.

(4) *Administrative.* The Administrator may assign up to 35 additional points to an application to account for the following items not adequately covered by the other priority criteria set out in this section. The items that may be considered are the amount of funds requested in relation to the amount of need; a particularly successful affordable housing development record; a service area with no other PRLF coverage; a service area with severe affordable housing problems; a service area with emergency conditions caused by a natural disaster; an innovative proposal; the quality of the proposed program; a work plan that is in accord with a strategic plan, particularly a plan prepared as part of a request for an Empowerment Zone/Enterprise Community designation; or excellent utilization of an existing revolving loan fund program.

Dated: May 2, 2005.

Russell T. Davis,

Administrator, Rural Housing Service.

[FR Doc. 05–9155 Filed 5–6–05; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice for Requests for Proposals for Guaranteed Loans Under the Section 538 Guaranteed Rural Rental Housing Program (GRRHP) for Fiscal Year 2005

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Rural Housing Service (RHS) is correcting a notice published March 14, 2005 (70 FR 12569–12575). This action is taken to correct language that purports that Notice responses that score less than 25 points or score 25 points or more but have a development cost ratio of equal to or more than 70 percent may not be selected for further processing and obligation after June 13, 2005. These corrections are intended to ensure that all Notice responses received prior to June 13, 2005, and that meet program criteria, but score less than 25 points or score 25 points or more but have a development cost ratio of equal to or more than 70 percent may be selected for obligation after June 13, 2005, with the highest scoring responses receiving priority as long as funds remain available. These corrections are also intended to ensure that the Agency will continue to select the highest scoring Notice responses received after June 13, 2005, notwithstanding the score, as long as the response meets program criteria and funds remain available.

Accordingly, the Notice published on March 14, 2005 (70 FR 12569–12575), is corrected as follows:

On page 12569, in the first column, fourth paragraph, under the heading **DATES**, the fourth sentence is corrected to read as follows: ''Each month after June 13, 2005, the Agency will select the highest scoring proposals, in light of the remaining funding, until all funds are expended.''

On page 12569, in the second column, under the heading **DATES**, the fifth sentence, ''Priority for the selection of proposals that meet the threshold score of 25 will be given to the highest scoring proposals,'' is removed.

On page 12574, in the first column, first paragraph, under the heading *''Scoring of Priority Criteria for Selection of Projects,''* the fifth sentence is corrected to read as follows: ''Each month after June 13, 2005, the Agency will select the highest scoring proposals, in light of the remaining funding, until all funds are expended.''

On page 12574, in the first column, first paragraph, under the heading *''Scoring of Priority Criteria for Selection of Projects,''* the sixth sentence, ''Priority for the selection of proposals that meet the threshold score of 25 will be given to the highest scoring proposals,'' is removed.

Dated: April 8, 2005.

Russell T. Davis,

Administrator, Rural Housing Service.

[FR Doc. 05–9156 Filed 5–6–05; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Agency: Economic Development Administration.

Title: Award for Excellence in Economic Development.

Form Number(s):

OMB Approval Number: New.
Type of Review: Regular.
Burden Hours: 150 hours.
Number of Respondents: 50.
Average Hours Per Response: 3 hours.
Needs and Uses: EDA provides a broad range of economic development assistance to help distressed communities design and implement effective economic development strategies. Part of this assistance includes disseminating information about best practices and encouraging collegial learning among economic development practitioners. EDA has created the Award for Excellence in Economic Development to recognize outstanding economic development activities of national importance.
Affected Public: State, local or Indian tribal governments and not-for-profit organizations.
Frequency: Annually.
Respondent's Obligation: Voluntary.
OMB Desk Officer: David Rostker, (202) 395–3897.
Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).
Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: May 3, 2005.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–9157 Filed 5–6–05; 8:45 am]

BILLING CODE 3510–34–U

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance of the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).
Agency: Bureau of Economic Analysis (BEA), Commerce.
Title: Generic Clearance for Pretesting Research.
Form Number(s): Various.
Agency Approval Number: Will be assigned by OMB.
Type of Request: New collection.
Burden: 5,000 hours.
Number of Respondents: 5,000.
Average Hours Per Response: 1 hour.
Needs and Uses: This research program will be used by BEA to improve questionnaires and procedures, reduce respondent burden, improve sample frames, and ultimately increase the quality of data collected in the bureau's surveys. The clearance will be used to conduct pretesting of surveys conducted by BEA prior to mailing the final survey packages to potential respondents. Pretesting activities will involve methods for identifying problems with the questionnaire or survey procedure such as the following: Cognitive interviews, focus groups, respondent debriefings, behavior coding of respondent/interviewer interaction, split panel tests, voluntary sample surveys (including automated surveys). OMB will be informed in writing of the purpose and scope of each of these activities, as well as the time frame and the number of burden hours used. The number of hours used will not exceed the number set aside for this purpose.
Affected Public: Businesses or other for-profit organizations, not-for-profit institutions, and State, Local or Tribal Governments.
Frequency: As requested.
Respondents Obligation: Voluntary.
Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108).
OMB Desk Officer: Paul Bugg, (202) 395–3093.
You may obtain copies of the above information collection proposal by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6025, 14th and Constitution Avenue, NW., Washington, DC 20230, or via the Internet at *dhynek@doc.gov.*
Send comments on the proposed information collection within 30 days of publication of the notice to Office of Management and Budget, O.I.R.A., Attention PRA Desk Officer for BEA, via the Internet at *pbugg@omb.eop.gov*, or by FAX at 202–395–7245.

Dated: May 3, 2005.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–9158 Filed 5–6–05; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–867]

Automotive Replacement Glass Windshields From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is conducting the second administrative review of the antidumping duty order on automotive replacement glass (''ARG'') windshields from the People's Republic of China (''PRC'') covering the period April 1, 2003, through March 31, 2004. We have preliminarily determined that sales have been made below normal value. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the period of review (''POR''), for which the importer-specific assessment rates are above *de minimis*.
Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: May 9, 2005.

FOR FURTHER INFORMATION CONTACT: Jon Freed or Will Dickerson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3818 and (202) 482–1778, respectively.

Background

On April 4, 2002, the Department published in the **Federal Register** the antidumping duty order on ARG windshields from the PRC. *See Antidumping Duty Order: Automotive Replacement Glass Windshields from the People's Republic of China*, 67 FR 16087. On April 1, 2004, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on ARG windshields from the PRC for the period April 1, 2003, through March 31, 2004. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 69 FR 17129. On April 21, 2004, Pilkington North America, Inc. (''PNA''), an

importer of subject merchandise during the POR, requested an administrative review of Changchun Pilkington Safety Glass Company Limited and Wuhan Yaohua Pilkington Safety Glass Company Limited (collectively ''the Pilkington JVs''), producers from which it imported the subject merchandise (with PNA, collectively ''Pilkington''). On April 24, 2004, Dongguan Kongwan Automobile Glass, Ltd. (''Dongguan Kongwan''), and Peaceful City, Ltd. (''Peaceful City'') requested an administrative review of their sales to the United States during the POR. On April 26, 2004, Fuyao Glass Industry Group Company, Ltd. (''Fuyao'') requested an administrative review of its sales to the United States during the POR. On April 29, 2004, Shenzhen CSG Automotive Glass Co., Ltd. (''CSG'') requested an administrative review of its sales to the United States during the POR.[1] The petitioners in the original investigation did not request an administrative review of any parties. On May 27, 2004, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of ARG windshields from the PRC for the period April 1, 2003, through March 31, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 30282 (''*Initiation Notice*'').

On October 12, 2004, the Department published a notice of partial rescission, which rescinded the administrative review with regard to the following companies: Dongguan Kongwan, Fuyao, and Peaceful City. *See Certain Automotive Replacement Glass Windshields From the People's Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review*, 69 FR 60612. On December 3, 2004, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until March 31, 2005. *See Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Automotive Replacement Glass Windshields from the People's Republic of China*, 69 FR 70224. Additionally, on March 22, 2005, the Department published a notice in the **Federal Register** further extending the time limit for the preliminary results of review until May 2, 2005. *See Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review: Automotive Replacement Glass Windshields from the People's Republic of China*, 70 FR 14445.

CSG

On June 14, 2004, the Department issued its antidumping questionnaire to CSG. CSG submitted its Section A questionnaire response on July 13, 2004, and its Sections C and D responses on July 22, 2004.[2] The Department issued a Section A–D supplemental questionnaire to CSG on December 21, 2004, to which CSG responded on January 13, 2005. The Department issued a second Section A–D supplemental questionnaire to CSG on January 28, 2005, to which CSG responded on February 8, 2005. From February 28, 2005, through March 4, 2005, the Department conducted a sales and factors-of-production verification at CSG's facilities in Shenzhen, PRC. On April 8, 2005, the Department issued a request to CSG for it to make certain corrections to its U.S. sales database, to which CSG responded on April 12, 2005.

Pilkington

On June 14, 2004, the Department issued its antidumping questionnaire to Pilkington. Pilkington submitted its Section A questionnaire response on July 12, 2004, and its Sections C and D responses on July 21, 2004. From December 2004 to April 2005, the Department issued and Pilkington responded to four Section A–D supplemental questionnaires.

Period of Review

The POR is April 1, 2003, through March 31, 2004.

Scope of Order

The products covered by this order are ARG windshields, and parts thereof, whether clear or tinted, whether coated or not, and whether or not they include antennas, ceramics, mirror buttons or VIN notches, and whether or not they are encapsulated. ARG windshields are laminated safety glass (*i.e.*, two layers of (typically float) glass with a sheet of clear or tinted plastic in between (usually polyvinyl butyral)), which are produced and sold for use by automotive glass installation shops to replace windshields in automotive vehicles (*e.g.*, passenger cars, light trucks, vans, sport utility vehicles, etc.) that are cracked, broken or otherwise damaged.

ARG windshields subject to this order are currently classifiable under subheading 7007.21.10.10 of the Harmonized Tariff Schedules of the United States (HTSUS). Specifically excluded from the scope of this order are laminated automotive windshields sold for use in original assembly of vehicles. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this order is dispositive.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (''the Act''), we verified information provided by CSG. We used standard verification procedures, including on-site inspection of the manufacturers' and exporters' facilities, and examination of relevant sales and financial records.

The Department conducted the verification at CSG's facilities in Shenzhen, Guangdong Province from February 28, 2005, through March 4, 2005. Our verification results are outlined in the verification report for CSG. For further details see *Verification of Sales and Factors of Production of CSG in the Antidumping Duty Administrative Review of Automotive Replacement Glass (''ARG'') Windshields from the People's Republic of China (''PRC'')*, dated May 2, 2005 (''*CSG Verification Report*'').

Nonmarket Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (''NME'') country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003). None of the parties to this proceeding has contested such treatment.

[1] Shenzhen CSG Automotive Glass also listed the following variations of the company names that may have been used during the POR: Shenzhen Benxun AutoGlass Co., Ltd.; Shenzhen Benxun Automotive Glass Co., Ltd.; Shenzhen Benxun Automotive Co., Ltd.; Shenzhen Benxun AutoGlass Co., Ltd., d/b/a Shenzhen CSG Automotive Glass Co., Ltd.; Shenzhen CSG (former name Benxun) Automotive Glass Co., Ltd.; Shenzhen CSG Automotive Glass Co., Ltd. (Shenzhen Benxun Automotive Co., Ltd.); and Shenzhen CSG Automotive Glass Co., Ltd. (Shenzhen Benxun Automotive Glass Co., Ltd.). Subsequent to CSG's request for an administrative review, the Department determined that CSG is a successor-in-interest to Shenzhen Benxun, which received a separate rate in the investigation of this proceeding. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Automotive Replacement Glass Windshields From the People's Republic of China*, 69 FR 43388 (July 20, 2004).

[2] Letter from Robert Bolling to Shenzhen CSG Automotive Glass Company, Limited, *Section A, C, D, and E Questionnaire for the Antidumping Duty Administrative Review on Automotive Replacement Glass Windshields from the People's Republic of China* (June 14, 2004).

Accordingly, we calculated normal value (''NV'') in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value on the NME producer's factors of production, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the ''normal value'' section below and in *Preliminary Results of Review of the Order on Automotive Replacement Glass Windshields from the People's Republic of China: Factor Valuation, Memorandum from Jon Freed, Case Analyst, through Robert Bolling, Program Manager, Office VIII to the File*, dated May 2, 2005 (''*Factor Valuation Memo*'').

The Department has determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. *See Memorandum from Ron Lorentzen to Laurie Parkhill: Antidumping Duty Administrative Review of Automotive Replacement Glass Windshields from the People's Republic of China (PRC): Request for a List of Surrogate Countries* (''*Policy Letter*''), dated December 16, 2004. Customarily, we select an appropriate surrogate country based on the availability and reliability of data from the countries that are significant producers of comparable merchandise. For PRC cases, the primary surrogate country has often been India if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. *See Memo to File through Wendy Frankel and Robert Bolling from Will Dickerson: Automotive Replacement Glass Windshields (''ARG'') from the People's Republic of China; Selection of a Surrogate Country*, March 9, 2005 (''*Surrogate Country Memo*'').

The Department used India as the primary surrogate country, and, accordingly, has calculated normal value using Indian prices to value the PRC producers' factors of production, when available and appropriate. *See Surrogate Country Memo* and *Factor Valuation Memo*. We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review, interested parties may submit publicly available information to value factors of production within 20 days after the date of publication of these preliminary results.

Affiliation/Collapsing—the Pilkington JVs

Pilkington is comprised of several different corporations and joint ventures, including PNA and the Pilkington JVs. During the POR, PNA only sold subject merchandise in the U.S. from three of the Pilkington JVs, with the vast majority of subject merchandise being sourced from Changchun Pilkington Safety Glass Company Limited (''CPS''). In the first administrative review, the Department analyzed record evidence on affiliation and found the Pilkington JVs to be affiliated under section 771(33)(E), (F) and (G) of the Act, by virtue of Pilkington Plc's control over the four Pilkington JVs. *See Automotive Replacement Glass Windshields From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 25547–49 (May 7, 2004); *see also, Antidumping Duty Administrative Review of Automotive Replacement Glass Windshields from the People's Republic of China: Collapsing of Affiliated Parties*, dated April 29, 2004 (''*Collapsing Memo—AR1*''). The Department has placed the *Collapsing Memo—AR1* on the record of this administrative review and served all parties on the administrative protective order service list. *See Memorandum to the File from Will Dickerson: Collapsing Memo from First Administrative Review*, April 12, 2005, (''*Collapsing Memo—AR2*''). Based on Pilkington's questionnaire responses in this POR, the Department has determined that none of the facts concerning Pilkington's ownership and control relationships have changed from the first administrative review. Therefore, the Department maintains its prior determination that the affiliation provisions of section 771(33)(E), (F), and (G) are met because Pilkington Plc continues to exercise control over the Pilkington JVs through its ownership share and ability to influence the sales of the Pilkington JVs.

The Department further determined in the first administrative review that, pursuant to 19 CFR 351.401(f), the Pilkington JVs should be collapsed for margin calculation purposes. Specifically, the Department found that all four of the Pilkington JVs have production facilities for producing similar or identical products that would not require substantial retooling in order to restructure manufacturing priorities. *See Automotive Replacement Glass Windshields From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 25547–9 (May 7, 2004); *see also Collapsing Memo—AR2* at 5. The Department further found significant potential for manipulation of the Pilkington JVs' price or production due to the level of common ownership, the extent to which board members sit on the boards of each of the Pilkington JVs, and the intertwining of the operations of the Pilkington JVs through Pilkington Plc. *See id.*

Based on Pilkington's questionnaire responses from this review, the Department finds that the facts with regard to the criteria set forth in 19 CFR 351.401(f) have not changed and that the Pilkington JVs should be collapsed because (1) the Pilkington JVs are affiliated, (2) each has production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (3) there is a significant potential for manipulation of price or production. *See Collapsing Memo—AR2* for a full discussion of our determination. For the preliminary results, we have determined that the Pilkington JVs are affiliated and collapsed; however the Department intends to conduct further inquiry into this matter prior to issuing its final results.

Separate Rates

In an NME proceeding, the Department presumes that all companies within the country are subject to government control and should be assigned a single antidumping duty rate unless the respondent demonstrates the absence of both *de jure* and *de facto* government control over its export activities. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026 (April 30, 1996). CSG and Pilkington each provided company-specific separate rates information and stated that they met the standards for the assignment of separate rates. In determining whether companies should

receive separate rates, the Department focuses its attention on the exporter, in this case CSG and the Pilkington JVs, rather than the manufacturer, as our concern is the manipulation of dumping margins. *See Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56045 (November 6, 1995). Consequently, the Department analyzed whether the exporters of the subject merchandise, CSG and the Pilkington JVs, should receive a separate rate.

The Department's separate rate test is not concerned, in general, with macroeconomic, border-type controls (*e.g.,* export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine,* 62 FR 61754 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 62 FR 61276 (November 17, 1997); and *Notice of Preliminary Determination of Sales at Less than Fair Value: Honey from the People's Republic of China,* 60 FR 14725 (March 20, 1995).

To establish whether a firm is sufficiently independent from government-control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588, (May 6, 1991), as modified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585, (May 2, 1994) (''*Silicon Carbide*''). Under the separate rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* government control over export activities. *See Silicon Carbide and Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China,* 60 FR 22544 (May 8, 1995).

A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; and (2) any legislative enactments decentralizing control of companies.

B. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China,* 63 FR 72255 (December 31, 1998). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

CSG

CSG has placed on the record statements and documents to demonstrate absence of *de jure* control. In its questionnaire responses, CSG reported that, other than paying taxes and renewing its business licenses, it has no relationship with any level of the PRC government. CSG stated that it has complete independence with respect to its export activities. CSG submitted a copy of the Foreign Trade Law of the PRC to demonstrate that there is no centralized control over its export activities. CSG also reported that the subject merchandise is not subject to export quotas or export control licenses. Furthermore, CSG stated that the local Chamber of Commerce in the PRC does not coordinate any export activities for CSG. CSG reported that it is required to obtain a business license, which is issued by the Shenzhen Industrial and Commercial Administration Bureau. Through questionnaire responses and at verification, we examined each of these laws and CSG's business license and determine that they demonstrate an authority for establishing the absence of *de jure* control over the export activities and evidence in favor of the absence of government control associated with CSG's business license.

In support of demonstrating an absence of *de facto* control, CSG has asserted the following: (1) CSG established its own export prices; (2) CSG negotiated contracts without guidance from any government entities or organizations; (3) CSG made its own personnel decisions; and (4) CSG retained the proceeds of its export sales and independently used profits according to its business needs. Additionally, CSG's questionnaire responses indicate that it does not coordinate with other exporters in setting prices. This information supports a preliminary finding that there is an absence of *de facto* government control of the export functions of CSG. Consequently, we preliminarily determine that CSG has met the criteria for the application of separate rates.

The evidence placed on the record of this administrative review by CSG demonstrates an absence of government control, both in law and in fact, with respect to its exports of the merchandise under review. As a result, for the purposes of these preliminary results, the Department is granting a separate, company-specific rate to CSG, the exporter which shipped the subject merchandise, ARG windshields, to the United States during the POR.

Pilkington

Pilkington placed on the record statements and documents to demonstrate absence of *de jure* control. In its questionnaire responses, Pilkington reported that it has complete independence with respect to its export activities and that neither any PRC legislative enactments nor any other formal government measures control any aspect of its export activities. Pilkington also reported that the subject merchandise is not subject to export quotas or export control licenses. Further, Pilkington reported that there are no legislative enactments by the government that centralize control of the export activities of the Pilkington JVs. Furthermore, Pilkington stated that the local Chamber of Commerce in the PRC does not coordinate any export activities for the Pilkington JVs.

Pilkington reported that it is required to obtain business licenses, which are issued by the Changchun Industrial and Commercial Administration Bureau for CPS; the Shanghai Industrial and Commercial Administrative Bureau for

Shanghai Yaohua Pilkington Autoglass Company Limited (''SYPA''); the Guilin Industrial and Commercial Administration Bureau for GPS, and the Wuhan Industrial and Commercial Administrative Bureau for Wuhan Yaohua Pilkington Safety Glass Company Limited (''WYP''). Pilkington reported that the licenses need to be renewed annually for CPS, SYPA, and GPS, or at the end of the JVs' scheduled existence, in the case of WYP. Pilkington reported that the business licenses allow a business entity, such as the Pilkington JVs, to operate in the PRC as a producer and exporter of automotive glass. We examined each of these licenses and determine that they demonstrate an authority for establishing the *de jure* decentralized control over the export activities of the Pilkington JVs and evidence in favor of the absence of government control.

In support of an absence of *de facto* control, Pilkington asserted the following: (1) The Pilkington JVs established their own export prices; (2) the Pilkington JVs negotiated contracts without guidance from any government entities or organizations; (3) the Pilkington JVs made their own personnel decisions; and (4) the Pilkington JVs retained the proceeds of their export sales and used profits according to their business needs. Additionally, Pilkington's questionnaire responses indicate that the Pilkington JVs do not coordinate with other exporters in setting prices or in determining which companies will sell to which markets. This information supports a preliminary finding that there is an absence of *de facto* government control of the export functions of the Pilkington JVs. Consequently, we preliminarily determine that Pilkington has met the criteria for the application of separate rates.

The evidence placed on the record of this administrative review by Pilkington demonstrates an absence of government control, both in law and in fact, with respect to the Pilkington JVs exports of the merchandise under review. As a result, for the purposes of these preliminary results, the Department is granting a separate, company-specific rate to the Pilkington JVs, the exporters which shipped the subject merchandise to the United States during the POR.

Partial Adverse Facts Available

As discussed in detail below, we have preliminarily determined that the use of partial adverse facts available is warranted for certain U.S. sales that were not reported by CSG.

The Department finds that the use of facts available is warranted pursuant to section 776 (a) of the Act. Sections 776(a)(2)(A) and 776(a)(2)(B) of the Act provide that the Department shall use facts available when an interested party withholds information that has been requested by the Department or when an interested party fails to provide the information requested in a timely manner and in the form requested. CSG failed to provide information regarding certain U.S. sales of subject merchandise in a timely manner. The verification agenda sent to CSG prior to their verification stated that:

> verification is not intended to be an opportunity for submitting new factual information. New information will be accepted at verification only when: (1) The need for that information was not evident previously, (2) the information makes minor corrections to information already on the record, or (3) the information corroborates, supports, or clarifies information already on the record. Please provide a list of any corrections to your responses to the verifiers at the beginning of verification.

Letter from the Department to CSG: Verification Agenda, February 18, 2005, at page 2.

At the beginning of verification, CSG identified other corrections to its responses, but it did not identify these unreported sales at that time. *See CSG Verification Report* at page 9. On the second day of verification, CSG informed the Department that it had not included certain invoices for sales to the United States in its section C database. CSG explained that it had discovered these invoices in preparation of the quantity and value of sales reconciliation segment of the verification. Because the data on these sales were not provided in a timely manner, at the beginning of verification, the Department declined to accept these data during verification.

CSG did not provide complete information regarding its U.S. sales by the deadline for submitting such information, and consequently, the Department lacked information necessary to conduct a complete and accurate analysis of CSG's U.S. sales of subject merchandise. *See* sections 776(a)(1) and 776(a)(2)(B) of the Act. Because the administrative record is incomplete with regard to these unreported U.S. sales, the Department must use facts otherwise available in conducting its analysis of CSG's U.S. sales that were unreported. *See* section 776(a) of the Act.

Section 776(b) of the Act provides that the Department may use adverse inferences when an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. In applying facts available to these certain sales, adverse inferences are warranted because CSG failed to cooperate by not acting to the best of its ability to comply with the Department's requests to report all U.S. sales in a timely manner.

CSG had numerous opportunities to present complete and accurate information regarding its U.S. sales. In its original submission, CSG stated that it had reported all of its U.S. sales of subject merchandise in its Section C database. *See* CSG's Section C and D Response, July 22, 2004, at page C–2. CSG submitted a revised Section C database in response to a supplemental questionnaire on January 13, 2005. Moreover, CSG submitted a second revised Section C database and a reconciliation of the quantity and value of U.S. sales to its audited financial statements on February 8, 2005. As a part of the February 8, 2005, sales reconciliation, the unreported invoices were included in a nine-page listing of CSG's U.S. sales, but nothing in the reconciliation package indicated that these sales were not reported in CSG's Section C database. Finally, CSG had the opportunity to present these sales at the beginning of verification, but it failed to identify these sales. CSG did not identify these sales until the second day of verification, after the time allowed to provide the Department any minor corrections to its questionnaire responses. *See Letter from the Department to CSG: Verification Agenda,* February 18, 2005, at page 2. CSG's failure to report these sales when it had numerous opportunities to do so, and when the sales were clearly known to it at least as early as February 8, 2005, demonstrates that it failed to cooperate by not acting to the best of its ability to report all of its sales in a timely manner. As adverse facts available, we have applied the PRC-wide rate from the petition to these certain sales. *See Preliminary Results of Review of the Order on Automotive Replacement Glass Windshields from the People's Republic of China: CSG Autoglass Program Analysis Memorandum,* May 2, 2005 (''*CSG Analysis Memorandum*'').

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is defined in the

Statement of Administrative Action (''SAA'') as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA at 870. The SAA provides that to ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See id.* The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See Id.* As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

The adverse facts available rate we are applying for the unreported sales in question was corroborated in the investigation. *See Memorandum from Jon Freed to Robert Bolling: Preliminary Results in the Antidumping Administrative Review of Automotive Replacement Glass Windshields from the People's Republic of China: First Administrative Review Corroboration Memorandum*, dated April 29, 2004 (''*First Review Corroboration Memo*''), with attached *Memorandum from Edward Yang to Joseph Spetrini: Preliminary Determination in the Antidumping Investigation of Automotive Replacement Glass Windshields from the People's Republic of China: Total Facts Available Corroboration Memorandum for All Others Rate*, dated September 10, 2001 (''*Corroboration Memo*''). The Department has received no information to date that warrants revisiting the issue of the reliability of the rate calculation itself. *See e.g., Certain Preserved Mushrooms from the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304, 41307–41308 (July 11, 2003) (The Department relied on the corroboration memorandum from the investigation to assess the reliability of the petition rate as the basis for an adverse facts available rate in the administrative review). No information has been presented in the current review that calls into question the reliability of this information. Thus, the Department finds that the information contained in the petition is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D&L Supply Co.* v. *United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated).

To assess the relevancy of the rate used, the Department compared the margin calculations of other respondents in this administrative review with the petition rate. The Department found that the petition rate was within the range of the highest margins calculated on the record of this administrative review. *See Memorandum to the File: Corroboration of the PRC-wide Rate*, May 2, 2005. Because the record of this administrative review contains margins within the range of the petition margin, we determine that the rate from the petition continues to be relevant for use in this administrative review. Further, the rate used is currently applicable to all exporters subject to the PRC-wide rate.

As the petition rate is both reliable and relevant, we determine that it has probative value. As a result, the Department determines that the petition rate is corroborated for the purposes of this administrative review and may reasonably be applied to certain sales for CSG as partial adverse facts available. Accordingly, we determine that the highest rate from any segment of this administrative proceeding (*i.e.*, the petition rate of 124.50 percent) is in accord with section 776(c)'s requirement that secondary information be corroborated (*i.e.*, have probative value).

Because this is a preliminary margin, the Department will consider all margins on the record at the time of the final results for the purpose of determining the most appropriate final margin for these unreported sales. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139 (January 7, 2000).

Date of Sale

19 CFR 351.401(i) states that ''in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business.''

CSG

After examining the questionnaire responses and the sales documentation placed on the record by CSG, we preliminarily determine that invoice date is the most appropriate date of sale for CSG. We made this determination based on evidence on the record which demonstrates that CSG's invoices establish the material terms of sale to the extent required by our regulations. Thus, the evidence on the record does not rebut the presumption that invoice date is the proper date of sale. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China,* 67 FR 79054 (December 27, 2002).

Pilkington

After examining the sales documentation placed on the record by Pilkington, we preliminarily determine that invoice date is the most appropriate date of sale for Pilkington. We made this determination based on evidence on the record which demonstrates that Pilkington's invoices establish the material terms of sale to the extent required by our regulations. Thus, the evidence on the record does not rebut the presumption that invoice date is the proper date of sale. *See id.*

Normal Value Comparisons

To determine whether sales of ARG windshields to the United States by CSG and Pilkington were made at less than normal value (''NV''), we compared export price (''EP'') or constructed export price (''CEP'') to NV, as described in the ''Export Price,'' ''Constructed Export Price'' and ''Normal Value'' sections of this notice.

Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we used EP for all of CSG's U.S. sales because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation and because CEP was not otherwise indicated for those transactions.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d). In accordance with section 772(b) of the Act, we used CEP for all of Pilkington's sales because it sold subject merchandise to its affiliated company in the United States, which in turn sold subject merchandise to unaffiliated U.S. customers. We compared NV to individual EP and CEP transactions, in accordance with section 777A(d)(2) of the Act.

CSG

We calculated EP for CSG based on delivered prices to unaffiliated purchasers in the United States. We made deductions from the U.S. sale price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation, domestic brokerage, ocean freight, marine insurance, U.S. brokerage, and inland freight from port to unaffiliated U.S. customer. We made deductions to the U.S. sale price for commissions paid, U.S. customs duties, and fees associated with importing the subject merchandise into the United States.

Pilkington

For Pilkington's sales, we based the CEP on delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(d)(1) of the Act, we made deductions for discounts, rebates, and movement expenses from the U.S. sale price. Movement expenses included expenses for foreign inland freight from the plant to the port of exportation, foreign inland insurance, domestic brokerage, marine insurance, international freight, U.S. duty, and inland freight from warehouse to unaffiliated U.S. customer. In accordance with section 772(d)(1) of the Act, the Department additionally deducted credit expenses, inventory carrying costs, and direct and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. We calculated Pilkington's credit expenses and inventory carrying costs based on the Federal Reserve short-term rate. *See Preliminary Results of Review of the Order on Automotive Replacement Glass Windshields from the People's Republic of China: Pilkington North America (''PNA'') Program Analysis for the Preliminary Results of Review Memorandum from Will Dickerson, Case Analyst, through Robert Bolling, Program Manager, Office VIII to the File*, dated May 2, 2005 (''*Pilkington Analysis Memo*''). Finally, we deducted CEP profit, in accordance with sections 772(d)(3) and 772(f) of the Act.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from a non-market economy country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department will base NV on factors of production because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies.

Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used factors of production reported by respondents for materials, energy, labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value factors of production, but when a producer sources an input from a market economy and pays for it in market-economy currency, the Department will normally value the factor using the actual price paid for the input. *See* 19 CFR 351.408(c)(1); *see also Lasko Metal Products* v. *United States*, 43 F. 3d 1442, 1445–1446 (Fed. Cir. 1994). However, when the Department has reason to believe or suspect that such prices may be distorted by subsidies, the Department will disregard the market-economy purchase prices and use surrogate values to determine the NV. *See Notice of Amended Final Determination of Sales at Less than Fair Value: Automotive Replacement Glass Windshields from the People's Republic of China (''PRC'')*, 67 FR 11670 (March 15, 2002).

CSG and Pilkington reported that some of their inputs were sourced from market economies and paid for in a market-economy currency. *See Factor Valuation Memorandum* for a listing of these inputs. Pursuant to 19 CFR 351.408(c)(1), we used the actual price paid by respondents for inputs purchased from a market-economy supplier and paid for in a market-economy currency, except when prices may have been distorted by subsidies. Specifically, we did not use respondents' actual prices for any market-economy purchases from Indonesia, Thailand or Korea, and also did not use import statistics from these countries in valuing any factors of production, *i.e.*, for material inputs, packing materials, and by-product credits. The Department determined in the investigation and the first administrative review that there is reason to believe or suspect that Indonesia, Korea, and Thailand maintain broadly available, non-industry specific export subsidies that may benefit all exporters to all markets. It is the Department's consistent practice that, where the facts developed in U.S. or third-country countervailing duty findings include the existence of subsidies that appear to be used generally (in particular, broadly available, non-industry specific export subsidies), it is reasonable for the Department to consider that it has particular and objective evidence to support a reason to believe or suspect that prices of the inputs from the country granting the subsidies may be subsidized. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of the 1998–1999 Administrative Review, Partial Rescission of Review, and Determination Not to Revoke Order in Part*, 66 FR 1953 (January 10, 2001), and accompanying *Issues and Decision Memorandum* at Comment 1, *see also, Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final*

Results of 1999–2000 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part, 66 FR 57420 (November 15, 2001), and accompanying *Issues and Decision Memorandum* at Comment 1. At the time of the original investigation, we supported our finding that prices paid by the PRC producers to their suppliers of float glass from Korea, Thailand, and Indonesia may have been subsidized by referring to 40 determinations by the United States of specific countervailable export subsidy programs in Korea, Thailand, and Indonesia. *See* Import Administration's Subsidy Enforcement Electronic Library for Korea, Thailand, and Indonesia at *http://ia.ita.doc.gov/esel/eselframes.html*. There is additional evidence that these countries continue to provide such subsidies. *See e.g., Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 37122 (June 23, 2003), *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001), and *Preliminary Negative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From Thailand*, 69 FR 52862 (August 30, 2004). Therefore, the Department continues to find that there is reason to believe or suspect that prices paid for inputs from Korea, Thailand, and Indonesia may be subsidized and are, therefore, unreliable. Accordingly, we have determined that disregarding market-economy input prices from Korea, Thailand, and Indonesia in favor of surrogate prices results in a more accurate dumping analysis. The Department is not in a position to verify whether or not the reported market-economy purchases were distorted in fact by these non-industry specific export subsidies. However, the fact that each of these countries maintains non-industry specific export subsidies, broadly available to all exporters, gives rise to the Department's presumption that the exporters of float glass and other reported market-economy inputs to CSG and Pilkington may have benefitted from these non-industry specific export subsidies. Therefore, we will not use export prices from these countries, either as actual prices for market-economy purchases or as statistics on imports into India, the surrogate country. *See Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China*, 67 FR 6482 (February 12, 2002), and accompanying *Issues and Decision Memorandum* at Comment 1, *see also Automotive Replacement Glass Windshields From the People's Republic of China: Final Results of Administrative Review,* 69 FR 61790 (October 21, 2004), and accompanying *Issues and Decision Memorandum* at Comment 5.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by respondents for the POR. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate (*i.e.*, where the sales terms for the market-economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the Court of Appeals for the Federal Circuit in *Sigma Corp.* v. *United States*, 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, *see Factor Valuation Memorandum*.

Except as noted below, we valued raw material inputs using the weighted-average unit import values derived from the World Trade Atlas® online (''Indian Import Statistics''). *See Factor Valuation Memorandum*. The Indian Import Statistics we obtained from the World Trade Atlas were published by the DGCI&S, Ministry of Commerce of India, which were reported in rupees and are contemporaneous with the POR. Where we could not obtain publicly available information contemporaneous with the POR with which to value factors, we adjusted the surrogate values using the Indian Wholesale Price Index (''WPI'') as published in the *International Financial Statistics* of the International Monetary Fund.

CSG

CSG reported that it sourced much of its raw material inputs from market-economy suppliers and paid for them in market-economy currencies. *See CSG Analysis Memorandum* at page 3. For these preliminary results, in accordance with 19 CFR 351.408(c)(1), the Department has used the market-economy prices for CSG's inputs with two exceptions. First, because the Department has reason to believe or suspect that market-economy prices from Indonesia, Thailand, and Korea may be subsidized, we have not used the companies' reported actual prices for blue float glass, ink, and dilution medium and instead have valued these using Indian Import Statistics. In addition, we did not include some of CSG's purchases of green glass, solar glass, and clear PVB, which were sourced from either Indonesia, Thailand, or Korea, in the calculation of the average price paid by CSG for these materials. However, we based the value for green glass, solar glass, and clear PVB on CSG's actual purchases because it had significant market-economy purchases of these materials from suppliers in other market-economy countries.

Second, in order to demonstrate that prices paid to market-economy sellers for some portion of a given input are representative of prices paid overall for that input, the amounts purchased from the market-economy supplier must be meaningful. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997). Where the quantity of the input purchased from market-economy suppliers was insignificant, the Department will not rely on the price paid by an NME producer to a market-economy supplier because it cannot have confidence that a company could fulfill all its needs at that price. CSG's reported information demonstrates that the quantity of ink, molding, and antenna lead which it sourced from market-economy suppliers was so small as to be insignificant when compared to the quantity of the same input it sourced from PRC suppliers or suppliers located in Indonesia, Thailand, or Korea. *See CSG's Second Supplemental Response,* Exhibit D–4, (February 8, 2005). Therefore, because the amount of ink, molding, and antenna lead that was purchased from suppliers in market-economy countries is insignificant, we did not use the price paid by CSG for these inputs and instead used Indian Import Statistics.

CSG reported that it sourced clear float glass, kerosene oil, silicone powder, mirror brackets, antenna lead, molding, mirror bracket glue, conducting glue, and solder within the PRC. Therefore, we have used Indian Import Statistics to value each of these inputs. CSG reported that it recovered

scrap PVB and shattered glass for resale. The Department has offset the respondents' cost of production by the amount of a reported by-product (or a portion thereof) where CSG indicated that the by-product was sold and/or where the record evidence clearly demonstrates that the by-product was re-entered into the production process. *See Factor Valuation Memorandum* for a complete discussion of by-product credits given and the surrogate values used. To value recovered shattered glass, the Department used Indian Import Statistics reported for imports under HTS 7001, described in the Indian tariff schedule as ''Cullet and other Waste and Scrap of Glass; Glass in the Mass.'' In finding a surrogate value for recovered scrap PVB, the Department used the HTS number for recovered PVB that was used in the previous segments of this proceeding to derive a surrogate value from Indian Import Statistics.

To value electricity, we used values from the International Energy Agency to calculate a surrogate value in India for 2000, and adjusted for inflation. The Department used the same source in the investigation and the first administrative review. No interested parties submitted information or comments regarding these surrogate values and the Department was unable to find a more contemporaneous surrogate value. Therefore, the Department inflated the International Energy Agency 2000 Indian price for electricity, which results in a surrogate value for electricity usage during the POR of $0.092/kilowatt-hour.

To value water, we used the same information as in the previous segments of this proceeding. In the investigation and the first administrative review, the Department used the average water tariff rate as reported in the Asian Development Bank's *Second Water Utilities Data Book: Asian and Pacific Region* (published in 1997), based on the average Indian rupee per cubic meter rate for three cities in India during 1997. No interested parties submitted information or comments regarding this surrogate value and the Department was unable to find a more contemporaneous surrogate value. Therefore, the Department inflated the 1997 rupee price for water and converted it to U.S. dollars, which results in a surrogate value for water of $0.321/metric ton.

For direct labor, indirect labor, crate building labor, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in November 2004, *http://ia.ita.doc.gov/wages/02wages/02wages.html.* The source of these wage rate data on the Import Administration's web site is the Yearbook of Labour Statistics 2002, ILO, (Geneva: 2002), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 1996 to 2001. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent.

To value factory overhead, selling, general and administrative expenses (''SG&A''), and profit, we used the 2003 audited financial statements for the Indian producer of laminated and tempered automotive safety glass, Saint-Gobain Sekurit India Limited (''St.-Gobain''). *See Factor Valuation Memorandum* for a full discussion of the calculation of these ratios from St.-Gobain's financial statements.

Finally, we used Indian Import Statistics to value material inputs for packing. We used Indian Import Statistics data for the period April 2003 through March 2004. *See Factor Valuation Memorandum.*

Pilkington

Pilkington reported that, during the POR, it made all of its raw material purchases from market-economy suppliers and paid for them in market-economy currencies. Pilkington reported market-economy purchases for clear float glass, green float glass, PVB, ceramic ink, mirror buttons, silver paste, and powder. *See Factor Valuation Memorandum* at pages 4 and 5. For these preliminary results, in accordance with 19 CFR 351.408(c)(1), the Department has used the market-economy prices for Pilkington's inputs with one exception. Specifically, based on the fact that the Department has reason to believe or suspect that market-economy prices from Indonesia, Thailand, and Korea may be subsidized, we have disallowed the use of the companies' reported actual prices for clear float glass and green float glass purchased from one or more of these countries, and have valued these using Indian Import Statistics.

Pilkington reported that it sells its recovered scrap glass to float glass manufacturers for meltdown. The Department has offset the respondents' cost of production by the amount of a reported by-product (or a portion thereof) where respondents indicated that the by-product was sold. To value sales of scrap glass, the Department used Indian Import Statistics reported for imports under HTS 7001, described in the Indian tariff schedule as ''Cullet and other Waste and Scrap of Glass; Glass in the Mass.'' The surrogate values for packing, labor, electricity, water, overhead, SG&A, and profit were applied in the same manner as explained above in the CSG section.

Weighted-Average Dumping Margin

The weighted-average dumping margins are as follows:

AUTOMOTIVE REPLACEMENT GLASS WINDSHIELDS FROM THE PRC

Producer/manufacturer/exporter r	Weighted-average margin (percent)
CSG	5.67
Pilkington	0.91

Disclosure

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. *See* 19 CFR 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. See 19 CFR 351.309(d). Further, we would appreciate that parties submitting written comments also provide the Department with an additional copy of those comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP upon completion of this review. If these preliminary results are adopted in our final results of review, we will direct

CBP to assess the resulting rate against the entered customs value for the subject merchandise on each importer's/customer's entries during the POR.

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each of the reviewed companies will be the rate listed in the final results of review (except where the rate for a particular company is *de minimis*, *i.e.*, less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (''LTFV'') investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''PRC-wide'' rate of 124.5 percent, which was established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act, and 19 CFR 351.221(b).

Dated: May 2, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–2233 Filed 5–6–05; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–846)

Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Seventh Administrative Review and Preliminary Results of the Eleventh New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is currently conducting the seventh administrative review and eleventh new shipper review of the antidumping duty order on brake rotors from the People's Republic of China (''PRC'') covering the period April 1, 2003, through March 31, 2004. We preliminarily determine that no sales have been made below normal value (''NV'') with respect to the exporters who participated fully and are entitled to a separate rate in these reviews. If these preliminary results are adopted in our final results of these reviews, we will instruct the U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the period of review (''POR'') for which the importer-specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: May 9, 2005.

FOR FURTHER INFORMATION CONTACT: Steve Winkates or Brian Smith, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1904 or (202) 482–1766, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1999, the Department published in the **Federal Register** the antidumping duty order on brake rotors from the PRC. *See Notice of Antidumping Duty Order: Brake Rotors from the People's Republic of China*, 62 FR 18740 (April 17, 1997).

The Department received a timely request from Longkou Jinzheng Machinery Co., Ltd. (''Longkou Jinzheng'') on December 15, 2003, for a new shipper review of this antidumping duty order in accordance with 19 CFR 351.214(c).

On April 1, 2004, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on brake rotors from the PRC. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 69 FR 17129 (April 1, 2004).

On April 30, 2004, the petitioner [1] requested an administrative review pursuant to 19 CFR 351.213(b) for 24 companies,[2] which it claimed were producers and/or exporters of the subject merchandise. Five of these companies are included in five exporter/producer combinations [3] that received zero rates in the less-than-fair-value (''LTFV'') investigation and thus were excluded from the antidumping duty order only with respect to brake rotors sold through the specified exporter/producer combinations.

On May 7, 2004, Longkou Jinzheng agreed to waive the time limits applicable to the new shipper review and to permit the Department to conduct the new shipper review concurrently with the administrative review. On May 20, 2004, the Department initiated a new shipper review of Longkou Jinzheng (*see Brake Rotors from the People's Republic of China: Initiation of the Eleventh New*

[1] The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

[2] The names of these exporters are as follows: (1) China National Industrial Machinery Import & Export Corporation (''CNIM''); (2) Laizhou Automobile Brake Equipment Company, Ltd. (''LABEC''); (3) Longkou Haimeng Machinery Co., Ltd. (''Longkou Haimeng''); (4) Laizhou Hongda Auto Replacement Parts Co., Ltd. (''Hongda''); (5) Hongfa Machinery (Dalian) Co., Ltd. (''Hongfa''); (6) Qingdao Gren (Group) Co. (''Gren''); (7) Qingdao Meita Automotive Industry Company, Ltd. (''Meita''); (8) Shandong Huanri (Group) General Company (''Huanri General''); (9) Yantai Winhere Auto-Part Manufacturing Co., Ltd. (''Winhere''); (10) Zibo Luzhou Automobile Parts Co., Ltd. (≥ZLAP≥); (11) Longkou TLC Machinery Co., Ltd. (''LKTLC''); (12) Zibo Golden Harvest Machinery Limited Company (''Golden Harvest''); (13) Shanxi Fengkun Metallurgical Limited Company (''Shanxi Fengkun''); (14) Xianghe Xumingyuan Auto Parts Co. (''Xumingyuan''); (15) Xiangfen Hengtai Brake System Co., Ltd. (''Hengtai''); (16) Laizhou City Luqi Machinery Co., Ltd. (''Luqi''); (17) Qingdao Rotec Auto Parts Co., Ltd. (''Rotec''); (18) Shenyang Yinghao Machinery Co. (''Shenyang Yinghao''); (19) China National Machinery and Equipment Import & Export (Xianjiang) Corporation (''Xianjiang''); (20) China National Automotive Industry Import & Export Corporation (''CAIEC''); (21) Laizhou CAPCO Machinery Co., Ltd. (''Laizhou CAPCO''); (22) Laizhou Luyuan Automobile Fittings Co. (''Laizhou Luyuan''); and (23) Shenyang Honbase Machinery Co., Ltd. (''Shenyang Honbase'').

[3] The excluded exporter/producer combinations are: (1) Xianjiang/Zibo Botai Manufacturing Co., Ltd. (''Zibo Botai''); (2) CAIEC/Laizhou CAPCO; (3) Laizhou CAPCO/Laizhou CAPCO; (4) Laizhou Luyuan/Laizhou Luyuan or Shenyang Honbase; or (5) Shenyang Honbase/Laizhou Luyuan or Shenyang Honbase.

Shipper Antidumping Duty Review, 69 FR 29920 (May 26, 2004)).

On May 21, 2004, the Department initiated an administrative review covering the companies listed in the petitioner's April 30, 2004, request (*see Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 30282 (May 27, 2004)).

On May 24, 2004, the Department requested from CBP copies of all customs documents pertaining to the entry of brake rotors from the PRC exported by Longkou Jinzheng during the period of April 1, 2003, through March 31, 2004 (*see* May 24, 2004, Memorandum from Edward Yang, Office Director, to William R. Scopa of CBP).

On July 30, 2004, we received documentation from CBP regarding our May 24, 2004, request for Longkou Jinzheng's entry information.

On August 19, 2004, the Department conducted a data query of CBP entry information on brake rotor entries made during the POR from all exporters named in the excluded exporter/producer combinations in order to substantiate their claims that and/or determine whether they made no shipments of subject merchandise during the POR. As a result of the data query, the Department requested that CBP confirm the actual manufacturer for 20 specific entries associated with the excluded exporter/producer combinations (*see* the August 19, 2004, memorandum from Edward Yang, Office Director, to William Scopa of CBP (''August 19, 2004, memorandum'')).

On October 6, 2004, we placed on the record the entry documentation received from CBP in response to our August 11, 2004, request for information on the excluded exporter/producer combinations (*see* October 6, 2004, memorandum to the file, Results of Request for Assistance from Customs and Border Protection to Further Examine U.S. Entries Made by Exporter/Producer Combinations).

On October 18, 2004, the petitioner requested the Department to select more entries made by the excluded exporter/producer combinations during the POR and obtain the entry documentation for those entries from CBP.

On December 17, 2004, the Department published in the **Federal Register** a notice of postponement of the preliminary results until no later than April 30, 2005 (*see Brake Rotors from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results in the Seventh Antidumping Duty Administrative Review and the Eleventh New Shipper Review*, 69 FR 75510 (December 17, 2004)).

On January 3, 2005, the Department issued the verification outline to Longkou Jinzheng. The Department conducted verification of the responses of Longkou Jinzheng during the period January 17 through 21, 2005. On February 22, 2005, the Department issued the verification report for Longkou Jinzheng.

On March 14 and 16, 2005, the Department issued verification outlines to Laizhou Hongda and Huanri General, respectively. The Department conducted verification of the responses of Laizhou Hongda and Huanri General during the period March 21 through 26, 2005. On March 30 and April 6, 2005, the Department issued the verification reports for Laizhou Hongda and Huanri General, respectively.

Respondents

On May 25 and 26, 2004, we issued a questionnaire to each company listed in the above–referenced initiation notices.

On July 6, 2004, with the exception of Xinjiang, each of the exporters that received a zero rate in the LTFV investigation stated that during the POR, it did not make U.S. sales of brake rotors produced by companies other than those included in its respective excluded exporter/producer combination. Also on July 6, 2004, Luqi, Shenyang Yinghao, and Xumingyuan each stated that it did not have shipments of the subject merchandise to the United States during the POR.

On July 13, 2004, Longkou Jinzheng submitted its response to the Department's antidumping duty questionnaire.

On July 20, 2004, we received responses to the Department's questionnaires from the remaining companies. Rotec did not respond to the Department's questionnaire.

On August 10, 2004, the petitioner submitted comments on Huanri General's July 20, 2004, questionnaire response.

From August 4 through September 27, 2004, the Department issued a Supplemental Questionnaire to the 15 companies (hereafter referred to as the 15 respondents) which submitted a questionnaire response.

From August 25 through October 22, 2004, the 15 respondents submitted their responses to the Department's Supplemental Questionnaires.

On October 25, 2004, the petitioner submitted comments on Huanri General's Supplemental Questionnaire response.

From November 1 through 12, 2004, the Department issued a second Supplemental Questionnaire to Gren, Golden Harvest, Hengtai, Huanri General, Longkou Jinzheng, Shanxi Fengkun, and ZLAP. From November 15 through 22, 2004, Gren, Golden Harvest, Hengtai, Huanri General, Longkou Jinzheng, Shanxi Fengkun, and ZLAP submitted their responses to the Department's second Supplemental Questionnaire.

On December 20, 2004, the Department issued each of the 15 respondents a sales and cost reconciliation questionnaire, which respondents submitted to the Department from January 7 through January 26, 2005.

As a result of not receiving a response to the antidumping duty questionnaire, the Department issued a letter to Rotec on January 3, 2005, which notified this company of the consequences of not having responded to the Department's antidumping questionnaire.

From February 1 through 2, 2005, the Department issued a second supplemental questionnaire to Laizhou Hongda, LABEC, Haimeng, and Winhere, and a third Supplemental Questionnaire to Longkou TLC. On February 22, 2005, Laizhou Hongda, LABEC, Haimeng, and Winhere submitted their responses to the Department's third Supplemental Questionnaire.

On February 23, 2005, Longkou TLC submitted its response to the Department's third Supplemental Questionnaire.

For those respondents [4] who claimed that their U.S. customers provided them with certain inputs (*i.e.*, lug bolts and bearing cups) which they used during the POR free–of-charge, the Department issued these respondents a supplemental questionnaire (''input questionnaire'') from February 17 through February 24, 2005, which requested documentation to support their claim.

From March 3 through March 15, 2005, each respondent (which claimed free–of-charge inputs) submitted its response to the Department's input questionnaire.

On March 17, 2005, the Department issued Hengtai another supplemental questionnaire which requested source documentation to support further the data contained in its January 18, 2005, sales and cost reconciliation questionnaire response, to which Hengtai submitted its response on April 1, 2005.

[4] These respondents include CNIM, Huanri General, LABEC, Longkou Haimeng, and ZLAP.

Because certain source documents were either illegible or not provided as requested in its April 5, 2005, supplemental questionnaire response, the Department issued Hengtai another Supplemental Questionnaire on April 4, 2005, to address these deficiencies. On April 12, 2005, Hengtai submitted its response to the Department's April 4, 2005, Supplemental Questionnaire.

Surrogate Country and Factors

On June 8, 2004, the Department provided the parties an opportunity to submit publicly available information (''PAI'') on surrogate countries and values for consideration in these preliminary results. On March 11, 2005, CNIM, Gren, Shanxi Fengkun, and ZLAP submitted PAI for consideration in the preliminary results.

Period of Reviews

The POR covers April 1, 2003, through March 31, 2004.

Scope of the Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all–terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi–finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States. (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Verification

On November 16, 2004, the petitioner requested that the Department conduct verification of the data submitted by the following respondents: Hengtai, Huanri General, Laizhou Hongda, Longkou Jinzheng, and Shanxi Fengkun. However, due to the Department's resource constraints in conducting these reviews, we only selected Huanri General, Laizhou Hongda, and Longkou Jinzheng for verification pursuant to Section 782(i)(2) of the Act and 19 CFR 351.307.

We used standard verification procedures, including on–site inspection of the manufacturers' and exporters' facilities, and examination of relevant sales and financial records. Our verification results are outlined in the verification report for each company. (For further discussion, see February 22, 2005, verification report for Jinzheng in the Eleventh Antidumping Duty New Shipper Review (''Jinzheng verification report''); March 30, 2005, verification report for Hongda in the Seventh Antidumping Duty Administrative Review (''Hongda verification report''); and April 6, 2005, verification report for Huanri General in the Seventh Antidumping Duty Administrative Review (''Huanri General verification report'').)

Preliminary Partial Rescissions of Administrative Reviews

Pursuant to 19 CFR 351.213(d)(3), we have preliminarily determined that the exporters which are part of the five exporter/producer combinations which received zero rates in the LTFV investigation (*i.e.*, four exporters that made no shipment claims and the one exporter in this group which did not respond to the Department's antidumping duty questionnaire) did not make shipments of subject merchandise to the United States during the POR. These specific exporter/producer combinations continue to have a rate of zero percent. Specifically, (1) Xinjiang (*i.e.*, the exporter which did not respond to the Department's questionnaire) did not export any brake rotors to the United States during the POR and thus did not export any brake rotors that were manufactured by producers other than Zibo Botai; (2) CAIEC did not export brake rotors to the United States that were manufactured by producers other than Laizhou CAPCO; (3) Laizhou CAPCO did not export brake rotors to the United States that were manufactured by producers other than Laizhou CAPCO; (4) Laizhou Luyuan did not export brake rotors to the United States that were manufactured by producers other than Shenyang Honbase or Laizhou Luyuan; and (5) Shenyang Honbase did not export brake rotors to the United States that were manufactured by producers other than Laizhou Luyuan or Shenyang Honbase.

In order to make this determination, we first examined PRC brake rotor shipment data maintained by CBP. We then selected five entries associated with each applicable exporter/producer combination identified above and requested CBP to provide documentation which would enable the Department to determine who manufactured the brake rotors included in those entries. In the case of Xinjiang, the CBP data did not contain any entries from this excluded exporter. Based on the information obtained from CBP, we found no instances where the exporters included in the five exporter/producer combinations shipped brake rotors from the PRC to the U.S. market outside of their excluded export/producer combinations during the POR. (*See* October 6, 2004, memorandum to the file, Results of Request for Assistance from Customs and Border Protection to Further Examine U.S. Entries Made by Exporter/Producer Combinations - Preliminary Results.)

Although the petitioner requested on October 18, 2004, that the Department select more entries made by the zero rate exporter/producer combinations during the POR and obtain the entry documentation for those entries from CBP because the Department's sampling method was not representative, we find that the sampling technique we used provided representative results. Because the results of the data query provided a voluminous number of entries associated with four of the five zero rate exporter/producer combinations, we deemed it appropriate to sample the entries in this instance (*see* May 2, 2005, Memorandum to the File from Steve Winkates regarding results of CBP data query). Specifically, in order to ensure that the entries we selected from the CBP for customs data for further examination were representative, we randomly selected five entries for each applicable exporter for which the customs data reflected entries from that

exporter. As indicated in our selections, we further ensured that our selections were representative by selecting entries for each applicable exporter from different U.S. ports. Based on the results of our query, we conclude that the number of selections provided representative results.

Moreover, we find that the sampling method used in this review is consistent with the method used in previous administrative reviews in this case. Furthermore, the Department also deemed it appropriate in this instance to select a random sample of the entries provided by the query to determine whether each exporter/producer combination at issue was in compliance with the terms of its zero rate status. The Department's discretion for using sampling techniques in situations where the information to be checked is voluminous has been upheld in previous cases by the Court of International Trade (''CIT'') (*see Federal–Mogul Corp. v. United States*, 20 CIT 234, 918 F. Supp. 386, 403–404 (CIT 1996) (''*Federal–Mogul Corp. v. United States*'')). *See also Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review*, 66 FR 27063 (May 16, 2001) (''*Brake Rotors Third Administrative Review*'') and accompanying *Issues and Decision Memorandum* at Comment 1; and *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fourth Antidumping Duty Administrative Review*, 67 FR 65779 (October 28, 2002) (''*Brake Rotors Fourth Administrative Review*'') and accompanying *Issues and Decision Memorandum* at Comment 1.

With respect to Luqi, Shenyang Yinghao, and Xumingyuan, the shipment data we examined did not show U.S. entries of the subject merchandise during the POR from these companies (*see* May 2, 2005, Memorandum to the File from case analyst).

Therefore, for the reasons mentioned above and based on the results of our queries, we are preliminarily rescinding the administrative review with respect to all of the above–mentioned companies because we found no evidence that these companies made shipments of the subject merchandise during the POR in accordance with 19 CFR 351.213(d)(3).

Bona Fide Sale Analysis - Longkou Jinzheng

For the reasons stated below, we preliminarily find that Longkou Jinzheng's reported U.S. sale during the POR appears to be a bona fide sale, as required by 19 CFR 351.214(b)(2)(iv)(c), based on the totality of the facts on the record. Specifically, we find that (1) the net prices reported for its two brake rotor models included in its single sales invoice (i.e., gross unit price because Longkou Jinzheng did not incur international freight or U.S. brokerage and handling expenses) were similar to the average unit value of U.S. imports of comparable brake rotors from the PRC during the POR; (2) the prices reported for both model numbers were within the range of prices of comparable goods imported from the PRC during the POR; and (3) the FOB prices reported for the two brake rotor models were comparable to the FOB prices reported for those same two brake rotor models sold during the POR by other PRC exporters which are involved in the concurrent administrative review. We also find that (1) the quantity of the sale was within the range of shipment sizes of comparable goods imported from the PRC during the POR; and (2) the quantities reported for the two brake rotor models were comparable to the quantities reported for those same two brake rotor models sold during the POR by other PRC exporters which are involved in the concurrent administrative review. Furthermore, Jinzheng received payment for this sale in a timely manner. (*See* May 2, 2005, Memorandum to the File for further discussion of our price and quantity analysis.)

Therefore, for the reasons mentioned above, the Department preliminarily finds that Longkou Jinzheng's sole U.S. sale during the POR was a *bona fide* commercial transaction.

Non–Market Economy Country

In every case conducted by the Department involving the PRC, the PRC has been treated as a non–market economy (''NME'') country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. (*See Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission in Part*, 69 FR 70638 (December 7, 2004)). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market–economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India is among the countries comparable to the PRC in terms of overall economic development (*see* June 4, 2004, Memorandum from the Office of Policy to Irene Darzenta Tzafolias). In addition, based on publicly available information placed on the record (*e.g.*, world production data), India is a significant producer of the subject merchandise. Accordingly, we have considered India the surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate–country selection (*see* Memorandum Re: Seventh Antidumping Duty Administrative Review and Eleventh Antidumping Duty New Shipper Review on Brake Rotors from the People's Republic of China: Selection of a Surrogate Country, dated May 2, 2005, for further discussion).

Facts Available - Rotec

For the reasons stated below, we have applied total adverse facts available to Rotec.

Rotec failed to respond to the Department's antidumping duty questionnaire. Pursuant to sections 776(a) and (b) of the Act, the Department may apply adverse facts available if it finds a respondent has not acted to the best of its ability in cooperating with the Department in this segment of the proceeding. By failing to respond to the Department's questionnaire, Rotec has failed to act to the best of its ability in cooperating with the Department's request for information in this segment of the proceeding.

As a result of its failure to respond to the Department's questionnaire, Rotec failed to establish its eligibility for a separate rate. Therefore, Rotec is not eligible to receive a separate rate and will be part of the PRC NME entity, subject to the PRC–wide rate. Pursuant to section 776(b) of the Act, we have applied total adverse facts available with respect to the PRC–wide entity, including Rotec.

In this segment of the proceeding, in accordance with Department practice (*see, e.g., Brake Rotors from the People's Republic of China: Rescission of Second New Shipper Review and Final Results and Partial Rescission of First*

Antidumping Duty Administrative Review, 64 FR 61581, 61584 (November 12, 1999) (''*Brake Rotors First Administrative Review*''), as adverse facts available, we have assigned to exports of the subject merchandise by Rotec a rate of 43.32 percent, which is the PRC–wide rate.

Corroboration of Facts Available

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, a figure which it applies as facts available. To be considered corroborated, information must be found to be both reliable and relevant. We are applying as adverse facts available (''AFA'') the highest rate from any segment of this administrative proceeding, which is the rate currently applicable to all exporters subject to the PRC–wide rate. The information upon which the AFA rate is based in the current review (*i.e.*, the PRC–wide rate of 43.32 percent) was the highest rate from the petition in the LTFV investigation. (*See Notice of Antidumping Duty Order: Brake Rotors from the People's Republic of China*, 62 FR 18740 (April 17, 1997)). This AFA rate is the same rate which the Department assigned to brake rotor companies in a prior review and the rate itself has not changed since the original LTFV determination (*see Brake Rotors First Administrative Review*, 64 FR at 61584). For purposes of corroboration, the Department will consider whether that margin is both reliable and relevant. The AFA rate we are applying for the current review was corroborated in reviews subsequent to the LTFV investigation to the extent that the Department referred to the history of corroboration. Furthermore, no information has been presented in the current review that calls into question the reliability of this information (*see, e.g., Brake Rotors First Administrative Review*, 64 FR at 61584).

To further corroborate the AFA margin of 43.32 percent in this review, we compared that margin to the margins we found for the other respondents which sold identical and/or similar products. Based on our above–mentioned analysis, we find that 43.32 percent is within the range of margins for individual sales of identical and/or similar products reported by certain respondents in this review (*see* Memorandum Re: Seventh Antidumping Duty Administrative Review on Brake Rotors from the People's Republic of China: Corroboration, dated May 2, 2005, for further discussion). Thus, the Department finds that the information is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). The information used in calculating this margin was based on sales and production data submitted by the petitioner in the LTFV investigation, together with the most appropriate surrogate value information available to the Department chosen from submissions by the parties in the LTFV investigation, as well as gathered by the Department itself. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriately used as AFA, we determine that this rate has relevance.

Based on our analysis as described above, we find that the margin of 43.32 percent is reliable and has relevance. As the rate is both reliable and relevant, we determine that it has probative value. Accordingly, we determine that the calculated rate of 43.32 percent, which is the current PRC–wide rate, is in accord with the requirement of section 776(c) that secondary information be corroborated to the extent practicable (*i.e.*, that it have probative value). We have assigned this AFA rate to exports of the subject merchandise by the PRC–wide entity, including Rotec.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate (*i.e.*, a PRC–wide rate).

Of the 15 respondents participating in these reviews, three of the PRC companies (*i.e.*, Hongfa, Meita, and Winhere) are owned wholly by entities located in market–economy countries. Thus, for these three companies, because we have no evidence indicating that they are under the control of the PRC government, a separate rates analysis is not necessary to determine whether they are independent from government control. (*See Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of Fifth New Shipper Review*, 66 FR 44331 (August 23, 2001) (''*Brake Rotors Fifth New Shipper Review*''), which cites *Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fifth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 29080 (May 29, 2001) (where the respondent was wholly owned by a U.S. registered company); *Brake Rotors Third Administrative Review*, which cites *Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1306 (January 8, 2001) (where the respondent was wholly owned by a company located in Hong Kong); and *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71105 (December 20, 1999) (where the respondent was wholly owned by persons located in Hong Kong)).

The remaining 12 respondents (*i.e.*, CNIM, Golden Harvest, Gren, Hengtai, Hongda, Huanri General, LABEC, LKTLC, Longkou Haimeng, Longkou Jinzheng, Shanxi Fengkun, and ZLAP) are either joint ventures between PRC and foreign companies, collectively–owned enterprises and/or limited liability companies in the PRC. Thus, for these 12 respondents, a separate rates analysis is necessary to determine whether the export activities of each of above–mentioned respondents is independent from government control. (*See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 56570 (April 30, 1996) (''*Bicycles*'').) To establish whether a firm is sufficiently independent in its export activities from government control to be entitled to a separate rate, the Department utilizes a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), and

amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). Under the separate–rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over its export activities.

1. *De Jure* Control

Evidence supporting, though not requiring, a finding of de jure absence of government control over export activities includes: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

CNIM, Golden Harvest, Gren, Hengtai, Hongda, Huanri General, LABEC, LKTLC, Longkou Haimeng, Longkou Jinzheng, Shanxi Fengkun, and ZLAP have each placed on the administrative record documents to demonstrate an absence of *de jure* control (*e.g.*, the 1979 ''Law of the People's Republic of China on Chinese–Foreign Joint Ventures;'' the ''Regulations of the PRC for Controlling the Registration of Enterprises as Legal Persons,'' promulgated in June 1988; the 1990 ''Regulations Governing the Rural Collective Owned Enterprises of the PRC;'' the 1994 ''Foreign Trade Law of the People's Republic of China;'' the 1999 ''Company Law of the People's Republic of China;'' and the 2000 ''Law of the People's Republic of China on Foreign Capital Enterprises'').

As in prior cases, we have analyzed the laws mentioned above and have found them to establish sufficiently an absence of *de jure* control over joint ventures between the PRC and foreign companies, and limited liability companies in the PRC. *See, e.g., Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544 (May 8, 1995) (''*Furfuryl Alcohol*''), and *Preliminary Determination of Sales at Less Than Fair Value: Certain Partial–Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 29571 (June 5, 1995). We have no new information in this proceeding which would cause us to reconsider this determination with regard to CNIM, Golden Harvest, Gren, Hengtai, Hongda, LABEC, LKTLC, Longkou Haimeng, Longkou Jinzheng, Shanxi Fengkun, and ZLAP.

With respect to Huanri General's claim that it is entitled to a separate rate, in a prior segment of this case, the Department granted Huanri General a separate rate. *See Brake Rotors Fifth New Shipper Review*. However, the Department has preliminarily determined to deny Huanri General a separate rate in this administrative review for two reasons: (1) the Department has analyzed the February 25, 1999, Organic Law on the Village Committee of the PRC (''Village Committee Law'') and has determined that the Panjacun Village Committee is a form of local government in the PRC, and (2) new information obtained at verification demonstrates that the Panjacun Village Committee, as a local PRC government entity, controls the export activities of Huanri General. As explained below, we find that the Village Committee Law does not conclusively establish an absence of *de jure* government control. Nor does this law, on its face, conclusively negate the possibility, based on the other laws referenced above and a *de facto* analysis, that Huanri General is subject to government control. Therefore, our preliminary determination to deny Huanri General a separate rate is based on our conclusion that it has not demonstrated an absence of *de facto* government control.

The petitioner submitted on the record of the administrative review the Village Committee Law and supporting news articles which explain the role and functions of PRC village committees. At the outset, we note that as with other laws the Department considers in its *de jure* analysis, the Village Committee Law was promulgated by the central government of the PRC. Article 1 of the Village Committee Law states that the law was formulated ''to protect villagers' self–governance in rural areas, through which villagers can manage their own affairs by law.'' It also states, however, that ''this law is formulated in line with the relevant requirements of The Constitution of the People's Republic of China.'' Article 2 states that a ''Village Committee is a self–governance organization at the grassroots level.'' In addition, village committees are entrusted with ''educating villagers on reasonable use of natural resources,'' ''protect{ing} and improv{ing} the environment (*see* Article 5), ''protect{ing} public property,'' and ''protect{ing} the legal rights and interests of villagers'' (*see* Article 6). However, Article 2 also clearly states that ''It is the village committee's responsibility to develop public services, manage public affairs, mediate civil disputes, help maintain social stability and report to the people's government villagers' opinions, requests and suggestions.'' In the case of the Panjacun Village Committee, members are selected by village representatives, who are elected by villagers eligible to vote (*see* pages 8–9 of the April 6, 2005, Huanri General verification report (''Huanri General verification report'')). Based on its examination of the provisions of the Village Committee Law, the Department has determined that villages organized and operating under this law are a form of local government in the PRC.

The Village Committee Law also contains provisions which assign village committees in the PRC with certain economic responsibilities. For example, Article 5 states that village committees ''shall support and organize villagers developing collective economy by law in all forms, serve and coordinate the village production, and promote the development of rural socialist production and a socialist market economy.'' In order to accomplish this, village committees are able to ''manage land and other properties of the village that are collectively owned by all villagers'' while ''respect{ing} the autonomy of collective economic units in conducting economic activities by law'' (*see* Article 5), use ''income collected from village collective economies'' (*e.g.*, companies), or begin ''development of any new village collective economies'' for purposes of improving the social welfare of the village itself (*see* Article 19). In addition, to emphasize the importance of these functions, the Village Committee Law stipulates that for villagers' monitoring purposes, village committees should promptly publicize the decision of the village committee and its implementation on financial–related issues (among others) mentioned in Article 19 (*see* Article 22). Therefore, the law appears to provide village committees with the means to exercise control over certain activities of companies wholly owned by the villagers in its jurisdiction.

Based on the Department's analysis, it appears that the purpose of the Village Committee Law is to decentralize certain government operations at the village level, as distinct from the town, township, or minority town or township levels of government immediately above it, while at the same time providing for the control of certain companies at the village level. Nonetheless, the Village Committee Law itself does not appear to establish conclusively village government control over any particular company, or, by law, require restrictive stipulations on the business or export licenses of enterprises operating in the

village. Therefore, we find that the Village Committee Law does not at this time alter our *de jure* analysis, and we preliminarily find that Huanri General, by virtue of the applicability of the other PRC laws referenced above, has demonstrated an absence of *de jure* central government control. However, because it appears that village committees are, by promulgation of law by the central government of the PRC, permitted to exercise control over village–owned companies, it is necessary for the Department to examine whether the Panjacun village committee, as a matter of fact, controls the export–related activities of Huanri General.

2. *De Facto* Control

As stated in previous cases, there is evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide* and *Furfuryl Alcohol*. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates. In addition, as discussed above, certain articles contained in the Village Committee Law appear to grant village committees the means to control companies wholly owned by the villagers located in the village committee's jurisdiction. In the case of Huanri General, a *de facto* analysis is necessary to determine whether the Panjacun village committee is, in fact, controlling the export–related activities of the company.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to the approval of, a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses (see *Silicon Carbide* and *Furfuryl Alcohol*).

CNIM, Golden Harvest, Gren, Hengtai, Hongda, Huanri General, LABEC, LKTLC, Longkou Haimeng, Longkou Jinzheng, Shanxi Fengkun, and ZLAP have each asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, each of these companies' questionnaire responses indicates that its pricing during the POR does not suggest coordination among exporters. Furthermore, with respect to Laizhou Hongda, we examined documentation at verification which substantiated its claims as noted above (*see* the Laizhou Hongda verification report at pages 5–8).

Consequently, with the exception of Huanri General (as discussed below), we have preliminarily determined that CNIM, Golden Harvest, Gren, Hengtai, Hongda, LABEC, LKTLC, Longkou Haimeng, Longkou Jinzheng, Shanxi Fengkun, and ZLAP have each met the criteria for the application of separate rates based on the documentation each of these respondents has submitted on the record of these reviews.

With respect to Huanri General, the Department preliminarily finds that it has not demonstrated a *de facto* absence of government control with respect to making its own decisions in key personnel selections, the use of its profits from the proceeds of export sales, and the authority to negotiate and sign contracts and other agreements. *See Silicon Carbide*. Huanri General is therefore not entitled to a separate rate.

In so determining, the Department is clarifying its policy regarding the level of government control that is relevant to the separate rates analysis. Government control of companies in non–market economies, such as the PRC, is not limited strictly to central government control, but can also include levels of sub–national government, including provincial, township or village government. If a company's export activities are subject to government control at any level, there is the possibility that export prices and export–related activities are subject to manipulation by the relevant NME government entity. Therefore, the relevant question in the Department's separate rates analysis is whether, as a matter of fact, the company operates autonomously from a government entity at any level with respect to export–related activities.

Data examined at verification confirmed that individuals of the local government (whether it be the village committee or the village representatives (*i.e.*, individuals selected by the villagers themselves, who then elect members of the village committee)) have effectively appointed themselves as key decision makers (*i.e.*, chairman, directors, and/or shareholder representatives, as provided by the Village Committee Law) in Huanri General since 2001. Huanri General was set up by the Panjacun village committee in 1999 through capital voluntarily provided by all of the inhabitants of Panjacun village, consistent with Article 5 of the Village Committee Law (*see* page 6 of the Huanri General verification report). Those investors also included village committee members who were elected to their positions by 41 village representatives (*see* pages 8–9 of the Huanri General verification report). After Huanri General's first full year of operation, the local government's involvement in Huanri General's management became even more intertwined when the 41 village representatives appointed themselves as the shareholder representatives in Huanri General (*see* page 9 of the Huanri General verification report). In further diluting the distinction between the local government's management and Huanri General's management, our verification findings also confirmed that two of the village committee members are not only village representatives but also are members of Huanri General's board of directors (*see* page 11 of the Huanri General verification report and Article 5 of the Village Committee Law). More importantly, the village committee chairman has continued to serve as chairman of Huanri General's board of directors since the company's establishment (*see* pages 9–11 of the Huanri General verification report). Thus, the Panjacun Village Committee is so intertwined in personnel, and involved in key financing operations with Huanri General with respect to export activities, that there can be no meaningful consideration of separateness between the local PRC government and Huanri General. Therefore, based on the facts, we cannot conclude that Huanri General makes its own personnel decisions.

With respect to whether Huanri General makes its own decisions on the use of its profits from the proceeds of its export sales, our verification findings further note that the 41 village representatives (serving in the capacity of Huanri General's shareholder representatives) have also been directly involved in profit distribution decisions made at Huanri General as evidenced by shareholder meeting minutes examined at verification (*see* Huanri General verification report at page 12).

Therefore, based on the facts mentioned above, we cannot conclude that Huanri General makes its own profit decisions. Rather, the evidence on the record of this review indicates that the same individuals who appointed the village committee members also decided how Huanri General's profits are distributed, consistent with Article 19 of the Village Committee Law.

With respect to whether Huanri General has the authority to negotiate and sign its own contracts or other agreements, our verification findings note that, after initial deliberations which began in 2001, the village representatives (serving in the capacity of Huanri General's shareholder representatives) decided during 2003 to acquire the funds necessary for establishing a tire production plant as part of Huanri General's operations, consistent with Article 19 of the Village Committee Law. However, to pursue this objective (which required a significant amount of capital), the village representatives had to obtain the entire capital investment amount from the Panjacun Village Committee which subsequently furnished it to Huanri General by obtaining a bank loan (using the villagers' households as collateral) and by providing a portion of its rental income received from land lease agreements (*see* pages 5–6 and 10–12 of the Huanri General verification report). Therefore, we conclude that Huanri General does not have the ability to obtain its own loans. Rather, the evidence on the record of this review indicates that the local government's assistance was required for this purpose.

Therefore, based on the facts noted above, we preliminarily conclude that Huanri General has not demonstrated a *de facto* absence of government control and is therefore not entitled to a separate rate. Although there is no information on the record regarding Huanri General's ability to sign contracts and set its own export prices independent of any governmental authority, the pervasive nature of the interrelationship between the Panjacun Village Committee and Huanri General leads us to conclude that the company is not able to select its own management and make personnel decisions, as well as make its own decisions on the use of its profits, independent of any governmental authority. Thus, on balance, the record points to *de facto* government control of Huanri General. We note that these preliminary results on this issue differ from the final results of the new shipper review regarding Huanri General. The Department reached these results primarily as a result of its preliminary analysis of the Village Committee Law, which on balance leads the Department to conclude that the Panjacun Village Committee is a level of government in the PRC as described above. These results also depend on the Department's preliminary view that it is appropriate to consider that governmental control at the village level can affect the export operations of an enterprise in general. This is consistent with the Department's recently promulgated separate rates application which explicitly requests information regarding local government control (*see Office of AD Enforcement, Separate–Rate Application and Request for Supporting Documentation* on the Import Administration website: http://ia.ita.doc.gov). Finally, there are even more indicia on this record than the record of the *Brake Rotors Fifth New Shipper Review* that the village government and Huanri General are so intertwined that the export operations of Huanri General cannot on balance properly be considered to be independent with respect to Huanri General's export functions. However, the Department recognizes that the articles of the Village Committee Law may be interpreted in different manners. As a result, the Department invites both especial comment as well as additional supporting information on these two considerations. Such information and additional comment is due on June 14, 2005. Rebuttal comments will be due on June 21, 2005. No rebuttal information will be permitted.

Fair Value Comparisons

To determine whether sales of the subject merchandise by CNIM, Golden Harvest, Gren, Hengtai, Hongda, Hongfa, LABEC, LKTLC, Longkou Haimeng, Longkou Jinzheng, Meita, Shanxi Fengkun, Winhere, and ZLAP to the United States were made at prices below normal value (''NV''), we compared each company's export prices (''EPs'') or constructed export prices (''CEPs'') to NV, as described in the ''Export Price,'' ''Constructed Export Price,'' and ''Normal Value'' sections of this notice, below.

Export Price

For each respondent, we used EP methodology in accordance with section 772(a) of the Act for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States and for sales in which CEP was not otherwise indicated. We made the following company–specific adjustments:

A. *CNIM, Golden Harvest, Hengtai, Hongfa, LKTLC, Longkou Jinzheng, Meita, Shanxi Fengkun, and Winhere*

We calculated EP based on packed, FOB foreign port prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC in accordance with section 772(c) of the Act. Because foreign inland freight and foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we based those charges on surrogate rates from India (*see* ''Surrogate Country'' section below for further discussion of our surrogate–country selection). To value foreign inland trucking charges, we used truck freight rates published in *Indian Chemical Weekly* and distance information obtained from the following websites: http://www.infreight.com, http://www.sitaindia.com/Packages/CityDistance.php, http://www.abcindia.com, http://www.eindiatourism.com, and http://www.mapsofindia.com. To value foreign brokerage and handling expenses, we relied on October 1999–September 2000 information reported in the public U.S. sales listing submitted by Essar Steel Ltd. in the antidumping investigation of *Certain Hot–Rolled Carbon Steel Flat Products from India: Final Determination of Sales at Less Than Fair Value*, 67 FR 50406 (October 3, 2001).

CNIM claims that the producer (which supplied it with specific integral brake rotor models) did not incur an expense for the ball bearing cups and lug bolts used in those brake rotor models (*i.e.*, the subject merchandise) which it exported to the United States during the POR because its U.S. customers of those brake rotor models provided these items to its producer free–of-charge. In response to the Department's supplemental questionnaire which further examined its claim, CNIM provided documentation which sufficiently supported its claim that (1) its U.S. customers contracted with PRC ball bearing cup and lug bolts producers and that these producers had indeed delivered the ball bearing cups and lug bolts to CNIM's producer in a certain quantity on a certain date, free–of-charge; and (2) that these free–of-charge ball bearing cups and lug bolts were used in the required quantities for the integral brake rotor models sold to its applicable U.S. customers during the POR.

Therefore, for the reasons mentioned above, the Department has adjusted the U.S. price of those applicable integral brake rotor transactions reported by CNIM by assigning Indian surrogate values to the ball bearing cups and lug bolts used in those integral brake rotor transactions to reflect its U.S. customers' expenditures for these items. This preliminary decision on this matter is consistent with *Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Sixth Administrative Review and Preliminary Results and Final Partial Rescission of the Ninth New Shipper Review*, 69 FR 10402, 10407 (March 5, 2004); and *Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results and Partial Rescission of Fifth Antidumping Duty Administrative Review*, 70 FR 10965, 10973 (March 5, 2005).

B. Gren, Laizhou Hongda, LABEC, Longkou Haimeng, and ZLAP

We calculated EP based on packed, CIF, CFR, C&F, or FOB foreign port prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, foreign brokerage and handling charges in the PRC, marine insurance, U.S. import duties and fees (including harbor maintenance fees, merchandise processing fees, and brokerage and handling) and international freight, in accordance with section 772(c) of the Act. As all foreign inland freight and foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we valued these services using the Indian surrogate values discussed above. We valued marine insurance based on a publicly available price quote from a marine insurance provider obtained from http://www.rjgconsultants.com/insurance.html, as used in the antidumping duty investigation of *Certain Malleable Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Investigation*, 68 FR 61395 (October 28, 2003) . For international freight (*i.e.*, ocean freight and U.S. inland freight expenses from the U.S. port to the warehouse (where applicable)), we used the reported expenses because each of these six respondents used market–economy freight carriers and paid for those expenses in a market–economy currency (*see, e.g., Brake Rotors from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 64 FR 9972, 9974 (March 1, 1999)).

LABEC, Longkou Haimeng, and ZLAP each claims that it did not incur an expense for the ball bearing cups and lug bolts used in specific integral brake rotor models (*i.e.*, the subject merchandise) which each respondent exported to the United States during the POR because their U.S. customers of those brake rotor models provided these items to them free–of-charge. In response to the Department's supplemental questionnaire which further examined their claims, LABEC, Longkou Haimeng, and ZLAP each provided documentation which sufficiently supported its claim that (1) its U.S. customers contracted with PRC ball bearing cup and lug bolts producers and that these producers had indeed delivered the ball bearing cups and lug bolts to them in a certain quantity on a certain date, free–of-charge; and (2) that these free–of-charge ball bearing cups and lug bolts were used in the required quantities for the integral brake rotor models sold to their applicable U.S. customers during the POR.

Therefore, for the reasons mentioned above, the Department has adjusted the U.S. price of those applicable integral brake rotor transactions reported by LABEC, Longkou Haimeng, and ZLAP by assigning Indian surrogate values to the ball bearing cups and lug bolts used in those integral brake rotor transactions to reflect their U.S. customers' expenditures for these items.

Constructed Export Price

For Gren, we also calculated CEP in accordance with section 772(b) of the Act. We found that some of Gren's sales during the POR were CEP sales because the sales were made for the account of Gren by its subsidiary in the United States to unaffiliated purchasers. We based CEP on packed, delivered or ex–warehouse prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight and foreign brokerage and handling charges in the PRC, international freight (*i.e.*, ocean freight and U.S. inland freight from the U.S. port to the warehouse), marine insurance, U.S. import duties, and U.S. inland freight expenses (*i.e.*, freight from the plant to the customer). As all foreign inland freight, foreign brokerage and handling, and marine insurance expenses were provided by PRC service providers or paid for in renminbi, we valued these services using the Indian surrogate values discussed above. For international freight (where applicable), we used the reported expense because the respondent used a market–economy freight carrier and paid for those expenses in a market–economy currency.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (commissions and credit expenses), and indirect selling expenses (including inventory carrying costs) incurred in the United States. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a factors–of-production methodology if the merchandise is exported from an NME country and the information does not permit the calculation of NV using home–market prices, third–country prices, or constructed value under section 773(a) of the Act. The Department will base NV on the factors of production because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under its normal methodologies.

For purposes of calculating NV, we valued the PRC factors of production in accordance with section 773(c)(1) of the Act. Factors of production include, but are not limited to, hours of labor required, quantities of raw materials employed, amounts of energy and other utilities consumed, and representative capital costs, including depreciation. *See* section 773(c)(3) of the Act. In examining surrogate values, we selected, where possible, the publicly available value which was an average non–export value, representative of a range of prices within the POR or most contemporaneous with the POR, product–specific, and tax–exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004) (''*Chlorinated Isocyanurates*''). We used the usage rates reported by the respondents for materials, energy, labor, by–products, and packing. *See Preliminary Results Valuation Memorandum*, dated May 2, 2005, for a detailed explanation of the methodology used to calculate surrogate values (''*Factor Valuation Memo*'').

Section 773(c)(3) of the Act states that ''the factors of production utilized in

producing merchandise include, but are not limited to the quantities of raw materials employed.'' Therefore, the Department is required under the Act to value all inputs (including inputs which the respondent claims were provided to it purportedly free of charge). As explained in the ''Export Price'' section above, certain respondents (*i.e.*, CNIM, LABEC, Longkou Haimeng, and ZLAP) sufficiently support their claim that each of its applicable U.S. customers provided the ball bearing cups and lug bolts to them free–of-charge which were used in specific integral brake rotor models sold to those same U.S. customers. For this reason, we have adjusted, where applicable, these respondents' reported U.S. prices to include the value of ball bearing cups and lug bolts for certain sales of integral brake rotor models in these preliminary results. In addition to making the above–referenced adjustment to these respondents' U.S. prices reported for sales of the subject merchandise which contained ball bearing cups and lug bolts, section 773(c)(3) of the Act requires the Department to value each factor of production used to produce the subject merchandise. Accordingly, for these preliminary results, the Department has valued the ball bearing cups and lug bolts usage amounts reported by these respondents for specific integral brake rotor models by using an Indian surrogate value for each input (*see Factor Valuation Memo*).

For other respondents (*i.e.*, Laizhou Hongda and Winhere) who purchased the ball bearing cups and lug bolts used in their integral brake rotor models sold to the U.S. market during the POR, we used Indian surrogate values to value these inputs (*see also Factor Valuation Memo*).

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production reported by the respondents for the POR. We relied on the factor specification data submitted by the respondents for the above–mentioned inputs in their questionnaire and supplemental questionnaire responses, where applicable, for purposes of selecting surrogate values.

To calculate NV, we multiplied the reported per–unit factor quantities by publicly available Indian surrogate values (except where noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997). Due to the extensive number of surrogate values it was necessary to assign in this investigation, we present a discussion of the main factors. For a detailed description of all surrogate values used for respondents, *see Factor Valuation Memo*.

Except where discussed below, we valued raw material inputs using April 2003–March 2004 weighted–average Indian import values derived from the *World Trade Atlas* online (''*WTA*'') (*see also Factor Valuation Memo*). The Indian import statistics we obtained from the *WTA* were published by the DGCI&S, Ministry of Commerce of India, which were reported in rupees. Indian surrogate values denominated in foreign currencies were converted to U.S. dollars using the applicable average exchange rate for India for the POR. The average exchange rate was based on exchange rate data from the Department's website. Where we could not obtain publicly available information contemporaneous with the POR with which to value factors, we adjusted the surrogate values for inflation using Indian wholesale price indices (''WPIs'') as published in the International Monetary Fund's *International Financial Statistics*. *See Factor Valuation Memo*.

Furthermore, with regard to the Indian import–based surrogate values, we have disregarded prices from NME countries and those that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non–industry-specific export subsidies and, therefore, it is reasonable to conclude that there is reason to believe or suspect all exports to all markets from these countries are subsidized. *See Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers From The People's Republic*, 61 FR 66255 (February 12, 1996), and accompanying *Issues and Decision Memorandum* at Comment 1.

Finally, imports that were labeled as originating from an ''unspecified'' country were excluded from the average value, because the Department could not be certain that they were not from either an NME or a country with general export subsidies.

Surrogate Valuations

To value lubrication oil, we used January 2003–December 2003 *WTA* average import values from the Philippines because the post–March 2000 Indian import values from *WTA* for this input were all labeled as originating from an ''unspecified'' country, and because the import values from *WTA* for the other recommended surrogate countries (*e.g.*, Indonesia, Pakistan, etc.) either did not provide data on a country–of-origin–specific basis or were unavailable. We adjusted the *WTA* average value for this input for inflation.

We valued electricity using the 2000 total average price per kilowatt hour for ''Electricity for Industry'' as reported in the International Energy Agency's (''IEA's'') publication, *Energy Prices and Taxes, Fourth Quarter, 2003*.

We added an amount for loading and additional transportation charges associated with delivering coal to the factory based on June 1999 Indian price data contained in the periodical *Business Line*.

Section 351.408(c)(3) of the Department's regulations requires the use of a regression–based wage rate. Therefore, to value the labor input, the Department used the regression–based wage rate for the PRC published by Import Administration on our website. The source of the wage rate data is the *Yearbook of Labour Statistics 2002*, published by the International Labour Office (''ILO''), (Geneva: 2002), Chapter 5B: Wages in Manufacturing. *See* the Import Administration website: http://ia.ita.doc.gov/wages/02wages/02wages.html.

To value corrugated paper cartons, nails, plastic bags, plastic sheets/covers, paper sheet, steel strip, particle board, plywood and straps/buckles, tape and pallet wood, we used April 2003–March 2004 average import values from *WTA*. All respondents (with the exception of Golden Harvest, Hengtai, LKTLC, and Longkou Jinzheng) included the weight of the clamps/buckles in their reported steel strip weights since the material of both inputs was the same. Therefore, we valued these factors using the combined weight reported by the respondents.

To value PRC inland freight for inputs shipped by truck, we used Indian freight rates published in the October 2003–April 2004 issues of *Chemical Weekly* and obtained distances between cities from the following websites: http://www.infreight.com and http://www.sitaindia.com/Packages/CityDistance.php.

To value factory overhead (''FOH'') and selling, general and administrative (''SG&A'') expenses, and profit, we used data from the 2003–2004 financial reports of Kalyani Brakes Limited (''Kalyani'') and Rico Auto Industries Limited (''Rico''), and data from the 2002–2003 financial report of Mando Brake Systems India Limited (''Mando''). These Indian companies are producers of the subject merchandise based on data contained in each Indian company's financial reports.

Where appropriate, we did not include in the surrogate overhead and SG&A calculations the excise duty amount listed in the financial reports. We made certain adjustments to the ratios calculated as a result of reclassifying certain expenses contained in the financial reports. For a further discussion of the adjustments made, *see Factor Valuation Memo*.

Preliminary Results of Reviews

We preliminarily determine that the following margins exist during the period April 1, 2003, through March 31, 2004:

BRAKE ROTORS FROM THE PRC
MANDATORY RESPONDENTS

Manufacturer/exporter	Weighted-Average margin (percent)
China National Industrial Machinery Import & Export Corporation	0.49
Hongfa Machinery (Dalian) Co., Ltd.	0.05
Laizhou Automobile Brake Equipment Co., Ltd.	0.17
Laizhou Hongda Auto Replacement Parts Co., Ltd.	0.08
Longkou Haimeng Machinery Co., Ltd.	0.23
Longkou Jinzheng Machinery Co., Ltd.	0.00
Longkou TLC Machinery Co., Ltd.	0.06
Qingdao Gren (Group) Co.	0.18
Qingdao Meita Automotive Industry Company, Ltd.	0.00
Shanxi Fengkun Metallurgical Limited Company	2.57
Xiangfen Hengtai Brake System Co., Ltd.	0.00
Yantai Winhere Auto–Part Manufacturing Co., Ltd.	1.32
Zibo Golden Harvest Machinery Limited Company	0.00
Zibo Luzhou Automobile Parts Co., Ltd.	0.90
PRC–Wide Rate	43.32

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held on July 12, 2005.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in case briefs and rebuttal briefs. Case briefs from interested parties may be submitted not later than June 30, 2005, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due not later than July 7, 2005, pursuant to 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of these reviews, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions for the companies subject to this review directly to CBP within 15 days of publication of the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer- or customer–specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. For certain respondents for which we calculated a margin, we do not have the actual entered value because they are either not the importers of record for the subject merchandise or were unable to obtain the entered value data for their reported sales from the importer of record. For these respondents, we intend to calculate individual customer–specific assessment rates by aggregating the dumping margins calculated for all of the U.S. sales examined and dividing that amount by the total quantity of the sales examined. To determine whether the duty assessment rates are *de minimis* (*i.e.*, less than 0.50 percent), in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate customer–specific *ad valorem* ratios based on export prices.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer or customer–specific assessment rate calculated in the final results of this review is above *de minimis*.

For entries of the subject merchandise during the POR from companies not subject to these reviews, we will instruct CBP to liquidate them at the cash deposit rate in effect at the time of entry. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

Bonding will no longer be permitted to fulfill security requirements for shipments of brake rotors from the PRC produced and exported by Longkou Jinzheng that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final result of the new shipper review. The following cash deposit requirements will be effective upon publication of the final results of the new shipper review for all shipments of subject merchandise from Longkou Jinzheng entered, or withdrawn from warehouse, for consumption on or after the publication date: (1) For subject merchandise manufactured and exported by Longkou Jinzheng, no cash deposit will be required if the cash deposit rate calculated in the final results is zero or *de minimis*; and (2) for subject merchandise exported by Longkou Jinzheng but not manufactured by Longkou Jinzheng, the cash deposit rate will continue to be the PRC countrywide rate (*i.e.*, 43.32 percent).

The following deposit requirements will be effective upon publication of the final results of the administrative review for all shipments of brake rotors from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for CNIM, Golden Harvest, Gren, Hengtai, Hongda, Hongfa, LABEC, Longkou Haimeng, LKTLC, Meita,

Shanxi Fengkun, Winhere, and ZLAP will be the rates determined in the final results of review (except that if a rate is *de minimis, i.e.*, less than 0.50 percent, no cash deposit will be required); (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding (which were not reviewed in this segment of the proceeding) will continue to be the rate assigned in that segment of the proceeding (*i.e.*, Luqi, Shenyang Yinghao, and Xumingyuan); (3) the cash deposit rate for the PRC NME entity (including Huanri General and Rotec) will continue to be 43.32 percent; and (4) the cash deposit rate for non–PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that exporter.

These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative and new shipper reviews and notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

Dated: May 2, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–2229 Filed 5–6–05; 8:45 am]

BILLING CODE: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–588–824)

Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Extension of Preliminary Results of Antidumping Duty Administrative Review.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 9, 2005.

FOR FURTHER INFORMATION CONTACT: Christopher Hargett or James Terpstra, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4161 or (202) 482–3965.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (''the Department'') published an antidumping duty order on certain corrosion–resistant carbon steel flat products from Japan on August 19, 1993. *See Antidumping Duty Order: Certain Corrosion–Resistant Carbon Steel Flat Products from Japan*, 58 FR 44163 (August 19, 1993). Nucor Corporation (''Nucor''), the petitioner, requested that the Department conduct an administrative review of the order. *See Letter from Nucor Corporation*, August 31, 2004. On September 22, 2004, the Department published a notice of initiation of administrative review of the antidumping duty order on certain corrosion–resistant carbon steel flat products from Japan, covering the period of August 1, 2003, to July 31, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation, In Part*, 69 FR 56745. The preliminary results for this review are currently due no later than May 3, 2005.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations allow the Department to extend this deadline to a maximum of 365 days.

Both respondents, JFE and Nippon Steel, have declined to participate in this review. As such, the Department will apply adverse facts available pursuant to section 776(a) and (b) of the Act. The Department has continuing concerns about what the appropriate rate is to assign to JFE and Nippon Steel as adverse facts available. Therefore, the Department determines that it is not practicable to complete the review within the original time period, and is extending the time limit for completion of the preliminary results by 30 days to no later than June 2, 2005. We intend to issue the final results no later than 120 days after publication of the notice of the preliminary results. This notice is being issued and published in accordance with section 751(a)(3)(A) of the Act.

Dated: May 3, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–2230 Filed 5–6–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–805, A–428–807, A–412–805)

Sodium Thiosulfate from the People's Republic of China, Germany, and the United Kingdom: Final Results of Sunset Reviews and Revocation of Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On February 2, 2005, the Department of Commerce (''Department'') initiated the sunset reviews of the antidumping duty orders on sodium thiosulfate from the People's Republic of China, Germany and the United Kingdom (70 FR 5415). Because the domestic interested parties did not participate in these sunset reviews, the Department is revoking these antidumping duty orders.

EFFECTIVE DATE: March 7, 2005

FOR FURTHER INFORMATION CONTACT: Hilary Sadler, Esq., Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4340.

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1991, the Department issued antidumping duty orders on sodium thiosulfate from the People's Republic of China, Germany, and the United Kingdom (56 FR 2904). On July 1, 1999, the Department initiated sunset reviews on these orders and later published its notice of continuation of the antidumping duty orders. *See Continuation of Antidumping Duty Orders: Sulfur Chemicals (Sodium Thiosulfate) from the Untied Kingdom, Germany and the People's Republic of China*, 65 FR 11985 (March 7, 2000). On February 2, 2005, the Department initiated the second sunset reviews of these orders.

We did not receive a notice of intent to participate from domestic interested parties in any of these sunset reviews by the deadline dates. *See* 19 CFR 351.218(d)(1)(iii)(A). As a result, the Department determined that no domestic interested party intends to participate in the sunset reviews, and on October 21, 2004, we notified the International Trade Commission, in writing, that we intended to issue a final determination revoking these antidumping duty orders. See 19 CFR 351.218(d)(1)(iii)(B)(2).

Scope of the Orders:

The merchandise covered by these orders includes all grades of sodium thiosulfate, in dry or liquid from, used primarily to dechlorinate industrial waste water, from the People's Republic of China, Germany, and the United Kingdom. The chemical composition of sodium thiosulfate is Na2S203. Currently, subject merchandise is classified under item number 2832.30.1000 of the Harmonized Tariff Schedule of the United States (''HTS''). The above HTSUS subheading is provided for convenience and customs purposes. The written description remains dispositive.

Determination to Revoke

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested party files a notice of intent to participate, the Department shall issue a final determination revoking the order within 90 days after the initiation of the review. Because the domestic interested parties did not file a notice of intent to participate in these sunset reviews, the Department finds that no domestic interested party is participating in these sunset reviews. Therefore, consistent with 19 CFR 351.222(i)(2)(i) and section 751(c)(6)(A)(iii) of the Act, we are revoking these antidumping duty orders effective March 7, 2005, the fifth anniversary of the date the Department published the continuation of the antidumping duty orders.

Effective Date of Revocation

Pursuant to sections 751(c)(3)(A) and 751(c)(6)(A)(iii) of the Act and 19 CFR 351.222(i)(2)(i), the Department will instruct U.S. Customs and Border Protection to terminate the suspension of liquidation of the merchandise subject to these orders entered, or withdrawn from warehouse, on or after March 7, 2005. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

These five-year (sunset) reviews and notice are in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: May 2, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–2231 Filed 5–6–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–823–801)

Solid Urea from Ukraine; Final Results of the Expedited Sunset Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 1, 2004, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty (''AD'') order on solid urea from Ukraine pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-year (Sunset) Reviews*, 69 FR 58890 (October 1, 2004). On the basis of a notice of intent to participate, an adequate substantive response filed on behalf of the domestic interested parties, and inadequate response from respondent interested parties (in this case, no response), the Department conducted an expedited sunset review of this order pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(B) of the Department's regulations. As a result of this sunset review, the Department finds that revocation of the AD order would likely lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: May 9, 2005.

FOR FURTHER INFORMATION CONTACT: Hilary Sadler, Esq., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4340.

SUPPLEMENTARY INFORMATION:

Background:

On October 1, 2004, the Department initiated a sunset review of the AD order on solid urea from Ukraine pursuant to section 751(c) of the Act. *See Initiation of Five-year (Sunset) Reviews*, 69 FR 58890 (October 1, 2004). The Department received a Notice of Intent to Participate from the following domestic interested parties: the Ad Hoc Committee of Domestic Nitrogen Producers, (consisting of CF Industries, Inc. and PCS Nitrogen Fertilizer, LP (collectively ''the Ad Hoc Committee'')), and Agrium U.S., Inc. (collectively ''the domestic interested parties'') within the deadline specified in 19 CFR 351.218(d)(1)(I) of the Department's regulations. The domestic interested parties claimed interested party status under sections 771(9)(C) and (D) of the Act, as domestic manufacturers of urea or coalition whose members are engaged in the production of urea in the United States. The Department received a complete substantive response collectively from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). However, the Department did not receive any responses from the respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited sunset review of this antidumping duty order.

Scope of the Order:

The merchandise covered by this order is solid urea, a high–nitrogen content fertilizer which is produced by reacting ammonia with carbon dioxide. The product is currently classified under the Harmonized Tariff Schedules of the United States Annotated (''HTS'') item 3102.10.00.00. During previous reviews such merchandise was classified under item number 480.3000 of the Tariff Schedules of the United States. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive as the scope of the product coverage.

Analysis of Comments Received:

All issues raised in this review are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Ronald K. Lorentzen, Acting Director, Office of Policy, Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated May 2, 2005, which is hereby adopted by this notice. The issues discussed in the accompanying Decision Memorandum include the likelihood of continuation or recurrence of dumping were the order revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public

memorandum which is on file in the Central Records Unit, room B–099, of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn, under the heading ''May 2005.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review:

The Department determines that revocation of the antidumping duty order on solid urea from Ukraine would be likely to lead to continuation or recurrence of dumping at the rates listed below:

Producers/Exporters	Margin (percent)
Phillip Brothers, Ltd./ Phillip Brothers, Inc. ..	53.23 percent
Country–wide rate	68.26 percent

Notification regarding Administrative Protective Order:

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: May 2, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–2232 Filed 5–6–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Office of Oceanic and Atmospheric Research; External Review of NOAA's Hurricane Intensity Research and Development Enterprise

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of solicitation for members of a NOAA hurricane intensity research and development enterprise review panel.

SUMMARY: The Under Secretary of Commerce for Oceans and Atmosphere has requested the NOAA Science Advisory Board (SAB) to conduct an external review of NOAA's hurricane intensity research and development enterprise. The SAB is chartered under the Federal Advisory Committee Act and is the only Federal Advisory Committee with the responsibility to advise the Under Secretary on long- and short-range strategies for research, education, and application of science to resource management and environmental assessment and prediction. The SAB is forming an external panel to conduct a review and draft recommendations that will lead to future generations of numerical hurricane model forecasts as well as improvements in operational forecasting. Nominations to the panel are being solicited. The intent is to select from the nominees; however, the SAB retains the prerogative to name people to the review team that were not nominated if it deems it necessary to achieve the desired balance. Once selected, the SAB will post the review panel members' names at *http://www.sab.noaa.gov.*

DATES: Nominations must be received by twenty-one days from publication of this notice.

ADDRESSES: Nominations should be submitted electronically to *noaa.sab.hurricane@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Michael Uhart: 301–713–9121, ext. 159.

SUPPLEMENTARY INFORMATION: The external review team will consist of no less than eight members whose expertise as a group covers tropical cyclone instrumentation; observations and modeling; atmospheric and ocean dynamics, data assimilation, and modeling; vortex dynamics; fluid mechanics; operational numerical environmental modeling; and forecast operations. The reviewers should have the following qualifications:

1. National and international professional recognition;
2. Knowledge of and experience with the science which supports NOAA's tropical cyclone research and operations;
3. Knowledge of and experience with the organization and management of complex mission-oriented research and development programs;
4. No perceived or actual vested interest or conflict of interest that might undermine the credibility of the review.

It is of note here that except for qualification criteria 4, the criteria are not absolute requirements. The qualifications of some individuals are expected to be outstanding with respect to one or more of the criteria, so that being unqualified with respect to other criteria would not make them ineligible. The Terms of Reference for the review is posted at: *http://www.sab.noaa.gov/doc/documents.html.* The working group will prepare a preliminary report of its analysis and findings for the March 2006 SAB meeting and a final report, including recommendations, for the July 2006 SAB meeting. The working group will be dissolved after completing any follow-on requests by the SAB following the July 2006 meeting.

Nominations: Anyone is eligible to nominate and self-nominations will be accepted. Nominations should provide: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) the nominee's area(s) of expertise; and (3) a short description of their qualifications relative to the kinds of advice being solicited. Inclusion of a resume is desirable.

Louisa Koch,

Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 05–9227 Filed 5–6–05; 8:45 am]

BILLING CODE 3510–KD–P 1

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021805D]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic, Southeastern Data Assessment and Review (SEDAR) 8 Review Workshop

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

ACTION: Notice; location change.

SUMMARY: The SEDAR process consists of a series of three workshops: a data workshop, an assessment workshop, and a review workshop. This is notification that the location for the Review workshop has changed. See **SUPPLEMENTARY INFORMATION**.

DATES: The review workshop will be held May 16–20, 2005.

ADDRESSES: The Review Workshop will be held at the Caribe Hilton, Los Rosales Street, San Geronimo Grounds, San Juan, Puerto Rico 00901.

FOR FURTHER INFORMATION CONTACT: Graciela Garcia-Moliner, Caribbean Fishery Management Council, 268 Munoz Rivera Ave, Suite 1108, San Juan, PR 00918–2577; telephone: (787) 766–5927; or John Carmichael, SEDAR Coordinator, SEDAR/SAFMC, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520.

SUPPLEMENTARY INFORMATION: The original notice published in the **Federal Register** on February 25, 2005 (70 FR 9273). This notice serves as a correction to the address of one of the workshops.

The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR typically includes three workshops: (1) Data Workshop, (2) Assessment Workshop, and (3) Review Workshop. The product of the Data Workshop and the Assessment Workshop is a stock assessment report, which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment report is independently peer reviewed at the Review Workshop. The products of the Review Workshop are a Consensus Summary Report, which reports Panel opinions regarding the strengths and weaknesses of the stock assessment and input data, and an Advisory Report, which summarizes the status of the stock. Participants for SEDAR workshops are appointed by the Regional Fishery Management Councils. Participants include data collectors, database managers, stock assessment scientists, biologists, fisheries researchers, fishermen, environmentalists, Council members, international experts, and staff of Regional Councils, Interstate Commissions, and state and federal agencies.

The Review Workshop for SEDAR 8 will review the following assessments: Caribbean yellowtail snapper, Caribbean spiny lobster, and Gulf of Mexico South Atlantic spiny lobster. The Review workshop was originally scheduled to be held at the Best Western, San Juan Airport. That location has changed to the Caribe Hilton, San Juan, PR.

The workshop schedule is as follows:

May 16, 2005, 1 p.m.–10 p.m.

May 17 19, 2005, 8 a.m.–10 p.m.

May 20, 2005, 8 a.m.–11 a.m.

Please note that during the scheduled times there will be a mixture of workshop plenary sessions and dedicated group working sessions. The actual schedule of sessions during each day will be determined on an as-needed basis.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the South Atlantic Fishery Management Council office (see **ADDRESSES**) at least 5 business days prior to the workshop.

Dated: May 3, 2005.

Emily Menashes,

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

[FR Doc. E5–2224 Filed 5–6–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050405A]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene its Special Coral Scientific and Statistical Committee (SSC).

DATES: The meeting will be held on Thursday, May 26, 2005 from 8:30 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Best Western – The Westshore Hotel, 1200 North Westshore Boulevard, Tampa, Florida 33607.

Council address: Gulf of Mexico Fishery Management Council, 3018 North U.S. Highway 301, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Deputy Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813.228.2815.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene the Special Coral Scientific and Statistical Committee (SSC) to discuss previous research efforts to locate and identify coral reef resources in the Gulf of Mexico. The Special Coral SSC will also be asked to provide recommendations on future research needs. Finally, the Special Coral SSC will discuss issues relative to Acropora and the 2004 Status of Coral Reefs of the World Report.

A copy of the agenda and related materials can be obtained by calling the Council office at 813.228.2815.

Although other non-emergency issues not on the agendas may come before the Special Coral SSC for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (M-SFCMA), those issues may not be the subject of formal action during this meeting. Actions of the Special Coral SSC will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the M-SFMCA, provided the public has been notified of the Council's intent to take 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 Dawn Aring at the Council (see **ADDRESSES**) by May 16, 2005.

May 4, 2005.

Emily Menashes,

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

[FR Doc. E5–2228 Filed 5–6–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050405B]

North Pacific Fishery Management Council; Notice of Public Meeting

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

ACTION: Meetings of the North Pacific Fishery Management Council and Alaska Board of Fisheries Interim Joint Protocol committee.

SUMMARY: The North Pacific Fishery Management Council (Council) Joint Protocol Committee of the Alaska Board of Fisheries and Council will meet on May 25, 2005 in Anchorage at the Hawthorn Suite, Ltd, Ballroom B.

DATES: May 25, 8;30am – 4:30pm.

ADDRESSES: Hawthorn Suites, Ltd, 1110 West 8th Avenue, Anchorage, AK 99501

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

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

SUPPLEMENTARY INFORMATION: The meeting will be to discuss the Board of Fisheries proposal #455 (state water pollock fisheries within Steller Sea lion critical habitat). This will be an initial organizational meeting to discuss information needs, process and timing relative to potential actions by the Board of Fisheries or Council.

Special Accommodations

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

Dated: May 4, 2005.

Emily Menashes,

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

[FR Doc. E5–2227 Filed 5–6–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050405C]

Western Pacific Fishery Management Council; Public Scoping Meeting

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

ACTION: Notice of a public scoping meeting.

SUMMARY: There are two shark tour operations based in Haleiwa. The operations are banned from operating in Hawaii State Waters. The staff of the Western Pacific Fishery Management Council (Council) will convene a public scoping meeting to: (1) gather comment on shark viewing operations in Federal waters, and (2) to disseminate and gather information on the Council's Community Based Management initiatives.

DATES: The public scoping meeting will be held on Monday, May 23, 2005, from 6 p.m. to 9 p.m.

ADDRESSES: The meeting will be held at the Haleiwa Alii Beach Park, John Kalili Surf Center, Oahu, HI.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; Western Pacific Fishery Management Council; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: This meeting will be advertised in the local newspapers. Written comments will be accepted until May 30, 2005. They may be sent to Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813 or via fax to (808) 522–8226.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Dated: May 4, 2005.

Emily Menashes,

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

[FR Doc. E5–2226 Filed 5–6–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032805A]

Atlantic Highly Migratory Species; Exempted Fishing Permits

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

ACTION: Notice.

SUMMARY: NMFS has decided not to proceed at this time with issuing exempted fishing permits (EFPs) for conducting bycatch reduction research in the following regions of the Atlantic Ocean: North of Cape Hatteras, South of Cape Hatteras, and Gulf of Mexico (GOM) until such time as an Environmental Impact Statement (EIS) can be prepared to further assess the impacts associated with fishing in existing pelagic longline closed areas.

FOR FURTHER INFORMATION CONTACT: Heather Stirratt, 301–713–2347; fax: 301–713–1917.

SUPPLEMENTARY INFORMATION: EFPs are requested and issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and/or the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). Regulations at 50 CFR 600.745 and 50 CFR 635.32 govern scientific research activity, exempted fishing, and exempted educational activity with respect to Atlantic Highly Migratory Species (HMS).

Six Atlantic pelagic longline vessels requested exemptions from certain regulations applicable to the harvest and landing of Atlantic HMS in order to conduct bycatch reduction research in the following regions of the Atlantic Ocean: North of Cape Hatteras, South of Cape Hatteras, and GOM. Specifically, the permitted pelagic longline vessels proposed to test gear modifications and/or various fishing techniques to avoid incidentally-caught white marlin, blue marlin, bluefin tuna, and sea turtles, while allowing for the targeted catches of allowed species. The proposal included research in areas currently closed to pelagic longline fishing.

NMFS has considered the public comments received, as requested in the **Federal Register** (70 FR 17069) on April 4, 2005, and has decided not to proceed with issuing exempted fishing permits until such time as an EIS can be prepared to further assess the impacts associated with fishing in existing pelagic longline closed areas. NMFS believes that bycatch reduction research in the pelagic longline fishery is important to compare or evaluate different bycatch reduction fishing methodologies, explore new bycatch reduction gear technologies, and investigate ways to tailor and refine existing time/area closures. Thus, NMFS will proceed with bycatch reduction research in areas currently open to pelagic longline fishing. Bycatch reduction information will be gathered via research efforts conducted outside of closed areas, consistent with a NMFS-issued cooperative research grant. Further consideration of bycatch reduction research inside of closed areas may occur upon completion of an EIS.

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: May 3, 2005.

John H. Dunnigan

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

[FR Doc. 05–9147 Filed 5–3–05; 4:16 pm]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Rescheduling of Consideration of Requests for Textile and Apparel Safeguard Action on Imports from China and Solicitations of Public Comments

May 5, 2005.

AGENCY: The Committee for the Implementation of Textile Agreements (the Committee)

ACTION: Rescheduling of consideration by the Committee of requests for textile and apparel safeguard action previously stayed due to a court injunction, and solicitation of public comments with respect to those requests for which the comment period remained open at the time the injunction was imposed.

SUMMARY: The Committee has resumed consideration of twelve requests for safeguard action that were received from certain textile and apparel trade associations in October, November and December, 2004. The Requestors asked the Committee to limit imports from China of twelve textile and apparel products in accordance with the textile and apparel safeguard provision in the Report of the Working Party on the Accession of China to the World Trade Organization (the Accession Agreement). Although the Committee decided to consider these requests, and solicited public comments, the Court of International Trade preliminarily enjoined CITA from taking any further action on the requests on December 30, 2004. The Court of Appeals for the Federal Circuit stayed the injunction on April 27, 2005. The Committee is not soliciting any further public comment with respect to those requests where the public comment period closed before the court issued its injunction. With respect to the remaining requests, the Committee hereby solicits public comments during a period beginning the day following publication of this notice in the **Federal Register** and encompassing the number of days remaining in the original comment period when the court issued its injunction.

FOR FURTHER INFORMATION CONTACT: Jay Dowling, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agriculture Act of 1956, as amended; Executive Order 11651, as amended.

BACKGROUND:

The textile and apparel safeguard provision of the Accession Agreement provides for the United States and other members of the World Trade Organization that believe imports of Chinese origin textile and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products to request consultations with China with a view to easing or avoiding the disruption. Pursuant to this provision, if the United States requests consultations with China, it must, at the time of the request, provide China with a detailed factual statement showing ''(1) the existence or threat of market disruption; and (2) the role of products of Chinese origin in that disruption.'' Beginning on the date that it receives such a request, China must restrict its shipments to the United States to a level no greater than 7.5 percent (6 percent for wool product categories) above the amount entered during the first 12 months of the most recent 14 months preceding the month in which the request for consultations is made. If exports from China exceed that amount, the United States may enforce the restriction.

The Committee has published procedures (the Procedures) it follows in considering requests for Accession Agreement textile and apparel safeguard actions (68 FR 27787, May 21, 2003; 68 FR 49440, August 18, 2003), including the information that must be included in such requests in order for the Committee to consider them.

In October through December of 2004, the Requestors asked the Committee to take safeguard action on imports from China of 12 the following products: 1) cotton trousers, category 347/348; (2) cotton knit shirts and blouses, category 338/339; (3) men's and boys' cotton and man-made fiber shirts, not knit, category 340/640; (4) man-made fiber knit shirts and blouses, category 638/639; (5) man-made fiber trousers, category 647/648; (6) cotton and man-made fiber underwear, category 352/652; (7) combed cotton yarn, category 301; (8) other synthetic filament fabric, category 620; (9) men's and boys' wool trousers, category 447; (10) knit fabric, category 222; (11) dressing gowns and robes, category 350/650; and (12) brassieres and other body supporting garments, category 349/649.

The Committee determined that each of these requests provided the information necessary for the Committee to consider the request and solicited public comments on each. See 69 FR 64034 (Nov. 3, 2004); 69 FR 64911 (Nov. 9, 2004); 69 FR 64912 (Nov. 9, 2004); 69 FR 64913 (Nov. 9, 2004); 69 FR 64914 (Nov. 9, 2004); 69 FR 64915 (Nov. 9, 2004); 69 FR 68133 (Nov. 23, 2004); 69 FR 70661 (Dec. 7, 2004); 69 FR 71781 (Dec. 10, 2004); 69 FR 75516 (Dec. 17, 2004); 69 FR 77232 (Dec. 27, 2004); 69 FR 77998 (Dec. 29, 2004).

These requests are available at *http://otexa.ita.doc.gov*.

On December 30, 2004, the Court of International Trade preliminarily enjoined the CITA agencies from considering or taking any further action on these requests and any other requests ''that are based on the threat of market disruption''. **U.S. Association of Importers of Textiles and Apparel v. United States**, Slip Op.04-162. On April 27, 2005, the Court of Appeals for the Federal Circuit granted the U.S. government's motion for a stay of that injunction, pending appeal. **U.S. Association of Importers of Textiles and Apparel v. United States**, Ct. No. 05-1209. Thus CITA may now resume consideration of these cases.

Public Comments

The public comment period closed prior to December 30, 2004 with respect to the following seven requests: (1) cotton trousers, category 347/348; (2) cotton knit shirts and blouses, category 338/339; (3) men's and boys' cotton and man-made fiber shirts, not knit, category 340/640; (4) man-made fiber knit shirts and blouses, category 638/639; (5) man-made fiber trousers, category 647/648; (6) cotton and man-made fiber underwear, category 352/652; and (7) combed cotton yarn, category 301. The Committee is not soliciting additional public comments with respect to those requests.

With respect to the remaining five requests filed in the last quarter of 2004, the public comment period had not yet closed as of December 30, 2004. The number of calendar days remaining in the public comment period beginning with and including December 30, 2004 is indicated in parentheses for each product group: (1) other synthetic filament fabric, category 620 (8 days); (2) men's and boys' wool trousers, category 447 (12 days); (3) knit fabric, category 222 (20 days); (4) dressing gowns and robes, category 350/650 (28 days); and (5) brassieres and other body supporting garments, category 349/649 (30 days).

For some of these cases, public comments continued to be delivered to the Committee during the original comment period. Although the Committee was barred by the injunction from considering such comments while the injunction was in effect, those comments were retained, and will now be considered. They need not be re-submitted.

Interested persons are invited to submit ten copies of comments in connection with these five requests to the Chairman. Comments must be received no later than the last day of the number of days remaining in the original comment period at the time of the imposition of the injunction. Thus, for (1) other synthetic filament fabric, category 620, comments must be received no later than May 17, 2005; for (2) men's and boys' wool trousers, category 447, comments must be received no later than May 23, 2005; for

(3) knit fabric, category 222, comments must be received no later than May 31, 2005; for (4) dressing gowns and robes, category 350/650, comments must be received no later than June 6, 2005; and for (5) brassieres and other body supporting garments, category 349/649, comments must be received no later than June 8, 2005.

Comments should be directed to the Committee for the Implementation of Textile Agreements, Room 3001A, U.S. Department of Commerce, 14th and Constitution Avenue N.W., Washington, DC 20230.

The Committee will protect any business confidential information that is marked ''business confidential'' from disclosure to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided in which business confidential information is summarized or, if necessary, deleted. Comments received, with the exception of information marked ''business confidential'', will be available for inspection between Monday - Friday, 8:30 a.m and 5:30 p.m in the Trade Reference and Assistance Center Help Desk, Suite 800M, USA Trade Information Center, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW, Washington, DC, (202) 482-3433.

Committee Determination Whether to Request Consultations

With respect to the requests for which the public comment period closed prior to the imposition of the injunction, the Committee will make a determination within 60 calendar days of the publication of this notice in the **Federal Register** as to whether the United States will request consultations with China. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the **Federal Register**, including the date by which it will make a determination. If the Committee makes a negative determination, it will cause this determination and the reasons therefore to be published in the **Federal Register**. If the Committee makes an affirmative determination that imports of these textile and apparel products threaten to disrupt the U.S. market, the United States will request consultations with China with a view to easing or avoiding the disruption.

With respect to the requests for which the public comment period remained open at the time of the imposition of the injunction, the Committee will make a determination within 60 calendar days of the close of the public comment period, as described above in the ''Affected Product Groups'' section, as to whether the United States will request consultations with China. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the **Federal Register**, including the date by which it will make a determination. If the Committee makes a negative determination, it will cause this determination and the reasons therefore to be published in the **Federal Register**. If the Committee makes an affirmative determination that imports of these textile and apparel products threaten to disrupt the U.S. market, the United States will request consultations with China with a view to easing or avoiding the disruption.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 05–9320 Filed 5–5–05; 2:51 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 05–10]

36(b)(1) Arms Sale Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/OPS–ADMIN, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 05–10 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 4, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

28 APR 2005
In reply refer to:
I-04/011341

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 05-10, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Israel for defense articles and services estimated to cost $30 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Same ltr to: House Committee on International Relations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations
Senate Committee on Appropriations

Transmittal No. 05-10

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Israel

(ii) **Total Estimated Value:**

Major Defense Equipment*	$25 million
Other	$ 5 million
TOTAL	$30 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 100 Guided Bomb Units (GBU-28) that include: BLU-113A/B penetration warhead, WGU-36A/B guidance control unit, FMU-143H/B bomb fuze, and BSG-92/B airfoil group guide. Also included are: support equipment; testing, spare and repair parts; supply support; publications and technical data, U.S. Government and contractor technical assistance and other related elements of logistics support.

(iv) **Military Department:** Air Force (ALX)

(v) **Prior Related Cases, if any:** none

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached

(viii) **Date Report Delivered to Congress:** 28 APR 2005

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Israel – Guided Bomb Units (GBU-28)

The Government of Israel has requested a possible sale of 100 GBU-28s that include: BLU-113A/B penetration warhead, WGU-36A/B guidance control unit, FMU-143H/B bomb fuze, and BSG-92/B airfoil group guide. Also included are: support equipment; testing, spare and repair parts; supply support; publications and technical data, U.S. Government and contractor technical assistance and other related elements of logistics support. The estimated cost is $30 million.

This proposed sale will contribute to the foreign policy and national security of the United States (U.S.) by helping to improve the security of a friendly country that has been, and continues to be, an important force for economic progress in the Middle East.

The GBU-28 is a special weapon that was developed for penetrating hardened command centers located deep underground. Israel Air Force will use these GBU-28s on their F-15 aircraft.

Israel will maintain its qualitative edge with a balance of new weapons procurement and upgrades supporting its existing systems. Israel will have no difficulty absorbing these munitions into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region. The U.S. Government plans to acquire the 100 GBU-28s for this proposed sale from new procurement, but not from existing inventory.

The principal contractors will be:

Raytheon Co., Electronic Systems/Missile Systems	**Tucson, Arizona**
Ellwood National Forge Company	**Irvine, Pennsylvania**
Kaman Dayron	**Orlando, Florida**

There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government and contractor representatives to Israel.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 05-10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The Guided Bomb Unit (GBU-28) is a special weapon that was developed for penetrating hardened facilities located deep underground. The GBU-28 is a 5,000-pound laser-guided conventional munition. The GBU-28 bomb body (BLU-113) weighs 4,637 pounds, contains 630 pounds of high explosives, is 14.5 inches in diameter and almost 19 feet long. It is fitted with a derivative of the GBU-27 Laser Guided Bomb guidance kit and airfoil group. The GBU-28 is classified Secret.

2. Weapon accuracy is dependent upon target illumination with a laser designator and precision guidance of the munitions to a spot of laser energy reflected from the target.

3. A weapon system operator uses a laser target illuminator and then guides the munitions to the spot of reflected energy reflected from the target. Elements in the overall guidance bomb unit that are essential for successful employment include the following five sections: explosive, penetration warhead, guidance control unit, fuze and fin stabilizer.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 05–9218 Filed 5–6–05; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0108]

Federal Acquisition Regulation; Information Collection; Bankruptcy

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning bankruptcy. The clearance currently expires on June 30, 2005.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 8, 2005.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No.9000–0108, Bankruptcy, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jeritta Parnell, Contract Policy Division, GSA (202) 501–4082.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under statute, contractors may enter into bankruptcy which may have a significant impact on the contractor's ability to perform it's Government contract. The Government often does not receive adequate and timely notice of this event. The clause at 52.242–13 requires contractors to notify the contracting officer within 5 days after the contractor enters into bankruptcy.

B. Annual Reporting Burden

Respondents: 1,000.
Responses Per Respondent: 1.
Annual Responses: 1,000.
*Hours Per Response:*1.
Total Burden Hours: 1,000.

C. Annual Recordkeeping Burden

Recordkeepers: 1,000.
Hours Per Recordkeeper:.25.
Total Burden Hours: 250.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0108, Bankruptcy, in all correspondence.

Dated: April 29, 2005

Julia B. Wise

Director, Contract Policy Division.

[FR Doc. 05–9172 Filed 5–6–05; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 239. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 239 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATES: May 1, 2005.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 238. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the Federal Register now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: May 4, 2005.

Jeannette Owings-Ballard,

Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 239 ARE UPDATES TO THE RATES FOR HAWAII AND MIDWAY ISLAND. ALSO, CORRECTION TO SEASONAL DATES FOR CRAIG AND KLAWOCK, ALASKA; AND CORRECTION TO WAKE ISLAND'S EFFECTIVE DATE - NO CHANGE).				
ALASKA				
ADAK	120	79	199	07/01/2003
ANCHORAGE [INCL NAV RES]				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
BARROW	159	95	254	05/01/2002
BETHEL	119	77	196	06/01/2004
BETTLES	135	62	197	10/01/2004
CLEAR AB	80	55	135	09/01/2001
COLD BAY	90	73	163	05/01/2002
COLDFOOT	135	71	206	10/01/1999
COPPER CENTER				
05/16 - 09/15	109	63	172	07/01/2003
09/16 - 05/15	99	63	162	07/01/2003
CORDOVA				
05/01 - 09/30	110	74	184	04/01/2005
10/01 - 04/30	85	72	157	04/01/2005
CRAIG				
04/15 - 09/14	125	64	189	04/01/2005
09/15 - 04/14	95	61	156	04/01/2005
DEADHORSE	95	67	162	05/01/2002
DELTA JUNCTION	89	75	164	06/01/2004
DENALI NATIONAL PARK				
06/01 - 08/31	114	60	174	04/01/2005
09/01 - 05/31	80	57	137	04/01/2005
DILLINGHAM	114	69	183	06/01/2004
DUTCH HARBOR-UNALASKA	121	73	194	04/01/2005
EARECKSON AIR STATION	80	55	135	09/01/2001
EIELSON AFB				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004
ELMENDORF AFB				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
FAIRBANKS				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004
FOOTLOOSE	175	18	193	06/01/2002
FT. GREELY	89	75	164	06/01/2004
FT. RICHARDSON				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
FT. WAINWRIGHT				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
GLENNALLEN				
05/01 - 09/30	125	73	198	04/01/2005
10/01 - 04/30	89	69	158	04/01/2005
HEALY				
06/01 - 08/31	114	60	174	04/01/2005
09/01 - 05/31	80	57	137	04/01/2005
HOMER				
05/15 - 09/15	125	73	198	04/01/2005
09/16 - 05/14	76	68	144	04/01/2005
JUNEAU				
05/01 - 09/30	109	80	189	04/01/2005
10/01 - 04/30	79	77	156	04/01/2005
KAKTOVIK	165	86	251	05/01/2002
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
05/01 - 08/31	129	82	211	04/01/2005
09/01 - 04/30	79	77	156	04/01/2005
11/01 - 03/31	69	75	144	04/01/2003
KENNICOTT	189	85	274	04/01/2005
KETCHIKAN				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK				
04/15 - 09/14	125	64	189	04/01/2005
09/15 - 04/14	95	61	156	04/01/2005
KODIAK	112	80	192	04/01/2005
KOTZEBUE				
05/15 - 09/30	141	86	227	02/01/2005
10/01 - 05/14	135	85	220	02/01/2005
KULIS AGS				
05/01 - 09/15	170	89	259	06/01/2004
09/16 - 04/30	95	81	176	06/01/2004
MCCARTHY	189	85	274	04/01/2005
METLAKATLA				
05/30 - 10/01	98	48	146	05/01/2002
10/02 - 05/29	78	47	125	05/01/2002
MURPHY DOME				
05/01 - 09/15	159	88	247	06/01/2004
09/16 - 04/30	75	79	154	06/01/2004
NOME	120	84	204	04/01/2005
NUIQSUT	180	53	233	05/01/2002
PETERSBURG	90	64	154	06/01/2004
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002
PRUDHOE BAY	95	67	162	05/01/2002

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
SEWARD				
05/01 - 09/30	145	79	224	04/01/2005
10/01 - 04/30	62	71	133	04/01/2005
SITKA-MT. EDGECUMBE				
05/01 - 09/30	119	66	185	04/01/2005
10/01 - 04/30	99	64	163	04/01/2005
SKAGWAY				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
SLANA				
05/01 - 09/30	139	55	194	02/01/2005
10/01 - 04/30	99	55	154	02/01/2005
SPRUCE CAPE	112	80	192	04/01/2005
ST. GEORGE	129	55	184	06/01/2004
TALKEETNA	100	89	189	07/01/2002
TANANA	120	84	204	04/01/2005
TOGIAK	100	39	139	07/01/2002
TOK				
05/01 - 09/30	90	66	156	06/01/2004
10/01 - 04/30	60	63	123	06/01/2004
UMIAT	180	107	287	04/01/2005
UNALAKLEET	79	80	159	04/01/2003
VALDEZ				
05/01 - 10/01	129	74	203	04/01/2005
10/02 - 04/30	79	69	148	04/01/2005
WASILLA				
05/01 - 09/30	134	78	212	04/01/2005
10/01 - 04/30	80	73	153	04/01/2005
WRANGELL				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
YAKUTAT	110	68	178	03/01/1999
[OTHER]	80	55	135	09/01/2001
AMERICAN SAMOA				
AMERICAN SAMOA	135	67	202	06/01/2004
GUAM				
GUAM (INCL ALL MIL INSTAL)	135	89	224	09/01/2004
HAWAII				
CAMP H M SMITH	129	96	225	05/01/2005
EASTPAC NAVAL COMP TELE AREA	129	96	225	05/01/2005
FT. DERUSSEY	129	96	225	05/01/2005
FT. SHAFTER	129	96	225	05/01/2005
HICKAM AFB	129	96	225	05/01/2005
HONOLULU (INCL NAV & MC RES CTR)	129	96	225	05/01/2005
ISLE OF HAWAII: HILO	105	80	185	05/01/2005
ISLE OF HAWAII: OTHER	150	92	242	05/01/2005
ISLE OF KAUAI	158	98	256	05/01/2005
ISLE OF MAUI	159	95	254	06/01/2004
ISLE OF OAHU	129	96	225	05/01/2005

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KEKAHA PACIFIC MISSILE RANGE FAC	158	98	256	05/01/2005
KILAUEA MILITARY CAMP	105	80	185	05/01/2005
LANAI	400	153	553	05/01/2005
LUALUALEI NAVAL MAGAZINE	129	96	225	05/01/2005
MCB HAWAII	129	96	225	05/01/2005
MOLOKAI	119	95	214	05/01/2005
NAS BARBERS POINT	129	96	225	05/01/2005
PEARL HARBOR [INCL ALL MILITARY]	129	96	225	05/01/2005
SCHOFIELD BARRACKS	129	96	225	05/01/2005
WHEELER ARMY AIRFIELD	129	96	225	05/01/2005
[OTHER]	72	61	133	01/01/2000
MIDWAY ISLANDS				
MIDWAY ISLANDS [INCL ALL MILITAR	60	32	92	05/01/2005
NORTHERN MARIANA ISLANDS				
ROTA	129	90	219	09/01/2004
SAIPAN	121	92	213	09/01/2004
TINIAN	85	70	155	09/01/2004
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
BAYAMON				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
CAROLINA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
FAJARDO [INCL CEIBA & LUQUILLO]	82	54	136	01/01/2000
FT. BUCHANAN [INCL GSA SVC CTR,				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
HUMACAO	82	54	136	01/01/2000
LUIS MUNOZ MARIN IAP AGS				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
MAYAGUEZ	85	59	144	01/01/2000
PONCE	96	69	165	01/01/2000
ROOSEVELT RDS & NAV STA	82	54	136	01/01/2000
SABANA SECA [INCL ALL MILITARY]				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
SAN JUAN & NAV RES STA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	98	83	181	08/01/2003
12/15 - 04/14	135	87	222	08/01/2003
ST. JOHN				
04/15 - 12/14	110	91	201	08/01/2003

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
12/15 - 04/14	185	98	283	08/01/2003
ST. THOMAS				
04/15 - 12/14	163	95	258	08/01/2003
12/15 - 04/14	220	99	319	08/01/2003
WAKE ISLAND				
WAKE ISLAND	60	32	92	09/01/1998

[FR Doc. 05–9217 Filed 5–6–05; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 8, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 3, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Annual Progress Reporting Form for the American Indian Vocational Rehabilitation Services (AIVRS) Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 70.

Burden Hours: 1,120.

Abstract: This data collection will be conducted annually to obtain program and performance information from the AIVRS grantees on their project activities. The information collected will assist Federal Rehabilitation Services Administration (RSA) staff in responding to the Government Performance and Results Act (GPRA). Data will primarily be collected through an Internet form.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2694. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at her e-mail address *Sheila.Carey@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–9152 Filed 5–6–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 8, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 3, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) Financial Status and Program Performance Closeout Report/Final Report.

Frequency: End of six-year performance period.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 175.

Burden Hours: 6,125.

Abstract: The Closeout Report will be used by the Department of Education to determine whether recipients of GEAR UP have made substantial progress towards meeting the objectives of their respective projects, as outlined in their grant applications and/or subsequent work plans. In addition, the final report will enable the Department to evaluate each grant project's fiscal operations for the entire grant performance period, and compare total expenditures relative to Federal funds awarded, and actual cost-share/matching relative to the total amount in the approved grant application. This report is a means for grantees to share the overall experience of their projects and document achievements and concerns, and describe effects of their projects on participants being served; project barriers and major accomplishments; and evidence of sustainability. The report will be GEAR UP's primary method to collect/analyze data on students' high school graduation and immediate college enrollment rates.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2687. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–9153 Filed 5–6–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Open Meeting and Partially Closed Meetings; Correction

AGENCY: National Assessment Governing Board, U.S. Department of Education.

ACTION: Notice; correction.

SUMMARY: The National Assessment Governing Board published a document in the **Federal Register** of April 27, 2005 (FR Doc. 05–8356) announcing the convening of its open and partially closed meetings of May 19–21, 2005. The document needs to be revised to reflect the extension of one of the closed meeting sessions as follows:

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu (202) 357–6906.

Correction: In the **Federal Register** of April 27, 2005, Volume 70, Number 80, in FR Doc. 05–8356, pages 21744–21745, in the paragraph on Committee Meetings, line 1, change the end time of the Assessment Development Committee Closed Session from 2 p.m. to 2:30 p.m. and change the open time from 2 p.m. to 2:30 p.m. The sentence will now read:

''Assessment Development Committee: Closed Session—1 p.m. to 2:30 p.m.; Open Session—2:30 p.m. to 4 p.m.

In the third paragraph on **SUPPLEMENTARY INFORMATION** the sentence ''The Assessment Development Committee will meet in closed session on May 19 from 1 p.m. to 2 p.m. to review the Statement of Work for development of a Writing Framework and Specifications for the 2011 National Assessment of Educational Progress (NAEP) Writing Assessment'' is hereby amended to read ''The Assessment Development Committee will meet in closed session on May 19 from 1 p.m. to 2:30 p.m. to review the Statement of Work for development of a Writing Framework and Specifications for the 2011 National Assessment of Educational Progress (NAEP) Writing Assessment.''

In the same paragraph, the concluding sentence ''Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.'' shall be followed with the following new sentence: ''The Assessment Development Committee will also review secure reading test passages at grade 12 for the National Assessment of Educational Progress (NAEP) 2009 Reading Assessment. This portion of the meeting must be conducted in closed session as disclosure of proposed test items from the NAEP assessments would significantly impede implementation of the NAEP program, and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.''

Dated: May 4, 2005.

Charles E. Smith,

Executive Director, National Assessment Governing Board.

[FR Doc. 05–9210 Filed 5–6–05; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–103–000]

Northern Indiana Public Service Company Complainant, v. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C. Respondents; Notice of Complaint and Request for Fast Track Processing

May 3, 2005.

Take notice that on May 2, 2005, Northern Indiana Public Service Company (NIPSCO) filed a Complaint against Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and PJM Interconnection, L.L.C. (PJM) pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e and 825e (2000) and Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206 (2004). NIPSCO requests that the Commission monitor and oversee operational studies needed to ensure the reliability of the NIPSCO transmission system, require the studies be done on an expedited basis, and order Midwest ISO and PJM to make any modifications required by the studies to the Joint Operating Agreement governing seams issues between Midwest ISO and PJM. NIPSCO has requested fast track processing of the Complaint.

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. On or before the comment date, it is not necessary to serve motions to intervene

or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on May 19, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2225 Filed 5–6–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7908–9]

Meeting of the National Drinking Water Advisory Council—Notice of Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Under Section 10(a)(2) of Public Law 92–423, The Federal Advisory Committee Act, notice is hereby given for a meeting of the National Drinking Water Advisory Council (NDWAC or Council). This Council was authorized by the Safe Drinking Water Act in 1974 (42 U.S.C. 300f *et seq.*) to support the Environmental Protection Agency in performing its duties and responsibilities related to the national drinking water program. The primary purpose of this meeting is for the Council to review and discuss the draft report of the Water Security Working Group and to continue the dialogue initiated in December 2004 on the revision of existing drinking water program indicators and measures and the potential development of new indicators/measures that are clearly focused on public health protection. Updates on other EPA drinking water program activities will be presented if sufficient time is available.

DATES: The Council meeting will be held on June 1, 2005, from 1:30 p.m. until 5 p.m.; June 2, 2005, from 8:30 a.m. until 5:30 p.m.; and June 3, 2005, from 8:30 a.m. until 12:30 p.m., eastern standard time.

ADDRESSES: The meeting will be held at The Madison Hotel, 1177 15th St., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Members of the public who would like to attend the meeting, present an oral statement, or submit a written statement, should contact Clare Donaher by phone at (202) 564–3787, by e-mail at *donaher.clare@epa.gov*, or by regular mail at the U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (MC 4601M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The Council encourages the public's input and will allocate one hour from 4:30–5:30 p.m. on June 1, 2005 for this purpose. Oral statements will be limited to five minutes. It is preferred that only one person present the statement on behalf of a group or organization. To ensure adequate time for public involvement, individuals or organizations interested in presenting an oral statement should notify Clare Donaher by telephone at (202) 564–3787 no later than May 27, 2005. Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received by May 27, 2005, will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information. Any person needing special accommodations at this meeting, including wheelchair access, should contact Clare Donaher (see **FOR FURTHER INFORMATION CONTACT** section). Notification of at least five (5) business days before the meeting is preferred so that appropriate special accommodations can be made.

Dated: May 3, 2005.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 05–9219 Filed 5–6–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7908–8]

Notice of Proposed Administrative Settlement Pursuant to the Clean Water Act; Kinder Morgan, Sparks Facility

AGENCY: Environmental Protection Agency.

ACTION: Notice, request for public comments.

SUMMARY: In accordance with Section 311(B)(6)(C) of the Clean Water Act 33 U.S.C. 1321 (B)(6)(C), notice is hereby given of a proposed Class II consent Agreement (''Agreement'') Kinder Morgan facility in Sparks, Nevada. The Environmental Protection Agency determined that the facility had not conducted all of the spill response exercises and drills required by the Facility Response Plan. The Agreement requires the Respondent pay a civil penalty of $26,630 and provide emergency response equipment to the Truckee Fire Department as a supplemental environmental project.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the Agreement. The agency will consider all comments received and may modify or withdraw its consent to the Agreement if comments received disclose facts or considerations which indicate that the Agreement is inappropriate, improper or inadequate. The Agency's response to any comments received will be available for public inspection at USEPA Region IX, 75 Hawthorne Street, San Francisco, California.

DATES: Comments must be submitted on or before June 8, 2005.

ADDRESSES: The proposed Agreement may be obtained from Mark Samolis, Environmental Protection Specialist, telephone (415) 972–4273. Comments regarding the proposed Agreement should be addressed to Mark Samolis (SFD–9) at EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and should reference the Kinder Morgan Sparks Consent Agreement and USEPA Docket No. OPA–9–2005–0004.

FOR FURTHER INFORMATION CONTACT: J. Andrew Helmlinger, Office of Regional Counsel, telephone (415) 972–3904, USEPA Region IX, 75 Hawthorne Street, San Francisco, California 94105.

Dated: April 29, 2005.

Betsy Curnow,

Acting Chief Response, Planning & Assessment Branch, Superfund Division (SFD–9).

[FR Doc. 05–9309 Filed 5–6–05; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE AND TIME: Monday, May 16, 2005, 2 p.m. eastern time.

PLACE: Clarence M. Mitchell, Jr. Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, NW., Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: *Open Session:*

1. Announcement of Notation Votes, and
2. EEOC Repositioning Plan: Field Offices.

Note: In accordance with the Sunshine Act, the open session of the meeting will be open to public observation of the Commission's deliberations and voting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 633–7100 (voice) and (202) 663–4074 (TTY) at any time for information on these meetings.

CONTACT FOR FURTHER INFORMATION: Stephen Llewellyn, Acting Executive Office on (202) 663–4070.

Dated: This notice issued May 5, 2005.

Stephen Llewellyn,

Acting Executive Officer, Executive Secretariat.

[FR Doc. 05–9341 Filed 5–5–05; 3:26 pm]

BILLING CODE 6750–06–M

FEDERAL MARITIME COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Maritime Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, the Federal Maritime Commission invites comments on the continuing information collections (extensions with no changes) listed below in this notice.

DATES: Comments must be submitted on or before July 11, 2005.

ADDRESSES: You may send comments to: Derek O. Scarbrough, Chief Information Officer, Office of Administration, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573 (telephone: (202) 523–5800), *cio@fmc.gov*. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, and form and OMB numbers (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, copies of the information collections and their instructions, or copies of any comments received, contact Jane Gregory, Executive Assistant, Office of Administration, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573 (telephone: (202) 523–5800), *jgregory@fmc.gov*.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Federal Maritime Commission, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing information collections listed in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments. We invite comments on: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Information Collections Open for Comment

Title: 46 CFR Part 540—Application for Certificate of Financial Responsibility/Form FMC–131.

OMB Approval Number: 3072–0012 (Expires August 31, 2005).

Abstract: Sections 2 and 3 of Public Law 89–777 (46 U.S.C. app. 817(d) and (e)) require owners or charterers of passenger vessels with 50 or more passenger berths or stateroom accommodations and embarking passengers at United Stated ports and territories to establish their financial responsibility to meet liability incurred for death or injury to passengers and other persons, and to indemnify passengers in the event of nonperformance of transportation. The Commission's Rules at 46 CFR part 540 implement Public Law 89–777 and specify financial responsibility coverage requirements for such owners and charterers.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The information will be used by the Commission's staff to ensure that passenger vessel owners and charterers have evidenced financial responsibility to indemnify passengers and others in the event of nonperformance or casualty.

Frequency: This information is collected when applicants apply for a certificate or when existing certificants change any information in their application forms.

Type of Respondents: The types of respondents are owners, charterers and operators of passenger vessels with 50 or more passenger berths that embark passengers from U.S. ports or territories.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 50.

Estimated Time Per Response: The time per response ranges from .5 to 6 person-hours for reporting and recordkeeping requirements contained in the rules, and 8 person-hours for completing Application Form FMC–131. The total average time for both requirements for each respondent is 31.47 person-hours.

Total Annual Burden: The Commission estimates the total person-hour burden at 1,574 person-hours.

Title: 46 CFR Part 565—Controlled Carriers.

OMB Approval Number: 3072–0060 (Expires August 31, 2005).

Abstract: Section 9 of the Shipping Act of 1984 requires that the Federal Maritime Commission monitor the practices of controlled carriers to ensure that they do not maintain rates or charges in their tariffs and service contracts that are below a level that is just and reasonable; nor establish, maintain or enforce unjust or unreasonable classifications, rules or

regulations in those tariffs or service contracts which result or are likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level. 46 CFR part 565 establishes the method by which the Commission determines whether a particular ocean common carrier is a controlled carrier subject to section 9 of the Shipping Act of 1984. When a government acquires a controlling interest in an ocean common carrier, or when a controlled carrier newly enters a United States trade, the Commission's rules require that such a carrier notify the Commission of these events.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission uses these notifications in order to effectively discharge its statutory duty to determine whether a particular ocean common carrier is a controlled carrier and therefore subject to the requirements of section 9 of the Shipping Act of 1984.

Frequency: The submission of notifications from controlled carriers is not assigned to a specific time frame by the Commission; they are submitted as circumstances warrant. The Commission only requires notification when a majority portion of an ocean common carrier becomes owned or controlled by a government, or when a controlled carrier newly begins operation in any United States trade.

Type of Respondents: Controlled carriers are ocean common carriers which are owned or controlled by a government.

Number of Annual Respondents: Although it is estimated that only 5 of the 8 currently classified controlled carriers may respond in any given year, because this is a rule of general applicability, the Commission considers the number of annual respondents to be 8. The Federal Maritime Commission cannot anticipate when a new carrier may enter the trade; therefore, the number of annual respondents could increase to 10 or more at any time.

Estimated Time Per Response: The estimated time for compliance is 7 person-hours per year.

Total Annual Burden: The Commission estimates the person-hour burden required to make such notifications at 56 person-hours per year.

Title: 46 CFR Part 525—Marine Terminal Operator Schedules and Related Form FMC–1.

OMB Approval Number: 3072–0061 (Expires August 31, 2005).

Abstract: Section 8(f) of the Shipping Act of 1984, 46 U.S.C. app. 1707(f), provides that a marine terminal operator (MTO) may make available to the public a schedule of its rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal, subject to section 10(d)(1), 46 U.S.C. app. 1709(d)(1) of the Act. The Commission's rules governing MTO schedules are set forth at 46 CFR part 525.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission uses information obtained from Form FMC–1 to determine the organization name, organization number, home office address, name and telephone number of the firm's representatives and the location of MTO schedules of rates, regulations and practices, and publisher, should the MTOs determine to make their schedules available to the public, as set forth in section 8(f) of the Shipping Act.

Frequency: This information is collected prior to an MTO's commencement of its marine terminal operations.

Type of Respondents: Persons operating as MTOs.

Number of Annual Respondents: The Commission estimates the respondent universe at 247, of which 168 opt to make their schedules available to the public.

Estimated Time Per Response: The time per response for completing Form FMC–1 averages .5 person hours, and approximately 5 person-hours for related MTO schedules.

Total Annual Burden: The Commission estimates the total person-hour burden at 964 person-hours.

Title: 46 CFR Part 520—Carrier Automated Tariff Systems and Related Form FMC–1.

OMB Approval Number: 3072–0064 (Expires August 31, 2005).

Abstract: Except with respect to certain specified commodities, section 8(a) of the Shipping Act of 1984, 46 U.S.C. app. 1707(a), requires that each common carrier and conference shall keep open to public inspection, in an automated tariff system, tariffs showing its rates, charges, classifications, rules, and practices between all ports and points on its own route and on any through transportation route that has been established. In addition, individual carriers or agreements among carriers are required to make available in tariff format certain enumerated essential terms of their service contracts. 46 U.S.C. app. 1707(c). The Commission is responsible for reviewing the accessibility and accuracy of automated tariff systems, in accordance with its regulations set forth at 46 CFR part 520.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission uses information obtained from Form FMC–1 to ascertain the location of common carrier and conference tariff publications, and to access their provisions regarding rules, rates, charges and practices.

Frequency: This information is collected when common carriers or conferences publish tariffs.

Type of Respondents: Persons desiring to operate as common carriers or conferences.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 3,500.

Estimated Time Per Response: The time per response for completing Form FMC–1 averages .5 person hours, and approximately 5.6 person-hours for related tariff filings.

Total Annual Burden: The Commission estimates the total person-hour burden at 364,200 person-hours.

Title: 46 CFR Part 530—Service Contracts and Related Form FMC–83.

OMB Approval Number: 3072–0065 (Expires August 31, 2005).

Abstract: The Shipping Act of 1984, 46 U.S.C. app. 1707, requires service contracts, except those dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper or paper waste, and their related amendments and notices to be filed confidentially with the Commission.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission monitors service contract filings for acts prohibited by the Shipping Act of 1984.

Frequency: The Commission has no control over how frequently service contracts are entered into; this is solely a matter between the negotiating parties. When parties enter into a service contract, it must be filed with the Commission.

Type of Respondents: Parties that enter into service contracts are ocean common carriers and agreements among ocean common carriers on the one hand, and shippers or shipper's associations on the other.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 140.

Estimated Time Per Response: The time per response for completing Form FMC–83 averages .5 person hours, and approximately 27 person-hours for reporting and recordkeeping requirements contained in the rules.

Total Annual Burden: The Commission estimates the total person-hour burden at 528,770 person-hours.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 05–9234 Filed 5–6–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 23, 2005.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. Nicholas, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Severson Family Limited Partnership, Apple Valley, Minnesota and Larry S. Severson, Lakeville, Minnesota as general partner, to become part of a group acting in concert, which will consist of Severson Family Limited Partnership, Apple Valley, Minnesota, Larry Severson, Lakeville, Minnesota, as general partner; Cobb Limited Partnership, Lake Havasu City, Arizona, Michael J. Cobb, Sr., Lake Havasu City, Arizona, as general partner; and a Voting Trust Agreement, Apple Valley, Minnesota, John F. Woodhead, St. Louis Park, Minnesota, as trustee; and thereby acquire control of Financial Services of St. Croix Falls, Inc., St. Croix Falls, Wisconsin, and thereby indirectly acquire voting shares of Eagle Valley Bank, N.A., St. Croix Falls, Wisconsin.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Willard L. Frickey, Las Vegas, Nevada, Bradley K. Frickey, Brian K. Frickey, and Tracy R. Hudson, all of Ellis, Kansas, and Trever L. Frickey, Kansas City, Missouri; to acquire votings shares of Hanston Insurance Agency, Inc., and thereby indirectly acquire voting shares of Hanston State Bank, both of Hanston, Kansas.

Board of Governors of the Federal Reserve System, May 3, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–9164 Filed 5–6–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center 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 June 2, 2005.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Capitol Bancorp Ltd., Lansing, Michigan; to acquire 51 percent of the voting shares of Capitol Development Bancorp Limited II, Lansing, Michigan, and thereby indirectly acquire voting shares of Bank of Auburn Hills, Auburn Hills, Michigan (in organization).

2. Capitol Development Bancorp Limited II, Lansing, Michigan; to become a bank holding company by acquiring 51 percent of the voting shares of Bank of Auburn Hills, Auburn Hills, Michigan (in organization).

3. Founders Group, Inc., Worth, Illinois and Peotone Bancorp, Inc. Peotone, Illinois; to acquire 100 percent of the voting shares of Vermilion Bancorp, Inc., Danville, Illinois, and thereby indirectly acquire voting shares of American Savings Bank of Danville, Danville, Illinois.

Board of Governors of the Federal Reserve System, May 3, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–9163 Filed 5–6–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection: Comment Request

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice.

SUMMARY: The FTC is soliciting public comments on proposed information requests to cigarette manufacturers and smokeless tobacco manufacturers. These comments will be considered before the FTC submits a request for Office of Management and Budget (OMB) review under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520, of compulsory process orders to the largest companies in those two industries for information concerning, inter alia, their sales and marketing expenditures.

DATES: Comments must be submitted on or before July 8, 2005.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to the ''Tobacco Reports: Paperwork Comment, FTC File No. P054507'' to facilitate the organization of the comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room H–159

(Annex G), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper (rather than electronic) form, and the first page of the document must be clearly labeled ''Confidential.'' [1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments filed in electronic form (except comments containing any confidential material) should be sent to the following e-mail box: *TobaccoReports@ftc.gov*.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *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/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Michael Ostheimer, Attorney, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Telephone: (202) 326–2699.

SUPPLEMENTARY INFORMATION: The sales and marketing data contained in the cigarette and smokeless tobacco reports that the FTC has issued for many years have been based on data submitted to the Commission pursuant to compulsory process by the largest cigarette and smokeless tobacco manufacturers in the United States. [2] The FTC has authority to compel production of this information from cigarette and smokeless tobacco manufacturers under Section 6(b) of the FTC Act, 15 U.S.C. 46(b). The Federal Reports Elimination and Sunset Act of 1995 [3] terminated the statutory mandates for these reports and allowed the agency to assess for itself the need for the reports. Accordingly, the Commission sought public comment on whether continuing to issue reports on the cigarette and smokeless tobacco industries was in the public interest and what forms any such reports should take. [4] The Commission determined that the continued publication of such reports was in the public interest, and subsequently issued several reports.

More recently, the Commission decided to address its information requests to the ultimate parent of each of the leading cigarette and smokeless tobacco manufacturers in order to assure that no relevant data from affiliated companies goes unreported. This change presumably increases the number of separately incorporated entities affected by the Commission's requests. The Commission intends to seek OMB clearance under the Paperwork Reduction Act before requesting any information for these reports from the largest cigarette and smokeless tobacco manufacturers.

Under the PRA, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before submitting the proposed information collection requirements to OMB for review, as required by the PRA.

The FTC invites comments on: (1) Whether the proposed collections of information are necessary for the proper performance of the functions of the FTC, including whether the information will have practical utility; (2) the accuracy of the FTC's estimate of the burden of the proposed collections 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 collecting information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

A. Information Requests to the Cigarette and Smokeless Tobacco Industries

1. Description of the Collection of Information and Proposed Use

The FTC proposes to send information requests on an annual basis to the ultimate parent company of each of the five largest cigarette companies and each of the five largest smokeless tobacco companies in the United States (''industry members''). The information requests will seek data regarding, inter alia: (1) The tobacco sales of industry members; (2) how much industry members spend advertising and promoting their tobacco products; (3) whether industry members are involved in the appearance of their tobacco products in television shows or movies; (4) how much industry members spend on advertising intended to reduce youth tobacco usage; (5) the events, if any, during which industry members' tobacco brands are televised; and (6) for the cigarette industry, the tar, nicotine, and carbon monoxide ratings of their cigarettes, to the extent they possess such data.

2. Estimated Hours Burden

The FTC staff's estimate of the hours burden is based on the time required to respond to each information request. Although the Commission intends to issue the information requests only to the five largest cigarette companies and the five largest smokeless tobacco companies (for a total of 10 information requests), the burden estimate is based on up to 15 information requests being issued per year to take into account any future changes in these industries. Because these companies vary greatly in size, in the number of products that they sell, and in the extent and variety of their advertising and promotion, the FTC staff has provided a range of the estimated hours burden. Based upon its knowledge of the industries, the staff estimates that the time required to gather, organize, format, and produce such responses ranges between 30 and 80 hours per information request for all but the very largest companies. The very largest companies could require hundreds of hours per year. Thus, the staff estimates a total of 1,800 hours per year, with an average burden per company for each of the intended ten recipients of 180 hours. The staff estimates that for possible additional

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

[2] Beginning in 1967, the Commission submitted annual reports to Congress on cigarette sales and marketing pursuant to the Federal Cigarette Labeling and Advertising Act. 15 U.S.C. 1331–1341. Beginning in 1986, the Commission submitted biennially to Congress reports on smokeless tobacco pursuant to the Comprehensive Smokeless Tobacco Health Education Act. 15 U.S.C. 4401–4408.

[3] Pub. L. 104–66, Section 3003(a)(1), 109 Stat. 734.

[4] 66 FR 18640 (2001).

recipients, which would be smaller companies, the burden should not exceed 300 hours (60 hours per company x 5 companies). Thus the staff's estimate of the total burden is 2,100 hours. These estimates include any time spent by separately incorporated subsidiaries and other entities affiliated with the ultimate parent company that has received the information request. [5]

3. Estimated Cost Burden

It is not possible to calculate with precision the labor costs associated with this data production, as they entail varying compensation levels of management and/or support staff among companies of different sizes. Financial, legal, marketing, and clerical personnel may be involved in the information collection process. We have assumed that professional personnel will handle most of the tasks involved in gathering and producing responsive information, and have applied an average hourly wage of $150/hour for their labor. The staff's best estimate for the total labor costs for up to 15 information requests is $315,000.

The Commission estimates that the capital or other non-labor costs associated with the information requests are minimal. Although the information requests may necessitate that industry members maintain the requested information provided to the Commission, they should already have in place the means to compile and maintain business records.

William Blumenthal,

General Counsel.

[FR Doc. 05–9261 Filed 5–6–05; 8:45 am]

BILLING CODE 6750–01–U

[5] The staff's burden estimate takes into account that the first request to the five smokeless tobacco companies may cover data for three calendar years.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–New]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

#1 Type of Information Collection Request: Regular Clearance; On April 15, 2005 HHS published a Notice of intent to obtain Emergency Clearance for this information collection. Subsequently, HHS withdrew that request. We are now extending the comment period for that Notice for a full 60-days in order to obtain a Regular Clearance.

Title of Information Collection: Burn Bed Enumeration.

Form/OMB No.: OS–0990–New.

Use: The Office for Public Health Emerency Preparedness (OPHEP) will collect information on available burn beds, medical material for care of burn patients, and staffing levels to ensure the ability to manage a mass casualty event involving burns. No current system exists.

Frequency: Reporting, weekly, other (twelve additional days).

Affected Public: Federal, business or other for profit, not for profit institutions.

Annual Number of Respondents: 132.

Total Annual Responses: 8,448.

Average Burden Per Response: 1 hour.

Total Annual Hours: 1,197.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access the HHS Web site address at *http://www.hhs.gov/oirm/infocollect/pending/* or e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *naomi.cook@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received by June 14, 2005, and directed to the OS Paperwork Clearance Officer at the following address: Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Budget, Technology, and Finance, Office of Information and Resource Management, Attention: Naomi Cook (0990–New), Room 531–H, 200 Independence Avenue, SW., Washington DC 20201.

Dated: April 27, 2005.

Robert E. Polson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 05–9146 Filed 5–6–05; 8:45 am]

BILLING CODE 4168–17–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–New]

Office of the Secretary; Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection, Regular.

Title of Information Collection: Homeless Women Veterans Survey.

Form/OMB No.: OS–0990–New.

Use: This information will be used to assess and identify the issues and problems of homelessness among women veterans, and to develop programs to better meet their gender specific needs.

Frequency: Reporting and on occasion.

Affected Public: Individuals or households.

Annual Number of Respondents: 30.

Total Annual Responses: 30.

Average Burden Per Response: 1 hour.

Total Annual Hours: 30.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access the HHS Web site address at *http://www.hhs.gov/oirm/infocollect/pending/* or e-mail your

request, including your address, phone number, OMB number, and OS document identifier, to *naomi.cook@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the Desk Officer at the address below: OMB Desk Officer: John Kraemer, OMB Human Resources and Housing Branch, Attention: (OMB #0990–NEW), New Executive Office Building, Room 10235, Washington DC 20503.

Dated: April 29, 2005.

Robert E. Polson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 05–9199 Filed 5–6–05; 8:45 am]

BILLING CODE 4168–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Funding Opportunity

AGENCY: Office of the Secretary, Office of Public Health and Science, HHS.

ACTION: Notice.

Funding Opportunity Title: Public Awareness Campaigns on Embryo Adoption.

Announcement Type: Competitive Grant—Initial.

Funding Opportunity Number: OPHS–2005–EA.

CFDA Number: 93.007.

DATES: Applications are due no later than July 8, 2005. A Letter of Intent (LOI) is requested on or before June 8, 2005.

SUMMARY: This notice announces the availability of Fiscal Year (FY) 2005 grant funds for embryo adoption public awareness campaigns. Approximately $950,000 in funding is available on a competitive basis for three to four new projects each in the range of $200,000 to $250,000. Grants will be made for a project period of two years. This announcement seeks applications to develop and implement public awareness campaigns regarding embryo adoption. Applicants must demonstrate experience with embryo adoption programs that conform with professionally recognized standards governing embryo adoption and other applicable Federal or State requirements. For the purposes of this announcement, embryo adoption is defined as the donation of frozen embryo(s) from one party to a recipient who wishes to bear and raise a child or children.

I. Funding Opportunity Description

The Office of Public Health and Science (OPHS) of the Department of Health and Human Services (DHHS) announces the availability of funds for FY 2005 and requests applications for grants for public awareness campaigns on embryo adoption.

The OPHS is under the direction of the Assistant Secretary for Health (ASH), who serves as the Senior Advisor on public health and science issues to the Secretary of the Department of Health and Human Services (DHHS). The Office serves as the focal point for leadership and coordination across the Department in public health and science; provides direction to program offices within OPHS; and provides advice and counsel on public health and science issues to the Secretary.

The increasing success of assisted reproductive technologies (ART) has resulted in a situation in which an infertile couple typically creates several embryos through in-vitro fertilization (IVF). During IVF treatments, couples may produce many embryos in an attempt to conceive with several being cryopreserved (frozen) for future use. If a couple conceives without using all of the stored embryos, they may choose to have the remaining unused embryos donated for adoption allowing other infertile couples the experience of pregnancy and birth. Embryo adoption is a relatively new process in which individuals who have extra frozen embryos agree to release the embryos for transfer to the uterus of another woman, either known or anonymous to the donor(s) for the purpose of the recipient(s) attempting to bear a child and be that child's parent.

Program Statutes

Public Law 108–447, the Consolidated Appropriations Act, 2005, which includes appropriations for the Department of Health and Human Services, authorizes the Secretary to conduct a public awareness campaign to educate Americans about the existence of frozen embryos available for adoption.

The FY 2005 Senate Committee on Appropriations report (S. Rep. 108–345) contains the following statement:

''The Committee understands that there are nearly 400,000 frozen embryos in fertility clinics in the United States and only approximately 2 percent of these are donated to other couples in order to bear children. The Committee continues to believe that increasing public awareness of embryo donation and adoption remains an important goal and therefore directs the Department to continue its embryo adoption awareness campaign. The Committee has provided $1,000,000 for this purpose.''

Although the House report did not include a similar provision, the Conference report (H.R. Conf. Rep. 108–792) accompanying the FY 2005 Consolidated Appropriations bill states that ''The conference agreement includes $1,000,000 to continue the embryo adoption awareness campaign, as proposed by the Senate.''

Materials Review

Grantees shall submit all materials proposed for use in the embryo adoption public awareness campaign grant program (including, but not limited to, Web sites, videos, training materials, brochures, fact sheets, press releases, promotional pieces, advertisements, PSA's, articles, mailings) to the OPHS Project Officer for review and approval prior to use in the grant-funded program. The review shall ensure that materials are consistent with the requirements of this announcement and other applicable grant requirements.

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Funding: $950,000.

Anticipated Number of Awards: 3–4.

Expected Amounts of Individual Awards: $200,000–300,000.

Floor of Award Range: None.

Ceiling of Award Range: $300,000 for the first 12 month budget period. OPHS will not accept and review applications with budgets greater than the ceiling of the award range.

Project Periods for Awards: 24 months. The projects will be awarded for a project period of 24 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

Applications are encouraged from organizations which are currently operating programs that have the capability of expanding and enhancing embryo adoption public awareness campaigns, and that have the capability to conduct a rigorous evaluation of the funded project.

III. Eligibility Information

1. Eligible Applicants

Eligibility to compete for this announcement is limited to particular applicant organizations. Eligibility is limited to organizations that can

demonstrate previous experience with embryo adoption and are knowledgeable in all elements of the process of embryo adoption Only agencies and organizations, not individuals, are eligible to apply. Eligible applicants include public agencies, non-profit organizations, and for-profit organizations. One agency must be identified as the applicant organization and will have legal responsibility for the project. Additional agencies and organizations can be included as co-participants, subgrantees, subcontractors, or collaborators if they will assist in providing expertise and in helping to meet the needs of the recipients.

Any public or private nonprofit organization or agency is eligible to apply for a grant. However, only those organizations or agencies which demonstrate the capability of providing the proposed services and meet the requirements of this announcement are considered for grant awards. Faith-based and community-based organizations are encouraged to apply for embryo adoption public awareness grants. Please note, however, that grant funds may not be used for inherently religious activities, such as worship, religious instruction, and proselytization. If an organization engages in such activities, they must be offered separately in time or location from the grant-funded program and participation must be voluntary for program beneficiaries. An embryo adoption public awareness campaign program, in providing services and outreach related to program services, cannot discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice.

Applicants should note that section 74.81 of the DHHS grants administration regulations (45 CFR part 74) indicates that, except for awards under certain ''small business'' programs, no grant funds may be paid as profit to any recipient even if the recipient is a commercial organization. Profit is any amount in excess of allowable direct and indirect costs.

2. Cost Sharing or Matching

None.

3. Other

Applicants are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the Federal government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. For more information, see the OPA Web site at: *http://opa.osophs.dhhs.gov/duns.html.*

IV. Application and Submission Information

1. Address To Request Application Package

Application kits may be requested from, and applications submitted to the Office of Grants Management, Office of Public Health and Science, U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 550, Rockville, Maryland, 20852, 301–594–0758. Application kits are also available online at: *https://egrants.osophs.dhhs.gov* or the Grants.gov Web site portal (*http://www.grant.gov*) or by fax at 301–594–9399.

2. Content and Form of Application Submission

The OPHS requests that you send a Letter of Intent (LOI) if you intend to apply for this program. Although the LOI is not required, not binding, and does not enter into the review of your subsequent application, the LOI will be used to gauge the level of interest in this program, estimate the potential review workload, and allow OPHS to plan the review process. The information will be used to determine the number of expert reviewers needed to evaluate the applications. The narrative should be not more than two double-spaced pages, printed on one side, with one-inch margins, and in 12-point font, unreduced. The LOI should include the following information: ''Attention: Embryo Adoption Public Awareness Campaign Letter of Intent;'' name and address of the applicant institution; name, address and telephone number of the contact person; and specific objectives to be addressed by the proposed project.

Applications must be prepared on the forms supplied (OPHS–1) and in the manner prescribed in the application kits provided by the OPHS. The application must be signed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

To be considered for funding, applicants must submit one signed original of the application and two photocopies in one package, including all forms and attachments. Please label the application envelope: ''Attention: Embryo Adoption Public Awareness Campaign.'' The application should be typed and should be no more than 50 double-spaced pages (excluding attachments), printed on one side, with one-inch margins, and in 12-point font, unreduced. All pages, including appendices should be numbered sequentially and stapled, or otherwise secured, in the upper left corner.

Applications must include a one-page abstract of the proposed project. The abstract will be used to provide reviewers with an overview of the application, and will form the basis for the applications summary in grants management documents.

Applicants will be required to develop and implement programs for a public awareness campaign on embryo adoption. Applicants are required to submit a plan and time line that demonstrate that the proposed public awareness campaign: (a) Will be competency-based, (b) has experience with embryo adoption programs that conform to professionally-recognized guidelines and other relevant Federal or State requirements, (c) will be pilot tested and appropriately modified, as necessary, before use, and (d) can be reliably evaluated.

In the narrative section of the application, applicants are advised to describe the strategies and processes that they will use to design a public awareness campaign. The applicant should document its capacity to undertake a public awareness campaign focused on potential donors and/or recipients. Applicants are encouraged to present a description of approaches that may be used, as well as any supplemental materials (brochures, handouts, visual aids, and other resources). Moreover, applicants are advised to demonstrate a familiarity with and understanding of professionally recognized standards or practices (both medical and legal issues) pertaining to embryo adoption, as well as supportive services for potential donor or recipient couples. The applicant organization should clearly demonstrate its professional knowledge and experience in embryo adoption whether with potential donor or recipient populations.

Applicants must make reasonable efforts to ensure that the individuals who design and implement the public awareness campaign are knowledgeable in all elements of the embryo adoption process and are experienced in providing such information. Applicant organizations should demonstrate that they have access to frozen embryos for

adoption either directly or through partnership arrangements. Applicants should include information about the number of frozen embryos to which they have access, their history in working with either potential donor or recipient couples, and the organization's capacity to facilitate an embryo adoption public awareness campaign. As part of the project narrative, applicants are advised to describe the methods they will use to recruit, select, train and evaluate individuals who will implement the public awareness campaign. In the project narrative, applicants are encouraged to present a plan that may be used for working with potential donors and/or recipients under the proposed public awareness campaign.

Applicants, in the project narrative, are encouraged to present a plan for evaluation of the public awareness campaign. The evaluation plan should be two tiered to address: (1) Process, including the planning, content and quality of the public awareness campaign materials provided and (2) participant satisfaction and campaign effectiveness. Applicants that do not have the in-house capacity to conduct an evaluation are advised to propose contracting with a third party social sciences evaluator or a university or college to conduct the evaluation.

Applicants should prepare a project description statement in accordance with the following general instructions. Use the information provided in this section and the evaluation criteria section to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in describing your program plan. The narrative should contain the following sections in the order presented below:

1. *Project Summary/Abstract:* Provide a summary of the project description not to exceed one page. Care should be taken to produce an abstract/summary that accurately and concisely reflects the proposed project since the abstract will be used to provide reviewers with an overview of the application, will form the basis for an application summary in official documents, and it may be posted on the OPHS Web site. It should describe the objectives of the project, the approach to be used and the results or benefits expected.

2. *Specific Aims and Objectives:* Clearly identify the physical, economic, social, legal, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as well as information about frozen embryos available for adoption. In developing the project description, the applicant may volunteer to provide information on the total range of related projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Describe the specific geographic region that will be served by the organization. This section should include a justification for the selection of the region, based on, for example, geographic size or the number and types of ART centers in the area, and an estimate of the number of frozen embryos available for adoption. There are no geographic restrictions on where the prospective projects may be conducted. The OPHS will accept applications for projects of national, regional, or local scope. The rationale for the project scope must be justified in detail.

3. *Approach:* Outline a plan of action, which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work, and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement. Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of program activities to be held, or appropriate measurable outcomes. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

4. *Evaluation:* Provide a narrative addressing how the results of the project and the conduct of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

5. *Organizational Profiles:* Provide information on the applicant organization and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information.

6. *Budget and Budget Justification:* Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs. Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, and wage rates. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant. Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, and taxes, unless treated as part of an approved indirect cost rate. Include information on the costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel). For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend the grantee meeting should be detailed in the budget. For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment

definition. Specify general categories of supplies and their costs. Show computations and provide other information, which supports the amount requested. Include information on the costs of all contracts for services and goods except for those, which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category. Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information.

Budget plans should include funding for participation in two grantee meetings. Approximately four to six weeks after the award of funding, the project directors for funded projects will be required to attend a one-day grantee orientation meeting in the Washington, DC area. Toward the end of the two year project period, a second one-day grantee meeting may also be scheduled. During the orientation meeting, DHHS staff will review grantee plans regarding embryo adoption and discuss the implications for developing the public awareness campaign and related educational materials. Scheduling matters and plans for ensuring that the public awareness campaigns are appropriately focused and targeted to donors as well as potential recipients during the course of the project will be outlined and discussed.

3. Submission Dates and Times

Applications must be submitted to the OPHS Office of Grants Management, Office of Public Health and Science, U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 550, Rockville, Maryland, 20852. Letters of Intent should also be sent to this address.

4. Intergovernmental Review

This program is not subject to the intergovernmental review requirements of Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' as implemented by 45 CFR part 100.

5. Funding Restrictions

The allowability, allocability, reasonableness and necessity of direct and indirect costs that may be charged to OPHS grants are outlined in the following documents: OMB Circular A–21 (Institutions of Higher Education); OMB Circular A–87 (State and Local Governments); OMB Circular A–122 (Nonprofit Organizations); and 45 CFR Part 74, Appendix E (Hospitals). Copies of the Office of Management and Budget (OMB) Circulars are available on the Internet at *http://www.whitehouse.gov/omb/grants/grants_circulars.html.*

Applicants for discretionary grants are expected to anticipate and justify their funding needs and the activities to be carried out with those funds in preparing the budget and accompanying narrative portions of their applications. If applicants are uncertain whether a particular cost is allowable, they should contact the OPHS Office of Grants Management at 301–594–0758 for further information.

Submission Mechanisms

The Office of Public Health and Science (OPHS) provides multiple mechanisms for the submission of applications, as described in the following sections. Applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of applications submitted using any of these mechanisms. Applications submitted to the OPHS Office of Grants Management after the deadlines described below will not be accepted for review. Applications which do not conform to the requirements of the grant announcement will not be accepted for review and will be returned to the applicant.

Applications may only be submitted electronically via the electronic submission mechanisms specified below. Any applications submitted via any other means of electronic communication, including facsimile or electronic mail, will not be accepted for review. While applications are accepted in hard copy, the use of the electronic application submission capabilities provided by the OPHS eGrants system or the Grants.gov Web site portal is encouraged.

Electronic Submissions Via the OPHS eGrants System

The OPHS electronic grants management system, eGrants, provides for applications to be submitted electronically. Information about this system is available on the OPHS eGrants Web site, *https://egrants.osophs.dhhs.gov*, or may be requested from the OPHS Office of Grants Management at 301–594–0758.

The body of the application and required forms can be submitted using the OPHS eGrants system. In addition to electronically submitted materials, applicants are required to submit a hard copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. If required, applicants will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms with the original signature of an individual authorized to act for the applicant agency or organization. The application will not be considered complete until both the electronic application components submitted via the OPHS eGrants system and any hard copy materials or original signatures are received.

Electronic grant application submissions must be submitted via the OPHS eGrants system no later than 5 p.m. eastern time on the deadline date specified in the ''Dates'' section of this announcement. All required hardcopy original signatures and mail-in items must be received by the OPHS Office of Grants Management no later than 5 p.m. eastern time on the next business day after the deadline date specified in the ''Dates'' section of this announcement.

Applications will not be considered valid until all electronic application components, hardcopy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Any application submitted electronically after 5 p.m. eastern time on the deadline date specified in the ''Dates'' section of this announcement will be considered late and will be deemed ineligible. Failure of the applicant to submit all required hardcopy original signatures and required mail-in items to the OPHS Office of Grants Management by 5 p.m. eastern time on the next business day after the deadline date specified in the ''Dates'' section of this announcement will result in the electronic application being deemed ineligible.

Upon completion of a successful electronic application submission, the OPHS eGrants system will provide the applicant with a confirmation page indicating the date and time (eastern time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission including all electronic application components, required hardcopy original signatures, and mail-in items, as well as the mailing address of the OPHS Office of Grants Management where all required hard copy materials must be submitted.

As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application in the OPHS eGrants system to ensure that all signatures and mail-in items are received.

Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Electronic Submissions Via the Grants.gov Web site Portal

The Grants.gov Web site Portal provides for applications to be submitted electronically. Information about this system is available on the Grants.gov Web site, *http://www.grants.gov.*

The body of the application and required forms can be submitted using the Grants.gov Web site Portal. Grants.gov allows the applicant to download and complete the application forms at any time, however, it is required that organizations successfully complete the necessary registration processes in order to submit the application to Grants.gov.

In addition to electronically submitted materials, applicants may be required to submit hard copy signatures for certain Program related forms, or original materials as required by the announcement. It is imperative that the applicant review both the grant announcement, as well as the application guidance provided within the Grants.gov application package, to determine such requirements. Any required hard copy materials, or documents that require a signature, excluding the standard forms included in the Grants.gov application package [*e.g.*, Standard Form 424 Face Page, Standard Assurances and Certifications (Standard Form 424B, and Standard Form LLL)] must be submitted separately via mail to the OPHS Office of Grants Management, and, if required, must contain the original signature of an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Electronic grant application submissions must be submitted via the Grants.gov Web site portal no later than 5 p.m. eastern time on the deadline date specified in the ''Dates'' section of this announcement. All required hardcopy original signatures and mail-in items must be received by the OPHS Office of Grants Management no later than 5 p.m. eastern time on the next business day after the deadline date specified in the ''Dates'' section of this announcement.

Applications will not be considered valid until all electronic application components, hardcopy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Any application submitted electronically via the Grants.gov Web site portal after 5 p.m. eastern time on the deadline date specified in the ''Dates'' section of this announcement will be considered late and will be deemed ineligible. Failure of the applicant to submit all required hardcopy original signatures or materials to the OPHS Office of Grants Management by 5 p.m. eastern time on the next business day after the deadline date specified in the ''Dates'' section of this announcement will result in the electronic application being deemed ineligible.

Upon completion of a successful electronic application submission via the Grants.gov Web site portal, the applicant will be provided with a confirmation page from Grants.gov indicating the date and time (eastern time) of the electronic application submission, as well as the Grants.gov Receipt Number. It is critical that the applicant print and retain this confirmation for their records, as well as a copy of the entire application package.

All applications submitted via the Grants.gov Web site portal will be validated by Grants.gov. Any applications deemed ''Invalid'' by the Grants.gov Web site portal will not be transferred to the OPHS eGrants system, and OPHS has no responsibility for any application that is not validated and transferred to OPHS from the Grants.gov Web site portal. Grants.gov will notify the applicant regarding the application validation status. Once the application is successfully validated by the Grants.gov Web site portal, applicants should immediately mail all required hard copy materials to the OPHS Office of Grants Management to be received by the deadlines specified above. It is critical that the applicant clearly identify the Organization name and Grants.gov Application Receipt Number on all hard copy materials.

Once the application is validated by Grants.gov, it will be electronically transferred to the OPHS eGrants system for processing. Upon receipt of both the electronic application from the Grants.gov Web site portal, and the required hardcopy mail-in items, applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of the application submitted using the Grants.gov Web site portal.

Applicants are encouraged to initiate electronic applications via the Grants.gov Web site portal early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Applicants should contact Grants.gov regarding any questions or concerns regarding the electronic application process conducted through the Grants.gov Web site portal.

Mailed or Hand-Delivered Hard Copy Applications

Applications submitted in hard copy (via mail or hand-delivered) are required to submit an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed or hand-delivered applications will be considered as meeting the deadline if they are received by the OPHS Office of Grant Management on or before 5 p.m. eastern time on the deadline date specified in the ''Dates'' section of this announcement. The application deadline date requirement specified in this announcement supersedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

V. Application Review Information

1. Criteria

Each application will be evaluated individually against the following four criteria by a panel of independent reviewers appointed by the OPHS. Before the review panel convenes, each application will be screened for applicant organization eligibility, as well as to make sure the application contains all the essential elements.

Applicants that meet the requirements of this program announcement will be notified by the Office of Grants Management. A panel of at least three reviewers will use the evaluation criteria listed below to determine the strengths and weaknesses of each application, provide comments and assign numerical scores. Applicants should address each criterion in the project application. The point values (summing up to 100) indicate the maximum numerical weight each

criterion will be accorded in the review process.

Criterion 1: Objectives and Need for Assistance (30 Points)

Applicants must demonstrate a clear understanding of the legislative goals and demonstrate how their approach to the design of a public awareness campaign will contribute to achieve the legislative goals. Applicants must also demonstrate an understanding of the information and skills needed by the designated staff conducting such a public awareness campaign, as well as the information and service needs of potential donors and recipients. Applicants should provide letters of commitment or Memoranda of Understanding from organizations, agencies and consultants that will be partners or collaborators in the proposed project. These documents should describe the role of the agency, organization or consultant and detail specific tasks to be performed. Specific review criteria include:

(1) Extent to which the application reflects an understanding of the legislative goals of the public awareness campaign for embryo adoption, and shows how their approach to the design of a public awareness campaign and implementation will contribute to achieving the legislative goals;

(2) Extent to which the application clearly describes and documents an understanding of the need for assistance to support and/or enhance existing efforts regarding awareness of embryo adoption;

(3) Extent to which the application reflects a knowledge and understanding of the issues faced by donors and/or recipients;

(4) Extent to which the application reflects a knowledge and understanding of the medical and legal framework of embryo adoption and the services and resources in the geographic area in which the proposed project will be conducted;

(5) Extent to which the application explains how the proposed public awareness campaign will contribute to increased knowledge of the problems, issues, and effective strategies and best practices in the field;

(6) Extent to which the application reflects a knowledge and understanding of the challenges of developing a public awareness campaign and in providing support to donors and/or recipients; and

(7) Extent to which the application presents a vision of the campaign to be developed, and discusses broad contextual factors that will facilitate or impede the implementation of the campaign.

Criterion 2: Approach (30 Points)

In this section, applicants are expected to define goals and specific, measurable objectives for the project. Goals and objectives should not be confused. Goals are an end product of an effective project. Objectives are measurable steps for reaching goals. Applicants are advised to describe a preliminary, yet appropriate and feasible plan of action pertaining to the scope of the proposed public awareness campaign and provide details on how the proposed public awareness campaign will be accomplished. If the project involves partnerships with other agencies and organizations, then the roles of each partner should be clearly specified. Applicants are required to describe how the public awareness campaign will be evaluated to determine the extent to which it has achieved its stated goals and objectives. Applicants are expected to present a project design that includes detailed procedures for documenting project activities that is sufficient to support a sound evaluation. The evaluation design is expected to include process and outcome analyses with qualitative and quantitative components. Applicants are expected to report on their evaluation results in their final report to the OPHS upon completion of the project period. Applicants are required to describe the products that they will develop pursuant to the public awareness campaign. Applicants should discuss the intended audiences for these products (*e.g.*, ART centers, adoption organizations, practitioners, professional organizations that work with infertile couples, potential recipients, or donors) and present a dissemination plan specifying the venues for conveying the information. This criterion consists of four broad topics: (A) design of the public awareness campaign, (B) implementation, (C) evaluation, and (D) dissemination. Specific review criteria include:

(A) Design of the Public Awareness Campaign

(1) Extent to which the application reflects a familiarity with and understanding of professionally-recognized standards and/or other relevant Federal or State requirements pertaining to embryo adoption and supportive services for donors and recipients.

(2) Extent to which the proposed project goals, objectives and outcomes are clearly specified and measurable, and reflect an understanding of the characteristics of the donors and recipients and the context in which embryo adoption operates; and

(3) Extent to which the application presents an approach to the design of a public awareness campaign is: (a) competency based, (b) linked to embryo adoption programs which are consistent with the nationally recognized guidelines, (c) pilot tested and appropriately modified, as necessary, before use, and (d) can be readily evaluated.

(B) Implementation

(1) Extent to which the application clearly describes and provides a justification for the selection of the geographic region that will be served by the project;

(2) Extent to which the application presents an appropriate, feasible and realistic plan for scheduling and conducting the public awareness campaign;

(3) Extent to which the application presents an appropriate, feasible and realistic plan for recruiting, selecting, and training individuals to provide information under the public awareness campaign;

(4) Extent to which the application provides an appropriate, feasible and realistic plan for documenting project activities and results, that can be used to describe and evaluate the public awareness campaign, and participant satisfaction with the campaign; and

(5) Extent to which the proposed project will establish and coordinate linkages with other appropriate agencies and organizations serving the target population.

(C) Evaluation

(1) Extent to which the methods of evaluation are feasible, comprehensive and appropriate to the goals, objectives and context of a public awareness campaign;

(2) Extent to which the applicant provides an appropriate, feasible and realistic plan for evaluating the public awareness campaign, including performance feedback and assessment of program progress that can be used as a basis for program adjustments;

(3) Extent to which the methods of evaluation include process and outcome analyses for assessing the effectiveness of program strategies and the implementation process; and

(4) Extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the program and will produce quantitative and qualitative results.

(D) Dissemination

(1) Extent to which the application provides an appropriate, feasible and realistic plan for dissemination of information in a public awareness campaign and related educational materials;

(2) Extent to which the intended audience is clearly identified and defined and is appropriate to the goals of the proposed program;

(3) Extent to which the program's products will be useful to the respective audiences;

(4) Extent to which the application presents a realistic schedule for developing these products, and provides a dissemination plan that is appropriate in scope and budget to each of the audiences; and

(5) Extent to which the products to be developed during the program are described clearly and will address the goal of dissemination of information and are designed to support evidence-based improvements of practices in the field.

Criterion 3: Organizational Profile (20 Points)

Applicants need to demonstrate that they have the capacity to implement the proposed program. Capacity includes: (1) Previous experience with similar projects; (2) experience with the target population; (3) qualifications and experience of the project leadership; (4) experience and commitment of any consultants and subcontractors; and, (5) appropriateness of the organizational structure. This criterion consists of three broad topics: (A) management plan, (B) staff qualifications, and (C) organizational capacity and resources.

Applicants are expected to present a sound and feasible management plan for implementing the proposed program. This section should detail how the program will be structured and managed, how the timeliness of activities will be ensured, how quality control will be maintained, and how costs will be controlled. The role and responsibilities of the lead agency should be clearly defined and, if appropriate, applicants should discuss the management and coordination of activities carried out by any partners, subcontractors and consultants. Applicants should include a list of organizations and consultants who will work with the project, along with a short description of the nature of their contribution or effort. Applicants are also expected to produce a time line that presents a reasonable schedule of target dates, and accomplishments. The time line should include the sequence and timing of the major tasks and subtasks, important milestones, reports, and completion dates. The application should also discuss factors that may affect project implementation or the outcomes and present realistic strategies for the resolution of these difficulties.

Applicants must provide evidence that project staff have the requisite experience, and expertise to carry out the proposed public awareness campaign on time, within budget, and with a high degree of quality. Include information on staff knowledge of the medical and legal issues concerning embryo adoption, and experience working in this area. Brief resumes of current and proposed staff, as well as job descriptions, should be included. Resumes must indicate the position that the individual will fill, and each position description must specifically describe the job as it relates to the proposed project.

Applicants must show that they have the organizational capacity and resources to successfully carry out the project on time and to a high standard of quality, including the capacity to resolve a variety of technical and management problems that may occur. If the proposed project involves partnering and/or subcontracting with other agencies/organizations, then the application should include an organizational capability statement for each participating organization documenting the ability of the partners and/or subcontractors to fulfill their assigned roles and functions. Specific review criteria include:

(A) Management Plan

(1) Extent to which the management plan presents a realistic approach to achieving the objectives of the proposed project on time and within budget, including clearly defined responsibilities, time lines and milestones for accomplishing project tasks;

(2) Extent to which the role and responsibilities of the lead agency are clearly defined and the time commitments of the project director and other key project personnel (including consultants) are appropriate and adequate to meet the objectives of the proposed project; and

(3) Extent to which the application discusses factors that may affect the development and implementation of the public awareness campaign and presents realistic strategies for the resolution of these difficulties.

(B) Staff Qualifications

(1) Extent to which the proposed project director, key project staff and consultants have the necessary technical skill, knowledge and experience to successfully carry out their responsibilities; and

(2) Extent to which staffing is adequate for the proposed project, including administration, program services, data processing and analysis, evaluation, reporting and implementation of the public awareness campaign, including related educational materials.

(C) Organizational Capacity and Resources

(1) Extent to which the applicant and partnering organizations collectively have experience in embryo adoption consistent with professionally recognized guidelines;

(2) Extent to which the applicant has experience in developing and implementing similar information or public awareness campaigns; and

(3) Extent to which the applicant has adequate organizational resources for the proposed project, including administration, program operations, data processing and analysis, and evaluation.

Criterion 4: Budget and Budget Justification (20 Points)

Applicants are expected to present a budget with reasonable project costs, appropriately allocated across component areas and sufficient to accomplish the objectives. Consideration shall be given to project delays due to start-up when preparing the budget. Applicants are expected to allocate sufficient funds in the budget to provide for the project director to attend two grantee meetings in the Washington, DC area. Specific review criteria include:

(1) Extent to which applicant demonstrates that the project costs and budget information submitted for the proposed program are reasonable and justified in terms of the proposed tasks and the anticipated results and benefits; and,

(2) Extent to which the fiscal control and accounting procedures are adequate to ensure prudent use, proper and timely disbursement and an accurate accounting of funds received under this announcement.

2. Review and Selection Process

Each application submitted to the OPHS Office of Grants Management will be screened to determine whether it was received by the closing date and time.

The results of a competitive review are a primary factor in making funding decisions. In addition, Federal staff will conduct administrative reviews of the

applications and, in light of the results of the competitive review, will recommend applications for funding to the ASH. The ASH may also solicit and consider comments from Public Health Service Regional Office staff and others within DHHS in making funding decisions. Final grant awards decisions will be made by the ASH. The ASH will fund those projects which will, in his/her judgement, best promote the purposes of this program, within he limits of funds available for such projects.

VI. Award Administration Information

1. Award Notices

The OPHS does not release information about individual applications during the review process. When final decisions have been made, successful applicants will be notified by letter of the outcome of the final funding decisions. The official document notifying an applicant that a project has been approved for funding is the Notice of Grant Award (NGA), signed by the OPHS Grants Management Officer, which sets forth the amount of funds granted, the terms and conditions of the award, the effective date of the grant, the budget period for which initial support will be given, and the total project period for which support is contemplated. The ASH will notify an organization in writing when its application will not be funded. Every effort will be made to notify all unsuccessful applicants as soon as possible after final decisions are made.

2. Administrative and National Policy Requirements

In accepting this award, the grantee stipulates that the award and any activities thereunder are subject to all provisions in 45 CFR parts 74 (non-governmental) and 92 (governmental) currently in effect or implemented during the period of the grant.

A Notice providing information and guidance regarding the ''Government-wide Implementation of the President's Welfare-to-Work Initiative for Federal Grant Programs'' was published in the **Federal Register** on May 16, 1997. This initiative was designated to facilitate and encourage grantees and their subrecipients to hire welfare recipients and to provide additional needed training and/or mentoring as needed. The text of the Notice is available electronically on the OMB homepage at *http://www.whitehouse.gov/omb*.

The HHS Appropriations Act requires that when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, grantees shall clearly state the percentage and dollar amount of the total costs of the program or project which will be financed with Federal money and the percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

3. Reporting Requirements

A successful applicant under this notice will submit: (a) Progress reports; (b) annual Financial Status Reports; and (c) a final performance report, including an evaluation report, and Financial Status Report. Reporting formats are established in accordance with provisions of the general regulations which apply under 45 CFR parts 74 and 92. Applicants must submit all required reports in a timely manner, in recommended formats and submit a final report on the project, including any information on evaluation results, at the completion of the project period.

The final performance report should contain an overview of the program from start to finish, including information on: (a) Summary of the project, (b) state of the major goals and objectives of the project, (c) list of significant accomplishments, (d) description of innovative features, (e) statement of significant problems encountered and solutions developed, (f) a complete written disclosure of any invention, curriculum, publication, video, pamphlet conceived or produced as part of the grant funded project, (g) a copy of any products (*e.g.*, videos, pamphlets, journal articles, presentations, survey instruments, focus groups projects, pilot test reports, etc) developed in association with the project. The final evaluation report should reflect an assessment of the program. It should describe factors contributing to both program success and problem areas. The report should include a description of the project's objectives, interventions, evaluation model and hypotheses, findings and conclusions. The report should include a summary of the program statistics and findings. It should discuss the implications of project findings as they relate to the project objectives, as well as a set of recommendations based on the findings (where appropriate). The appendices to the evaluation report should include any data collection instruments and relevant references. Copies of any published articles, based on the project or project evaluation findings are also requested.

Agencies receiving $500,000 or more in total Federal funds are required to undergo an annual audit as described in OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

VII. Agency Contacts

Office of Grants Management Contact: Robin Fuller Department of Health and Human Services, Office of Public Health and Science, OPHS Grants Management Office, 1101 Wootton Parkway, Suite 550, Rockville, Maryland 20852. E-mail: *rfuller@osophs.dhhs.gov*; telephone: 301–594–0758.

Program Office Contact: Evelyn Kappeler, Department of Health and Human Services, Office of Public Health and Science, Office of Population Affairs, 1101 Wootton Parkway, Suite 750, Rockville, Maryland 20852. E-mail: *Ekappeler@osophs.dhhs.gov*; telephone: 301–594–4001.

Dated: May 3, 2005.

Cristina V. Beato,

Acting Assistant Secretary for Health, Office of Public Health and Science.

[FR Doc. 05–9149 Filed 5–6–05; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

General Testing of the CAHPS Hospital Survey (HCAHPS®)

AGENCY: Agency for Healthcare Research and Quality (AHRQ), DHHS.

ACTION: Notice of request.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is providing the opportunity for hospitals, vendors, and other interested parties to voluntarily test the 27-item Hospital CAHPS (HCAHPS®) instrument suggested by the National Quality Forum's Review Committee. The purpose of this project is to provide another opportunity to the hospital industry to use the revised draft of the HCAHPS® instrument with the option to add items to the instrument, if desired. It should be noted that the HCAHPS® instrument may undergo further refinement prior to finalization for the national implementation effort as a result of the National Quality Forum (NQF) Consensus process. In effect, this project provides an occasion to test items that survey vendors, hospitals, and others wish to add to the HCAHPS® instrument and to evaluate the impact of integrating HCAHPS into the instruments currently being used, as well as to try out and evaluate the

methods of data collection prior to national implementation of HCAHPS®.

After permission to use the instrument is granted by AHRQ, a site or sites may field the instrument until the start of the ''dry run'' of the survey, which is expected in the Summer/Fall of 2005. As part of the dry run, hospitals and vendors will begin collecting HCAHPS data and transmitting it to the Centers for Medicare & Medicaid Services (CMS), but it will not be publicly reported.

For more information about this project or to download an application for authorization, please visit the CAHPS User Network Web site at *http://www.cahps-sun.org.*

DATES: Please submit requests on or before June 8, 2005.

ADDRESSES: Requests for permission to use the suggested 27-item HCAHPS® instrument, to add items, and field test the instrument may be submitted either in electronic format or a via facsimile communication. Applications can be sent in letter form, preferably with an electronic file on a 3½ inch floppy disk as a standard word processing format or as an e-mail with an attachment. Responses should be submitted to: Marybeth Farquhar, RN, MSN, Agency for Healthcare Research and Quality, Center for Quality Improvement and Patient Safety, 540 Gaither Road, Rockville, MD 20850, E-mail: *hospital-cahps@ahrq.gov.*

In order to facilitate handling of submissions, please include full information about the person requesting permission for testing: (a) Name, (b) title, (c) organization, (d) mailing address, (e) telephone and fax numbers, and (f) e-mail address.

Other requested information includes: (a) List of the hospital in which HCAHPS® will be used (including city and State); (b) sample size for each hospital; (c) intended mode of administration; (d) length of time after discharge the initial contact with the patient will be made; (e) name of vendor (if any) that will be administering the HCAHPS® survey; (f) proposed dates for fielding; (g) whether items will be added to the HCAHPS® survey and how many; and, (h) a copy of the proposed questionnaire (Additional Items should be placed following HCAHPS question 22, and before the ''About You'' section of the questionnaire). Electronic requests are encouraged.

To help in the evaluation of the suggested 27-item version of HCAHPS®, AHRQ and CMS are asking participants to submit a brief summary of their experience with administering the HCAHPS® survey, including sampling and survey data collection procedures. An analysis of the psychometrics of the instrument should also be provided.

FOR FURTHER INFORMATION CONTACT: Marybeth Farquhar, Center for Quality Improvement and Patient Safety, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, MD 20850; Phone: (301) 427–1317; Fax: (301) 427–1341; E-mail: *mfarquha@ahrq.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Agency for Healthcare Research and Quality (AHRQ) has been a leading supporter of the development of instruments for measuring patient experiences within the healthcare system of the United States. As the research partner of the Centers for Medicare & Medicaid Services (CMS), AHRQ is charged with the development of a hospital patient experience of care instrument as well as the development of reporting strategies to maximize the utility of the survey results.

The mutual goal of AHRQ and CMS is to develop a standardized instrument for use in the public reporting of patients' hospital experiences that is reliable and valid, freely accessible, and that will make comparative non-identifiable information on patients' perspectives on their hospital care widely available. While there are many survey tools available to hospitals, there is currently no nationally used or universally accepted survey instrument that allows comparisons across all hospitals. In response to, and at the request of CMS, AHRQ under the CAHPS® II Cooperative Agreement with three Grantee organizations developed an initial instrument with input from the various stakeholders in the industry. The initial draft of the HCAHPS® instrument was tested as part of a CMS three-State pilot by hospitals in Arizona, Maryland, and New York. Based on an analysis of the resulting data, the instrument was revised and shortened. Additional testing of the shortened instrument was completed and AHRQ presented its recommendations to CMS in November 2004. In December, CMS submitted the HCAHPS instrument to the National Quality Forum (NQF) to undergo the formal consensus process required for endorsement. The committee that reviewed the HCAHPS survey and supporting materials recommended the addition of two items to the survey. The survey then went out for comment by the NQF membership and the public. The membership and board vote on HCAHPS endorsement is currently proceeding.

Once the HCAHSP® survey is finalized, it will be posted on the AHRQ and CMS websites for use by interested individuals and organizations. Plans have been made to make the HCAHPS instrument available to the Hospital Quality Alliance, which is a public/private partnership that includes the major hospital associations, government, consumer groups, measurement and accrediting bodies, and other stakeholders interested in reporting on hospital quality. In the first phase of the partnership (which has already begun), hospitals are voluntarily reporting the results of their performance on ten clinical quality measures for three medical conditions: acute myocardial infarction, heart failure, and pneumonia. HCAHPS® reporting will comprise an additional and differently focused phase of quality of care measurement. For more information or to participate in the Quality Initiative, please visit *http://www.aha.org* under ''Quality and Patient Safety, Quality Initiative,'' or at *http://www.fah.org,* under ''Issue/Advisories,'' or at *http://www.aamc.org* by going to ''Government Affairs,'' ''Teaching Hospitals'' and then ''Quality.''

Dated: April 27, 2005.

Carolyn M. Clancy,

Director.

[FR Doc. 05–9179 Filed 5–6–05; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Health Services Research Initial Review Group Committee; Notice of Meetings

In accordance with section 10(d) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), the Agency for Healthcare Research and Quality (AHRQ) announces meetings of scientific peer review groups. The subcommittees listed below are part of the Agency's Health Services Research Initial Review Group Committee.

The subcommittee meetings will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications are to be reviewed and discussed at these meetings. These discussions are likely to involve information concerning individuals associated with the applications, including assessments of their personal

qualifications to conduct their proposed projects. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of Subcommittee:* Health Care Research Training.
Date: May 23–24, 2005 (Open from 8 a.m. to 8:15 a.m. on May 23 and closed for remainder of the meeting).

2. *Name of Subcommittee:* Health Research Dissemination and Implementation.
Date: June 16–17, 2005 (Open from 8 a.m. to 8:15 a.m. on June 16 and closed for remainder of the meeting).

3. *Name of Subcommittee:* Health Systems Research.
Date: June 16–17, 2005 (Open from 8 a.m. to 8:15 a.m. on June 16 and closed for remainder of the meeting).

4. *Name of Subcommittee:* Health Care Technology and Decision Sciences.
Date: June 23–24, 2005 (Open from 8 a.m. to 8:15 a.m. on June 23 and closed for remainder of the meeting).

5. *Name of Subcommittee:* Health Care Quality and Effectiveness Research.
Date: June 23–24, 2005 (Open from 8 a.m. to 8:15 a.m. to June 23 and closed for remainder of the meeting).

All the meetings above will take place at: Agency for Healthcare Research and Quality, John Eisenberg Conference Center, 540 Gaither Road, Rockville, Maryland 20850.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of the meetings should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Suite 2000, Rockville, Maryland 20850, Telephone (301) 427–1554. Agenda items for these meetings are subject to change as priorities dictate.

Dated: April 18, 2005.

Carolyn M. Clancy,

Director.

[FR Doc. 05–9182 Filed 5–6–05; 8:45 am]

BILLING CODE 4160–90–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

The Community and Tribal Subcommittee of the Board of Scientific Counselors (BSC), Centers for Disease Control and Prevention (CDC), National Center for Environmental Health (NCEH)/Agency for Toxic Substances and Disease Registry (ATSDR): Teleconference.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), The Centers for Disease Control and Prevention, NCEH/ATSDR announces the following subcommittee meeting:

Name: Community and Tribal Subcommittee (CTS).

Time and Date: 8:30 a.m.–4:30 p.m., May 18, 2005.

Place: Century Center, 1825 Century Boulevard, Atlanta, Georgia 30345.

Purpose: Under the charge of the Board of Scientific Counselors, NCEH/ATSDR the Community and Tribal Subcommittee will provide the BSC, NCEH/ATSDR with a forum for community and tribal first-hand perspectives on the interactions and impacts of the NCEH/ATSDR's national and regional policies, practices and programs.

Matters to be Discussed: The meeting agenda will include continuing discussions concerning directions from the Board's expectations from the CTS; discussions of the CTS Work Plan; discussions on partnering with the Program Peer Review Committee; an update of the State of NCEH/ATSDR; and an open discussion for other important issues.

Items are subject to change as priorities dictate.

Supplementary Information: This meeting is scheduled to begin at 8:30 a.m. eastern standard time. To participate during the Public Comment period (11:30–11:45 a.m. eastern time), dial (877) 315–6535 and enter conference code 383520.

For Further Information Contact: Sandra Malcom, Committee Management Specialist, Office of Science, NCEH/ATSDR, M/S E–28, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/498–0003.

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.

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: May 2, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–9174 Filed 5–6–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

2005 White House Conference on Aging

AGENCY: Administration on Aging, HHS.

ACTION: Request for individuals to apply to be considered as At-Large Delegates to the 2005 White House Conference on Aging (WHCoA).

SUMMARY: On December 1, 2004 the Policy Committee for the 2005 WHCoA voted to invite 1,200 individuals to serve as delegates to the 2005 White House Conference on Aging, scheduled to take place fall 2005 in Washington, DC. These delegates will vote on resolutions and develop implementation strategies to be presented to the President and the Congress to help guide national aging policies for the next decade and beyond. The 2005 WHCoA will be the fifth in the history of the United States and the first of the 21st Century.

DATES: On or before June 1, 2005 for individuals to self-nominate or to submit name(s) of other persons wishing to be considered as delegates to the WHCoA.

ADDRESSES: Fill out the designated application form for At-Large Delegates located on the WHCoA Web site at [*http://www.whcoa.gov*], or you may request an At-Large Delegate Application Form by calling the WHCOA at (301) 443–9462 or by e-mail at [*Info@whcoa.gov*]. Submit your form by mail to WHCoA, 4350 East-West Highway, Suite 300, Bethesda, MD 20814 (please mark envelope At Large Delegate Application) or by fax to (301) 443–2902.

FOR FURTHER INFORMATION CONTACT: Jim Jarrard on (301) 443–2801 or e-mail [*Info@whcoa.gov*].

SUPPLEMENTARY INFORMATION: The 2005 White House Conference on Aging is authorized by the Older Americans Act Amendments of 2000 (Pub. L. 106–501, November 2000). Specifically, Pub. L. 106–501 states that ''the delegates shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of aging. Delegates shall include individuals who are professionals, individuals who are non-professionals, minority individuals, individuals from low-income families, representatives of Federal, state and local governments and individuals from rural areas. A majority of such delegates shall be 55 or older.'' The White House Conference on Aging is also authorized by Pub. L. 106–501 to focus on issues related to the aging of today and tomorrow, including the 78 million baby boomers born between 1946 and 1964.

As decided on December 1, 2004 by the WHCoA Policy Committee, the majority of the delegates will represent the following: Governors of all 50 States,

the U.S. Territories, the Commonwealth of Puerto Rico, and the District of Columbia; Members of the 109th Congress, and the National Congress of American Indians. These officials received a letter sent on January 31, 2005 from the Honorable Dorcas R. Hardy, Policy Committee Chairman of the 2005 WHCoA informing them of their ability to select delegates and delegate alternates no later than April 15, 2005.

The balance of the delegates (At-Large delegates) will be selected by the Policy Committee for the 2005 White House Conference on Aging and will represent national aging and other allied organizations, baby boomers, academic institutions, business and industry, non-profit, disability and veterans organizations, and others with a stake in the aging of America. Because of the tremendous opportunity that the WHCoA presents for the future of aging policies in our nation, the 2005 WHCoA is seeking visionary and thoughtful delegates who will make significant and tangible contributions to this historic event. The WHCoA wishes to ensure that the delegates represent a broad cross section of the U.S. population so that the concerns and issues of current as well as future seniors receive appropriate attention.

The Policy Committee, a 17-member bipartisan Committee appointed by the President and Congress to implement the 2005 WHCoA, will review and evaluate each individual who has applied or been nominated to be considered as a delegate according to established criteria. The Policy Committee will seek to achieve an appropriate balance by selecting delegates to fill gaps that may exist after gubernatorial, congressional and Native American delegate selections are made. Delegates should anticipate that their time spent in Washington, DC will be extremely busy, and that their individual and collective efforts will result in a significant contribution to help shape U.S. aging policies for the next decade and beyond.

To be considered as an At-Large delegate by the Policy Committee, please visit the WHCoA Web site at [*http://www.whcoa.gov*], fill out and submit the designated application form for At-Large Delegates. You may also nominate another individual to be considered. You may request an At-Large Delegate Application Form by calling the WHCOA at (301) 443–9462 or by e-mail at [*Info@whcoa.gov*]. You may submit your form by mail at WHCoA, 4350 East-West Highway, Suite 300, Bethesda, MD 20814 (please mark envelope At Large Delegate Application) or by fax to (301) 443–2902. All applications must be received by the WHCoA for consideration on or before June 1, 2005.

The information requested will be used to select persons to serve as delegates to the 2005 WHCoA. Furnishing of this information is voluntary. Failure to do so, however, may result in the denial of delegate status. Access to the submitted information is limited to the Policy Committee of the WHCoA. The legal authority for the collection of this information is Pub. L. 106–501, Title II, November 13, 2000 (Older Americans Act Amendments of 2000) and 5 U.S.C. App. 2 (Federal Advisory Committee Act).

Edwin L. Walker,

Deputy Assistant Secretary for Policy and Programs.

[FR Doc. 05–9145 Filed 5–6–05; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Administration on Developmental Disabilities; Help America Vote Act Training and Technical Assistance To Assist Protection and Advocacy Systems To Establish or Improve Voting Access for Individuals with Disabilities

Announcement Type: Grant—Initial.

Funding Opportunity Number: HHS–2005–ACF–ADD–DH–0034.

CFDA Number: 93.618.

Dates: Due Date For Letter of Intent or Preapplications: June 8, 2005.

Due Date for Applications: June 23, 2005.

Executive Summary: The Administration on Developmental Disabilities (ADD) in the Administration for Children and Families (ACF), U.S. Department of Health and Human Services announces the availability of fiscal year (FY) 2005 funds for grants authorized under title II, subtitle D, part 2, section 291 (42 U.S.C. 15461) of the Help America Vote Act of 2002. Under this subtitle, funds will be awarded to provide training and technical assistance to Protection and Advocacy Systems (P&A's) in:

- Promoting full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote, and accessing polling places;
- Developing proficiency in the use of voting systems and technologies as they affect individuals with disabilities;
- Demonstrating and evaluating the use of such systems and technologies by individuals with disabilities (including blindness) in order to assess the availability and use of such systems and technologies for such individuals; and,
- Providing training and technical assistance for non-visual access. (At least one grant recipient will be expected to provide training and technical assistance in this area.)

Objectives: This announcement pertains to discretionary funds available for the purpose of providing training and technical assistance to the Protection and Advocacy (P & A) Systems in their promotion of self-sufficiency and protection of the rights of individuals with disabilities as this affects the establishment or improvement of access to full participation in the voting process.

Background

The Help America Vote Act (HAVA), signed into law by President George W. Bush on October 29, 2002, contains three grant programs that will enable a grantee to establish, expand, and improve access to and participation in the election process by individuals with the full range of disabilities (*e.g.*, visual impairments including blindness, hearing impairments including deafness, the full range of mobility impairments including gross motor and fine motor impairments, emotional impairments, and intellectual impairments). These programs are: Voting Access for Individuals With Disabilities (VOTE), which provides funding to the states; Protection and Advocacy Systems: Help America to Vote, which provides funds to the Protection and Advocacy Systems throughout the United States; and Training and Technical Assistance to Assist Protection and Advocacy Systems to Establish or Improve Voting Access for Individuals with Disabilities, which this announcement addresses.

I. Funding Opportunity Description

The Administration on Developmental Disabilities (ADD) in the Administration for Children and Families (ACF), the U.S. Department of Health and Human Services, announces the availability of fiscal year (FY) 2005 funds authorized under the Help America Vote Act of 2002, Public Law (P.L.) 107–252, title II subtitle D, part 2, section 291 (42 U.S.C. 15461). Provisions under this section provide for the award of grants for Training and

Technical Assistance to assist P & A Systems in:

- Promoting full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote, and accessing polling places;
- Developing proficiency in the use of voting systems and technologies as they affect individuals with disabilities;
- Demonstrating and evaluating the use of such systems and technologies by individuals with disabilities (including blindness) in order to assess the availability and use of such systems and technologies for such individuals; and,
- Providing training and technical assistance for non-visual access. (At least one recipient must provide training and technical assistance in this area.)

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The Help America Vote Act (HAVA), signed into law by President George W. Bush on October 29, 2002, contains three grant programs that will enable a grantee to establish, expand, and improve access to and participation in the election process by individuals with the full range of disabilities (*e.g.*, visual impairments including blindness, hearing impairments including deafness, the full range of mobility impairments including gross motor and fine motor impairments, emotional impairments, and intellectual impairments). These programs are: Voting Access for Individuals with Disabilities (VOTE), which provides funding to the states and territories; Protection and Advocacy Systems: Help America to Vote, which provides funding to Protection and Advocacy Systems throughout the United States; and Training and Technical Assistance to Assist Protection and Advocacy Systems to Establish or Improve Voting Access for Individuals with Disabilities, which this announcement addresses.

Background on ADD and ADD Programs

The Administration on Developmental Disabilities (ADD) is located within the Administration for Children and Families (ACF), Department of Health and Human Services (DHHS). ADD shares goals with other ACF programs that promote the economic and social well-being of families, children, individuals, and communities.

ADD is the lead agency within ACF and HHS responsible for planning and administering programs to promote the self-sufficiency and protect the rights of persons with developmental disabilities. ADD administers the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (the DD Act). The DD Act provides for funding to States to provide advocacy, promote consumer oriented systems change and capacity building activities, and facilitate network formations.

The four programs funded under the DD Act are:

(1) State Councils on Developmental Disabilities that engage in advocacy, capacity building, and systemic change activities.

(2) Protection and Advocacy Systems (P&A's) that protect the legal and human rights of individuals with developmental disabilities.

(3) The National Network of University Centers for Excellence in Developmental Disabilities, (UCEDD) that engages in training, outreach, research, and dissemination activities.

(4) Projects of National Significance (PNS), including Family Support Grants, that support the development of family-centered and directed systems for families of children with developmental disabilities.

In addition to responsibilities under the DD Act, ADD has been given the responsibility by the Secretary of the U.S. Department of Health and Human Services for three grant programs authorized under the Help America Vote Act of 2002 (HAVA), Public Law 107–252. This announcement is for the HAVA Training and Technical Assistance to Assist Protection and Advocacy Systems to Establish or Improve Voting Access for Individuals with Disabilities program.

Priority Area

Help America Vote Act Training and Technical Assistance to Assist Protection and Advocacy Systems to Establish or Improve Voting Access for Individuals with Disabilities

1. Description: The purpose of funds awarded under this announcement is to provide training and technical assistance to Protection and Advocacy Systems (P & A's) in their promotion of full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote, and accessing polling places; developing proficiency in the use of voting systems and technologies as they affect individuals with disabilities; and demonstrating and evaluating the use of such systems and technologies by individuals with disabilities (including blindness) in order to assess the availability and use of such systems and technologies for such individuals. At least one recipient of these funds must provide training and technical assistance for non-visual access.

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Priority Area Funding: $347,177.

Anticipated Number of Awards: 1 to 4.

Ceiling on Amount of Individual Awards: $347,177 per budget period.

Floor on Amount of Individual Awards: $86,984 per budget period.

Average Projected Award Amount: $86,794 per budget period.

Length of Project Periods: 12 month project and budget period.

III. Eligibility Information

1. Eligible Applicants

- County governments.
- City or township governments.
- Special district governments.
- State controlled institutions of higher education.
- Native American tribal governments (federally recognized).
- Non-profits having a 501(c)(3) status with the IRS, other than institutions of higher education.
- Non-profits that do not have a 501(c)(3) status with the IRS, other than institutions of higher education.
- Private institutions of higher education.

Additional Information on Eligibility

In order for an entity to establish eligibility, the entity must show that it: (A) is a public or private non-profit entity with demonstrated experience in voting issues for individuals with disabilities; (B) is governed by a board with respect to which the majority of its members are individuals with disabilities or family members of such individuals or individuals who are blind; and (C) submits to the Secretary an application as required under this announcement.

Faith-based and community organizations are eligible under this announcement.

2. Cost Sharing/Matching

None.

3. Other

All applicants must have a Dun & Bradstreet number. On June 27, 2003 the Office of Management and Budget

published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires Federal grant applicants to provide a Dun & Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.Grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Non-profit organizations applying for funding are required to submit proof of their non-profit status.

Proof of non-profit status is any one of the following:

- A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code.
- A copy of a currently valid IRS tax exemption certificate.
- A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earning accrue to any private shareholders or individuals.
- A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.
- Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

When applying electronically we strongly suggest you attach your proof of non-profit status with your electronic application.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Disqualification Factors

Applications that exceed the ceiling amount will be considered non-responsive and will not be considered for funding under this announcement.

Any application that fails to satisfy the deadline requirements referenced in Section IV.3 will be considered non-responsive and will not be considered for funding under this announcement.

IV. Application and Submission Information

1. Address to Request Application Package

U.S. Department of Health and Human Services (HHS), Administration on Developmental Disabilities, 370 L'Enfant Promenade, SW., Mail Stop HHH 405–D, Washington, DC 20447. Phone: 202–690–5962. E-mail: *mschaefer@acf.hhs.gov.*

2. Content and Form of Application Submission:

Letter of Intent

Applicants should submit a letter of intent stating the name of the applicant organization and/or lead organization that will apply for this grant.

Letter of Intent information will be used to determine the number of reviewers necessary to complete the panel review process. Failure to submit a Letter of Intent will not impact eligibility to submit an application and will not disqualify an application from competitive review based on non-responsiveness.

The Application

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders, or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments, or articles of incorporation.

Application Requirements

A complete application consists of the following items in this order:

—Application for Federal Assistance (SF 424);
—Budget Information—Non-Construction Programs (SF 424A);
—Budget justification for Section B—Budget Categories;
—Proof of designation as a lead agency;
—Table of Contents;
—Proof on Non-Profit Status, if applicable, (*see* Section III.3.);
—Copy of the applicant's approved indirect cost rate agreement, if applicable;
—Project Summary/Abstract;
—Project Narrative;
—Any appendices/attachments (*e.g.*, support letters);
—Assurances—Non-Construction Programs (Standard Form 424B);
—Certification Regarding Lobbying (SF-LLL);
—Certification of the Pro-Children Act of 1994 (Environmental Tobacco Smoke), signature on the application represents certification.

Application Format

Length: Applications, including all forms and attachments, must not exceed 50 pages.

You may submit your application to us in either electronic or paper format. To submit an application electronically, please use the *http://www.Grants.gov/Apply* site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. ACF will not accept grant applications via email or facsimile transmission.

Please note the following if you plan to submit your application electronically via Grants.gov:

- Electronic submission is voluntary, but strongly encouraged.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- We recommend you visit Grants.gov at least 30 days prior to filing your application to fully understand the process and requirements. We encourage applicants who submit electronically to submit well before the closing date and time so that if difficulties are encountered an applicant can still send in a hard copy overnight. If you encounter difficulties, please contact the Grants.gov Help Desk at 1–800–518–4276 to report the problem and obtain assistance with the system.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant

application in electronic format, nor will we penalize you if you submit an application in paper format.

- You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on *http://www.Grants.gov*
- You must search for the downloadable application package by the CFDA number.

Applicants that are submitting their application in paper format should submit an original and two copies of the complete application. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Standard Forms and Certifications: The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Section V Application Review Information. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement.

Applicants seeking financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Applicants must sign and return the standard forms with their application.

Applicants must furnish prior to award an executed copy of the Standard Form LLL, Certification Regarding Lobbying, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must also understand they will be held accountable for the smoking prohibition included within Public Law 103–227, Title XII Environmental Tobacco Smoke (also known as the PRO-KIDS Act of 1994). A copy of the **Federal Register** notice which implements the smoking prohibition is included with this form. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification form. Complete the standard forms and the associated certifications and assurances based on the instructions on the forms. The forms and certifications may be found at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Those organizations required to provide proof of non-profit status, please refer to Section III.3.

Please see Section V.1 for instructions on preparing the full project description.

3. Submission Dates and Times

Due Date For Letter of Intent or Preapplications: June 8, 2005.

Due Date for Applications: June 23, 2005.

Explanation of Due Dates

The closing time and date for receipt of applications is referenced above. Applications received after 4:30 p.m. eastern time on the closing date will be classified as late.

Deadline: Applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date referenced in Section IV.6. Applicants are responsible for ensuring applications are mailed or submitted electronically well in advance of the application due date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., eastern time, at the address referenced in Section IV.6., between Monday and Friday (excluding Federal holidays).

ACF cannot accommodate transmission of applications by facsimile. Therefore, applications transmitted to ACF by fax will not be accepted regardless of date or time of submission and time of receipt.

Late Applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

Applicants using express/overnight mail services should allow two working days prior to the deadline date for receipt of applications. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

Receipt acknowledgement for application packages will not be provided to applicants who submit their package via mail, courier services, or by hand delivery. Applicants will receive an electronic acknowledgement for applications that are submitted via *http://www.Grants.gov.*

Checklist: You may use the checklist below as a guide when preparing your application package.

What to submit	Required content	Required form or format	When to submit
Project Abstract	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.
Project Description	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.

What to submit	Required content	Required form or format	When to submit
Budget Narrative/Justification	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.
SF424	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
SF-LLL Certification Regarding Lobbying.	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By date of award.
Certification Regarding Environmental Tobacco Smoke.	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By date of award.
Assurances	See Section IV.2	*http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By date of award.
Letter of Intent	See Section IV.2	Found in Section IV.2	June 8, 2005.
Table of Contents	See Section IV.2	Found in Section IV.2	By application due date.
SF424A	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
Support Letters	See Section V	See Section V	By application due date.
SF424B	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
Proof of Non-Profit Status	See Section III.3	Found in Section III.3	By date of award.
Proof of Designation as Lead Agency (if appropriate).	See Section IV.2.	See Section IV.2.	By application due date.
Copy of Approved Indirect Cost Rate Agreement.	See Section V.	See Section V	By date of award.

Additional Forms: Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	See form.	Found in *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.

4. Intergovernmental Review

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 1, 2004, the following jurisdictions have elected to participate in the Executive Order process: Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, American Samoa, Guam, North Mariana Islands, Puerto Rico, and Virgin Islands. As these jurisdictions have elected to participate in the Executive Order process, they have established SPOCs. Applicants from participating jurisdictions should contact their SPOC, as soon as possible, to alert them of prospective applications and receive instructions. Applicants must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2).

A SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., 4th floor, Washington, DC 20447.

Although the remaining jurisdictions have chosen not to participate in the process, entities that meet the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. Therefore, applicants from these jurisdictions, or for projects administered by federally-recognized Indian Tribes, need take no action in regard to E.O. 12372.

The official list, including addresses, of the jurisdictions that have elected to participate in E.O. 12372 can be found on the following URL: *http://www.whitehouse.gov/omb/grants/spoc.html.*

5. Funding Restrictions

Grant awards will not allow reimbursement of pre-award costs.

Construction is not an allowable activity or expenditure under this program.

6. Other Submission Requirements

Submission by Mail

An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. Please see Section IV.3 for an explanation of due dates. Applications should be mailed to: Tim Chappelle, U.S. Department of Health and Human Services (HHS), Administration for Children and Families, Office of Grants Management, 370 L'Enfant Promenade, SW., 8th Floor West, Washington, DC 20447.

Hand Delivery

An applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m. eastern time, Monday through Friday. Applications should be delivered to: Tim Chappelle, U.S. Department of Health and Human Services (HHS), Administration for Children and Families, Office of Grants Management, 370 L'Enfant Promenade, SW., 8th Floor West, Washington, DC 20447.

Electronic Submission: Please see Section IV.2 for guidelines and requirements when submitting applications electronically via *http://www.Grants.gov.*

V. Application Review Information

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 50 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 which expires 4/30/2007.

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.

1. Criteria

The following are instructions and guidelines on how to prepare the ''project summary/abstract'' and ''full project description'' sections of the application. Under the evaluation criteria section, note that each criterion is preceded by the generic evaluation requirement under the ACF Uniform Project Description (UPD).

Part I The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, information responsive to each of the requested evaluation criteria must be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived.

For example, describe how the activities that your organization undertakes will promote the full participation in the electoral process for individuals with the full range of disabilities, including registering to vote, casting a vote, and accessing polling places.

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished.

Evaluation

Provide a narrative addressing how the conduct of the project and the results of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners, such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. If the applicant is a non-profit organization, submit proof of non-profit status in its application.

The non-profit agency can accomplish this by providing: (a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; (b) a copy of a currently valid IRS tax exemption certificate; (c) a statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals; (d) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; (e) any of the items immediately above for a State or national parent organization and a

statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Budget and Budget Justification

Provide a budget with line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. Also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

Use the following guidelines for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. ''Federal resources'' refers only to the ACF grant for which you are applying. ''Non Federal resources'' are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Include third party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant.

Justification: Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000).

Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, upon notification that an award will be made, it should immediately develop a tentative indirect cost rate proposal based on its most recently completed fiscal year, in accordance with the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. When an indirect cost rate is requested, those costs included in the indirect cost pool

should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

Evaluation Criteria

The following evaluation criteria appear in weighted descending order. The corresponding score values indicate the relative importance that ACF places on each evaluation criterion; however, applicants need not develop their applications precisely according to the order presented. Application components may be organized such that a reviewer will be able to follow a seamless and logical flow of information (i.e., from a broad overview of the project to more detailed information about how it will be conducted).

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Approach—35 Points

Applications will be evaluated based on the extent to which they discuss the criteria to be used to evaluate the results, explain the methodology that will be used to determine if the needs identified and discussed are being met, and the results and benefits identified are being achieved. Applicants will be evaluated based on the extent to which they present a plan that (1) clearly reflects an understanding of the characteristics, needs and services currently available to the targeted population; (2) provides appropriate services that directly address the needs of the target population; (3) is evidence-based and grounded in theory and practice; (4) is appropriate and feasible; and (5) can be reliably evaluated.

Applications will be evaluated based on the extent to which they outline a plan of action pertaining to the scope and detail on how the proposed work will be accomplished for each project, and include a definition of the goals and specific measurable objectives for the project. (8 points)

Applications will be evaluated based on the extent to which they identify the kinds of data to be collected and maintained and discuss the criteria to be used to evaluate the results and success of the project. For example, the applicant may provide a description of how the proposed project will be evaluated to determine the extent to which it has achieved its stated goals and objectives; the applicant may also provide a description of methods of evaluation that include the use of performance measures that are clearly related to the intended outcome of the project. (8 points)

Applications will be evaluated based on the extent to which they describe any unusual features of the project, such as design or technological innovation, reductions in cost or time, or extraordinary social and community involvement. (5 points)

Applications will be evaluated based on the extent to which they provide for each project, when possible, a quantitative description of the accomplishments to be achieved and, when quantification is not possible, a list of activities, in chronological order, to show the schedule of accomplishments and their target date. (4 points)

Applications will be evaluated based on the extent to which they describe the products to be developed during the implementation of the proposed project, such as questionnaires, interview guides, data collection instruments, software, internet applications, reports, article outcomes, evaluation results, and a dissemination plan for conveying the information. (4 points)

Applications will be evaluated based on the extent to which they cite factors which might accelerate or decelerate the work and provide reasons for taking this approach as opposed to others. (3 points)

Applications will be evaluated based on the extent to which they list each organization, operator, consultant, or other key individual who will work on the project along with a short description of the nature of their effort of contribution. (3 points)

Objectives and Need for Assistance—25 Points

Applications will be evaluated based on the extent to which the applicant describes the context of the proposed demonstration project, including the geographic location, environment, magnitude and severity of the problem(s) to be solved and the needs to be addressed.

Applications will be evaluated based on the extent to which they demonstrate the need for assistance and describe the principal and subordinate objectives for the project. (10 points)

Applications will be evaluated based on the extent to which they specifically mention any relevant physical, economic, social, financial, institutional, or other problems requiring a solution. (5 points)

Applications will be evaluated based on the extent to which they provide supporting documentation or other testimonies from concerned interests other than the applicant. (5 points)

Applications will be evaluated based on the extent to which they provide relevant data based on planning studies. (4 points)

Applications will be evaluated based on the extent to which they provide relevant maps and other graphic aids. (1 point)

Results or Benefits Expected—20 Points

Applications will be evaluated based on the extent to which they identify the results and benefits to be derived and the anticipated contribution to policy, practice, theory, and research.

Applications will be evaluated based on the extent to which they clearly describe the project benefits and results as they relate to the objectives of the project. (10 points)

Applications will be evaluated based on the extent to which they provide information regarding how the project will build on current theory, research, evaluation and best practices to contribute to increased knowledge and understanding of the problems, issues, or effective strategies and practices in training and technical assistance. (10 points)

Organizational Profiles—15 Points

Applications will be evaluated based on the extent to which they identify how the applicant organization (or the unit within the organization that will have responsibility for the project) is structured, the types and quantity of services, and the research and management capabilities it possesses. Applications will be evaluated based on the extent to which the applicant demonstrates a capacity to implement the proposed project including (1) experience with similar projects; (2) experience with the target population; (3) qualifications and experience of the project leadership; (4) commitment to developing and sustaining work among key stakeholders; (5) experience and commitment of any proposed consultants and subcontractors; and (6) appropriateness of the organizational

structure, including its management information system, to carry out the project.

Applications will be evaluated based on the extent to which they identify the background of the project director/principal investigator and key project staff (such as the inclusion of name, address, training, educational background, and other qualifying experience) and the extent to which they demonstrate that the experience of the organization is such that the applicant may effectively and efficiently administer this project, for example, this can include providing brief resumes of key project staff. (4 points)

Applications will be evaluated based on the extent to which they provide a brief background description of how the applicant organization is organized, the types and quantity of services it provides, and the research and management capabilities it possesses. (4 points)

Applications will be evaluated based on the extent to which they describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. (4 points)

Applications will be evaluated based on the extent to which they demonstrate the direct relationship of the project to the applicant organization such as an organizational chart that illustrates the relationship of the project to the current organization. (3 points)

Budget and Budget Justification—5 Points

Applications will be evaluated based on the extent to which the applicant presents a budget with reasonable project costs, appropriately allocated across component areas and sufficient to accomplish the objectives, such as the inclusion of a justification for and documentation of the dollar amount requested.

Applications will be evaluated based upon the extent to which they include a narrative budget justification that describes how the categorical costs are derived and a discussion of the reasonableness and appropriateness of the proposed costs. Line item allocations and justifications are required for Federal funds.

Applications will be evaluated based on the extent to which they discuss and justify the costs of the proposed project as being reasonable and programmatically justified in view of the activities to be conducted and the anticipated results and benefits. (3 points)

Applications will be evaluated based on the extent to which they describe the fiscal controls and accounting procedures that will be used to ensure prudent use, proper disbursement, and accurate accounting of funds received under this program announcement. (2 points)

Note: Applicants have the option of omitting the Social Security Numbers and specific salary rates of the proposed project personnel from the two copies submitted with the original applications to ACF. For purposes of the outside review process, applicants may elect to summarize salary information on the copies of their application. All necessary salary information must, however, appear on the signed original application for ACF.

2. Review and Selection Process: No grant award will be made under this announcement on the basis of an incomplete application.

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the closing date (*see* Section IV.3.) and (2) that the amount requested does not exceed the stated ceiling (*see* Section II.). It is necessary that applicants state specifically which funding announcement they are applying for.

Applications will be evaluated and rated by an independent review panel on the basis of specific evaluation criteria. The results of these reviews will assist the Commissioner and ADD program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. The evaluation criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the evaluation criteria within the context of this program announcement. Non-Federal reviewers will be used for the review process.

Since ACF will be using non-Federal reviewers in the process, applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Approved But Unfunded Applications

Applications that are approved but unfunded may be held over for funding in the next funding cycle, pending the availability of funds, for a period not to exceed one year.

VI. Award Administration Information

1. Award Notices

The successful applicants will be notified through the issuance of a Financial Assistance Award document which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided (if applicable), and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements

Grantees are subject to the requirements in 45 CFR part 74 (non-governmental) or 45 CFR part 92 (governmental).

Direct Federal grants, sub-award funds, or contracts under this Family Support Initiative 2005 program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this Program. Regulations pertaining to the Equal Treatment For Faith-Based Organizations, which includes the prohibition against Federal funding of inherently religious activities, can be found at either 45 CFR 87.1 or the HHS Web site at: *http://www.os.dhhs.gov/fbci/waisgate21.pdf.*

3. Reporting Requirements

Grantees will be required to submit program progress and financial reports (SF–269 found at *http://www.acf.hhs.gov/programs/ofs/forms.htm*) throughout the project period. Program progress and financial reports are due 30 days after the reporting period. Final programmatic and financial reports are due 90 days after the close of the project period.

Program Progress Reports: Semi-Annually.

Financial Reports: Semi-Annually.

Grantees will be required to submit program progress and financial reports (SF–269) throughout the project period. Program progress and financial reports are due 30 days after the reporting period. In addition, final programmatic

and financial reports are due 90 days after the close of the project period.

VII. Agency Contacts

Program Office Contact: Margaret Schaefer, Administration for Children and Families, Administration on Developmental Disabilities, 370 L'Enfant Promenade, SW., Mail Stop HHH 405–D, Washington, DC 20447. Phone: 202–690–5962. Fax: 202–205–8037. E-mail: *mschaefer@acf.hhs.gov.*

Grants Management Office Contact: Tim Chappelle, Administration for Children and Families, Office of Grants Management, 370 L'Enfant Promenade, SW., 8th Floor West, Washington, DC 20447. Phone: 202–401–4855. E-mail: *tichappelle@acf.hhs.gov.*

VIII. Other Information

Additional information about this program and its purpose can be located on the following Web sites: *http://www.acf.hhs.gov/programs/add* and *http://www.nass.org.*

Notice: Beginning with FY 2006, the Administration for Children and Families (ACF) will no longer publish grant announcements in the **Federal Register**. Beginning October 1, 2005, applicants will be able to find a synopsis of all ACF grant opportunities and apply electronically for opportunities via: *http://www.Grants.gov.* Applicants will also be able to find the complete text of all ACF grant announcements on the ACF Web site located at: *http://www.acf.hhs.gov/grants/index.html.*

Please reference Section IV.3 for details about acknowledgement of received applications.

Dated: May 4, 2005.

Debbie Powell,

Director, Office of Operations and Discretionary Grant Programs, Administration on Developmental Disabilities.

[FR Doc. 05–9224 Filed 5–6–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Administration on Developmental Disabilities; University Centers for Excellence in Developmental Disabilities Education, Research, and Service (UCEDDs)

Announcement Type: Grant—Initial.

Funding Opportunity Number: HHS–2005–ACF–ADD–DD–0096.

CFDA Number: 93.632.

Due Date for Letter of Intent or Preapplications: June 8, 2005.

Due Date for Applications: June 23, 2005.

Executive Summary: The Administration on Developmental Disabilities (ADD) in the Administration for Children and Families (ACF), U.S. Department of Health and Human Services (DHHS) announces the availability of fiscal year 2005 funds to award grants to support the expansion of the National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service (UCEDDs). The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Pub. L. 106–402) section 152(d) (42 U.S.C. 15062) authorizes the expansion of the National Network of UCEDDs, ''* * * for States or populations that are unserved or underserved by Centers due to such factors as (1) population; (2) a high concentration of rural or urban areas; or (3) a high concentration of unserved or underserved populations.''

Applicants should have expertise in addressing the health disparities and education issues of ethnic and racial minority groups. This funding opportunity will support the administration and operation of up to three new UCEDDs that are interdisciplinary education, research, and public service units of universities, or public or not-for-profit entities associated with universities that engage in core functions (*e.g.*, provision of interdisciplinary pre-service preparation and continuing education of students and fellows; provision of community services, including training and/or technical assistance; conduct of research; and dissemination of information) addressing, directly or indirectly, one or more of the areas of emphasis (*e.g.*, quality assurance, education and early intervention, child care, health, employment, housing, transportation, recreation, and other services available or offered to individuals in a community, including formal and informal community supports, that affect their quality of life). This program announcement contains instructions for the submission of the fiscal year 2005 grant applications for core funding.

I. Funding Opportunity Description

Legislative Authority

The Administration on Developmental Disabilities (ADD) in the Administration for Children and Families (ACF), Department of Health and Human Services (DHHS) shares common goals with other ACF programs that promote the economic and social well-being of families, children, individuals, and communities. ACF and ADD envision:

- Families and individuals empowered to increase their own economic independence and productivity;
- Strong, healthy, supportive communities having a positive impact on the quality of life and the development of children;
- Partnerships with individuals, front-line service providers, communities, States, and Congress that enable solutions that transcend traditional agency boundaries;
- Services planned and integrated to improve access to programs and supports for individuals and families;
- A community-based approach that recognizes and expands on the resources and benefits of diversity; and
- A recognition of the power and effectiveness of public-private partnerships, including collaboration among a variety of community groups and government agencies, such as a coalition of faith-based organizations, grassroots groups, families, and public agencies to address a community need.

The vision, listed above, will enable more individuals, including people with developmental disabilities, to live productive and independent lives integrated into their communities. The University Centers for Excellence in Developmental Disabilities Education, Research, and Service are a means by which ADD promotes the achievement of this vision.

ADD is the lead agency in ACF, DHHS, for administering the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act of 2000) (42 U.S.C. 15001, *et seq.*). The DD Act of 2000 authorizes support and assistance to States, public agencies, and private, non-profit organizations, including faith-based and community organizations, to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, integration, and inclusion into the community.

As defined in the DD Act of 2000, the term ''developmental disabilities'' means a severe, chronic disability of an individual that is attributable to a mental or physical impairment or combination of mental and physical impairments that are manifested before the individual attains age 22 and are likely to continue indefinitely. Developmental disabilities result in

substantial limitations in three or more of the following functional areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and capacity for economic self-sufficiency.

The DD Act of 2000 identifies a number of significant findings, including:

• Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity for independence, productivity, integration, and inclusion into the community.

• Individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely.

• Individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families.

The DD Act of 2000 also promotes the best practices and policies presented below:

• Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, integration, and inclusion into the community, and often require the provision of services, supports, and other assistance to achieve such.

• Individuals with developmental disabilities have competencies, capabilities, and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual.

• Individuals with developmental disabilities and their families are the primary decision makers regarding the services and support such individuals and their families receive, and play decision making roles in policies and programs that affect the lives of such individuals and their families.

Toward these ends, ADD seeks to support and accomplish the following:

• Enhance the capabilities of families in assisting individuals with developmental disabilities to achieve their maximum potential;

• Support the increasing ability of individuals with developmental disabilities to exercise greater choice and self-determination and to engage in leadership activities in their communities;

• Ensure the protection of the legal and human rights of individuals with developmental disabilities;

• Ensure that individuals with developmental disabilities from culturally and linguistically diverse backgrounds and their families enjoy increased and meaningful opportunities to access and use community services, individualized supports, and other forms of assistance available to other individuals with developmental disabilities and their families; and

• Promote recruitment efforts that increase the number of individuals from culturally and linguistically diverse backgrounds who work with individuals with developmental disabilities and their families in disciplines related to pre-service training, community training, practice, administration, and policymaking.

There are four programs funded under the DD Act of 2000:

• State Developmental Disabilities Councils;

• State Protection and Advocacy Systems for Individuals with Developmental Disabilities' Rights;

• National Network of University Centers for Excellence in Developmental Disabilities, Education, Research, and Service; and

• Projects of National Significance.

This program announcement provides information about funding that will expand the National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service.

National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service

The purpose of this notice is to announce the availability of FY 2005 grant award funds for the expansion of the National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service (UCEDDs). In accordance with requirements in Section 152(d) (42 U.S.C. 15062) of the DD Act of 2000, the grant awards will be made for populations that are unserved or underserved by UCEDDs due to factors such as elevated State residency rates, a high concentration of rural or urban areas, or increased rate of unserved or underserved populations. Applicants should have expertise in addressing the health disparities and education issues of ethnic and racial minority groups.

UCEDDs are interdisciplinary education, research, and public service units of universities or public or not-for-profit entities associated with universities that engage in core functions (*e.g.*, interdisciplinary training, community services (including training and/or technical assistance), research, and dissemination of information) and address, directly or indirectly, one or more of the areas of emphasis (*e.g.*, quality assurance, education and early intervention, child care, health, employment, housing, transportation, recreation, and other services available or offered to individuals in a community, including formal and informal community supports, that affect their quality of life).

As liaisons to service delivery systems, UCEDDs serve to positively affect the lives of individuals with developmental disabilities and their families, and work towards increasing their independence, productivity, and integration into communities. The National Network has evolved considerably during its history. Established in 1963, the development of the National Network is marked by growth in three phases (Fifield & Fifield, 1995). The first phase, 1963–1974, involved the construction of institutions closely associated with universities and the development of centralized expertise, training programs, clinical, diagnostic, and treatment services for persons with intellectual disabilities. The second phase, 1975–1986, promoted community-based services, developmental concepts, and the provision of services through a person's full life span. This period also saw the creation of the three major components of the present-day developmental disabilities system: State Developmental Disabilities Planning Councils, Protection and Advocacy Agencies, and University Centers. The third period, from 1987 to the present, has emphasized a consumer focus, as exemplified by the completion of an extensive national consumer satisfaction evaluation study, which brought to the forefront the issues of consumer empowerment, independence, and inclusion.

Currently, UCEDDs engage in four broad tasks called core functions: (1) Interdisciplinary preservice preparation and continuing education, (2) exemplary community service programs and technical assistance at all levels from local service delivery to community and state governments, (3) research, and (4) information dissemination.

UCEDD accomplishments include:

• *Directing exemplary interdisciplinary training programs.* The provision of training is offered in an interdisciplinary format where faculty

and trainees represent a variety of disciplines, such as pediatrics, education, psychology, and nursing, thereby expanding opportunities for students to learn about the differing perspectives of various professionals who are providing services to individuals with developmental disabilities and their families.

• *Providing community services and technical assistance.* Staff offer expertise through training and technical assistance activities to families, support service organizations, individuals with developmental disabilities and their family members, professionals, paraprofessionals, students, systems, and volunteers.

• *Contributing to the development of new knowledge through research and information dissemination.* UCEDDs develop and field test models of service delivery and evaluate existing innovative practices, which are then disseminated to the field to translate research into practice.

The DD Act of 2000 requires that grants be made to entities designated as a UCEDD in each State. The DD Act defines a State as the fifty states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam. Currently, there are 61 UCEDDs in every State and Territory. Public Law 108–447, the Consolidated Appropriations Act of 2005, supports the expansion of the national network of UCEDDs. Funds made available under this program announcement will support the administration and operation of up to three newly designated UCEDDs. This program announcement contains instructions for the submission of the fiscal year 2005 grant applications for core funding. Applicants should note that the instructions for responding to this announcement follow requirements set forth in the DD Act of 2000 with regard to the UCEDD program.

Priority Area

University Centers for Excellence in Developmental Disabilities Education, Research, and Service.

1. Description

Below are instructions for the submission of fiscal year 2005 grant applications for core funding to support the operation and administration of newly established UCEDD programs. This funding opportunity expands the national network of UCEDDs for States or populations that are unserved or underserved by UCEDDs due to such factors as the number of individuals in the State; a high concentration of rural or urban areas; or a high concentration of unserved or underserved populations. Applicants should have expertise in addressing the health disparities and education issues of ethnic and racial minority groups.

Five-Year Plan

The application for core funding must describe a five-year plan that outlines a projected measurable goal for one or more area(s) of emphasis (*e.g.*, quality assurance, education and early intervention, child care, health, employment, housing, transportation, recreation, and other services available or offered to individuals in a community, including formal and informal community supports, that affect their quality of life) for each core function. The UCEDD core functions are the following:

Interdisciplinary pre-service preparation and continuing education includes the preparation and continuing education of students and fellows representing leadership, direct service, clinical, or other personnel to strengthen and increase the capacity of States and communities. UCEDDs should promote recruitment efforts that increase the number of individuals from culturally and linguistically diverse backgrounds working with people with developmental disabilities and their families in disciplines related to pre-service training, community training, practice, administration, and policymaking. The nature of the UCEDD interdisciplinary training program should be reflected in the faculty and students. To this end, faculty and students should represent a variety of disciplines, which may include:

- Audiology.
- Dentistry.
- Early Intervention.
- Early Childhood Education.
- Early Childhood Special Education.
- Educational Administration.
- General Education.
- Health Administration.
- Medicine.
- Nursing.
- Nutrition.
- Pediatrics.
- Physical Therapy.
- Psychiatry.
- Psychology.
- Public Health.
- Public Policy.
- Occupational Therapy.
- Pediatric Dentistry.
- Social Work.
- Special Education.
- Speech-Language Pathology.

• *Community services* include the provision of training and technical assistance for individuals with developmental disabilities, their families, professionals, paraprofessionals, policy-makers, students, and other members of the community. It also may include the provision of services, supports, and assistance for the persons with developmental disabilities and their families through demonstration and model activities. Community services promote the delivery of programs, projects, activities, and services in community-based settings rather than academic or traditional clinical settings. In addition, the provision of community services should ensure that individuals with developmental disabilities from racial and ethnic minority backgrounds and their families enjoy increased and meaningful opportunities to access and use community services, individualized supports, and other forms of assistance available to other individuals with developmental disabilities and their families.

• *Research* includes basic or applied research, evaluation, and the analysis of public policy in areas that affect or could affect, either positively or negatively, individuals with developmental disabilities and their families. To the extent possible, UCEDDs should seek to include people with developmental disabilities and their families, including those from culturally and linguistically diverse groups, as active participants in the research process thereby ensuring that these individuals and their families participate in the development, design, and implementation of research activities.

• *Information dissemination* includes the distribution of knowledge that demonstrates the UCEDD network as a national and international resource with substantive areas of expertise that may be accessed and applied in diverse settings and circumstances. UCEDDs should strive to translate research into practice in the dissemination of information. Information should be disseminated in multiple accessible formats and in a culturally competent manner.

Organizational Experience

The application for core funding should describe how the applicant has expertise in addressing the health disparities and education issues of ethnic and racial minority groups. In addition, the applicant should provide a description of how that experience will be applied in working to further improve the health and education services of persons with developmental disabilities, including those from racial and ethnic minority groups.

Assurances

The application for core funding must contain assurances that the applicant will implement requirements in the DD Act of 2000 with regard to the UCEDD program:

- The entity designated as the UCEDD will meet statutory and regulatory requirements that apply to Centers.
- The entity designated as the UCEDD will address the projected goals and carry out goal-related activities in a manner consistent with the objectives of the DD Act of 2000.

The goal-related activities must be:

- Based on data-driven strategic planning;
- Developed in collaboration with the Consumer Advisory Committee (CAC);
- Consistent with, and to the extent feasible, complement and further the State Developmental Disabilities Council goals contained in the State plan and the goals of the State Protection and Advocacy System; and
- Reviewed and revised annually, as necessary, to address emerging trends and needs.
- Funds made available through the grant will be used to supplement, and not supplant, the funds that would otherwise be made available for activities related to interdisciplinary pre-service preparation, and continuing education, community services, research, and information dissemination.
- The entity designated as the UCEDD will protect the legal and human rights of all individuals with developmental disabilities (especially those individuals under State guardianship) who are involved in activities carried out under programs assisted by the DD Act of 2000.
- The entity designated as the UCEDD will establish and maintain a Consumer Advisory Committee (CAC).
- The majority of the members of the Consumer Advisory Committee shall be individuals with developmental disabilities and family members of such individuals.

The CAC must also include representatives of:

- The State Protection and Advocacy System;
- The State Council on Developmental Disabilities;
- A self-advocacy organization described in Section 124(c)(4)(A)(ii)(I) of the DD Act of 2000; and
- Organizations that may include Parent Training and Information Centers assisted under Sections 671 and 672 of the Individuals with Disabilities Education Improvement Act of 2004, entities carrying out activities in assistive technology authorized under section 101 or 102 of the Assistive Technology Act of 2004, relevant State agencies, and other community groups concerned with the welfare of individuals with developmental disabilities and their families.

- The CAC must reflect the racial and ethnic diversity of the State.
- The CAC should: be consulted regarding the development of the five-year plan, participate in an annual review, comment on progress in meeting projected goals, and meet as often as necessary, but at a minimum of twice during each grant year.
- To the extent possible, the infrastructure and resources obtained through funds made available under the grant will be utilized to leverage additional public and private funds to successfully achieve the projected goals developed in the five-year plan.
- The director of the UCEDD will hold appropriate academic credentials, demonstrate leadership, have expertise regarding developmental disabilities, have significant experience in managing grants and contracts, and have the ability to leverage public and private funds; and will allocate adequate staff time to carry out activities related to each of the core functions.
- The entity designated as the UCEDD will educate and disseminate information related to the purpose of the DD Act of 2000 to the legislature of the State in which the Center is located and to Members of Congress from the State.

Coordinated Activities

The respondents to this announcement should provide a narrative and related supporting documentation of how, if funded, the UCEDD will undertake coordinated activities with the State Developmental Disabilities Councils and the Protection and Advocacy System in the State to:

- Enhance the ability of individuals with developmental disabilities and their families to participate in the design of and have access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life;
- Bring about advocacy, capacity building, and systemic change activities (including policy reform), and other actions on behalf of individuals with developmental disabilities and their families, including individuals who are traditionally unserved or underserved, particularly individuals who are members of ethnic and racial minority groups and individuals from underserved geographic areas; and
- Bring about advocacy, capacity building, and systemic change activities that affect individuals with disabilities other than individuals with developmental disabilities;

Program Accountability

Respondents to this program announcement must describe how they will comply with the accountability requirements outlined in the DD Act of 2000. The accountability requirements are comprised of two components: (1) the UCEDD's Annual Report, and (2) ADD's system of program accountability.

Entities designated as UCEDDs must submit an Annual Report that provides information on progress made in achieving the UCEDD's projected goals for the previous year, including:

- The extent to which the goals were achieved;
- A description of the strategies that contributed to achieving the goals; and
- To the extent to which the goals were not achieved, a description of factors that impeded the achievement.

The Annual Report should also include an accounting of the manner in which funds paid to the UCEDD for a fiscal year were expended; information on proposed revisions to the goals; and a description of successful efforts to leverage funds, other than funds made available to support the operation and administration of the UCEDD, to pursue goals consistent with the UCEDD program.

The ADD system of program accountability is designed to:

- Monitor entities that received funds under the DD Act of 2000 to carry out its activities;
- Determine the extent to which the entities have been responsive to the purpose of the DD Act of 2000; and
- Determine the extent to which the entities have taken actions consistent with the policy described in section 101(c) of the DD Act of 2000.

The accountability system must include a process for identifying and reporting on progress achieved through advocacy, capacity building, and systemic change activities, undertaken by the UCEDDs that resulted in individuals with developmental disabilities and their families participating in the design of and having access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life. Progress achieved through the advocacy,

capacity building, and systemic change activities must be reported by the areas of emphasis (*e.g.*, quality assurance, education and early intervention, child care, health, employment, housing, transportation, recreation, and other services available or offered to individuals in a community, including formal and informal community supports, that affect their quality of life).

In identifying progress made in the areas of emphasis, the UCEDD will report using indicators of progress that describe and measure the:

○ Satisfaction of individuals with developmental disabilities with the advocacy, capacity building, and systemic change activities provided by the UCEDD;

○ Extent to which the advocacy, capacity building, and systemic change activities provided through the UCEDD result in improvements in the ability of individuals with developmental disabilities to:

○ Make choices and exert control over the type, intensity, and timing of services, supports, and assistance that the individuals have used;

○ Participate in the full range of community life with persons of the individuals' choice; and

○ Access services, supports, and assistance in a manner that ensures that such an individual is free from abuse, neglect, sexual and financial exploitation, violation of legal and human rights, and the inappropriate use of restraints and seclusion; and

○ Extent to which the State Council on Developmental Disabilities, the Protection and Advocacy Agency, and UCEDD collaborate with each other to achieve the purpose of this title and the policy described in section 101(c).

In responding to this announcement, applicants should provide assurances that they will, if funded, follow the reporting requirements, including the proposed ADD format, for the UCEDD program. A copy of the proposed ADD format may be obtained by contacting Jennifer Johnson at (202) 690–5982 or *jjohnson1@acf.hhs.gov.*

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Priority Area Funding: $600,000.

Anticipated Number of Awards: 1 to 3.

Ceiling on Amount of Individual Awards: $200,000 per budget period.

Floor on Amount of Individual Awards: $200,000 per budget period.

Average Projected Award Amount: $200,000 per budget period.

Length of Project Periods: 60 month project with five 12 month budget periods.

Entities awarded grants under this funding opportunity will apply each fiscal year for continued funding. In awarding and distributing grant funds for a fiscal year, ADD shall award and distribute grant funds in equal amounts to each UCEDD that existed during the preceding fiscal year, subject to the availability of appropriations. Therefore, the funding amounts for the first fiscal year of the project period may be different from subsequent years.

III. Eligibility Information

1. Eligible Applicants:

• State controlled institutions of higher education.

• Non-profits having a 501(c)(3) status with the IRS, other than institutions of higher education.

• Private institutions of higher education.

Additional Information on Eligibility:

Faith-based and community organizations are eligible entities under this announcement.

Please see Section IV for required documentation supporting eligibility or funding restrictions if any are applicable.

2. Cost Sharing/Matching: Yes.

Grantees are required to meet a non-Federal share of the project costs, in accordance with *Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15064(d)(1).* Grantees must provide at least *25%* of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. For example, in order to meet the match requirements, a project with a total approved cost of *$133,000,* requesting *$100,000* in ACF funds, must provide a non-Federal share of at least *$33,250* (*25%* of total approved project cost of *$133,000*). Grantees will be held accountable for commitments of non-Federal resources even if over the amount of the required match. Failure to provide the amount will result in disallowance of Federal funds. Lack of supporting documentation at the time of application will not impact the responsiveness of the application for competitive review.

3. Other:

All applicants must have a Dun & Bradstreet number. On June 27, 2003 the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires Federal grant applicants to provide a Dun & Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.Grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Non-profit organizations applying for funding are required to submit proof of their non-profit status. Proof of non-profit status is any one of the following:

• A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code.

• A copy of a currently valid IRS tax exemption certificate.

• A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earning accrue to any private shareholders or individuals.

• A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

• Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

When applying electronically we strongly suggest you attach your proof of non-profit status with your electronic application.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Disqualification Factors:

Applications that exceed the ceiling amount will be considered non-responsive and will not be considered for funding under this announcement.

Any application that fails to satisfy the deadline requirements referenced in Section IV.3 will be considered non-responsive and will not be considered for funding under this announcement.

IV. Application and Submission Information

1. Address To Request Application Package:

Jennifer Johnson Ed.D., Program Specialist, Office of Operations and Discretionary Grants, Administration on Developmental Disabilities, Administration for Children and Families, Mail Stop: HHH 405–D, 370 L'Enfant Promenade, SW., Washington, DC 20447. Phone: (202) 690–5982. Fax: (202) 205–8037. E-mail: *jjohnson1@acf.hhs.gov.*

2. Content and Form of Application Submission:

The required application package will include the following using the format described:

Letter of Intent

In submitting a letter of intent, applicants are asked to remit a post card or letter with a statement indicating that they intend to apply and the following information:

Funding opportunity number;
Organizational name;
Point of contact;
Organizational address;
Phone number;
Fax number;
E-mail address.

Letters of intent can be sent to:

Jennifer Johnson, Ed.D., Program Specialist, Office of Operations and Discretionary Grants, Administration on Developmental Disabilities, Administration for Children and Families, Mail Stop: HHH 405–D, 370 L'Enfant Promenade, SW., Washington, DC 20447. Phone: (202) 690–5982. Fax: (202) 205–8037. E-mail: *jjohnson1@acf.hhs.gov.*

Letter of Intent information will be used to determine the number of reviewers necessary to complete the panel review process. Failure to submit a Letter of Intent will not impact eligibility to submit an application and will not disqualify an application from competitive review based on non-responsiveness.

Format

The application must not exceed 50 double-spaced, numbered, typed pages excluding an abstract and a table of contents. Any application that exceeds the page limit requirement will have the additional pages removed from the application prior to the review. The type must not be smaller than 12 pitch or a point size of 12. The margins must not be less than one inch.

Appendix

The Appendix must not exceed 40 pages. Supplementary material, intended to provide examples of activities, may be included in the Appendix for reviewers but shall adhere to the page limit requirement. The Appendix must be included with the original and the two copies of the application.

Budget

The applicant shall develop a full budget, including a completed SF 424A, ''Budget Information—Non-Construction Programs,'' a detailed budget breakdown by object class categories listed in the SF 424A, Section B, and a narrative budget justification, for a twelve-month budget period. The budget justification should describe how the costs are reasonable and necessary for the proper and efficient administration of the proposed project. Applicants should include in their budget funds to pay for travel expenses to attend at least one ADD-sponsored Project Director's meeting in Washington, DC. The applicant must include the twelve-month Federal budget under Column (1), the twelve-month non-Federal budget under Column (2), and the total twelve-month budget under Column (5) of the SF 424A. The applicant shall use the three-column approach when preparing the detailed budget breakdown. For the remaining four years of the requested project period, the applicant must complete SF 424A, Section E, indicating the total forecasted budget for each year. The applicant must also provide a lump sum figure for non-Federal contributions for the second through fifth years of the project on SF 424A, Section C.

If the procurement policy of an applicant's institution includes an equipment definition other than the current Federal definition, a copy of the institution's current definition should be included in the application.

Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

____One original, signed and dated application, plus two copies.
____Application is from an organization that is eligible under the eligibility requirements, defined in the Priority Area description.
____Application length does not exceed 50 pages.
____Appendix length does not exceed 40 pages.

A complete application has the following items in the order listed:

____Application for Federal Assistance (SF 424).
____A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424 if applicable.
____Budget Information Non-Construction Programs (SF 424A).
____Assurances Regarding Non-Construction Programs (SF 424B).
____Budget justification for Section B Budget Categories with a description of how the costs are reasonable and necessary.
____Table of Contents.
____Proof of Non-Profit Status, if applicable, (*see* Section III.3.).
____Copy of the applicant's approved indirect cost rate agreement, if appropriate (when charging indirect costs to Federal funds or when using indirect costs as a matching share).
____Project Description.
____Letter(s) of commitment verifying non-Federal cost share.
____Any appendices/attachments.
____Assurances Non-Construction Programs (Standard Form 424B).
____Certification Regarding Lobbying (SF LLL).
____Certification of Protection of Human Subjects, if necessary.
____Certification of the Pro Children Act of 1994 (Environmental Tobacco Smoke), signature on the application represents certification.
____''Survey on Ensuring Equal Opportunity for Applicants,'' for private, non-profit applicants.

You may submit your application to us in either electronic or paper format. To submit an application electronically, please use the *http://www.Grants.gov/Apply* site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. ACF will not accept grant applications via email or facsimile transmission.

Please note the following if you plan to submit your application electronically via Grants.gov:

- Electronic submission is voluntary, but strongly encouraged.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.

• We recommend you visit Grants.gov at least 30 days prior to filing your application to fully understand the process and requirements. We encourage applicants who submit electronically to submit well before the closing date and time so that if difficulties are encountered an applicant can still send in a hard copy overnight. If you encounter difficulties, please contact the Grants.gov Help Desk at 1–800–518–4276 to report the problem and obtain assistance with the system.

• To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.

• You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.

• You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.

• Your application must comply with any page limitation requirements described in this program announcement.

• After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.

• We may request that you provide original signatures on forms at a later date.

• You may access the electronic application for this program on *http://www.Grants.gov.*

• You must search for the downloadable application package by the CFDA number.

Applicants that are submitting their application in paper format should submit an original and two copies of the complete application. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Standard Forms and Certifications:

The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Section V Application Review Information. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement.

Applicants seeking financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Applicants must sign and return the standard forms with their application.

Applicants must furnish prior to award an executed copy of the Standard Form LLL, Certification Regarding Lobbying, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must also understand they will be held accountable for the smoking prohibition included within Public Law 103–227, Title XII Environmental Tobacco Smoke (also known as the PRO–KIDS Act of 1994). A copy of the **Federal Register** notice which implements the smoking prohibition is included with this form. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification form. Complete the standard forms and the associated certifications and assurances based on the instructions on the forms. The forms and certifications may be found at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Those organizations required to provide proof of non-profit status, please refer to Section III.3.

Please see Section V.1 for instructions on preparing the full project description.

3. Submission Dates and Times:

Due Date for Letter of Intent or Preapplications: June 8, 2005.

Due Date for Applications: June 23, 2005.

Explanation of Due Dates

The closing time and date for receipt of applications is referenced above. Applications received after 4:30 p.m. eastern time on the closing date will be classified as late.

Deadline: Applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date referenced in Section IV.6. Applicants are responsible for ensuring applications are mailed or submitted electronically well in advance of the application due date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., eastern time, at the address referenced in Section IV.6., between Monday and Friday (excluding Federal holidays).

ACF cannot accommodate transmission of applications by facsimile. Therefore, applications transmitted to ACF by fax will not be accepted regardless of date or time of submission and time of receipt.

Late Applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

Applicants using express/overnight mail services should allow two working days prior to the deadline date for receipt of applications. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

Receipt acknowledgement for application packages will not be provided to applicants who submit their package via mail, courier services, or by hand delivery. Applicants will receive an electronic acknowledgement for

applications that are submitted via *http://www.Grants.gov.*

Checklist:

You may use the checklist below as a guide when preparing your application package.

What to submit	Required content	Required form or format	When to submit
Project Abstract	See Sections IV.2 and V.	Found in Sections IV.2 and V	By application due date.
Project Description	See Sections IV.2 and V.	Found in Sections IV.2 and V	By application due date.
Budget Narrative/Justification.	See Sections IV.2 and V.	Found in Sections IV.2 and V	By application due date.
SF424	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*	By application due date.
SF-LLL Certification Regarding Lobbying.	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*	By date of award.
Certification Regarding Environmental Tobacco Smoke.	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*	By date of award.
Assurances	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*	By date of award.
Letter of Intent	See Section IV.2	Found in Section IV.2	June 8, 2005.
Table of Contents	See Section IV.2	Found in Section IV.2	By application due date.
SF424A	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*	By application due date.
Support Letters	See Section V	Found in Section V	By application due date.
Non-Federal Commitment Letters.	See Section V	Found in Section V	By application due date.
SF424B	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*	By application due date.
Proof of Non-Profit Status.	See Section III.3	Found in Section III.3	By date of award.

Additional Forms:

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	See form	Found in *http://www.acf.hhs.gov/programs/ofs/forms.htm*	By application due date.

4. Intergovernmental Review:

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 1, 2004, the following jurisdictions have elected to participate in the Executive Order process: Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, American Samoa, Guam, North Mariana Islands, Puerto Rico, and Virgin Islands. As these jurisdictions have elected to participate in the Executive Order process, they have established SPOCs. Applicants from participating jurisdictions should contact their SPOC, as soon as possible, to alert them of prospective applications and receive instructions. Applicants must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2).

A SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., 4th floor, Washington, DC 20447.

Although the remaining jurisdictions have chosen not to participate in the process, entities that meet the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. Therefore, applicants from these jurisdictions, or for projects administered by federally-recognized Indian Tribes, need take no action in regard to E.O. 12372.

The official list, including addresses, of the jurisdictions that have elected to participate in E.O. 12372 can be found on the following URL: *http://www.whitehouse.gov/omb/grants/spoc.html.*

5. Funding Restrictions:

Grant awards will not allow reimbursement of pre-award costs.

Construction is not an allowable activity or expenditure under this announcement.

Applicants should include in their budget funds to pay for travel expenses to attend at least one ADD-sponsored Project Director's meeting in Washington.

6. Other Submission Requirements:

Submission by Mail: An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. Please see Section IV.3 for an explanation of due dates. Applications should be mailed to:

Tim Chappelle, Office of Grants Management, Administration for Children and Families, U.S. Department of Health and Human Services, 370 L'Enfant Promenade, SW., 8th Floor, Washington, DC 20447.

Hand Delivery: An applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m. eastern time, Monday through Friday. Applications should be delivered to:

Tim Chapelle, Office of Grants Management, Administration for Children and Families, U.S. Department of Health and Human Services, 370 L'Enfant Promenade, SW., 8th Floor, Washington, DC 20447.

Electronic Submission: Please see Section IV.2 for guidelines and requirements when submitting applications electronically via *http://www.Grants.gov*.

V. Application Review Information

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 80 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 which expires 4/30/2007.

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.

1. Criteria:

The following are instructions and guidelines on how to prepare the ''project summary/abstract'' and ''full project description'' sections of the application. Under the evaluation criteria section, note that each criterion is preceded by the generic evaluation requirement under the ACF Uniform Project Description (UPD).

Part I—The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, information responsive to each of the requested evaluation criteria must be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

General Instructions

ACF is particularly interested in specific project descriptions that focus on outcomes and convey strategies for achieving intended performance. Project descriptions are evaluated on the basis of substance and measurable outcomes, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.

Pages should be numbered and a table of contents should be included for easy reference.

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions while being aware of the specified evaluation criteria. The text options give a broad overview of what your project description should include while the evaluation criteria identifies the measures that will be used to evaluate applications.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived.

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished.

Evaluation

Provide a narrative addressing how the conduct of the project and the results of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project,

define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

Additional Information

Following are requests for additional information that need to be included in the application:

Staff and Position Data

Provide a biographical sketch and job description for each key person appointed. Job descriptions for each vacant key position should be included as well. As new key staff is appointed, biographical sketches will also be required.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners, such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. If the applicant is a non-profit organization, submit proof of non-profit status in its application.

The non-profit agency can accomplish this by providing: (a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; (b) a copy of a currently valid IRS tax exemption certificate, (c) a statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals; (d) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status, (e) any of the items immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application OR by application deadline.

Budget and Budget Justification

Provide a budget with line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. Also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, upon notification that an award will be made, it should immediately develop a tentative indirect cost rate proposal based on its most recently completed fiscal year, in accordance with the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. When an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Total Direct Charges, Total Indirect Charges, Total Project Costs

Evaluation Criteria:

The following evaluation criteria appear in weighted descending order. The corresponding score values indicate the relative importance that ACF places on each evaluation criterion; however, applicants need not develop their applications precisely according to the order presented. Application components may be organized such that a reviewer will be able to follow a seamless and logical flow of information (*i.e.*, from a broad overview of the project to more detailed information about how it will be conducted).

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Approach—40 points

The applications will be evaluated according to the extent to which the applicant outlines a sound, workable, and detailed plan of action pertaining to the measurable goals and objectives of the proposed project and the proposed approach; identifies activities in chronological order, with target dates for accomplishment and the key personnel responsible for completing the activity; and clearly identifies the plan of action and delineates the roles and involvement of each of the proposed project's partners, collaborators, and/or sub-grantees.

Using the following values for each required item in this criterion, points will be awarded according to the extent to which the application:

15 Points

Provides evidence of a well developed five-year work plan that includes a clear description of the scope and detail of the proposed work. Includes reference to a list of measurable and attainable goals and provides quantitative projections of the accomplishments to be achieved for each function or activity

in such terms as the number of people to be served and the number of activities to be accomplished. Provides chronological order of approach with target dates.

5 Points

Identifies innovative design and methods, including the provision of services in community-based rather than academic settings and strategies for reaching out to culturally and linguistically diverse populations.

5 Points

Includes the provision of interdisciplinary training and continuing education, community services (training, services, and technical assistance), research, and dissemination of information in a culturally competent manner and provides for the meaningful participation of individuals from diverse racial and ethnic backgrounds in the purpose and scope of activities.

5 Points

Describes prior experience in addressing health disparities and education issues and how it will use that experience to further improve the health and education services to persons with developmental disabilities, including those from racial and ethnic minority groups.

5 Points

Identifies and delineates the roles and involvement of DD Network partners and other collaborators, and/or sub-grantees.

3 Points

Cites factors that might accelerate or decelerate the work.

2 Points

Describes how the entity designated as a UCEDD will participate in the national network of UCEDDs as a national and international resource.

Objectives and Need for Assistance—25 points

Applications will be evaluated according to the extent to which the applicant demonstrates a thorough understanding and analysis of the problem(s) being addressed in the project; documents the need for assistance, and the importance of addressing these problems in the area(s) to be addressed by the proposed project; outlines key goals and objectives of the project directly related to the four core functions (interdisciplinary training and continuing education, community services (training and technical assistance, research, and dissemination) in one or more selected areas of emphasis (quality assurance, education and early intervention, child care, health, employment, housing, transportation, and recreation and other services available or offered to individuals in a community, including formal and informal community supports, that affect their quality of life); provides evidence that consumer members provided input into the development of the application for core funding; and provides any supporting documentation and relevant data based on research or planning studies, and maps and other graphical aids.

Using the following values for each required item in this criterion, points will be awarded according to the extent to which the application:

15 Points

Clearly identifies the need for assistance, describes the significant features and components of the program, clearly states the goals and subordinates objectives of the project, and provides a rationale for project goals directly related to the four core functions (interdisciplinary training and continuing education, community services (training and technical assistance, research, and disseminations) in one or more selected areas of emphasis (quality assurance, education and early intervention, child care, health, employment, housing, transportation, and recreation and other services available or offered to individuals in a community, including formal and informal community supports, that affect their quality of life).

5 Points

Provides evidence of input from consumers

5 Points

Provides relevant data based on research and/or planning studies.

Evaluation—15 points

The application will be evaluated according to the extent to which the applicant provides a narrative outlining how project results will be evaluated; states methods for measuring the extent to which project goals have been achieved; discusses the criteria to be used to evaluate results; explains the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved; with respect to the conduct of the project, defines the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented; and discusses the impact of the project's various activities on the project's effectiveness.

Using the following values for each required item in this criterion, points will be awarded according to the extent to which the application:

5 Points

Provides a detailed narrative outlining how project results will be evaluated, states methods for measuring the extent to which project goals have been achieved, and discusses the criteria to be used to evaluate results.

5 Points

Explains the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved.

5 Points

With respect to the conduct of the project, defines the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discusses the impact of the project's various activities on the project's effectiveness.

Staff and Position Data—10 points

The applications will be evaluated according to the extent to which the applicant provides a biographical sketch and job description for each key person appointed; job descriptions for each vacant key position; methods for recruiting and maintaining key staff.

Using the following values for each required item in this criterion, points will be awarded according to the extent to which the application:

4 Points

Provides biographical sketches of key staff

4 Points

Provides job descriptions for each key person appointed or to be appointed.

2 Points

Details methods for the recruitment and retention of key staff.

Budget and Budget Justification—5 points

The applications will be evaluated according to the extent to which the applicant provides a budget with line item detail and detailed calculations for each budget object class identified on the Budget Information form; detailed calculations that include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated; a breakout by the funding sources identified in Block 15 of the SF 424; a narrative budget justification that describes how the categorical costs are derived; and discusses the necessity,

reasonableness, and allocability of the proposed costs.

Using the following values for each required item in this criterion, points will be awarded according to the extent to which the application:

3 Points

Provides a narrative budget justification that describes how the categorical costs are derived and discusses the necessity, reasonableness, and allocability of the proposed costs.

2 Points

Provides a budget with line item detail and detailed calculations for each budget object class identified on the Budget Information form; detailed calculations that include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated; a breakout by the funding sources identified in Block 15 of the SF 424.

Organizational Profiles—5 points

The applications will be evaluated according to the extent to which the applicant identifies the project director/principal investigator and key project staff; includes qualifications of project staff that will be carrying out project activities. Applications should include a description of the experience of the organization that demonstrates the applicant's ability to effectively and efficiently administer this project. The application must describe the relationship between this project and other work that is planned, anticipated, or currently under way by the applicant. An organizational chart should be included.

Using the following values for each required item in this criterion, points will be awarded according to the extent to which the application:

2 Points

Identifies the background and experience of key staff members.

2 Points

Assures compliance with the required affirmative action to employ and advance in employment qualified individuals with disabilities.

1 Point

Includes an organizational chart.

2. Review and Selection Process:

No grant award will be made under this announcement on the basis of an incomplete application. ADD may consider other factors or elements, other than the evaluation criteria, such as geographical dispersion and diversity, in reviewing and selecting applications.

The applications will be reviewed by a panel of approximately three individuals who are all non-Federal reviewers. The reviewers will have knowledge of issues pertaining to people with developmental disabilities, University systems, and/or the provision of interdisciplinary preservice preparation and continuing education, community services, research, and/or information dissemination.

Since ACF will be using non-Federal reviewers in the process, applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Approved but Unfunded Applications

Applications that are approved but unfunded may be held over for funding in the next funding cycle, pending the availability of funds, for a period not to exceed one year.

VI. Award Administration Information

1. Award Notices:

The successful applicants will be notified through the issuance of a Financial Assistance Award document which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided (if applicable), and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements:

Grantees are subject to the requirements in 45 CFR part 74 (non-governmental) or 45 CFR part 92 (governmental).

Direct Federal grants, sub-award funds, or contracts under this Family Support Initiative 2005 program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this Program. Regulations pertaining to the Equal Treatment For Faith-Based Organizations, which includes the prohibition against Federal funding of inherently religious activities, can be found at either 45 CFR 87.1 or the HHS Web site at: *http://www.os.dhhs.gov/fbci/waisgate21.pdf.*

3. Reporting Requirements:

Grantees will be required to submit program progress and financial reports (SF–269 found at *http://www.acf.hhs.gov/programs/ofs/forms.htm*) throughout the project period. Program progress and financial reports are due 30 days after the reporting period. Final programmatic and financial reports are due 90 days after the close of the project period.

Program Progress Reports: Annually.

Financial Reports: Semi-Annually.

Entities funded under this program announcement must respond to the ADD system of program accountability. The national network of UCEDDs will follow a template for reporting progress on an annual basis. To receive a copy of the proposed UCEDD Annual Report template, contact Jennifer Johnson at *jjohnson1@acf.hhs.gov* or 202–690–5982.

VII. Agency Contacts

Program Office Contact:

Jennifer Johnson, Ed.D., Program Specialist, Office of Operations and Discretionary Grants, Administration on Developmental Disabilities, Administration for Children and Families, Mail Stop: HHH 405–D, 370 L'Enfant Promenade, SW., Washington, DC 20447. Phone: (202) 690–5982. Fax: (202) 205–8037. E-mail: *jjohnsonl@acf.hhs.gov.*

Grants Management Office Contact:

Tim Chappelle, Grants Officer, Office of Grants Management, Administration for Children and Families, 370 L' Enfant Promenade, SW., Mail Stop: 8th Floor West, Washington, DC 20447. Phone: (202) 404–2344. Fax: (202) 205–8436. E-mail: *tichappelle@acf.hhs.gov.*

VIII. Other Information

Notice: Beginning with FY 2006, the Administration for Children and Families (ACF) will no longer publish grant announcements in the **Federal Register**. Beginning October 1, 2005, applicants will be able to find a synopsis of all ACF grant opportunities and apply electronically for opportunities via: *http://www.Grants.gov.* Applicants will also be able to find the complete text of all ACF grant announcements on the ACF Web site located at: *http://www.acf.hhs.gov/grants/index.html.*

Please reference Section IV.3 for details about acknowledgement of received applications.

Dated: May 4, 2005.

Debbie Powell,

Director, Office of Operations and Discretionary Grant Programs, Administration on Developmental Disabilities.

[FR Doc. 05–9225 Filed 5–6–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2000P–1439] (formerly Docket No. 00P–1439)

Iceberg Industries Corp.; Revocation of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of a temporary permit issued to Iceberg Industries Corp. to market test products designated as ''Borealis Iceberg Water'' because there is no evidence that the company is operational, and the need for the permit no longer exists.

FOR FURTHER INFORMATION CONTACT: Loretta Carey, 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: In a notice published in the **Federal Register** of September 7, 2000 (65 FR 54283), FDA issued a temporary permit to Iceberg Industries Corp., 16 Forest Rd., suite 300, St. John's, Newfoundland, Canada, A1C2B9, to market test products identified as ''iceberg water,'' a name that is not permitted under the U.S. standard of identity for bottled water in § 165.110 (21 CFR 165.110). The agency issued the permit to facilitate market testing of products whose labeling differs from the requirements of the standard of identity for bottled water issued under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). The permit covered limited interstate market testing of products that deviated from the standard for bottled water in § 165.110 in that they were identified as ''iceberg water'' rather than as ''bottled water'' or one of the other names specified in § 165.110(a)(2). The test product met all the requirements of the standard with the exception of this deviation.

On September 28, 2001, Iceberg Industries Corp. requested that its temporary permit be extended to allow for additional time for the market testing of its products under the permit in order to gain additional information in support of its petition. In the **Federal Register** of June 27, 2002 (67 FR 43325), FDA announced that it was extending the temporary permit issued to Iceberg Industries Corp. to market test products designated as ''Borealis Iceberg Water.'' The extension allowed the permit holder to continue to collect data on consumer acceptance of products while the agency considered the petition to amend the standard of identity for bottled water, which was submitted by the permit holder. Under the extension, FDA invited interested persons to participate in the market test under the conditions that applied to Iceberg Industries Corp., except for the designated area of distribution. No one accepted the invitation to participate in the market test. In March 2004, FDA attempted to contact Iceberg Industries Corp. to discuss some issues regarding its petition at the telephone number listed in its petition. The telephone number was no longer in service. Attempts to reach the applicant by letter were unsuccessful. Therefore, under 21 CFR 130.17(g)(3), FDA is revoking the Iceberg Industries Corp.'s temporary permit because the need no longer exists.

Dated: May 3, 2005.

Barbara Schneeman,

Director, Office of Nutritional Products, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition.

[FR Doc. 05–9233 Filed 5–6–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Drug Safety and Risk Management Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Drug Safety and Risk Management Advisory Committee. This meeting was announced in the **Federal Register** of April 14, 2005 (70 FR 19763). The amendment is being made to reflect a change in the *Date and Time* portion of the document. The start time for each day of the meeting will be changed. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Shalini Jain, 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: *jains@cder.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington DC area), code 3014512535. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 14, 2005, FDA announced that a meeting of the Drug Safety and Risk Management Advisory Committee would be held on May 18 and 19, 2005, from 8:30 a.m. to 5 p.m. On page 19763, in the third column, the *Date and Time* portion of the meeting notice is amended to read as follows:

Date and Time: The meeting will be held on May 18 and 19, 2005, from 8 a.m. to 5 p.m.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: May 3, 2005.

Lester M. Crawford,

Acting Commissioner of Food and Drugs.

[FR Doc. 05–9228 Filed 5–6–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand 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: Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand Advisory Committee).

General Function of the Committee: To advise the Secretary of Health and Human Services (the Secretary) and the Assistant Secretary for Health concerning its oversight of the conduct of the Ranch Hand study by the U.S. Air

Force and provide scientific oversight of the Department of Veterans Affairs Army Chemical Corps Vietnam Veterans Health Study, and other studies in which the Secretary or the Assistant Secretary for Health believes involvement by the committee is desirable.

Date and Time: The meeting will be held on June 10, 2005, from 8:30 a.m. to 4 p.m.

Location: Food and Drug Administration, 5630 Fishers Lane, rm. 1066, Rockville, MD.

Contact Person: Leonard Schechtman, National Center for Toxicological Research (HFT–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6696, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512560. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss the following items: (1) Updates on research and reports from the National Academy of Sciences (NAS) on the NAS Disposition Study, (2) April 14th public workshop regarding the NAS Disposition Study, (3) discussion on the possibility of a comprehensive study report derived from the Air Force Health Study (AFHS), and (4) research updates on AFHS activities.

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 May 20, 2005. Oral presentations from the public will be scheduled between approximately 10:45 a.m. and 11:45 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 20, 2005, 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 Leonard Schechtman 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: April 29, 2005.

Sheila Dearybury Walcoff,

Associate Commissioner for External Relations.

[FR Doc. 05–9232 Filed 5–6–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Delaware & Lehigh National Heritage Corridor Commission Meeting

AGENCY: Department of Interior, Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware & Lehigh National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

Meeting Date and Time: Friday, May 13, 2005, 1:30 p.m. to 4 p.m.

ADDRESSES: Emmaus Public Library, 11 Main Street, Emmaus, PA 18049.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware & Lehigh National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988 and extended through Public Law 105–355, November 13, 1998.

FOR FURTHER INFORMATION CONTACT: C. Allen Sachse, Executive Director, Delaware & Lehigh National Heritage Corridor Commission, 1 South Third Street, 8th Floor, Easton, PA 18042, (610) 923–3548.

Dated: May 2, 2005.

C. Allen Sachse,

Executive Director, Delaware & Lehigh National Heritage Corridor Commision.

[FR Doc. 05–9176 Filed 5–6–05; 8:45 am]

BILLING CODE 6820–PE–M

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, National Marine Fisheries Service

[I.D. 041205C]

Notice of Intent to Conduct Public Scoping Meetings and to Prepare an Environmental Impact Statement Related to the Elliott State Forest Habitat Conservation Plan

AGENCIES: Fish and Wildlife Service (FWS), Interior; National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of intent, to conduct scoping meetings.

SUMMARY: The U.S. Fish and Wildlife Service and National Marine Fisheries Service (Services) advise interested parties of their intent to conduct public scoping under the National Environmental Policy Act (NEPA) necessary to gather information to prepare an Environmental Impact Statement (EIS) on an anticipated permit application from the Oregon Division of Forestry (ODF) submitted under of the Endangered Species Act (ESA) for the incidental take of listed species, associated with the Elliott State Forest Habitat Conservation Plan (HCP) in Oregon.

DATES: Public scoping meetings are scheduled as follows:

1. May 24, 2005, 6–10 p.m., Roseburg, OR.
2. May 25, 2005, 6–10 p.m., North Bend, OR.
3. May 26, 2005, 6–10 p.m., Salem, OR.

Written comments should be received on or before June 8, 2005.

ADDRESSES: All comments concerning the preparation of the EIS and the NEPA process should be addressed to: Lee Folliard, FWS, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266, facsimile: (503) 231–6195; or Chuck Wheeler, NMFS, 2900 NW Stewart Parkway, Roseberg, OR 97470–1274, facsimile: (541) 957–3386.

FOR FURTHER INFORMATION CONTACT: Lee Folliard, (503) 231–6179 or Chuck Wheeler (541) 957–3379. Comments may be submitted by e-mail to the following address: *ElliottStateForest.nwr@noaa.gov*. In the subject line of the e-mail, include the document identifier: Elliott State Forest

HCP. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

SUPPLEMENTARY INFORMATION:

Meetings

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

1. Oregon Department of Fish and Wildlife Office, 4192 North Umpqua Highway, Roseburg, OR
2. North Bend Public Library, 1800 Sherman Avenue, North Bend, OR
3. Oregon Department of Forestry, 2600 State Street, Salem, OR

Reasonable Accommodation

Persons needing reasonable accommodations in order to attend and participate in public meetings should contact Lee Folliard as soon as possible (see **FOR FURTHER INFORMATION CONTACT**). In order to allow sufficient time to process requests, please call no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

Statutory Authority

Section 9 of the ESA (16 U.S.C. 1532 *et seq.*) and implementing regulations prohibit the ''taking'' of animal species listed as endangered or threatened. The term take is defined under the ESA as to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). Harm is defined by the FWS to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). NMFS' definition of harm includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (64 FR 60727, November 8, 1999).

Section 10 of the ESA specifies requirements for the issuance of incidental take permits (ITPs) to non-Federal landowners for the take of endangered and threatened species. Any proposed take must be incidental to otherwise lawful activities, not appreciably reduce the likelihood of the survival and recovery of the species in the wild and minimize and mitigate the impacts of such take to the maximum extent practicable. In addition, an applicant must prepare a HCP describing the impact that will likely result from such taking, the strategy for minimizing and mitigating the incidental take, the funding available to implement such steps, alternatives to such taking and the reason such alternatives are not being implemented.

NEPA (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may affect the human environment. Under NEPA, a reasonable range of alternatives to proposed projects are developed and considered in the Services' environmental review. Alternatives considered for analysis in an EIS may include: variations in the scope of covered activities; variations in the location, amount and type of conservation; variations in permit duration; or, a combination of these elements. In addition, the EIS will identify potentially significant direct, indirect, and cumulative impacts on biological resources, land use, air quality, water quality, water resources, socioeconomics, and other environmental issues that could occur with the implementation of the proposed actions and alternatives. For all potentially significant impacts, the EIS will identify avoidance, minimization, and mitigation measures to reduce these impacts, where feasible, to a level below significance.

Background

The EIS will analyze the potential issuance of two ITPs, one by NMFS and one by the FWS. To obtain an ITP, the applicant must prepare a HCP that meets the issuance criteria established by the Services (50 CFR section 17.22 (b)(2) and section 222.307). Should a permit be issued, the permit would include assurances under the Service's ''No Surprises'' regulations.

The Elliott State Forest encompasses approximately 97,000 acres of state-owned forestlands in Coos, Curry, and Douglas Counties in Oregon's Coast Range. ODF manages the Elliott State Forest out of its Coos District Office, located in Coos Bay. Most of the forest (93,000 acres) lies on a contiguous block of land approximately 18 miles (28.97 km) long from north to south, and about 16 miles (25.75 km) wide from west to east. The remaining 4,000 acres of land associated with the Elliott State Forest are distributed across a wide geographic area ranging from the California border to just north of the Umpqua River, and from the Pacific Ocean to Sutherlin in the interior Umpqua River Valley.

Ninety-one percent of the Elliott State Forest lands are Common School Forest Lands, which are owned by the State Land Board and must be managed for the greatest benefit to the people of the State of Oregon. This benefit has been interpreted to mean maximizing revenue to the Common School Fund over the long-term, consistent with sound techniques of land management. Consideration is given to the protection of soils, streams, wildlife habitat, recreational opportunities, and other forest values. The remaining lands are Board of Forestry Lands, which must be managed to secure the greatest permanent value to the citizens of Oregon by providing healthy, productive, and sustainable forest ecosystems that over time and across the landscape, provide a full range of social, economic and environmental benefits.

The Elliott State Forest is managed in accordance with the 1994 Elliott State Forest Management Plan (FMP). ODF also holds an ITP for potential take of northern spotted owl on the Elliott State Forest; the ITP and associated HCP went into effect in 1995. ODF is currently revising the 1994 FMP, and a draft was released in May 2004 for public review. Some of the proposed forest management activities have the potential to affect federally-listed species subject to protection under the ESA, including the northern spotted owl (*Strix occidentalis caurina*), bald eagle (*Haliaeetus leucocephalus*), marbled murrelet (*Brachyramphus marmoratus*), and coho salmon (*Oncorhyncus kisutch*). As a result, ODF is preparing a new, 50–year HCP, in response to the revised FMP, that would address incidental take of these listed species, as well as several unlisted species.

It is expected that ODF will submit a draft HCP to the Services as part of the ITP applications in mid–2005. Separate applications will be submitted to the FWS and NMFS, and the HCP will support both applications. The application to FWS will address the potential take of northern spotted owl, bald eagle, and marbled murrelet, which are listed as threatened under the ESA. Unlisted species under FWS jurisdiction that ODF is expected to include in their application include peregrine falcon (*Falco peregrinus*), northern goshawk (*Accipiter gentiles*), pileated woodpecker (*Dryocopus pileatus*), olive-sided flycatcher (*Contopus borealis*), western bluebird (*Sialia mexicana*), coastal cutthroat trout (*Oncorhynchus clarki clarki*), Umpqua chub (*Oregonichthys kalawatseti*), Pacific lamprey (*Lampetra tridentatus*), river lamprey (*Lampetra ayresi*), Millicoma longnose dace (*Rhinichthys cataractae* spp.), fisher (*Martes pennanti*), Townsend's big-eared bat (*Plecotus townsendii*), fringed myotis bat (*Myotis thysanodes*), long-legged myotis bat

(*Myotis volans*), red-legged frog (*Rana aurora*), western pond turtle (*Clemmys marmorata*), sharptail snake (*Contia tenuis*), southern seep salamander (*Rhyacotriton variegates*), and tailed frog (*Ascaphus truei*). The NMFS application will address the potential take of Southern Oregon Northern California coho salmon, which is listed as threatened under the ESA and Oregon Coast coho salmon, which is proposed to be listed as threatened. Unlisted species under NMFS jurisdiction that ODF is expected to include in their application include Chinook salmon (*Oncorhynchus tshawytscha*), chum salmon (*Oncorhynchus keta*), and steelhead trout (*Oncorhynchus mykiss*).

Activities that ODF is currently considering for ITP coverage, and for which minimization and mitigation measure are being developed, include the following:

1.Mechanized timber harvest;
2.Forest product transportation;
3.Road and landing construction, use, maintenance, and abandonment;
4.Harvest-site preparation (excluding use of herbicides);
5.Tree planting;
6.Certain types of vegetation management (excluding use of herbicides);
7.Fertilizer application;
8.Silvicultural thinning and other silvicultural activities;
9.Fire suppression;
10.Aquatic habit restoration and other forest management activities;
11.Energy and minerals activities; and
12.Monitoring activities and scientific work

The draft HCP to be prepared by ODF in support of the ITP applications will describe the impacts of take on proposed covered species, and will propose a conservation strategy to minimize and mitigate those impacts on each covered species to the maximum extent practicable. This conservation strategy is expected to include maintenance of a diverse range of forest stand structures; designation of conservation areas to protect special resources, including sites used by owls and murrelets; a landscape design that provides functional habitat for native species; maintenance of structural habitat components throughout the forest; stream protection buffers; a forest road program; a monitoring and adaptive management program; and aquatic habitat restoration measures. The draft HCP will identify HCP alternatives considered by ODF and will explain why those alternatives were not selected. The Services are responsible for determining whether the HCP satisfies the ESA section 10 permit issuance criteria.

Request for Comments

The primary purpose of the scoping process is to identify important issues and alternatives raised by the public, related to the proposed action. Each scoping workshop will allocate time for informal discussion and questions with presentations by the Services and ODF.

Written comments from interested parties are welcome to ensure that the full range of issues related to the permit requests are identified. All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices listed in the **ADDRESSES** section.

The Services request that comments be specific. In particular, we request information regarding: the direct, indirect, and cumulative impacts that implementation of the proposed HCP could have on endangered and threatened and other covered species, and their communities and habitats; other possible alternatives that meet the purpose and need; potential adaptive management and/or monitoring provisions; funding issues; existing environmental conditions in the plan area; other plans or projects that might be relevant to this proposed project; and minimization and mitigation efforts. NMFS and FWS estimate that the draft EIS will be available for public review in the fall of 2005.

The environmental review of this project will be conducted in accordance with the requirements of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.*), Council on the Environmental Quality Regulations (40 CFR 1500 1508), other applicable Federal laws and regulations, and policies and procedures of the Services for compliance with those regulations. This notice is being furnished in accordance with 40 CFR 1501.7 of NEPA to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS.

Dated: April 28, 2005.

Phil Williams,

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

April 28, 2005.

David J. Wesley,

Deputy Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon

[FR Doc. 05–9223 Filed 5–6–05; 8:45 am]

BILLING CODES 3510–22–S, 4310–55–S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–933–05, 5410–EU–A503; AZA–32845]

Notice of Receipt of Conveyance of Mineral Interest Application

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The reserved Federally-owned mineral interest, in the private lands described in this notice, aggregating approximately 40.10 acres, are segregated and made unavailable for filings under the general mining laws and the mineral leasing laws. The segregation is in response to an application for mineral conveyance under section 209 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1719).

FOR FURTHER INFORMATION CONTACT: Allyson Johnson, Lead Land Law Examiner, Arizona State Office, 222 N. Central Avenue, Phoenix, Arizona 85004, (602) 417–9353.

SUPPLEMENTARY INFORMATION:

Gila and Salt River Base and Meridian, Pima County, Arizona

T. 15 S., R. 17 E.,
Sec. 18, Lot 3.

The reserved Federal mineral interests will be conveyed in whole or in part upon completion of a mineral examination. The purpose is to allow consolidation of surface and subsurface minerals ownership where there are no known mineral values or in those instances where the Federal mineral interest reservation interferes with or precludes appropriate non-mineral development and such development is a more beneficial use of the land than the mineral development. Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the lands covered by the mineral conveyance application are segregated to the extent that they will not be subject to

appropriation under the public land laws, including the mining and mineral leasing laws. The segregative effect shall terminate upon: issuance of a patent or deed of such mineral interest; upon final rejection of the mineral conveyance application; or May 9, 2007, whichever occurs first.

Dated: March 17, 2005.

Elaine Y. Zielinski,

State Director.

[FR Doc. 05–9143 Filed 5–6–05; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–084–5882–PH–SS99; HAG 05–0114]

Meeting Notice

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting notice for the Salem, Oregon, Bureau of Land Management (BLM) Resource Advisory Committee under Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393).

SUMMARY: This notice is published in accordance with section 10(a)(2) of the Federal Advisory Committee Act. Meeting notice is hereby given for the Salem Oregon BLM Resource Advisory Committee pursuant to section 205 of the Secure Rural Schools and Community Self Determination Act of 2000, Public Law 106–393 (the Act). Topics to be discussed by the Salem BLM Resource Advisory Committee include: reviewing 2005 project applications, developing funding recommendations for 2005 projects, monitoring progress of previously approved projects, and scheduling field reviews of projects.

DATES: The Salem Resource Advisory Committee will meet at the BLM Salem District Office, 1717 Fabry Road, Salem, Oregon 97306, from 8:30 a.m. to 4 p.m. on June 30, 2005 and August 11, 2005. If an additional meeting is needed for the RAC to develop funding recommendations, it will be held on August 18, 2005.

SUPPLEMENTARY INFORMATION: Pursuant to the Act, five Resource Advisory Committees have been formed for western Oregon BLM districts that contain Oregon & California (O&C) Grant Lands and Coos Bay Wagon Road lands. The Act establishes a six-year payment schedule to local counties in lieu of funds derived from the harvest of timber on Federal lands, which have dropped dramatically over the past 10 years.

The Act creates a new mechanism for local community collaboration with Federal land management activities in the selection of projects to be conducted on Federal lands or that will benefit resources on Federal lands using funds under Title II of the Act. The BLM Resource Advisory Committees consist of 15 local citizens (plus 6 alternates) representing a wide array of interests.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Salem BLM Resource Advisory Committee may be obtained from Paul Jeske, Salem District Designated Federal Official (503) 375–5644 or Trish Hogervorst, Salem BLM Public Affairs Officer, (503) 375–5657 at 1717 Fabry Rd. SE., Salem, OR 97306.

Dated: May 3, 2005.

Denis Williamson,

District Manager.

[FR Doc. 05–9175 Filed 5–6–05; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to renew the approval for the collection of information under 30 CFR Part 842 which allows the collection and processing of citizen complaints and requests for inspection. The collection described below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by June 8, 2005, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, by telefax at (202) 395–6566 or via e-mail to *OIRA_DOCKET@omb.eop.gov.* Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 202—SIB, Washington, DC 20240, or electronically to *jtreleas@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783, or electronically to *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1955 (Pub. L. 104–133), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSM has submitted a request to OMB to approve the collection of information in 30 CFR Part 842, Federal inspections and monitoring. OSM is requesting a 3-year term of approval for this information collection activity.

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 number for this collection of information, 1029–0118, has been placed on the electronic citizen complaint form that may be found on OSM's home page at *http://www.osmre.gov/citizen.htm.*

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on January 21, 2005 (70 FR 3224). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Federal inspections and monitoring—30 CFR Part 842.

OMB Control Number: 1029–0118.

Summary: For purposes of information collection, this part establishes the procedures for any person to notify the Office of Surface Mining in writing of any violation that may exist at a surface coal mining operation. The information will be used to investigate potential violations of the Act or applicable State regulations.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Citizens, public interest groups, State governments.

Total Annual Responses: 119.

Total Annual Burden Hours: 89 hours.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collections; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the addresses identified in the **ADDRESSES** section. Please include the appropriate OMB control number in all correspondence.

Dated: April 29, 2005.

Dennis G. Rice,

Acting Chief, Division of Regulatory Support.

[FR Doc. 05–9190 Filed 5–6–05; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Office of Justice Programs; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Supplemental Victimization Survey (SVS).

The Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Statistics (BJS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until July 8, 2005.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Katrina Baum, Statistician, Bureau of Justice Statistics, Office of Justice Programs, Department of Justice, 810 7th Street NW., Washington, DC 20531, or facsimile (202) 307–1463.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* New collection.

(2) *Title of the Form/Collection:* Supplemental Victimization Survey (SVS).

(3) *Agency form number, if any, and the applicable component of the department sponsoring the collection:* SVS–1. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Persons 18 years or older in 658 Primary Sampling Units (PSUs) in the United States. The Supplemental Victimization Survey (SVS) to the National Crime Victimization Survey collects, analyzes, publishes, and disseminates statistics on the nature and consequences of a series of harassing or unwanted contacts or behaviors directed toward respondents that made them feel fearful, concerned, angry, or annoyed, commonly known as ''stalking''.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* Approximately 86,850 persons 18 years of age or older will complete an SVS interview. The majority of respondents, approximately 85,982, will be administered only the screening portion of the SVS which are designed to filter out those people who have not been victims of repetitive harassing or unwanted contacts and therefore are not eligible to continue with the remainder of the supplement questions. We estimate the average length of the SVS interview for these individuals will be three minutes. The complement of this group of respondents is those who had such contacts. Due to the rarity of this type of crime, we expect only about 1 percent or 868 of the respondents to report being a victim of this type of behavior within the 12 months preceding the interview. We estimate each of these interviews will take 0.167 hours (10 minutes) to complete.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 4,444 hours.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: May 4, 2005.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 05–9180 Filed 5–6–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Firearms Transaction Record Low Volume Part I Over-the-Counter and Part II Intra-State Non-Over-the-Counter.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 70, Number 41, page 10411 on March 3, 2005, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until June 8, 2005. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of

Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Firearms Transaction Record Low Volume Part I Over-the-Counter and Part II Intra-State Non-Over-the-Counter.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: ATF F 4473 (5300.24) Part I (LV) and ATF F 4473 (5300.25) Part II (LV) and ATF REC 7570/2. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Individual or households. The forms are used by low volume firearms dealers to record acquisition and disposition of firearms and to determine the eligibility of buyers to receive firearms. The forms are part of the licensee's permanent record and may be used to trace firearms.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 1,000 respondents will complete a 20-minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,666 annual total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: May 4, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–9181 Filed 5–6–05; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 28, 2004, and published in the **Federal Register** on July 13, 2004, (69 FR 42068), Eli-Elsohly Laboratories, Inc., Mahmoud A. Elsohly PhD., 5 Industrial Park Drive, Oxford, Mississippi 38655, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in Schedule I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II

The company plans to manufacture the listed controlled substances for use in analysis and drug test standards.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Eli-Elsohly Laboratories, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Eli-Elsohly Laboratories, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33(a), the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: May 2, 2005.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 05–9177 Filed 5–6–05; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities, Arts and Artifacts Indemnity Panel Advisory Committee; Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 714, from 9 a.m. to 5 p.m., on Monday, May 23, 2005.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after July 1, 2005.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemption (4) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact Acting Advisory Committee Management Officer, Michael McDonald, 1100 Pennsylvania Avenue,

NW., Washington, DC 20506, or call (202) 606–8322.

Michael McDonald,

Acting Advisory Committee Management Officer.

[FR Doc. 05–9201 Filed 5–6–05; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Meeting

April 29, 2005.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given the National Council on the Humanities will meet in Washington, DC on May 12–13, 2005.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on May 12–13, 2005, will not be open to the public pursuant to subsections (c)(4), (c)(6) and (c)(9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the sessions on May 12, 2005 will be as follows:

Committee Meetings

(Open to the Public)

Policy Discussion

9–10:30 a.m.
Challenge Grants—Room 415
Federal/State Partnership—Room 507
Preservation and Access—Room 730
Public Programs—Room 420
Research Programs—Room 315

(Closed to the Public)

Discussion of specific grant applications and programs before the Council

10:30 a.m. until Adjourned
Challenge Grants—Room 415
Federal/State Partnership—Room 507
Preservation and Access—Room 730
Public Programs—Room 420
Research Programs—Room 315

1–2:15 p.m.
Jefferson Lecture Committee—Room 527

The morning session on May 13, 2005 will convene at 9 a.m., in the 1st Floor Council Room M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

A. Minutes of the Previous Meeting
B. Reports
1. Introductory Remarks
2. Staff Report
3. Congressional Report
4. Reports on Policy and General Matters
a. Challenge Grants
b. Federal/State Partnership
c. Preservation and Access
d. Public Programs
e. Research Programs
f. Jefferson Lecture

The remainder of the proposed meeting will be given to the consideration of specific applications and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Mr. Michael McDonald, Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Michael McDonald,

Acting Advisory Committee, Management Officer.

[FR Doc. 05–9202 Filed 5–6–05; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL MEDIATION BOARD

Notice of Proposed Information Collection Requests

AGENCY: National Mediation Board.

SUMMARY: The Director, Office of Administration, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 8, 2005.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Office of Administration, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection contains the following: (1) Type of review requested, e.g. new, revision extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Record keeping burden. OMB invites public comment.

Currently, the National Mediation Board is soliciting comments concerning the proposed extension of the application for Mediation Services and is interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 4, 2005.

June D. W. King,

Director, Office of Administration, National Mediation Board.

Application for Mediation Services

Type of Review: Extension.

Title: Application for Mediation Services, OMB Number 3140–0002.

Frequency: On occasion.

Affected Public: Carrier and Union Officials, and employees of railroads and airlines.

Reporting and Recordkeeping Hour Burden:

Responses: 70 annually.

Burden Hours: 17.50.

Abstract: Section 5, First of the Railway Labor Act, 45 U.S.C., 155, First, provides that both, or either, of the

parties to the labor-management dispute may invoke the mediation services of the National Mediation Board. Congress has determined that it is in the nation's best interest to provide for governmental mediation as the primary dispute resolution mechanism to resolve labor-management disputes in the railroad and airline industries. The Railway Labor Act is silent as to how the invocation of mediation is to be accomplished and the Board has not promulgated regulations requiring any specific vehicle. Nonetheless, 29 CFR 1203.1 provides that applications for mediation services be made on printed forms which may be secured from the National Mediation Board. This section of the regulations provides that applications should be submitted in duplicate, show the exact nature of the dispute, the number of employees involved, name of the carrier and name of the labor organization, date of agreement between the parties, date and copy of notice served by the invoking party to the other and date of final conference between the parties. The application should be signed by the highest officer of the carrier who has been designated to handle disputes under the Railway Labor Act or by the chief executive of the labor organization, whichever party files the application.

The extension of this form is necessary considering the information provided by the parties is used by the Board to structure a mediation process that will be productive to the parties and result in a settlement without resort to strike or lockout. The Board has been very successful in resolving labor disputes in the railroad and airline industries. Historically, some 97 percent of all NMB mediation cases have been successfully resolved without interruptions to public service. Since 1980, only slightly more than 1 percent of cases have involved a disruption of service. This success ratio would possible be reduced if the Board was unable to collect the brief information that it does in the application for mediation services.

Requests for copies of the proposed information collection request may be accessed from *http://www.nmb.gov* or should be addressed to Denise Murdock, NMB, 1301 K Street NW., Suite 250 E, Washington, DC 20005 or addressed to the e-mail address *murdock@nmb.gov* or faxed to 202–692–5081. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to June D.W. King at 202–692–5010 or via Internet address *king@nmb.gov*. Individuals who use a telecommunications device for the deaf (TDD/TDY) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–9256 Filed 5–6–05; 8:45 am]

BILLING CODE 7550–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

DATE: Weeks of May 9, 16, 23, 30, June 6, 13, 2005.

PLACE: Commissioners' Conference Room, 11155 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 9, 2005

Wednesday, May 11, 2005

10:30 a.m. All Employees Meeting (Public Meeting)

1:30 p.m. All Employees Meeting (Public Meeting)

Thursday, May 12, 2005

10:45 a.m. Affirmation Session (Public Meeting)

a. Final Rule to Amend 10 CFR Part 110, ''Export and Import of Nuclear Equipment and Materials; Security Policies''

Week of May 16, 2005—Tentative

There are no meetings scheduled for the Week of May 16, 2005.

Week of May 23, 2005—Tentative

Monday, May 23, 2005

10 a.m. Discussion of Intergovernmental Issues (Closed—Ex. 9)

1:30 p.m. Discussion of Security Issues (Closed—Ex. 1)

Wednesday, May 25, 2005

9:30 a.m. Briefing on Results of the Agency Action Review Meeting (Public Meeting) (Contact: Lois James, 301–415–1112)

This meeting will be Webcast live at the Web address—*http://www.nrc.gov*.

1:30 p.m. Briefing on Threat Environment Assessment (Closed—Ex. 1)

Week of May 30, 2005—Tentative

Wednesday, June 1, 2005

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1)

Thursday, June 2, 2005

9:30 a.m. Briefing on Office of International Programs (OIP) Programs, Performance, and Plans (Public Meeting) (Contact: Margie Doane, 301–415–2344)

This meeting will be Webcast live at the Web address—*http://www.nrc.gov*.

2:30 p.m. Discussion of Management Issues (Closed—Ex. 2 & 9) Note: new time, originally scheduled for 1:30 p.m.

Week of June 6, 2005—Tentative

There are no meetings scheduled for the Week of June 6, 2005.

Week of June 3, 2005—Tentative

There are no meetings scheduled for the Week of June 13, 2005.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Dave Gamberoni, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html*.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at 301–415–7080, TDD: 301–415–2100, or by e-mail at *aks@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov*.

Dated: May 4, 2005.

Dave Gamberoni,

Office of the Secretary.

[FR Doc. 05–9263 Filed 5–5–05; 9:15 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [To be published May 5, 2005].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday May 12, 2005 at 2 p.m.

CHANGE IN THE MEETING: Time change.

The Closed Meeting scheduled for Thursday, May 12, 2005 at 2 p.m. has been changed to Thursday, May 12, 2005 at 12:30 p.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942–7070.

Dated: May 4, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–9257 Filed 5–4–05; 4:08 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51645; File No. SR–PCX–2005–47]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Relating to Exchange Fees and Charges

May 2, 2005.

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 April 6, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change relating to fees applicable to Option Strategy Executions as described in Items I, II, and III below, which Items have been prepared by the Exchange. On April 19, 2005, PCX filed Amendment No. 1 to the proposed rule change.[3] On April 26, 2005, PCX filed Amendment No. 2 to the proposed rule change.[4] PCX designated the proposed rule change, as amended, as establishing or changing a due, fee, or other charge imposed by PCX under Section 19(b)(3)(A)(ii) of the Act,[5] and Rule 19b–4(f)(2) thereunder,[6] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Charges in order to modify the fee that applies to Option Strategy Executions. The text of the proposed rule change is available on the Exchange's Web site (*http://www.pacificex.com/*), at the Office of the Secretary, PCX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the fee that applies to Option Strategy Executions.

These transactions include reversals and conversions,[7] dividend spreads,[8] and box spreads.[9] Because the referenced Options Strategy Transactions are generally executed by professionals whose profit margins are generally narrow, the Exchange proposes to cap the transaction fees associated with such executions at $1,000 per strategy execution that are executed on the same trading day in the same option class.[10] In addition, the Exchange is proposing a monthly cap of $50,000 per initiating firm for all strategy executions. The Exchange believes that by keeping fees low, the Exchange will be able to attract liquidity by accommodating these transactions.

The Exchange represents that OTP Holders and OTP Firms who wish to benefit from the fee cap would be required to submit to the Exchange forms with supporting documentation (*e.g.*, clearing firm transaction data) by the next business day to qualify for the cap.[11]

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[12] in general, and Section 6(b)(4) of the Act,[13] in particular, in that it provides for the equitable allocation of dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change, as amended, will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the proposed rule change in its entirety. In Amendment No. 1, PCX proposed that the fee cap on strategy trades operate on a pilot basis until September 1, 2005. Further, Amendment No. 1 clarified that in order to qualify for the fee cap, OTP Holders and OTP Firms are required to submit to PCX required supporting documentation. Finally, Amendment No. 1 clarified that the fee cap applies to strategy trades executed on the same trading day in the same option class.

[4] In Amendment No. 2, PCX clarified in the Exchange's Schedule of Fees and Charges that the fee cap applies to each type of strategy trade executed on the same trading day in the same option class.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

[7] According to the Exchange, reversals and conversions are transactions that employ calls, puts and the underlying stock to lock in a nearly risk free profit. Reversals are established by combining a short stock position with a short put and a long call position that share the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration.

[8] According to the Exchange, dividend spreads are trades involving deep in the money options that exploit pricing differences arising around the time a stock goes ex-dividend.

[9] According to the Exchange, box spreads are a strategy that synthesizes long and short stock positions to create a profit. Specifically, a long call and short put at one strike is combined with a short call and long put at a different strike to create synthetic long and synthetic short stock positions, respectively.

[10] The Exchange clarified in Amendment No. 2, *supra* note 4, that the daily $1,000 fee cap applies to each type of strategy, *i.e.*, reversals and conversions, dividend spreads, and box spreads.

[11] Telephone conversation between Steven B. Matlin, Senior Counsel, PCX, and Steve L. Kuan, Attorney, Division of Market Regulation, Commission, on April 26, 2005.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and subparagraph (f)(2) of Rule 19b–4 thereunder [15] 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 purposes of the Act.[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2005–47 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2005–47. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–47 and should be submitted on or before May 31, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2223 Filed 5–6–05; 8:45 am]

BILLING CODE 8010–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(2).

[16] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to have commenced on April 26, 2005, the date the Exchange filed Amendment No. 2 to the proposed rule change. *See* 15 U.S.C. 78s(b)(3)(C).

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10127]

Arizona Disaster # AZ–00002 Disaster Declaration

AGENCY: U.S. Small Business Administration

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Arizona (FEMA–1586–DR), dated 04/14/2005.

Incident: Severe Storms and Flooding.

Incident Period: 02/10/2005 through 02/15/2005.

Effective Date: 04/14/2005.

Physical Loan Application Deadline Date: 06/13/2005.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 4, P.O. Box 419004, Sacramento, CA 95841.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/14/2005, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Gila, Graham, Greenlee, Mohave, Pinal, and Yavapai.

Tribal Nations: Havasupai Tribe, Hopi Tribe, San Carlos Apache Tribe, and the Portion of the Navajo Tribal Nation within the State of Arizona.

The Interest Rates are:

	Percent
Other (including Non-Profit Organizations) With Credit Available Elsewhere	4.750
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10127B.

(Catalog of Federal Domestic Assistance Number 59008)

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 05–9168 Filed 5–6–05; 8:45 am]

BILLING CODE 8075–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10125]

California Disaster # CA–00004 Disaster Declaration

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of California (FEMA–1585–DR), dated 04/14/2005.

Incident: Severe Storms, Flooding, Landslides, and Mud and Debris Flows.

Incident Period: 02/16/2005 through 02/23/2005.

Effective Date: 04/14/2005.

Physical Loan Application Deadline Date: 06/13/2005.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 4, P.O. Box 419004, Sacramento, CA 95841.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/14/2005, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.750
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10125B.

(Catalog of Federal Domestic Assistance Number 59008)

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 05–9166 Filed 5–6–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 5062]

Bureau of Consular Affairs, Passport Services; Notice of Information Collection Under Emergency Review: U.S. Passport Land Border Demand Survey; SV–2005–0002; OMB Control Number 1405–XXXX

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995.

Type of Request: Emergency Review.

Originating Office: Bureau of Consular Affairs, CA/PPT.

Title of Information Collection: U.S. Passport Land Border Demand Survey.

Frequency: One time. The survey will be administered during a two-week period.

Form Number: SV–2005–0002.

Respondents: U.S. citizens crossing the U.S./Mexico and U.S./Canada borders.

Estimated Number of Respondents: Approximately 6,400 respondents.

Average Hours Per Response: Five (5) minutes per response.

Total Estimated Burden: 533 hours.

The proposed information collection is published to obtain comments from the public and affected agencies. Emergency review and approval of this collection has been requested from OMB by May 1, 2005. If granted, the emergency approval is only valid for 180 days. Comments should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, regarding the collection listed in this notice should be directed to R. Michael Holly, Bureau of Consular Affairs, Passport Services, U.S. Department of State, Washington, DC 20520, who may be reached on 202–663–2472.

Dated: April 20, 2005.

Frank E. Moss,

Deputy Assistant Secretary, Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 05–9204 Filed 5–6–05; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 5023]

Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on June 2 and 3 at the Boeing Company in Arlington, Virginia. Pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b[c][1] and [4], the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda will include updated committee reports, a global threat overview, and other discussions involving sensitive and classified information, and corporate proprietary/security information, such as private sector physical and procedural security policies and protective programs and the protection of U.S. business information overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, DC 20522–2008, phone: 571–345–2214.

Dated: April 18, 2005.

Joe D. Morton,

Director of the Diplomatic, Security Service, Department of State.

[FR Doc. 05–9203 Filed 5–6–05; 8:45 am]

BILLING CODE 4710–43–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Notice Regarding the Initiation of the 2005 Annual GSP Product and Country Eligibility Practices Review

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and solicitation for public petition.

SUMMARY: This notice announces that the Office of the United States Trade Representative (USTR) will receive petitions in 2005 to modify the list of products that are eligible for duty-free treatment under the GSP program, and to modify the GSP status of certain GSP beneficiary developing countries because of country practices. This notice further determines that the deadline for submissions of petitions for the 2005 Annual GSP Product and Country Eligibility Practices Review is 5 PM, June 15, 2005. The list of product petitions and country practice petitions accepted for review will be announced in the **Federal Register** at a later date.

FOR FURTHER INFORMATION CONTACT: Contact the GSP Subcommittee of the Trade Policy Staff Committee, Office of the United States Trade Representative, 1724 F Street, NW, Room F–220, Washington, DC 20508. The telephone number is (202) 395–6971 and the facsimile number is (202) 395–9481.

2005 Annual GSP Review

The GSP regulations (15 CFR part 2007) provide the schedule of dates for conducting an annual review, unless otherwise specified by **Federal Register** notice. Notice is hereby given that, in order to be considered in the 2005 Annual GSP Product and Country Eligibility Practices Review, all petitions to modify the list of articles eligible for duty-free treatment under GSP or to review the GSP status of any beneficiary developing country must be received by the GSP Subcommittee of the Trade Policy Staff Committee no later than 5 p.m. on June 15, 2005. Petitions submitted after the deadline will not be considered for review.

Interested parties, including foreign governments, may submit petitions to: (1) Designate additional articles as eligible for GSP benefits, including to designate articles as eligible for GSP benefits only for countries designated as least-developed beneficiary developing countries, or only for countries designated as beneficiary sub-Saharan African countries under the African Growth and Opportunity Act (AGOA); (2) withdraw, suspend or limit the application of duty-free treatment accorded under the GSP with respect to any article, either for all beneficiary developing countries, least-developed beneficiary developing countries or beneficiary sub-Saharan African countries, or for any of these countries individually; (3) waive the ''competitive need limitations'' for individual beneficiary developing countries with respect to specific GSP-eligible articles (these limits do not apply to either least-developed beneficiary developing countries or beneficiary sub-Saharan African countries); and (4) otherwise modify GSP coverage. As specified in 15 CFR 2007.1, all product petitions must include a detailed description of the product and the subheading of the Harmonized Tariff Schedule of the United States (HTSUS) under which the product is classified.

Any person may also submit petitions to review the designation of any beneficiary developing country, including any least-developed beneficiary developing country, with respect to any of the designation criteria listed in sections 502(b) or 502(c) of the Trade Act (19 U.S.C. 2462(b) and (c)) (petitions to review the designation of beneficiary Sub-Saharan African countries are considered in the Annual Review of the AGOA, a separate administrative process not governed by the GSP regulations). Such petitions must comply with the requirements of 15 CFR 2007.0(b).

Requirements for Submissions

All such submissions must conform to the GSP regulations set forth at 15 CFR part 2007, except as modified below. These regulations are reprinted in ''A Guide to the U.S. Generalized System of Preferences (GSP)'' (August 1991) (''GSP Guidebook''), available at *http://www.ustr.gov.*

Any person or party making a submission is strongly advised to review the GSP regulations. Submissions that do not provide the information required by §§ 2007.0 and 2007.1 of the GSP regulations will not be accepted for review, except upon a detailed showing in the submission that the petitioner made a good faith effort to obtain the information required. Petitions with respect to waivers of the ''competitive need limitations'' must meet the information requirements for product addition requests in § 2007.1(c) of the GSP regulations. A model petition format is available from the GSP Subcommittee and is included in the GSP Guidebook. Petitioners are requested to use this model petition format so as to ensure that all information requirements are met. Furthermore, interested parties submitting petitions that request action with respect to specific products should list on the first page of the petition the following information after typing ''2005 Annual GSP Review'': (1) The requested action; (2) the HTSUS subheading in which the product is classified; and (3) if applicable, the beneficiary developing country. Petitions and requests must be submitted, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, and must be received no later than June 15, 2005. Submissions in response to this notice will be available for public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted ''business confidential'' status pursuant to 15 CFR 2003.6. If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked ''BUSINESS CONFIDENTIAL'' in large, bold letters at the top and bottom of each and every page of the document. The public version that does not contain business confidential information must also be clearly marked in large, bold letters at the top and bottom of each and every page (either ''PUBLIC VERSION'' or ''NON-CONFIDENTIAL''). Documents that are submitted without any marking might not be accepted or will be considered public documents.

In order to facilitate prompt consideration of submissions, USTR strongly urges and prefers electronic mail (e-mail) submissions in response to this notice. Hand-delivered submissions will not be accepted. E-mail submissions should be single copy transmissions in English with the total submission including attachments not to exceed 50 pages in 12-point type and 3 megabytes as a digital file attached to an e-mail transmission. E-mail submissions should use the following subject line: ''2005 Annual GSP Review-Petition.'' Documents must be submitted as either WordPerfect (''.WPD''), MSWord (''.DOC''), or text (''.TXT'') file. Documents cannot be submitted as electronic image files or contain imbedded images (for example, ''.JPG'', ''.TIF'', ''.PDF'', ''.BMP'', or ''.GIF'') as these type files are generally excessively large. E-mail submissions containing such files will not be accepted. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel, pre-formatted for printing on 8½ x 11 inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files. E-mail submissions should not include separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission itself, including identifying information on the sender, including sender's e-mail address.

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, in addition to the proper marking at the top and bottom of each page as previously specified, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the characters ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the person or party (government, company, union, association, etc.) submitting the petition. Submissions by e-mail should not include separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission itself. The electronic mail address for these submissions is *FR0441@USTR.GOV.*

Documents not submitted in accordance with the GSP regulations as modified by these instructions might not be considered in this review.

Public versions of all documents relating to this review will be available for review approximately 30 days after the due date by appointment in the USTR Public Reading Room, 1724 F Street NW, Washington, DC. Availability of documents may be ascertained, and appointments may be made from 9:30 a.m. to noon and 1 p.m.

to 4 p.m., Monday through Friday, by calling (202) 395–6186.

H.J. Rosenbaum,

Acting Executive Director GSP; Acting Chairman, GSP Subcommittee of the Trade Policy Staff Committee.

[FR Doc. 05–9237 Filed 5–6–05; 8:45 am]

BILLING CODE 3190–W5–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number NHTSA–2004–19187]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: This notice solicits public comments on continuation of the requirements for the collection of information on safety standards. Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes a collection of information on seven Federal motor vehicle safety standards (FMVSSs) and one regulation, for which NHTSA intends to seek OMB approval. The information collection pertains to requirements that specify certain safety precautions regarding items of motor vehicle equipment must appear in the vehicle owner's manual.

DATES: Comments must be received on or before July 8, 2005.

ADDRESSES: Comments must refer to the docket notice number cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Mrs. Lori Summers, NHTSA 400 Seventh Street, SW., Room 5307, NVS–112, Washington, DC 20590. Mrs. Summers' telephone number is (202) 366–4917. Please identify the relevant collection of information by referring to this Docket Number (Docket Number NHTSA–04–19187).

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before a proposed collection of information is submitted to OMB for approval, Federal agencies must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Consolidated Vehicle Owner's Manual Requirements for Motor Vehicles and Motor Vehicle Equipment.

OMB Control Number: 2127–0541.

Form Number: This collection of information uses no standard form.

Requested Expiration Date of Approval: Three years from the approval date.

Type of Request: Extension of a currently approved collection.

Affected Public: Individuals, households, business, other for-profit, not-for-profit, farms, Federal Government and state, local or tribal government.

Summary of the Collection of Information: 49 U.S.C. 30111 authorizes the issuance of Federal motor vehicle safety standards (FMVSS) and regulations. The agency, in prescribing a FMVSS or regulation, considers available relevant motor vehicle safety data, and consults with other agencies, as it deems appropriate. Further, the statute mandates that in issuing any FMVSS or regulation, the agency considers whether the standard or regulation is ''reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed,'' and whether such a standard will contribute to carrying out the purpose of the Act. The Secretary is authorized to invoke such rules and regulations as deemed necessary to carry out these requirements. Using this authority, the agency issued the following FMVSS and regulations, specifying that certain safety precautions regarding items of motor vehicle equipment appear in the vehicle owner's manual to aid the agency in achieving many of its safety goals:

FMVSS No. 108, ''Lamps, reflective devices, and associated equipment,''
FMVSS No. 110, ''Tire selection and rims,''
FMVSS No. 202, ''Head restraints,''
FMVSS No. 205, ''Glazing materials,''
FMVSS No. 208, ''Occupant crash protection,''
FMVSS No. 210, ''Seat belt assembly anchorages,''
FMVSS No. 213, ''Child restraint systems,''
Part 575 Section 103, ''Camper loading,''
Part 575 Section 105, ''Utility vehicles.''

This notice requests comments on the information collections of these FMVSSs and regulations.

Description of the need for the information and proposed use of the information: In order to ensure that manufacturers are complying with the FMVSS and regulations, NHTSA requires a number of information collections in FMVSS Nos. 108, 110, 202, 205, 208, 210, and 213, and Part 575 Sections 103 and 105.

FMVSS No. 108, ''Lamps, reflective devices, and associated equipment.'' This standard requires that certain lamps and reflective devices with certain performance levels be installed on motor vehicles to assure that the roadway is properly illuminated, that vehicles can be readily seen, and the signals can be transmitted to other drivers sharing the road, during day, night and inclement weather. Since the specific manner in which headlamp aim is to be performed is not regulated (only the performance of the device is), aiming devices manufactured or installed by different vehicle and headlamp manufacturers may work in significantly different ways. As a

consequence, to assure that headlamps can be correctly aimed, instructions for proper use must be part of the vehicle as a label, or optionally, in the vehicle owner's manual.

FMVSS No. 110, ''Tire selection and rims.'' This standard specifies requirements for tire selection to prevent tire overloading. The vehicle's normal load and maximum load on the tire shall not be greater than applicable specified limits. The standard requires a permanently affixed vehicle placard specifying vehicle capacity weight, designated seating capacity, manufacturer recommended cold tire inflation pressure, and manufacturer's recommended tire size. The standard further specifies rim construction requirements, load limits of nonpneumatic spare tires, and labeling requirements for non-pneumatic spare tires, including a required placard. Owner's manual information is required for ''Use of Spare Tire.'' FMVSS No. 110 will require additional owner's manual information on the revised vehicle placard and tire information label, on revised tire labeling, and on tire safety and load limits and terminology.

FMVSS No. 202, ''Head restraints.'' This standard specifies requirements for head restraints. The standard, which seeks to reduce whiplash injuries in rear collisions, currently requires head restraints for front outboard designated seating positions in passenger cars and in light multipurpose passenger vehicles, trucks and buses. In a final rule published on December 14, 2004 (69 FR 74880), the standard requires that vehicle manufacturers include information in owner's manuals for vehicles manufactured on or after September 1, 2008. The owner's manual must clearly identify which seats are equipped with head restraints. If the head restraints are removable, the owner's manual must provide instructions on how to remove the head restraint by a deliberate action distinct from any act necessary for adjustment, and how to reinstall head restraints. The owner's manual must warn that all head restraints must be reinstalled to properly protect vehicle occupants. Finally, the owner's manual must describe, in an easily understandable format, the adjustment of the head restraints and/or seat back to achieve appropriate head restraint position relative to the occupant's head.

FMVSS No. 205, ''Glazing materials.'' This standard specifies requirement for all glazing material used in windshields, windows, and interior partitions of motor vehicles. Its purpose is to reduce the likelihood of lacerations and to minimize the possibility of occupants penetrating the windshield in a crash. More detailed information regarding the care and maintenance of such glazing items, as the glass-plastic windshield, is required to be placed in the vehicle owner's manual.

FMVSS No. 208, ''Occupant crash protection.'' This standard specifies requirements for both active and passive occupant crash protection systems for passenger cars, multipurpose passenger vehicles, trucks and small buses. Certain safety features, such as air bags, or the care and maintenance of air bag systems, are required to be explained to the owner by means of the owner's manual. For example, the owner's manual must describe the vehicle's air bag system and provide precautionary information about the proper positioning of the occupants, including children. The owner's manual must also warn that no objects, such as shotguns carried in police cars, should be placed over or near the air bag covers.

FMVSS No. 210, ''Seat belt assembly anchorages.'' This standard specifies requirements for seat belt assembly anchorages to ensure effective occupant restraint and to reduce the likelihood of failure in a crash. The standard requires that manufacturers place the following information in the vehicle owner's manual:

a. An explanation that child restraints are designed to be secured by means of the vehicle's seat belts, and,

b. A statement alerting vehicle owners that children are always safer in the rear seat.

FMVSS No. 213, ''Child restraint systems.'' This standard specifies requirements for child restraint systems and requires that manufacturers provide consumers with detailed information relating to child safety in air bag-equipped vehicles. The vehicle owner's manual must include information about the operation and do's and don'ts of built-in child seats.

Part 575 Section 103, ''Camper loading.'' This standard requires that manufacturers of slide-in campers designed to fit into the cargo bed of pickup trucks affix a label to each camper that contains information relating to certification, identification and proper loading, and to provide more detailed loading information in the owner's manual of the truck.

Part 575 Section 105, ''Utility vehicles.'' This regulation requires manufacturers of utility vehicles to alert drivers that the particular handling and maneuvering characteristics of utility vehicles require special driving practices when these vehicles are operated on paved roads. For example, the vehicle owner's manual is required to contain a discussion of vehicle design features that cause this type of vehicle to be more likely to roll over, and to include a discussion of driving practices that can reduce the risk of roll over. A statement is provided in the regulation that manufacturers shall include, in its entirety or equivalent form, in the vehicle owner's manual.

Description of the Likely Respondents (Including Estimated Number and Proposed Frequency of Response to the Collection of Information): NHTSA anticipates that no more than 21 vehicle manufacturers will be affected by the reporting requirements.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information: NHTSA estimates that all manufacturers will need a total of 2,615 hours to comply with these requirements, at a total annual cost of $6,279,172.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Issued on: May 4, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–9170 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms, and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on August 19, 2004 (69 FR 51544–51545).

DATES: Comments must be submitted on or before June 8, 2005.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Alan Block at the National Highway

Traffic Safety Administration, Office of Research and Technology (NTI–131), 202–366–6401, 400 Seventh Street, SW., Room 5119, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Increasing Safety Belt Use Among Children Ages 8–15.

OMB Number: 2127–New.

Type of Request: New information collection requirement.

Abstract: Little is currently known about the context of safety belt use and non-use by 8–15 year olds. This study will gather information on attitudes, knowledge, and behavior related to safety belts among children in that age range in order to determine strategies for increasing child safety belt use. There will be 27 in-home immersion interviews with families having one or more children age 8–15 (an average of 3.5 interviews per family). In-home immersions are interviews in which researchers visit respondents' homes and have an opportunity to speak with multiple members of the household and to observe how their interactions and environment may either motivate or serve as barriers to eliciting desired behaviors. Each of the 27 immersion sessions will last approximately two hours. Information derived from the immersion interviews will be used to develop intervention or program concepts/ideas that will be tested with children in 96 triad interviews. Each triad will be composed of three children of the same sex, race/ethnicity, and approximate age. Each of the 96 triads will last approximately 75 minutes.

Affected Public: Children age 8–15 and their parents or guardians, from among the general public, who volunteer to participate in the study.

Estimated Total Annual Burden: 549 hours.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued on: May 4, 2005.

Marilena Amoni,

Associate Administrator, Program Development and Delivery.

[FR Doc. 05–9205 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2005–20545; Notice 2]

IC Corporation, Grant of Petition for Decision of Inconsequential Noncompliance

IC Corporation (IC) has determined that certain school buses that it manufactured in 2001 through 2004 do not comply with S5.2.3.2(a)(4) of 49 CFR 571.217, Federal Motor Vehicle Safety Standard (FMVSS) No. 217, ''Bus emergency exits and window retention and release.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), IC has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of a petition was published, with a 30-day comment period, on March 23, 2005, in the **Federal Register** (70 FR 14748). NHTSA received no comments.

Affected are a total of approximately 40 school buses manufactured from August 15, 2001 to September 29, 2004. S5.2.3.2(a)(4) of FMVSS No. 217 states ''No two side emergency exit doors shall be located, in whole or in part, within the same post and roof bow panel space.'' The noncompliant vehicles have two side emergency exit doors located opposite each other within the same post and roof bow panel space.

IC believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. IC states that NHTSA's main purpose in updating FMVSS No. 217 was,

> to ensure that emergency exit capability would be proportional to the maximum occupant capacity; to improve access to side emergency doors; to improve visibility of exits; and to facilitate the exiting of occupants from a bus after an accident * * *. None of these primary objectives were compromised on the 40 units covered by this petition.

IC states that it reviewed comments in response to the NPRM to update FMVSS No. 217 and determined that they

> * * * were related to the fatigue strength of a bus body of this configuration. IC Corporation was unable to find comments relating to the safe exit of occupants in the event of an accident as a result of this door arrangement. Based on this background, IC Corporation presents arguments for consideration regarding both the structural and safety aspects of the rule. Finally, we present bus customer feedback based on interviews conducted with some of the bus customers affected by this non-compliance.

IC further states that it is ''not aware of any research that indicates that emergency exits should not be located across from each other for safety of egress reasons alone.'' IC say it believes the requirement for two exit doors located across from each other in the same post and roof bow appears ''to all be related to the issue of the structural integrity of a bus body of this configuration.''

IC indicates that it ''has no reports of any failures of panels or the structure in the area of the left or right emergency doors'' of the noncompliant vehicles. Nor has IC received failure reports of panels or the structure for two other types of buses it manufactures. It describes these two other types of buses. One is ''commercial buses with a passenger door centered on the right side of the bus and large double bow windows on the left side within the same post and roof bow panel space.'' Another is buses with ''the combination of a left side emergency door on the left side and a wheelchair door on the right side within the same post and roof bow panel space.'' IC further asserts that ''NHTSA does not restrict other combinations of doors and windows within the same roof bow space.''

IC states that it will extend to the owners of the noncompliant vehicles a 15-year warranty for any structural or panel failures related to the location of the doors, so that ''corrections could be made long before any possible fatigue problems * * * progress into major structural issues.''

The Agency agrees with IC that in this case the noncompliance does not compromise safety in terms of emergency exit capability in proportion to maximum occupant capacity, access to side emergency doors, visibility of the exits, or the ability of bus occupants to exit after an accident. IC has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, IC's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

Authority: (49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: April 29, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–9169 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on CARES Business Plan Studies; Amended Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on CARES Business Plan Studies meeting on Wednesday, May 18, 2005, will be held at Howard College, Dorothy Garrett Coliseum, 1001 Birdwell Lane, Big Spring, Texas 79720, from 8 a.m. until 4 p.m. The meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs on proposed business plans at those VA facility sites identified in May 2004 as requiring further study by the Capital Asset Realignment for Enhanced Services (CARES) Decision document.

The agenda at each meeting will include presentations on objectives of the CARES project and the project's timeframes. Additional presentations will focus on the VA-selected contractor's methodology and tools to develop business plan options, as well as the methodology for gathering and evaluating stakeholder input. The agenda will also accommodate public commentary on site-specific issues.

Interested persons may attend and present oral or written statements to the Committee. For additional information regarding the meetings, please contact Mr. Jay Halpern, Designated Federal Officer, (00CARES), 810 Vermont Avenue, NW., Washington, DC 20024 by phone at (202) 273–5994, or by e-mail at *jay.halpern@hq.med.va.gov.*

Dated: May 3, 2005.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–9236 Filed 5–6–05; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Cemeteries and Memorials; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Cemeteries and Memorials will be held June 15–16, 2005, in the Soulard Room (banquet level) at the Millennium Hotel, 200 South 4th Street, St. Louis, MO. On June 15, 2005, the meeting will begin at 8:30 a.m. and conclude at approximately 4:30 p.m. On June 16, 2005, the meeting will begin at 8 a.m. and conclude at approximately 3:15 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of national cemeteries, soldiers' lots and plots, the selection of new national cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits. The Committee will make recommendations to the Secretary regarding these activities.

On June 15, 2005, the Committee will receive updates on National Cemetery Administration (NCA) issues and view Annual Training Conference classes on community volunteer opportunities, headstone and marker repair and inscription policy. In the afternoon, the Committee will tour Jefferson Barracks National Cemetery and observe cemetery operation demonstrations. On June 16, 2005, the Committee will reconvene for the following: Visit Jefferson Barracks National Cemetery and observe additional cemetery operations; tour NCA's National Training Center; and conclude with the business session, discussions of any unfinished business, and recommendations for future programs, meeting sites, and agenda topics.

Time will not be allocated for receiving oral presentations from the public. Any member of the public wishing to attend the meeting should contact Mr. Timothy Boulay, Designated Federal Officer, at (202) 273–5204. The Committee will accept written comments. Comments may be transmitted electronically to the Committee at *Timothy.Boulay@mail.va.gov* or mailed to the National Cemetery Administration (41C2), 810 Vermont Avenue, NW., Washington, DC 20420. In the public's communications with the Committee, the writers must identify themselves and state the organizations, associations, or persons they represent.

Dated: April 29, 2005.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–9235 Filed 5–6–05; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday,
May 9, 2005

Part II

Department of Transportation

Federal Highway Administration
23 CFR Part 771
Federal Transit Administration
49 CFR Part 622

Environmental Impact and Related Procedures; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 771

RIN 2132–AA78

Federal Transit Administration

49 CFR Part 622

RIN 2125–AF04

Environmental Impact and Related Procedures

AGENCIES: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule makes technical corrections to the regulation that governs environmental impact procedures for the FHWA and the FTA. The amendments contained herein make no substantive changes to the FHWA or the FTA regulations, policies, or procedures. This rule corrects the name of the Federal Transit Administration (FTA) from its former name, the Urban Mass Transportation Administration (UMTA); corrects a reference to ''urban mass transportation''; corrects statutory references that became outdated when Federal transit laws were codified; removes the reference to a program that has been eliminated; corrects references to regulatory ''part'' numbers that have changed; corrects the names of offices within FHWA and FTA; and corrects a spelling error.

DATES: This rule is effective June 8, 2005.

FOR FURTHER INFORMATION CONTACT: For FHWA, Frederick Skaer, Office of Project Development and Environmental Review, (202) 366–2065, Ms. April Marchese, Office of the Chief Counsel, (202) 366–5991. For FTA, Christopher S. Van Wyk, Office of Planning and Environment, (202) 366–4033; or Scott A. Biehl, Assistant Chief Counsel, (202) 366–4011. Both agencies are located at 400 Seventh Street, SW., Washington, DC 20590. Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., and for the FTA are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.archives.gov* and the Government Printing Office's Web page at: *http://www.gpoaccess.gov.*

Background

This rule makes technical corrections to the regulations that govern environmental impact and related procedures for the FHWA and the FTA found at 23 CFR part 771 and 49 CFR part 622. The corrections are needed for the following reasons: (1) A statutory change in the name of the Department's transit agency from the Urban Mass Transportation Administration to the Federal Transit Administration; (2) because of various changes in statutory references due to the codification of Federal transit laws in Title 49, United States Code, Chapter 53; (3) changes in names of offices within the FHWA and the FTA; (4) changes in regulatory ''part'' references; and (5) a spelling error.

Rulemaking Analyses and Notice

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. The FHWA and the FTA find that notice and comment for this rule is unnecessary and contrary to the public interest because it will have no substantive impact, is technical in nature, and relates only to management, organization, procedure, and practice. The FHWA and the FTA do not anticipate receiving meaningful comments on it. States, local governments, transit agencies, and their consultants rely upon the environmental regulations corrected by this action. These corrections will reduce confusion for these entities and should not be unnecessarily delayed. Accordingly, for the reasons listed above, the agencies find good cause under 5 U.S.C. 553(b)(B) to waive notice and opportunity for comment.

Executive Order 12866 (Regulatory Planning and Review) and U.S. DOT Regulatory Policies and Procedures

The FHWA and the FTA have determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal. This rule only entails minor corrections that will not in any way alter the regulatory effect of 23 CFR part 771 or 49 CFR part 622. Thus, this final rule will not adversely affect, in a material way, any sector of the economy. In addition, these changes will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) the FHWA and the FTA have evaluated the effects of this action on small entities and have determined that the action will not have a significant economic impact on a substantial number of small entities. This final rule will not make any substantive changes to our regulations or in the way that our regulations affect small entities; it merely corrects technical errors. For this reason, the FHWA and the FTA certify that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule does not impose any requirements on State, local, tribal governments, or the private sector and, thus, will not require those entities to expend any funds.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA and the FTA have determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA and the FTA have also determined that this action does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Numbers 20.205, Highway Planning and Construction; 20.500 *et seq.*, Federal Transit Capital Investment Grants. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to these programs.

Paperwork Reduction Act

This action does not create any new information collection requirements for which a Paperwork Reduction Act submission to the Office of Management and Budget would be needed under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The FHWA and the FTA have analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and have determined that this action will not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA and FTA have analyzed this action under Executive Order 13175, dated November 6, 2000, and concluded that this rule will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal government; and will not preempt tribal law. There are no requirements set forth in this rule that directly affect one or more Indian tribes. Therefore, a tribal summary impact statement is not required.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

Under Executive Order 13045, Protection of Children from Environmental Health and Safety Risks, this final rule is not economically significant and does not involve an environmental risk to health and safety that may disproportionally affect children.

Executive Order 12630 (Taking of Private Property)

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

Executive Order 13211 (Energy Effects)

This final rule has been analyzed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA and FTA have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RINs contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

23 CFR Part 771

Environmental protection, Grant programs—transportation, Highways and roads, Historic preservation, Public lands, Recreation areas, Reporting and recordkeeping requirements.

49 CFR Part 622

Environmental impact statements, Grant programs—transportation, Mass transportation, Reporting and recordkeeping requirements.

In consideration of the foregoing, 23 CFR part 771 and 49 CFR part 622 are amended as set forth below.

Issued on: May 2, 2005.

Mary E. Peters,

Federal Highway Administrator.

Jennifer L. Dorn,

Administrator, Federal Transit Administration.

Federal Highway Administration

Title 23—Highways

PART 771—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES [REVISED]

■ 1. The authority citation for part 771 continues to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 23 U.S.C. 109, 110, 128, 138 and 315; 49 U.S.C. 303(c), 5301(e), 5323, and 5324; 40 CFR part 1500 *et seq.*; 49 CFR 1.48(b) and 1.51.

§ 771.101 [Amended]

■ 2. Amend § 771.101 as follows:

■ a. In the first sentence, remove the words ''Urban Mass Transportation Administration (UMTA)'' and add, in their place, the words ''Federal Transit Administration (FTA)''.

■ b. In the second sentence, revise the acronym ''UMTA'' to read ''FTA'', and remove the word ''urban''.

■ c. In the third sentence, remove the citation ''49 U.S.C. 303, 1602(d), 1604(h), 1604(i), 1607a, 1607a–1 and 1610'' and add ''49 U.S.C. 303, 5301(e), 5323(b), and 5324(b)'' in its place.

§ 771.105 [Amended]

■ 3. Amend footnote number 1 to § 771.105(a) by revising the acronym ''UMTA'' to read ''FTA'' each place it appears, and remove the words'', ''Appendices D and G''.

§ 771.107 [Amended]

■ 4. Amend § 771.107(b), (c), and (d) by revising the acronym ''UMTA'' to read ''FTA'' each place it appears.

§ 771.109 [Amended]

■ 5. Amend § 771.109, paragraph (b) by revising the acronym ''UMTA'' to read ''FTA'', and in paragraph (c)(3) revise the words ''Urban Mass Transportation Act of 1964, as amended (UMT Act),'' to read ''Federal transit laws (49 U.S.C. Chapter 53)''.

§ 771.111 [Amended]

■ 6. Amend § 771.111 as follows:

■ a. In paragraph (b), remove the words ''For UMTA,'' and the words ''and for FHWA, the approval of the 105 program (23 U.S.C. 105)'', and revise the word ''this'' to read ''This''.

■ b. In paragraphs (c), (i), and (j), revise the acronym ''UMTA'' to read ''FTA'' in each place it appears.

■ c. In paragraph (i), revise the citation ''49 U.S.C. 1602(d), 1604(i), 1607a(f) and 1607a–1(d)'' to read ''49 U.S.C. 5323(b)''

■ d. In paragraph (j), revise the words ''Director, Office of Planning Assistance, Urban Mass Transportation Administration'' to read ''Director, Office of Human and Natural Environment, Federal Transit Administration'', and revise the words ''Office of Environmental Policy'' to read ''Office of Project Development and Environmental Review''.

§ 771.113 [Amended]

■ 7. Amend § 771.113(c) by revising the words ''section 3(a)(4) of the UMT Act'' to read ''49 U.S.C. 5309(g)'', and revise the acronym ''UMTA'' to read ''FTA'' each place it appears.

§ 771.117 [Amended]

■ 8. Amend § 771.117 as follows:

■ a. In paragraph (c)(1), revise the words ''technical studies'' to read ''research activities'', and remove the words ''and research programs; research activities as defined in 23 U.S.C. 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. 134; approval of statewide programs under 23 CFR part 630; approval of project concepts under 23 CFR part 476;''.

■ b. In paragraph (c)(11), revise the citation ''23 CFR part 480'' to read ''23 U.S.C. 156''.

■ c. In paragraph (d)(12), revise the citation ''section 3(b) of the UMT Act'' to read ''49 U.S.C. 5309(b)''.

§ 771.119 [Amended]

■ 9. Amend § 771.119(c) by revising the acronym ''UMTA'' to read ''FTA''.

§ 771.123 [Amended]

■ 10. Amend § 771.123(b), (h), and (j) by revising the acronym ''UMTA'' to read ''FTA''.

§ 771.125 [Amended]

■ 11. Amend § 771.125 as follows:

■ a. In paragraph (c)(3), revise the words ''UMTA's policy on major investments (49 FR 21284; May 18, 1984)'' to read ''FTA's regulation on major capital investment projects (49 CFR part 611)''.

■ b. In paragraph (d) revise the acronym ''UMTA'' to read ''FTA''; revise the citation ''section 14 of the UMT Act'' to read ''49 U.S.C. 5324(b)''; and revise the citation ''sections 3(d)(1) and (2), 5(h), and 5(i) of the UMT Act'' to read ''49 U.S.C. 5323(b)''.

§ 771.130 [Amended]

■ 12. Amend § 771.130(e) by revising the acronym ''UMTA'' to read ''FTA''.

§ 771.135 [Amended]

■ 13. Amend § 771.135(p)(5)(ii) by correcting the misspelled word ''critiera'' to read ''criteria'', and by revising the acronym ''UMTA'' to read ''FTA''.

Federal Transit Administration

Title 49—Transportation

Chapter VI

PART 622—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES—[AMENDED]

■ 14. Revise the authority citation for part 622 to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. 303(c), 5301(e), 5323, and 5324; 40 CFR 1.51.

[FR Doc. 05–9128 Filed 5–6–05; 8:45 am]

BILLING CODE 4910–57–P

Federal Register

Monday,
May 9, 2005

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Office of Oceanic and Atmospheric Research; Request for Nomination of Members to the NOAA Science Advisory Board; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Office of Oceanic and Atmospheric Research; Request for Nomination of Members to the NOAA Science Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of solicitation for members of the NOAA Science Advisory Board.

SUMMARY: NOAA is soliciting nominations for members of the NOAA Science Advisory Board (SAB). The SAB is the only Federal Advisory Committee with the responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator on long- and short-range strategies for research, education, and application of science to resource management and environmental assessment and prediction. The SAB consists of 15 members reflecting the full breadth of NOAA's areas of responsibility and assists NOAA in maintaining a complete and accurate understanding of scientific issues critical to the agency's missions. As a Federal Advisory Committee the SAB's membership is required to be balanced in terms of viewpoints represented and the functions to be performed as well as including the interests of geographic regions of the country and the diverse sectors of our society (business and industry, science, academia, and the public at large).

DATES: Nominations must be received electronically by June 8, 2005.

ADDRESSES: Nominations should be submitted electronically to *noaa.sab.2005@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Michael Uhart at *michael.uhart@noaa.gov* or (301) 713–9121, ext. 159.

SUPPLEMENTARY INFORMATION: SAB activities and advice provide necessary input to ensure that NOAA science programs are of the highest quality and provide optimal support to NOAA's Mission Goals:

- Protect, Restore, and Manage the Use of Coastal and Ocean Resources Through an Ecosystem Approach to Management.
- Understand Climate Variability and Change to Enhance Society's Ability to Plan and Respond.
- Serve Society's Needs for Weather and Water Information.
- Support the Nation's Commerce with Information for Safe, Efficient, and Environmentally Sound Transportation.
- Provide Critical Support for NOAA's Mission.

The SAB meets at least twice each year, exclusive of subcommittee, task force, and working group meetings. Panel members must be willing to participate in periodic reviews of the conduct, support, and use of science in NOAA laboratories and programs. Panel members are appointed for a 3-year term. Nominees, if accepted, will be appointed as Special Government Employees and will be required to complete confidential financial disclosure forms.

Nominations

Nominations should provide: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) the nominee's area(s) of expertise; and (3) a short description of their qualifications relative to the kinds of advice being solicited. Inclusion of a resume is desirable.

Dated: May 3, 2005.

Louisa Koch,

Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 05–9226 Filed 5–6–05; 8:45 am]

BILLING CODE 3510–KD–P

Federal Register

Monday,
May 9, 2005

Part IV

The President

Proclamation 7897—Mother's Day, 2005

Federal Register
Vol. 70, No. 88
Monday, May 9, 2005

Presidential Documents

Title 3—

The President

Proclamation 7897 of May 5, 2005

Mother's Day, 2005

By the President of the United States of America

A Proclamation

On Mother's Day, we pay tribute to the extraordinary women whose guidance and unconditional love shape our lives and our future. Motherhood often allows little time for rest. As President Theodore Roosevelt said of the American mother in 1905, ''Upon her time and strength, demands are made not only every hour of the day but often every hour of the night.'' President Roosevelt's words ring as true today as they did 100 years ago.

The hard, perpetual work of motherhood shows us that a single soul can make a difference in a young person's future. As sources of hope, stability, and love, mothers teach young people to honor the values that sustain a free society. By raising children to be responsible citizens, mothers serve a cause larger than themselves and strengthen communities across our great Nation.

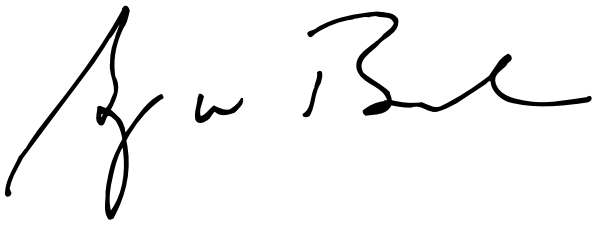
Mothers are tireless advocates for children. In our schools, mothers help to ensure that every child reaches his or her full potential. In our communities, they set an example by reaching out to those who are lost and offering love to those who hurt. A mother's caring presence helps children to resist peer pressure, focus on making the right choices, and realize their promise and potential.

In an hour of testing, one person can show the compassion and character of a whole country. In supporting their sons and daughters as they grow and learn, mothers bring care and hope into others' lives and make our Nation a more just, compassionate, and loving place.

The Congress, by a joint resolution approved May 8, 1914, as amended (38 Stat. 770), has designated the second Sunday in May each year as ''Mother's Day'' and has requested the President to call for its appropriate observance. It is my honor to do so. May God bless mothers across our great land on this special day.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 8, 2005, as Mother's Day. I encourage all Americans to express their love, appreciation, and admiration to mothers for making a difference in the lives of their children, families, and communities. I also call upon citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of May, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and twenty-ninth.



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19 Parts:			
1–140	(869–052–00055–8)	61.00	Apr. 1, 2004
141–199	(869–052–00056–6)	58.00	Apr. 1, 2004
200–End	(869–052–00057–4)	31.00	Apr. 1, 2004
20 Parts:			
1–399	(869–052–00058–2)	50.00	Apr. 1, 2004
400–499	(869–052–00059–1)	64.00	Apr. 1, 2004
500–End	(869–052–00060–9)	63.00	Apr. 1, 2004
21 Parts:			
1–99	(869–052–00061–2)	42.00	Apr. 1, 2004
100–169	(869–052–00062–1)	49.00	Apr. 1, 2004
170–199	(869–052–00063–9)	50.00	Apr. 1, 2004
200–299	(869–052–00064–7)	17.00	Apr. 1, 2004
300–499	(869–052–00065–5)	31.00	Apr. 1, 2004
500–599	(869–052–00066–3)	47.00	Apr. 1, 2004
600–799	(869–052–00067–1)	15.00	Apr. 1, 2004
800–1299	(869–052–00068–0)	58.00	Apr. 1, 2004
1300–End	(869–052–00069–8)	24.00	Apr. 1, 2004
22 Parts:			
1–299	(869–052–00070–1)	63.00	Apr. 1, 2004
300–End	(869–052–00071–0)	45.00	Apr. 1, 2004
23	(869–052–00072–8)	45.00	Apr. 1, 2004
24 Parts:			
0–199	(869–052–00073–6)	60.00	Apr. 1, 2004
200–499	(869–052–00074–4)	50.00	Apr. 1, 2004
500–699	(869–052–00075–2)	30.00	Apr. 1, 2004
700–1699	(869–052–00076–1)	61.00	Apr. 1, 2004
1700–End	(869–052–00077–9)	30.00	Apr. 1, 2004
25	(869–052–00078–7)	63.00	Apr. 1, 2004
26 Parts:			
§§ 1.0–1–1.60	(869–052–00079–5)	49.00	Apr. 1, 2004
§§ 1.61–1.169	(869–052–00080–9)	63.00	Apr. 1, 2004
§§ 1.170–1.300	(869–052–00081–7)	60.00	Apr. 1, 2004
§§ 1.301–1.400	(869–052–00082–5)	46.00	Apr. 1, 2004
§§ 1.401–1.440	(869–052–00083–3)	62.00	Apr. 1, 2004
§§ 1.441–1.500	(869–052–00084–1)	57.00	Apr. 1, 2004
§§ 1.501–1.640	(869–052–00085–0)	49.00	Apr. 1, 2004
§§ 1.641–1.850	(869–052–00086–8)	60.00	Apr. 1, 2004
§§ 1.851–1.907	(869–052–00087–6)	61.00	Apr. 1, 2004
§§ 1.908–1.1000	(869–052–00088–4)	60.00	Apr. 1, 2004
§§ 1.1001–1.1400	(869–052–00089–2)	61.00	Apr. 1, 2004
§§ 1.1401–1.1503–2A	(869–052–00090–6)	55.00	Apr. 1, 2004
§§ 1.1551–End	(869–052–00091–4)	55.00	Apr. 1, 2004
2–29	(869–052–00092–2)	60.00	Apr. 1, 2004
30–39	(869–052–00093–1)	41.00	Apr. 1, 2004
40–49	(869–052–00094–9)	28.00	Apr. 1, 2004
50–299	(869–052–00095–7)	41.00	Apr. 1, 2004

Title	Stock Number	Price	Revision Date
300–499	(869–052–00096–5)	61.00	Apr. 1, 2004
*500–599	(869–056–00098–7)	12.00	[5]Apr. 1, 2005
600–End	(869–052–00098–1)	17.00	Apr. 1, 2004
27 Parts:			
1–199	(869–052–00099–0)	64.00	Apr. 1, 2004
200–End	(869–052–00100–7)	21.00	Apr. 1, 2004
28 Parts:			
0–42	(869–052–00101–5)	61.00	July 1, 2004
43–End	(869–052–00102–3)	60.00	July 1, 2004
29 Parts:			
0–99	(869–052–00103–1)	50.00	July 1, 2004
100–499	(869–052–00104–0)	23.00	July 1, 2004
500–899	(869–052–00105–8)	61.00	July 1, 2004
900–1899	(869–052–00106–6)	36.00	July 1, 2004
1900–1910 (§§ 1900 to 1910.999)	(869–052–00107–4)	61.00	July 1, 2004
1910 (§§ 1910.1000 to end)	(869–052–00108–2)	46.00	[8]July 1, 2004
1911–1925	(869–052–00109–1)	30.00	July 1, 2004
1926	(869–052–00110–4)	50.00	July 1, 2004
1927–End	(869–052–00111–2)	62.00	July 1, 2004
30 Parts:			
1–199	(869–052–00112–1)	57.00	July 1, 2004
200–699	(869–052–00113–9)	50.00	July 1, 2004
700–End	(869–052–00114–7)	58.00	July 1, 2004
31 Parts:			
0–199	(869–052–00115–5)	41.00	July 1, 2004
200–End	(869–052–00116–3)	65.00	July 1, 2004
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–052–00117–1)	61.00	July 1, 2004
191–399	(869–052–00118–0)	63.00	July 1, 2004
400–629	(869–052–00119–8)	50.00	[8]July 1, 2004
630–699	(869–052–00120–1)	37.00	[7]July 1, 2004
700–799	(869–052–00121–0)	46.00	July 1, 2004
800–End	(869–052–00122–8)	47.00	July 1, 2004
33 Parts:			
1–124	(869–052–00123–6)	57.00	July 1, 2004
125–199	(869–052–00124–4)	61.00	July 1, 2004
200–End	(869–052–00125–2)	57.00	July 1, 2004
34 Parts:			
1–299	(869–052–00126–1)	50.00	July 1, 2004
300–399	(869–052–00127–9)	40.00	July 1, 2004
400–End	(869–052–00128–7)	61.00	July 1, 2004
35	(869–052–00129–5)	10.00	[6]July 1, 2004
36 Parts			
1–199	(869–052–00130–9)	37.00	July 1, 2004
200–299	(869–052–00131–7)	37.00	July 1, 2004
300–End	(869–052–00132–5)	61.00	July 1, 2004
37	(869–052–00133–3)	58.00	July 1, 2004
38 Parts:			
0–17	(869–052–00134–1)	60.00	July 1, 2004
18–End	(869–052–00135–0)	62.00	July 1, 2004
39	(869–052–00136–8)	42.00	July 1, 2004
40 Parts:			
1–49	(869–052–00137–6)	60.00	July 1, 2004
50–51	(869–052–00138–4)	45.00	July 1, 2004
52 (52.01–52.1018)	(869–052–00139–2)	60.00	July 1, 2004
52 (52.1019–End)	(869–052–00140–6)	61.00	July 1, 2004
53–59	(869–052–00141–4)	31.00	July 1, 2004
60 (60.1–End)	(869–052–00142–2)	58.00	July 1, 2004
60 (Apps)	(869–052–00143–1)	57.00	July 1, 2004
61–62	(869–052–00144–9)	45.00	July 1, 2004
63 (63.1–63.599)	(869–052–00145–7)	58.00	July 1, 2004
63 (63.600–63.1199)	(869–052–00146–5)	50.00	July 1, 2004
63 (63.1200–63.1439)	(869–052–00147–3)	50.00	July 1, 2004
63 (63.1440–63.8830)	(869–052–00148–1)	64.00	July 1, 2004
63 (63.8980–End)	(869–052–00149–0)	35.00	July 1, 2004
64–71	(869–052–00150–3)	29.00	July 1, 2004
72–80	(869–052–00151–1)	62.00	July 1, 2004
81–85	(869–052–00152–0)	60.00	July 1, 2004
86 (86.1–86.599–99)	(869–052–00153–8)	58.00	July 1, 2004
86 (86.600–1–End)	(869–052–00154–6)	50.00	July 1, 2004
87–99	(869–052–00155–4)	60.00	July 1, 2004
100–135	(869–052–00156–2)	45.00	July 1, 2004
136–149	(869–052–00157–1)	61.00	July 1, 2004
150–189	(869–052–00158–9)	50.00	July 1, 2004
190–259	(869–052–00159–7)	39.00	July 1, 2004
260–265	(869–052–00160–1)	50.00	July 1, 2004
266–299	(869–052–00161–9)	50.00	July 1, 2004
300–399	(869–052–00162–7)	42.00	July 1, 2004
400–424	(869–052–00163–5)	56.00	[8]July 1, 2004
425–699	(869–052–00164–3)	61.00	July 1, 2004
700–789	(869–052–00165–1)	61.00	July 1, 2004
790–End	(869–052–00166–0)	61.00	July 1, 2004
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–052–00167–8)	24.00	July 1, 2004
101	(869–052–00168–6)	21.00	July 1, 2004
102–200	(869–052–00169–4)	56.00	July 1, 2004
201–End	(869–052–00170–8)	24.00	July 1, 2004
42 Parts:			
1–399	(869–052–00171–6)	61.00	Oct. 1, 2004
400–429	(869–052–00172–4)	63.00	Oct. 1, 2004
430–End	(869–052–00173–2)	64.00	Oct. 1, 2004
43 Parts:			
1–999	(869–052–00174–1)	56.00	Oct. 1, 2004
1000–end	(869–052–00175–9)	62.00	Oct. 1, 2004
44	(869–052–00176–7)	50.00	Oct. 1, 2004
45 Parts:			
1–199	(869–052–00177–5)	60.00	Oct. 1, 2004
200–499	(869–052–00178–3)	34.00	Oct. 1, 2004
500–1199	(869–052–00179–1)	56.00	Oct. 1, 2004
1200–End	(869–052–00180–5)	61.00	Oct. 1, 2004
46 Parts:			
1–40	(869–052–00181–3)	46.00	Oct. 1, 2004
41–69	(869–052–00182–1)	39.00	Oct. 1, 2004
70–89	(869–052–00183–0)	14.00	Oct. 1, 2004
90–139	(869–052–00184–8)	44.00	Oct. 1, 2004
140–155	(869–052–00185–6)	25.00	Oct. 1, 2004
156–165	(869–052–00186–4)	34.00	Oct. 1, 2004
166–199	(869–052–00187–2)	46.00	Oct. 1, 2004
200–499	(869–052–00188–1)	40.00	Oct. 1, 2004
500–End	(869–052–00189–9)	25.00	Oct. 1, 2004
47 Parts:			
0–19	(869–052–00190–2)	61.00	Oct. 1, 2004
20–39	(869–052–00191–1)	46.00	Oct. 1, 2004
40–69	(869–052–00192–9)	40.00	Oct. 1, 2004
70–79	(869–052–00193–8)	63.00	Oct. 1, 2004
80–End	(869–052–00194–5)	61.00	Oct. 1, 2004
48 Chapters:			
1 (Parts 1–51)	(869–052–00195–3)	63.00	Oct. 1, 2004
1 (Parts 52–99)	(869–052–00196–1)	49.00	Oct. 1, 2004
2 (Parts 201–299)	(869–052–00197–0)	50.00	Oct. 1, 2004
3–6	(869–052–00198–8)	34.00	Oct. 1, 2004
7–14	(869–052–00199–6)	56.00	Oct. 1, 2004
15–28	(869–052–00200–3)	47.00	Oct. 1, 2004
29–End	(869–052–00201–1)	47.00	Oct. 1, 2004

Title	Stock Number	Price	Revision Date
49 Parts:			
1–99	(869–052–00202–0)	60.00	Oct. 1, 2004
100–185	(869–052–00203–8)	63.00	Oct. 1, 2004
186–199	(869–052–00204–6)	23.00	Oct. 1, 2004
200–399	(869–052–00205–4)	64.00	Oct. 1, 2004
400–599	(869–052–00206–2)	64.00	Oct. 1, 2004
600–999	(869–052–00207–1)	19.00	Oct. 1, 2004
1000–1199	(869–052–00208–9)	28.00	Oct. 1, 2004
1200–End	(869–052–00209–7)	34.00	Oct. 1, 2004
50 Parts:			
1–16	(869–052–00210–1)	11.00	Oct. 1, 2004
17.1–17.95	(869–052–00211–9)	64.00	Oct. 1, 2004
17.96–17.99(h)	(869–052–00212–7)	61.00	Oct. 1, 2004
17.99(i)–end and 17.100–end	(869–052–00213–5)	47.00	Oct. 1, 2004
18–199	(869–052–00214–3)	50.00	Oct. 1, 2004
200–599	(869–052–00215–1)	45.00	Oct. 1, 2004
600–End	(869–052–00216–0)	62.00	Oct. 1, 2004
CFR Index and Findings Aids	(869–052–00049–3)	62.00	Jan. 1, 2004
Complete 2005 CFR set		1,342.00	2005
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Subscription (mailed as issued)		325.00	2005
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Complete set (one-time mailing)		298.00	2003

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2004, through January 1, 2005. The CFR volume issued as of January 1, 2004 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2004. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2004. The CFR volume issued as of July 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2002, through July 1, 2004. The CFR volume issued as of July 1, 2002 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2003, through July 1, 2004. The CFR volume issued as of July 1, 2003 should be retained.